Legislative Council

Thursday, 24 October 1991

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

STATEMENT - BY THE PRESIDENT

Telephones in Legislative Council

THE PRESIDENT: I suggest to the administration that in future the use of the telephones be discontinued until our proceedings are under way. It astounds me that people do not understand that this House commences at 2.30 pm on Thursdays, and perhaps we should remind a few people about that.

PETITION - JUVENILE CRIME

School Discipline, Victims of Crime Hearings, Effective Punishment

The following petition bearing the signatures of 18 persons was presented by Hon W.N. Stretch -

We, the undersigned citizens of Western Australia:

(1) Express our outrage at the continued high incidence of juvenile crime, especially car theft leading to death and injury of innocent victims.

(2) Demand that the Government of Western Australia respond to community concern by:

(a) installing more discipline in our education system.

(b) allowing the victims of crime to put their story to the Courtroom where the offenders are being tried.

(c) introducing more effective ways of punishing offenders.

[See paper No 773.]

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

Child Sexual Abuse Legislation Petition Report Tabling

HON R.G. PIKE (North Metropolitan) [2.36 pm] - by leave: I am directed by the committee to present a report on a petition seeking legislation on various aspects of substantive and procedural law relating to sex offences against children. Therefore, I move -

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

Question put and passed. [See paper No 774.]

JOINT STANDING COMMITTEE ON THE CONSTITUTION

Final Report Tabling

HON DERRICK TOMLINSON (East Metropolitan) [2.37 pm] - by leave: I have the honour to present the final report of the Joint Standing Committee on the Constitution. I move -

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

Question put and passed. [See paper No 775.]

URGENCY MOTION

Harold E. Holt Defence Establishment, Exmouth - Future

Debate resumed from 23 October.

HON TOM STEPHENS (Mining and Pastoral - Parliamentary Secretary) [2.39 pm]: Undoubtedly, considerable concern exists in the Exmouth community about the town's

future. However, this community is not well served by this ill-considered motion. The unfortunate positioning of words within the motion suggests that the total closure of the installation at Exmouth is being considered, and that, as the mover of the motion will be aware, is very far from the truth. It should not come as a surprise either to Hon Phil Lockyer or any of his colleagues that, in fact, Australia will take control of the Harold E. Holt defence establishment. After all, that decision was announced by the Prime Minister two years ago. The Australian Defence Department requires that facility for its Collins class submarines and if it were not for that requirement, the base could possibly face the prospect of closure. However, the Americans and the Australians need it; and for the foreseeable future that installation will remain. Hon Phil Lockyer's motion is unnecessary and alarmist. It invoked a story in today's *The West Australian* headed "Base town in limbo" which reads as follows -

> Hon Philip Lockyer said that Mr Hawke's 1990 election promise of joint control between the United States and Australia on running the base had taken away the town's reason for being.

That claim is wrong. The 1990 election promise was not for the joint control of that facility; that joint control has been in existence for some time. What has now been promised is Australian ownership and control of that installation after a transition period of seven years. During that time the American participants will remain in joint control of the facility. It is understood it will be under Australian command with perhaps an American deputy commander. At the end of the seven years Australia will assume ownership and control of it. Hon Phil Lockyer's claim, as recorded in *The West Australian* today, is inaccurate.

It is also inaccurate to say that the Prime Minister's announcement has in any way removed from the township of Exmouth a reason for being. The opposite is the case, as I told the House yesterday. Exmouth has a reason for being, not least of which is the Harold E. Holt communication station. It fulfils the defence and strategic needs of this country as a base for communicating with our submarines. It also provides a facility which the Americans will have the opportunity of using for the next seven years and, beyond that, under arrangements with the Australian Government. However, more importantly, Exmouth has many other reasons for being; it has a tremendous future as a town in that area. It is one of the most compelling tourist destinations in the world. Its proximity to the Ningaloo Reef, the Exmouth Gulf and the Cape Range National Park make it a great tourist area with unrivalled potential. It is, therefore, unfair and inaccurate for the member to claim that its future has been placed in doubt as a result of the announcement by the Prime Minister.

Numerous discussions have taken place between officials of the United States Navy, the Australian Navy, the Australian Defence Department, the United States department of defence and officers of the Departments of State and Foreign Affairs. Although a large number of discussions have been held, no agreement between the two Governments has been reached about the hand over details. Such an agreement can only occur by Secretary Cheney responding to Senator Ray's correspondence to which I referred in this debate yesterday. No doubt the United States Navy has a view which it may have communicated to its personnel at the base. However, that view does not represent an agreement and may or may not be reflected in the agreement scheduled to be announced in November. More importantly, speculation on the content of that agreement is unhelpful for the morale of the Exmouth community and the people of the Harold E. Holt communication base. In many ways that speculation represents mischief making.

Hon E.J. Charlton: The Government wanted the United States out, didn't it?

Hon TOM STEPHENS: The Government has indicated that a facility is needed in the future for communicating with the Collins class submarines. Therefore, with the increased allocation of our defence forces on the west coast, particularly the Navy, there is more than ever a pressing need for that facility. The Australian Government offered to take control and command of the facility. That offer has been accepted by the American Government. Negotiations are now taking place and an announcement will be made in November which will spell out the arrangements concerning the agreement between the two nations.

Hon D.J. Wordsworth: We can't get the Attorney General to do handstands, but you are not doing badly.

Hon TOM STEPHENS: I am not at all. I am stating the case as it is, because I am well

aware that every word I say in this place on the matter will be circulated within the Exmouth community.

Hon E.J. Charlton: You should be honoured.

Hon TOM STEPHENS: I am conscious that my words will be read by the Exmouth community as they try to understand their future.

Hon Mark Nevill: Your words will be studied by scholars in 1 000 years to come.

Hon D.J. Wordsworth interjected.

Hon TOM STEPHENS: That is right on cue. Yesterday in opening the debate, my counterpart, Hon Phil Lockyer, reminded me of a story circulating during World War I when the *Boggabilla Chronicle*, a small newspaper in remote New South Wales, carried an editorial warning the Kaiser not to wage war on the allies. I remember the amusement and the ridiculousness of that situation. No doubt the Kaiser shook in his boots!

Hon E.J. Charlton: He should have listened to it.

Hon TOM STEPHENS: The *Exmouth Express*, which is the local newspaper, will not be running the United States defence policy, or the time frame of the United States withdrawal of its troops, as much as that newspaper may like to dictate the terms. Nor will it be run by the Exmouth branch of the Liberal Party. The withdrawal of US personnel will not be run on the demands of an Opposition back bench member of the upper House of the State Parliament of Western Australia making statements about the time frame for the withdrawal of US personnel from Exmouth.

Hon Sam Piantadosi: You should offer them the National Party's and farmers' policy. They want the Americans to get out of Australia altogether.

Hon TOM STEPHENS: I can inform Hon David Wordsworth that the President of the United States will not be concerned about any admonitions from me in my exalted position as a member of the State Parliament for the Mining and Pastoral Region, as chairman of the Exmouth consultative forum, or as a Parliamentary Secretary of State in this Chamber. In none of those capacities could I expect the President of the United States to hang on my every word when his Government announces its time frame for the withdrawal of American personnel from Exmouth. As much as I might like to have the US Defense Department taking some note of my wishes in the deployment of its personnel and the way it organises its strategic defence arrangements, or involving me in the discussions relating to the strategic defence of Australia, I am realistic; I know that my view is one of many that will be considered in the process of making these decisions. By no means will my view become the linchpin of those discussions. There is no role for the consultative forum in Exmouth that I chair in making decisions or determinations on the strategic defence of this country. Surely Hon Phil Lockyer, who as I know has great regard for me, would not want me to be in charge of the strategic defence of this nation! I am sure that he has not suggested that the consultative forum should be in the box seat for the defence strategy for this nation.

Hon E.J. Charlton: Perhaps he thought you might have some influence on your Federal party.

Hon TOM STEPHENS: I may have some influence on my Federal counterpart. However, as I explained to the House yesterday and am happy to explain again today, I share Hon Phil Lockyer's concern about the local community being worried about its future.

Hon Murray Montgomery: Do you?

Hon TOM STEPHENS: Indeed I do. However, I deal with my concerns in an orderly manner, not by grabbing inches in *The West Australian* or by using scare tactics in the local community about there being some doubt about the future of Exmouth. I consider each step of this process systematically and flag for State and Federal Government agencies and non-Government agencies issues that will arise from the transition. I had discussions yesterday with the Minister for Lands about the best way to handle the release of surplus land which could become available in Exmouth following the return of US personnel to America. In correspondence I also flagged for the shire council the need for it to consider the best way of dealing with any surplus land and houses resulting from the redeployment. I will also ascertain the nature of the agreement between the State Government and the US Navy and

determine what can happen to the educational, hospital and health services in the town. The people of Exmouth are legitimately concerned and they need to have those concerns dealt with by providing them with all available information on the future of the base.

The announcement about the future of the base will be made in a few weeks by the Federal Minister for Defence. He will spell out the agreement between the Australian and US Governments for the withdrawal of US personnel. It is important to understand that at public meetings the Exmouth community has been most vociferous in its complaints. That community has criticised anyone who has chosen to address public meetings while unable to give good detail about its future. However, until the information is available, there is not much point holding more public meetings. The issues have been deliberately and seriously canvassed at every level of Government. When the Federal Minister makes his announcement in Canberra in late November on detailed plans for the future operation of the base, an Australian Admiral will be in Exmouth to make a simultaneous announcement. Those announcements will assure a role for the base in the future defence strategy of this country. It is regrettable, therefore, that an Opposition local member for the area has attempted to highlight and sensationalise the fears of the local community in today's newspaper and throughout the area.

In response to the reasonable demands of the local community, the Government is attempting to attract investment to Exmouth. Stories by that local member about the town having no future do nothing for the town's reputation. Potential investors for that local economy will not receive the right message about the town from those sorts of stories. Sizeable investment opportunities are available for anyone interested in tourism in Exmouth. The combination of the defence establishment and the tourist industry assure Exmouth's future. That area has great potential. There will be changes and many of those changes will be difficult. However, with those changes will come opportunities. As US personnel move on and some services are withdrawn, there will be a need for Australians to step in to deliver those services to the town. The retail sector will have an opportunity to deliver retailing services which are currently delivered by the US Navy establishment on the base. No doubt, many other opportunities will be created as a result of the change. Already, a major Western Australian company, Dawson Industries Ltd, has won a major contract with the Australian Defence Department to prepare a report on the best way to operate the base in the future. That has placed that company in a very attractive position. Dawson Industries is very well connected with a major operator of the US defence establishment's bases in the United States, Brown and Root, and in that context the partnership positions it well to be able to make recommendations on the way the base should be operated in future so that it can win any contracts available for the running of the civilian component of that communications facility. Of course, there are some immediate difficulties and the challenge is now for us all to grab the opportunities and work towards securing a future for the town of Exmouth. My colleague, the very talented and hard working member for Northern Rivers, Mr Kevin Leahy, in response to similar representations from the local community appropriately took his concerns to the Federal Minister for Defence, Senator Ray. He did that rather than big noting himself by moving an urgency motion in the House and expressing his concern to the Press. The member for Northern Rivers wrote a letter yesterday to Senator Robert Ray, stating in part -

> I am in receipt of representations, with which has been enclosed the text of a memorandum (copy attached) that purports to outline US Navy intentions in regard to Harold E Holt. . .
>
> The circulation of this text in the local Exmouth community, together with the widespread circulation of details of what is said to be a detailed briefing on this issue to US personnel, has convinced the local community that imminent dramatic change to the involvement of the US Navy is about to occur. . .
>
> Against this background I urge you to immediately provide for Australian personnel in Exmouth a detailed briefing on the anticipated agreement with the US Government on the withdrawal of US Navy personnel. I also urge that this briefing be in advance of the public affirmed announcement that you will be making following receipt of the affirmed response from the US Secretary of State, Dick Cheney.

I commend the member for Northern Rivers, Mr Kevin Leahy, for his responsible approach

to those expressions of concern from the local community. Rather than flagging concerns and attracting unfavourable media attention to the community at Exmouth, he has appropriately addressed the local issue and placed his concerns with the Federal Minister in the hope that this process can be expedited and an announcement made as soon as possible.

In conclusion, the terms of this motion are ill-considered, particularly its reference to a suggestion that the base could be totally closed. There is no prospect of that happening in the foreseeable future: The local community knows that; the member who moved the motion should know it, and certainly the Government knows it. I hope that by making this categorical statement in the House, a new sense of security will be felt by those associated with Exmouth. More importantly, let us get on with the challenge of finding ways to grab this opportunity, both in the transition phase and in the new phase of its development as a major tourism destination, thereby guaranteeing that the people of Exmouth have the great future which they deserve.

HON N.F. MOORE (Mining and Pastoral) [3.04 pm]: Before commenting on the motion, I indicate my total objection to the way in which the Attorney General has used the one hour rule to terminate a debate on an urgency motion. It seems quite logical that if a member decides to use the vehicle of an urgency motion to draw the attention of the House to a problem, that problem must be urgent and the Standing Orders provide for members to bring such matters to the attention of the House in the hope of those matters being debated and resolved at the time they are raised. In recent weeks the Attorney General has used the one hour rule to terminate such debates. Fortunately, the motions have become No 1 on the Notice Paper the following day; however, that is more by good luck than good management. Consideration must be given to the Standing Orders to ensure that this cannot happen again, and that urgency motions are concluded on the day on which they are raised.

Hon Tom Stephens: Maybe it will be necessary to address the issue of giving the Government notice of emergency motions.

Hon N.F. MOORE: I will not argue with that; I think most members give notice of motions on which they want a response from the Government. In any event, Hon Tom Stephens made a very learned speech yesterday without having received any notice of the motion and thereby demonstrated that there is no need to give him notice because he obviously carries the information around in his head. The Leader of the Government in this House should also note that the reporting of the debate would have been more balanced from the Government's perspective had Hon Tom Stephens been able to complete his speech yesterday. If only one member makes a speech on a subject and that debate is reported, only one side of the argument is published. I guarantee that Hon Tom Stephens' speech will not be reported in the Press tomorrow because it is today's news.

Hon Tom Stephens: I hope it will be reported that Exmouth has a rosy future.

The PRESIDENT: Order! Notwithstanding all those things, the member should talk about the urgency motion.

Hon N.F. MOORE: Hon Tom Stephens said yesterday that we should not play politics with Exmouth. He has said that several times, including on one occasion when he told us about his trip to America. However, I do not know of any town in Western Australia with which so many politics have been played, by both the State and Federal Labor Governments. I was in Exmouth when the decision was announced by the Prime Minister, Mr Hawke, that he would Australianise the base. That announcement was made in the context of a Federal election for blatant, unadulterated, political purposes. As Hon Phil Lockyer said yesterday, it was designed to win the hearts, minds and votes of the greenies of Sydney and Melbourne. It was designed to attract the votes of those who see something wrong with a foreign military base operating on Australian soil. The decision was made on the run without any consideration being given to the consequences of it, and it sent a shiver up the spines of the people living in Exmouth. That was a very fundamental political exercise on the part of the Prime Minister, and it is most hypocritical for Hon Tom Stephens to tell members to stop playing politics with Exmouth, as his Federal leader was engaged in that activity at Exmouth before the last Federal election.

The State Government has also told us that the town of Exmouth has a magnificent future and that it will play its part in that future by providing a marina. So far that is in the basket of unfulfilled promises.

Hon R.G. Pike: It has potential.

Hon N.F. MOORE: We have been told that it has potential. Opposition members have known for many years that it would be a good thing to build a marina at Exmouth and prior to the last two elections the State Government promised to provide that facility to this town, which desperately needs some assurance about its future. No doubt the Labor Government will use that promise again in a future election campaign. It is similar to the promise to provide preschool places for all four year old children. The Government has used that promise at election after election, in the hope that people will forget its previous promise which has not been fulfilled. No doubt in the 1992-93 election campaign the Labor Party's policy for Exmouth will include the promise of the construction of a marina in the town. Hon Mark Nevill suggested by interjection that the building of that marina was somehow dependent upon Lord McAlpine's building a hotel. That is absolute nonsense. The marina was promised and, of course, the Government hoped to attract somebody with the financial backing of Lord McAlpine to build a hotel and associate it with the marina project. However, the marina was to be Government funded and operated, and run by the Department of Marine and Harbours to provide a basic infrastructure facility for the town of Exmouth. It was not to be dependent upon anyone particularly building a hotel. The fact is that most investors are not willing to spend money in Exmouth, or in any part of Western Australia for that matter, on tourist resorts. A couple of years ago I introduced a motion in this House in which I referred to a particular entrepreneur who wanted to develop a resort in Broome. After five years of red tape and difficulty with the Government, he decided to toss in the hat and go elsewhere. He asked me where did I think he should invest money, or in which part of Western Australia would I like to attract entrepreneurs.

Hon Tom Stephens: Who was that?

Hon N.F. MOORE: A particular person, whose interest I discussed in this House some years ago. I suggested to that person that he go to Exmouth. I told him that Exmouth had great potential, as Hon Tom Stephens has just told us. It is a better tourist locality than Broome because it has a greater variety of options for tourism. I told him to go to Exmouth and see whether he could get the support he needed to develop a resort hotel in that town. That was about five years ago, and I understand that person can still not get any land in Exmouth to develop a resort. The red tape that developers have to go through in Western Australia in order to develop anything these days is turning them away in droves. Hon Tom Stephens told this House that that part of the State has enormous potential for tourism. That may be correct when we look at the natural attractions of the area, but not when we look at what investors have to go through in order to be able to spend their money. Investors will not come to Western Australia to spend their money because they know darn well that the bureaucratic red tape that is put in the way of their activities is such that they will never get a project going within a reasonable period of time. That is why entrepreneurs have gone to places such a Queensland to spend their money. That is why very few projects are under way in Western Australia.

Hon Tom Stephens: Direct that entrepreneur to me and I will be able to sort out the problems that you have not been able to sort out for him.

Hon N.F. MOORE: He has probably gone somewhere else because he is so fed up with the obstacles that are put in the way of a person who wants to spend his own money to develop a project in this State.

I do not want to speak for very long because Hon Phil Lockyer has said most of what needs to be said. However, what the Leader of the House has done with this debate has prevented Hon Phil Lockyer from responding to the comments of Hon Tom Stephens because he happens to be out of the House today on parliamentary business. That is the fault of the one hour rule which terminates debate on an urgency motion. What Hon Phil Lockyer has done in bringing this matter to the House is draw from the Parliamentary Secretary what seems on the surface to be a reasonable response. Hon Tom Stephens has gone through the whole matter chapter and verse. He tried to ignore the politics of it, although I know very well that the whole darn thing is riddled with politics. He tried to explain to the House in fairly clear terms what is happening to Exmouth and what its future is likely to be.

Hon Tom Helm: He did an excellent job.

Hon N.F. MOORE: Yes, considering that he has ignored the crass politics that brought about all this in the first place. He gave us some indication of what will happen. Hon Phil Lockyer's urgency motion has drawn from the Government a response which will now presumably be made public, because Hon Tom Stephens has stated that his speech will be circulated widely to the people in Exmouth. The people will now have some idea of what their future holds. Yesterday, the member for Northern Rivers, Kevin Leahy, wrote a letter to the Federal Minister, Senator Robert Ray. His letter will sit in the bottom drawer of some Federal bureaucrat until he retires and someone else opens it up. Mr Leahy will eventually get a response; maybe this year, or maybe the next. He can then tell the people that he really was very concerned about their future; he wrote a letter to the Federal Minister. Hon Phil Lockyer has brought this matter to the House quite properly, and has described to us the concerns of a community in his electorate. That is what we are paid for: To deal with the legitimate concerns of our constituents. It is nonsense for Hon Tom Stephens to be critical of Hon Phil Lockyer for bringing the matter to the House and in some way speculating on the future. Members of Parliament are entitled - and in fact are expected - to draw to the attention of the House and of the Government the concerns of their constituents.

I do not share Hon Tom Stephens' enthusiasm for the rapid or early construction of a resort at Exmouth, because the red and the green tape are of such magnitude that I do not believe investors will waste their money in that area. The whole of the Exmouth area is surrounded by national parks, marine parks, nature reserves and all sorts of different categories of land in which it is virtually impossible to spend a cent even if one wanted to. If Hon Tom Stephens can get the Minister for Lands and the Minister responsible for the Department of Conservation and Land Management to make some urgent decisions about making land available, perhaps something will be achieved, but we have a long way to go before we will attract development to Exmouth. If the Government can get a marina in place, and make available some land on a freehold basis - not on a leasehold basis - it may attract a developer, but it must make it easy for developers otherwise they will not come to Exmouth. If the Government does not do that, I can guarantee to members opposite that we will be arguing this matter in four years' time when members opposite, as members of the Opposition, put forward their policy for the next election for the construction of a marina at Exmouth.

Hon Tom Stephens: We will be happy to accept the interest of a developer for a project at Exmouth under the terms that you have mentioned.

Hon N.F. MOORE: The Government will have to attract developers. The way to do that is to provide an incentives package for them to spend their money in Exmouth. There is a lot of competition in Australia at the moment for those sorts of projects.

Hon Tom Stephens: I fear that the moment such an approach is made you will accuse us of another WA Inc deal.

Hon N.F. MOORE: WA Inc was brought about because the Government did not tell the people what it was doing. If the Government can put before the House a piece of legislation that provides incentives to a company to develop a resort at Exmouth, I will be the first to support it, provided all the details are contained in the legislation. That is how it should be done.

I suggest to Hon Tom Stephens that a practical solution to some of the party-political problems that this issue attracts would be to include my colleague Hon Phil Lockyer on the forum that he chairs. Hon Phil Lockyer has taken a long and deep interest in the affairs of Exmouth. He is well regarded in that community. I do not know whether he wants to be on that forum, but the thought crossed my mind that he is the sort of person who could make a significant contribution to it. I recommend to the member that he give consideration to inviting Hon Phil Lockyer to be on that forum, because he could make very forthright but sensible propositions about the future of the town. We all hope that Exmouth has a great future. It is a tremendous place. I agree with Hon Tom Stephens that the climate is magnificent, the beaches are wonderful, and the scenery is fantastic, but we need to make it absolutely clear what the future will be so that people can invest their money, hang on to their homes and their businesses, and have hope for the future. I commend Hon Phil Lockyer for bringing this matter to the House. However, I regret that, because of the way the debate has been handled, he has been prevented from responding to the comments made by Hon Tom Stephens.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.19 pm]: Hon Philip Lockyer, who moved this motion, is away from the House on parliamentary business today and therefore I seek the leave of the House, as is the custom with urgency motions, to withdraw the motion.

Motion, by leave, withdrawn.

MOTION - ABORIGINES

Ministers' Public Statements - Racial Tensions

Debate resumed from 22 October.

HON B.L. JONES (South West) [3.20 pm]: At the conclusion of time for the debate on Hon Eric Charlton's Aboriginal affairs motion last Tuesday I was addressing paragraph (b) of the motion, and demonstrating that the very measures Hon Eric Charlton called on the Government to implement were already being implemented by this Government. I appreciate that reading out a list of achievements and objectives can be both tedious to recite and rather boring to listen to, but I want to highlight a few more of those initiatives because it is important that we give recognition to the Government for the measures it has already put in place to address the needs of Aboriginal people.

For example, an Aboriginal employment policy for the State Public Service to encourage the employment and training of Aboriginal people has been developed, and currently 1 529 Aboriginal people are employed in the State Public Service. There has been an increase in housing for Aboriginal families through the Aboriginal housing program administered by the Aboriginal Housing Board and Homeswest, and I have had some pretty good results in Pinjarra through that program. Also the Equal Employment Opportunity Act 1984, which seeks to eliminate discrimination and promote equal opportunity, has been implemented. The decriminalisation of drunkenness in 1991 has aided in the reduction of Aboriginal imprisonment and incarceration. Juvenile offending programs have been set up which provide life skills programs, community based programs, diversionary programs, and alternatives to custody, which I believe all members will view as extremely important. As well, the State Government Advisory Committee on Young Offenders has been established to assist in the development of effective programs and strategies to combat juvenile offending. In the education field the Minister for Aboriginal Affairs, Hon Judyth Watson, announced on 5 September that a new course in Aboriginal studies would soon be introduced into Western Australian high schools.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! There is too much audible conversation in the Chamber and the Hansard reporter is having difficulty hearing.

Hon B.L. JONES: This initiative goes to the heart of Hon Eric Charlton's calls for improvements in education, because it will be reliant on the participation of local Aboriginal communities. The new course will be trialled in four metropolitan high schools. I believe the teaching of Aboriginal history and culture in our schools is long overdue and should help to break down the traditional bias towards Aboriginal people in Australian society. I have given just a few of the practical measures being implemented by the Government, but they prove that we really do not need Hon Eric Charlton's motion to tell us that we should implement practical measures, as we are already doing so.

I agree with paragraph (c) of the motion, wherein Hon Eric Charlton asks us to recognise the achievements by Aboriginal families who have taken advantage of opportunities to be self-reliant, and that these achievements are not the result of patronising and interfering Government policies. I agree with that; we should recognise the achievements of Aboriginal people in the community. Certainly they are not the result of interfering and patronising Government policies - far from it. They are very much the result of a Government which is putting in place practices to encourage those achievements. This, however, was not true in previous years, particularly under conservative Governments, which were very much in the mode of patronising and interfering, as history records. I am not sure whether Hon Eric Charlton meant to say that in his motion; however, that is what he said.

Hon E.J. Charlton: It is this Minister's patronising that gets up my nose.

Hon B.L. JONES: We will have to differ on that, because the member did not prove that to me during his speech last Tuesday and he is not likely to prove it today.

Hon Eric Charlton pointed to some of the achievements of Aboriginal people in the sporting field, and he is quite right. I suppose we do put them on a pedestal, particularly our football heroes.

The DEPUTY PRESIDENT: Order! I ask that the private meeting at the back of the Chamber break up.

Hon B.L. JONES: He could equally have pointed to the wealth of talent in the artistic field -

Hon E.J. Charlton: I did.

Hon B.L. JONES: - epitomised by Albert Namatjira and the internationally acclaimed Middar dance group. It is really no coincidence that Aboriginal people have shone in these areas, as they form part of their rich cultural heritage. However, I think it says something about their problems when they are forced to adapt within the space of a lifetime to something as foreign to them as a formal European education and having to conform to a society with such different sets of values. I do not pretend for one moment that we have all the answers. There is a great deal more to be done. I am afraid it will take Governments many years before we can feel any sort of complacency that we are indeed bringing about the sorts of reforms that are needed, but we have made a start.

One of the biggest concerns is how we can change community attitudes, and I must say that the media has had a large part to play in that, particularly the electronic media, which has too often shown the same sort of footage of people staggering around a campsite clutching bottles. If the media will continue to highlight, as they have recently, some of the achievements of Aboriginal people, perhaps attitudes will start to change. Poverty and powerlessness are the result of a history of exploitation, a lack of civil, legal and industrial rights and a lack of status which relates to Aboriginal people being drawn away from their own cultural society.

Hon E.J. Charlton: No-one did more to draw them away than did your good Prime Minister, Mr Whitlam, who forced them all off the station country and homelands into the towns.

Hon B.L. JONES: We have a very poor history, which has imposed a perception of domination and superiority over Aboriginal people. That is what we have given to Aboriginal people.

Hon E.J. Charlton interjected.

Hon B.L. JONES: Again Hon Eric Charlton is talking about handouts. As I said the other day, he must be confused: On one hand he is urging us to take measures to help Aborigines, and on the other he is talking about handouts. He should think through what he really wants. The Government is implementing measures to improve the living conditions of Aborigines in matters of housing, education, health, and being able to provide opportunities for them. It is my hope, and the Government's, that through education which is made relevant to Aboriginal people - and I stress that it must be relevant to them - through the granting of land rights, which are their very life's blood, and by encouraging them to participate in Aboriginal enterprise and economic development programs and decision making bodies, we may go some way towards empowering Aboriginal people to take their rightful place in our society.

The news is not all doom and gloom, and I turn now to some of the positive achievements of the Aboriginal people in my electorate. When I first became a member of Parliament and moved my office to Pinjarra I went to see the Murray Districts Aboriginal Association. The association's hall, when I first saw it, was an absolutely derelict building; it was no use to anyone and had nothing in it. However, over the last few years I have seen that place transformed, by dint of assistance from Government agencies.

[Debate adjourned, pursuant to Standing Order No 195.]

HOME BUILDING CONTRACTS BILL

Committee

Resumed from 23 October. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Progress was reported after clause 8 had been agreed to.

Clause 9: Implied conditions as to necessary approvals -

Hon PETER FOSS: I move -

Page 8, line 22 to page 9, line 27 - To delete subclauses (1) and (2) and substitute the following subclauses -

(1) Unless otherwise agreed between the owner and builder, but subject to subsection (5), every contract is conditional upon -

(a) a building licence under Part XV of the Local Government Act 1960 being issued, in respect of the home building work being included in the contract, within 45 working days from the date of the contract;

(b) it being lawful under the Water Act, within 45 working days from the date of the contract, for the home building work to be commenced.

(2) Unless otherwise agreed between the owner and the builder, it is the term of every contract that -

(a) the builder will do all things that are reasonably necessary to be done to ensure that any condition referred to in subsections (1)(a) and (b) of this section, applicable to the contract is fulfilled; and

(b) the owner will do all such things as may be required to be done by the owner to ensure that any condition referred to in subsections (1)(a) and (b) applicable to this contract is fulfilled.

The effect of clause 9(1) paragraphs (b) and (d) is that when a building licence is issued which contains conditions it is possible for the contract to be set aside if within 45 working days of the date of the contract both the owner and the builder fail to acknowledge in writing that they accept any condition attached to the contract. Quite often conditions may be unacceptable and the builder and the owner may wish to challenge the requirements placed on them by the local government authority. This clause forces them to either agree to those conditions or the contract disappears. Subclause (2) states that the builder has an obligation to do all things that are reasonably necessary to ensure that conditions referred to in subclause (1) paragraphs (b) and (d) are fulfilled. The builder is instantly obliged to conform notwithstanding the owner may not wish him to do so. The only exception is contained in subclause (3). So the extraordinary thing is the obligation on the parties, irrespective of their wishes, to do certain things immediately after signing the contract; and that is before the building licence would be applied for because one cannot apply for a building licence unless one has a building contract. This clause would force the parties to lose the contract or the owner to make objections, because under the contract the builder certainly is not allowed to do that. It seems an unnecessary restriction.

Hon JOHN HALDEN: Schedule 1 provides that the contract remains in force on the same terms and conditions. When the member referred to the no fault provision or unreasonable conditions being applied he must have been presuming that no appeal process or no mechanisms between the owner and the builder to resolve the problems were available. However, the people who drafted the Bill considered that. On that basis it is not justifiable to say that the parties cannot come to an arrangement. The Bill will provide a far better system than the current one and it is a system under which the parties can agree to certain things by their signing an agreement. After that no disputes should arise because the parties have agreed. We will no longer have the old "Mansard problem" of plans deliberately not being submitted for approval for a protracted period and the contract being renegotiated at a higher price. The alternatives have been covered by this clause.

Hon PETER FOSS: I understand the things the Parliamentary Secretary has referred to but my amendment will allow those things to which he has referred and will not put any obligation on the parties to agree to the conditions because they are entitled to not agree to the conditions. The problem lies in the obligation as set out in paragraphs (b) and (d). Perhaps the wording of the paragraphs is unfortunate and if the wording is to stand it should be the other way around; that is, it should allow the parties to extend the period of time

should both of them agree, rather than having it conditional upon their acknowledging it in that time. A contract does not exist if it is not conditional. Schedules 1 and 2 refer to those occasions when the obligations are not fulfilled because the builder has failed to comply or the owner has failed to comply. However, if the contract is not fulfilled because both of them agree that they want to challenge the conditions, schedules 1 and 2 will apply. The drafting of this clause leaves something to be desired. If both the builder and the owner agree that they do not want to comply, schedules 1 and 2 will apply. The term "conditional" in clause 9(1) will complicate the contract.

[Continued below.]

Sitting suspended from 3.35 to 4.00 pm

STATEMENT - BY THE PRESIDENT

Breach of Members' Afternoon Tea Area

THE PRESIDENT (Hon Clive Griffiths): It has been brought to my attention by a couple of members that the sanctity of the members' afternoon tea area has been breached. This place is an incredible place for not informing people of the rules. The corridor set aside for members' afternoon tea is part of this Chamber while the House is in session and the staff of Parliament House are excluded from it. I will not expand on the matter further except to remind members that it is totally a precinct for members of Parliament.

[Questions without notice taken.]

HOME BUILDING CONTRACTS BILL

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Clause 9: Implied conditions as to necessary approvals -

Consideration of amendment moved by Hon Peter Foss resumed.

Hon PETER FOSS: I am pleased to be able to report that during the break I was able to discuss this matter with the Parliamentary Secretary and his adviser. I am satisfied that the result I feared would occur will not occur. However, it took us a considerable amount of time and convoluted effort to determine this fact. I sympathise very much with the consumer who must arrive at the same conclusion we did without the benefit of the advice we had. The procedure by which this requirement is set up is extremely convoluted and difficult. In order to find out how subclauses (1) and (2) work we must read them. When we do so, we find they do not mean what they say, or what we would normally understand because we must go to schedule 1 and read clauses 1 to 3. Putting it mildly, it is not easy to follow that through. There must be a better way to do it than the way it is presently set out. That would require a fairly heavy rewrite of clause 9 and the schedule. I do not propose to engage in that at the moment because it would be likely to come out even worse than it stands. This is an indication of how this type of clause is difficult to handle at the Committee of the Whole stage. It would be easier to handle if we were able to sit around and discuss it with the Parliamentary Counsel and perhaps end up with a better way to word it. This is a dreadfully worded piece of legislation. Clause 9 will cause immense headaches for anyone who must go through it.

My second concern, and another matter dealt with by my amendment, relates to clause 9(2)(b)(i). Paragraph (b) states that the owner will -

> (i) pay to the builder the reasonable costs incurred by the builder in complying with the builder's obligations under paragraph (a);

The obligation under paragraph (a) is that the builder will -

> (i) do all things that are reasonably necessary to be done to ensure that any condition referred to in subsection (1)(a) and (c) applicable to the contract is fulfilled;

That is, to obtain a building licence and Water Authority permits. If one understands what

that involves, one then goes to subclause (3) which says what to do in order to comply; that is, to submit to the relevant authorities "within 30 days after the date of the contract all necessary applications required for the purpose of having conditions referred to in subsection (1)(a) and (c) fulfilled", and so on. To follow all that, is to do well. However, that is what must be done. My problem is that I would have thought that these costs were usually included in the contract price in any event. That is exactly one of the things within the terms one would expect the builder to do, and which would be written into the contract price. For some reason, we seem to want to charge the owner an extra amount of money for complying with the requirement to obtain the two licences and submit all necessary applications required for that purpose. For some reason we seem to want to impose an extra financial obligation on the owner. Even if I do not proceed in total with the deletion of subclauses (1) and (2), I foreshadow that I would like to delete subclause (2)(b)(i) because I believe that is a cost that should be borne by the builder.

Hon DERRICK TOMLINSON: I listened carefully to Hon Peter Foss' explanation of his amendment to clause 9 earlier today. I thought I understood the situation, until the member returned from the break and explained that he had a different understanding as a result of a conversation that he had. He directed us to schedule 1 because that explained the consequences of clause 9. Clause 9 states that "subject to subsection (5) every contract is conditional upon" followed by paragraphs (a) to (d). Then we go to schedule 1 and find that if any condition set out in subsection (1) is not fulfilled solely because the builder has failed to comply with the builder's obligations, and so on, the contract is not affected but remains in force. I am a person who will be a consumer protected by this legislation. I would like to understand how I will be protected. Could we prevail upon the Parliamentary Secretary to explain the consequences of the schedule upon the conditions of clause 9?

Hon JOHN HALDEN: In essence, clause 9 deals with the proposition that only so many days are allowed for a builder to seek either local government or Water Authority permits. This represents an effort to overcome the old problem - such as the Mansard problem - of allowing a 60-day contract to run out. That is, the appropriate approvals have not been obtained, but the owner or the consumer is tied into an increased contract price. That explains subclause (1)(a) and (c). As to paragraphs (b) and (d), they provide for the signing of an agreement between the builder and the owner to that effect. Subclause (2) outlines the obligations of both the builder and the owner on these sorts of matters and states that one cannot unreasonably decline to do what is requested by a local government authority and that one must do all things reasonable in order to fulfil those obligations. If one has a problem or does not agree with the obligations, schedule 1, parts (2) and (3), will provide solutions by making options available. If there is disagreement, the contract remains in force and the construction is continued. The schedule provides solutions regardless of whether the parties agree or disagree. If the parties agree - which is the point Hon Peter Foss and I discussed prior to question time - on matters concerning the Water Authority or a local government authority, and both parties agree that the authority is being unreasonable, the schedule provides a resolution to that disagreement in a way which keeps the contract in vogue; that is, under schedule 1, part (3). Therefore, clause 9 explains the types of problems which can arise, and the schedule stipulates the remedies.

Hon PETER FOSS: The Parliamentary Secretary's explanation illustrates part of the problem of the drafting of this legislation. If the conditions are accepted by both parties, another piece of paper must be signed. Again, I note that it is not stipulated whether this must be done by the owner and builder personally or whether an agent can act for them. That point should be clarified on the record. If another piece of paper must be signed by both parties in person, many problems will arise and we will have strange legal consequences.

The Parliamentary Secretary's explanation was important because a contract which is subject to conditions which are not met would normally result in the contract being drawn to an end. However, schedule 1, part (3) states that the contract remains in force on the same terms and conditions, even under disagreement, until either the parties agree otherwise or the contract is terminated. That is the case even though a 45 day limitation may have already expired. I would hate to be the person interpreting these points, but it will help such persons to read the Committee stage debate and ascertain the Parliamentary Secretary's explanation. However, the wording of the Bill is almost self-contradictory. It relates to terms and conditions which

would normally bring the contract to an end. The explanation makes the legislation a little more workable, even though a person seeking interpretation will have to source three areas; that is, clause 9, schedule 1 and *Hansard*. That will take time.

Hon JOHN HALDEN: Hon Peter Foss makes a relevant point regarding the stipulation of agents in this clause. I have given a commitment to recommit the Bill in order to further consider certain clauses, and I will include this clause to insert the appropriate wording to include agents.

Hon PETER FOSS: I appreciate that, but prior to recommittal it may be wise to take advice from Parliamentary Counsel in case it is possible to insert some reference to "the owner and builder or their agents", or words to that effect, at the front of the Bill. Normally that would be assumed; however, clause 4 refers specifically to agents and this could lead to some confusion about the general reference to owners and whether it includes agents. In view of the explanation and the undertaking given by the Parliamentary Secretary, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon PETER FOSS: However, I move -

Page 9, lines 18 to 20 - To delete subparagraph (i).

This amendment deletes subclause (2)(b)(i) which refers to the owner paying the builder the reasonable costs incurred by the builder in complying with the builder's obligations under paragraph (a). In the normal event the builder has an obligation under subclause (1)(a) and (c) to obtain the necessary licences, and under normal events he is required to pay the costs which accrue. However, this provision applies a separate obligation under the contract. It would be better if the builder included the cost of obtaining the licences in the contract sum and did not send the owner a bill afterwards pursuant to subclause (2)(b).

The whole thrust of the legislation to date is that a person should know where he or she stands. Many people would be surprised if they suddenly received from the builder a bill covering the problems he experienced in obtaining the licence. These costs should be fixed because the legislation refers to "reasonable costs" incurred by the builder. For example, if the builder has a particularly difficult time in applying for sewerage line licences at the Water Authority, this could take up a fair amount of his time. In Mt Lawley, where I live, difficulties seem to arise in locating exactly where the sewerage lines run. If a fixed price applied for the parties to the contract, the builder would take responsibility for obtaining the licence. The practice whereby the builder takes on this cost would result in its inclusion in the total contract price; therefore, the owner would know up front how much the bill would be. In that case, the builder will not include a lower sum in the contract in the knowledge that he will recover further costs under subclause (2)(b)(i).

Hon JOHN HALDEN: I do not know how the member can argue that the owner may be forced to pay twice, or more than is reasonable. The figure would normally be incorporated in the price and no opportunity exists to pop a further amount on the end of the contract or to charge separately. This matter is covered within the contract. I cannot see how that can happen. A builder would have included the cost of building licences and permits from authorities such as the Water Authority of Western Australia within the contract. I do not believe this clause allows for any double dealing or double claiming.

Hon PETER FOSS: If a contract to build a house is for $70 000, and this clause writes another term in the contract that would say, "The owner will pay to the builder the reasonable costs incurred by the building in complying with the builder's obligation under paragraph (a)", that would be in addition to the contract sum. If this clause said instead that the contract price includes those costs, we would not have a double payment, but as it stands it is a separate obligation that the owner must pay reasonable costs in addition to the contract sum. That is not a problem if the builder knows that and subtracts that from the contract sum, because the figure that he gives to the owner will be that much less. If it is done that way, the builder should lower the contract sum and recover the cost under this clause instead of under the contract sum. However, if the builder includes it in the contract sum it is an added obligation. An analogy would be the purchase of a house for $80 000 where the purchaser says he will pay all the stamp duties; that becomes another obligation on top of paying for the house. In this case one pays for the building of the house and in addition one pays for the

reasonable costs. It is much safer to have that as part of the up front costs rather than a cost but no-plus sum - something that is unknown at the beginning of the contract and is not discovered until after the builder has spent the time or the money. If we retain this clause it will be an extra cost in addition to the contract.

Hon J.N. CALDWELL: I am pleased that Hon Peter Foss has withdrawn his previous amendment. Hon Peter Foss has a valid point with this amendment which is pretty straightforward. We should not be adding this complication to an already complicated clause. There would be confusion in some cases as to whether the builder has or has not included these costs. This part of the clause should be deleted.

Hon JOHN HALDEN: The very crux of Hon Peter Foss' suggestion is that this will allow a payment-plus. However, one must refer to the contract, and if the contract said "costs associated with obtaining X or Z shall apply to the builder or shall be the responsibility of the owner", that would become clear. The contract would give us the answer as to whether one should pay the money. I am not convinced there is an opportunity for a double payment.

Hon PETER FOSS: The opportunity is there because one cannot look at the contract because the clause operates so as to change the terms of the contract. The effect of clause 9(2) is that people cannot have contrary provisions in the contract. This clause sets the law and every contract that is entered into must have this in it. When Parliament passes this Bill it is saying, "These are the terms of the contract." It is not that it is included in the terms; it is additional.

Hon John Halden: How does that imply doubling?

Hon PETER FOSS: I agree, it does not imply doubling unless when the builder quoted he had already made an allowance for this charge. I have said that it is possible, if the builder knows about this clause, he will reduce his price by what he estimates will be the cost, so there will then not be any doubling. That will defeat the intention of trying to give the person a price which is certain and up front. However, this clause allows the builder to claim costs within 45 days of signing the contract for obtaining licences and permits. The ordinary home owner will be surprised when he gets a letter from the builder with a bill for $300 to obtain licences. As Hon Sam Piantadosi suggested, it could even be higher, say, $2 000 if the house is to be constructed in Mt Lawley or Guildford where it is hard to find the sewerage lines. The builder would be entitled under clause 9(2)(b)(i) to claim that cost. However, if Hon John Halden wants to retain the clause, he must wear it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10: Deposits and advance payments -

Hon PETER FOSS: I move -

Page 10, lines 27 to 29 - To delete subparagraph (i).

This is consequential on my previous amendment.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 11, line 8 - To add after the word "materials" the words "or services".

Services of an engineering nature or testing nature go beyond building work done by a builder or materials. The clause as it stands does not allow the builder to recover anything that is not in the terms of the contract or anything that is provided for by the contract. When working out the total amount of the progress payment, if he has provided paid services which are included in the terms of the contract, that is part of the build-up of that progress payment. It picks up a slight gap.

Hon JOHN HALDEN: We are arguing about word usage. The word "work" in line 5 on page 11 covers services.

Hon Peter Foss: If he has performed it, but the problem is he may have provided services provided by somebody else.

Hon JOHN HALDEN: I do not want to go to war on this matter. My advice is that "work" adequately covers the example put forward by the member.

Hon Peter Foss: He could have obtained plans or things like that. I do not think that is work performed by him; it is services he provides in the same way as materials. I am pleased there is no problem about this. I do not think it goes to any philosophical differences between us. The amendment just makes the clause better than it is.

Amendment put and passed.

Hon GEORGE CASH: I move -

Page 11, line 10 - To delete "$10 000" and substitute "$2 000".

The argument put forward in support of this amendment is consistent with the argument I have raised in earlier debates on penalties. It is clear that the penalties are harsh, unrealistic and inordinately high. The Bill will become more a punitive Bill than a conciliation Bill. The Parliamentary Secretary has stressed on a number of occasions that it should be consumer oriented rather than cause people to resort to litigation and prosecution where breaches occur. For the sake of realism and for the sake of what happens in the building industry, the penalty should be $2 000 in respect of breaches of this clause.

Hon JOHN HALDEN: We have debated penalties on a number of occasions. I do not want to go through a long-winded argument. The member referred to harsh penalties, unrealistic penalties, inordinately high penalties and punitive measures. One should put this into context with what is posed in the Bill, not just in the clause. The penalties provided are not extreme, given Australia-wide examples. They fit very much into the medium range of penalties. Penalties in the Fair Trading Act for offences of a similar nature range from $20 000 to $100 000. The maximum in this clause is $10 000. The penalty for the first offence will be 10 per cent of that - $1 000. The member should realise that to prevent consumers from paying money except as prescribed in the contract goes against the intent of the Bill. That has been a considerable problem for consumers in the past. The penalty reflects those problems. It is integral to the thrust of this Bill and it does not behove the Leader of the Opposition to use highly emotive terms to garner support for his amendment.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Noes.

Division resulted as follows -

Ayes (12)

Hon J.N. Caldwell	Hon N.F. Moore	Hon D.J. Wordsworth
Hon George Cash	Hon Muriel Patterson	Hon W.N. Stretch
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	
Hon Barry House	Hon Derrick Tomlinson	

Noes (12)

Hon J.M. Brown	Hon Kay Hallahan	Hon Doug Wenn
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Garry Kelly	*(Teller)*
Hon Reg Davies	Hon Sam Piantadosi	
Hon John Halden	Hon Tom Stephens	

Pairs

Hon P.H. Lockyer	Hon J.M. Berinson
Hon Margaret McAleer	Hon Graham Edwards
Hon Murray Montgomery	Hon Tom Helm
Hon E.J. Charlton	Hon Mark Nevill

Amendment thus negatived.

Clause, as amended, put and passed.

Clause 11 put and passed.

Clause 12: Understatement of prime cost items etc. -

Hon GEORGE CASH: I move -

Page 12, line 30 - To delete "$10 000" and substitute "$5 000".

Members will be aware that clause 12 deals with the understatement of prime cost items and it is intended by the Government to impose a penalty of $10 000 for breach of this clause. The figure of $10 000 is harsh and unrealistic, and it does not have regard to the realities and practicalities of the building industry. The same argument I advanced to reduce the penalty applying under clause 10 can clearly be applied to this clause.

In the wording of subclause (1) there is an element of definition that is not clearly stated and it is phrased in such a way that consumers will, if they have half an opportunity, attempt to seize on its wording to cause contractors to be prosecuted. We all acknowledge the need for proper consumer legislation but this clause adds nothing to the Bill. It will do no more than complicate the process of a contract between a builder and a consumer. It introduces an element of uncertainty and the penalty is unrealistic.

Hon JOHN HALDEN: Members must remember that when referring to prime or provision costs we are really referring to what I guess would be called fraud under the Criminal Code. In the past consumers have been ripped off to the tune of many thousands of dollars by certain builders who deliberately underquoted on the provisional costs. Members will be aware that the site and provisional costs applying to the construction of new homes in the suburb of Edgewater would be considerable because of the limestone work that is required and the need for some houses to be built into the side of the hill adjacent to Lake Joondalup. Nevertheless, consumers depend on builders giving a reasonable indication of these costs, but that has not been the practice in the past.

Hon Sam Piantadosi: Does it happen?

Hon JOHN HALDEN: It is a thought, but I will not go into it now.

In many cases consumers have been confronted with a bill they did not expect on completion of their homes. In the past the intent of the builders has been to get the job, and to do that they quote low, and at the end of the day the consumer pays for that practice. Admittedly, the amount has not always been thousands of dollars, but I suggest that in most home building contracts the provisional costs are underquoted. It is not what I would call an extreme practice, but it is a common practice.

The Leader of the Opposition referred to the little Aussie builder battler to whom I referred yesterday and said that under this clause he might become the victim of vexatious consumers. If a builder is charged under this clause of the Bill it would be reasonable for him to use as his defence similar provisions which exist under the Criminal Code; that is, honest, reasonable, but mistaken belief. If that were the case, the little Aussie builder battler would find himself perpetually at odds with vexatious consumers. Again, this has been a problematic area and the Government, in trying to resolve the situation, has included the penalty of $10 000 in this clause. This penalty has been agreed to by the parties involved in preparing this legislation and it was also a recommendation from the home building inquiry report. Again, this is in line with the central thrust of the Bill. I oppose the amendment.

Hon GEORGE CASH: The Parliamentary Secretary does the building industry a disservice by claiming that all builders are guilty of the type of action to which he referred. I know many good builders.

Hon Sam Piantadosi: So do I.

Hon GEORGE CASH: Based on earlier comments made by Hon Sam Piantadosi about builders in the northern suburbs, he seemed to be expressing the same view.

Hon Sam Piantadosi: Do you want me to provide names?

Hon GEORGE CASH: Please do so.

The CHAIRMAN: I will supply some names if the member interjecting continues to do so.

Hon GEORGE CASH: Although the Government seems to think it is very smart to smear the entire building industry by claiming that all builders are guilty of these actions, I believe that the building industry in Western Australia is very responsible. I accept, as do those organisations connected with the building industry, that from time to time some builders try to work these rorts on the public. However, in the main the building industry in this State tries to do its best under difficult circumstances, and the general tenor of this Bill with regard to penalty provisions indicates that the Government is intent on hitting the building industry for reasons which it has not yet sufficiently explained.

Hon SAM PIANTADOSI: Some of the comments made by the Leader of the Opposition are absolutely absurd. I extended an offer to him to provide names and I will do so. I probably have more mates in the building industry than the Leader of the Opposition will ever have. The Bill quite clearly states that the penalty will be to a maximum of $10 000. There are many scallywags operating in the building industry, who we all know are bringing down the rest of the industry with their shoddy workmanship.

Hon George Cash: It is not fair to smear the entire building industry the way the Government is on that basis.

Hon SAM PIANTADOSI: Those are the Leader of the Opposition's words and not mine. The Government is endeavouring to provide a protective mechanism not only for the consumers, but also for the good builders who do not need this legislation. An adequate penalty is required to remove the scallywags who reflect badly on the total building industry. Even Hon George Cash cannot deny that. If a soft penalty is imposed, as proposed by the Opposition, the scallywags will not be removed from the industry. Should that happen, I put Hon George Cash on notice that I will be the first to remind him and members opposite of the decisions made in this Chamber which helped foster those people in the building industry.

Hon JOHN HALDEN: I add no more to the debate except that in plenary discussions the HIA and the MBA agreed to this penalty.

Amendment put and negatived.

Clause put and passed.

Clause 13: *Rise-and-fall clause* prohibited -

Hon GEORGE CASH: I move -

Page 13, line 9 - To delete "$10 000" and substitute "$2 000".

With subclauses (1) and (2), the Government is trying to do some double dipping: Firstly, it proposes to fine a builder for entering into a contract containing a rise and fall clause; and, secondly, having fined him to a maximum amount of $10 000, it declares that the rise and fall clause in a contract will be rendered void. There is no need for a penalty at all in this instance because the provision in subclause (2) is more than adequate. Although I do not agree with the prohibition of rise and fall clauses in contracts, if a penalty is to be attached to the inclusion of such clauses in contracts, surely it is sufficient to render such a clause void? Obviously that would be to the advantage of the consumer and to the disadvantage of the builder. Perhaps the clause should be deleted altogether but I have counted the numbers in this Chamber and I recognise the will of the Committee.

Hon Peter Foss: The tyranny of numbers.

Hon GEORGE CASH: That is certainly being applied against me with regard to penalty clauses. It is clear that I would not succeed if I proposed to delete the penalty altogether and, therefore, I stand by my amendment to reduce the penalty from $10 000 to $2 000, in the hope that the Committee will see some reason in that proposal.

Hon JOHN HALDEN: Recent history has shown once more the effect of rise and fall clauses in building contracts and their impact on the owners of homes. It is all very well to say that the Government should outlaw rise and fall clauses; it has outlawed a range of activities in the past but that has not prevented people from choosing to engage in them. The Government does not want people to be involved in certain activities but, if they choose to do so, a penalty is imposed, based upon the consequences to consumers of rise and fall clauses in contracts. The Government is clearly indicating that such activity is illegal and

people engaging in that practice will be penalised. I do not think that is unreasonable. Recent facts back it up. The amendment should not be supported.

Hon PETER FOSS: I believe that subclause (2), which refers to a rise and fall clause in a contract being void, is the end; to go further and impose a substantial penalty for doing something of no effect whatever is silly. The subclause says, "If you do it it has no effect, but although it has no effect we will punish you in the amount of $10 000 for doing it." That is a strange thing to do, to be hard on people for doing something of no effect. This is a doubling up. Penalties like this should be confined to circumstances where one can point to an ill occurring to the recipient. This clause is queer because although it will not have any ill effect, because rise and fall clauses in a contract are void, it is voided by the next subclause.

Division

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 Noes.

Division resulted as follows -

Ayes (12)

Hon J.N. Caldwell	Hon N.F. Moore	Hon D.J. Wordsworth
Hon George Cash	Hon Muriel Patterson	Hon W.N. Stretch
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	
Hon Barry House	Hon Derrick Tomlinson	

Noes (13)

Hon J.M. Brown	Hon Kay Hallahan	Hon Tom Stephens
Hon T.G. Butler	Hon Tom Helm	Hon Doug Wenn
Hon Cheryl Davenport	Hon B.L. Jones	Hon Fred McKenzie
Hon Reg Davies	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Sam Piantadosi	

Pairs

Hon P.H. Lockyer	Hon J.M. Berinson
Hon Margaret McAleer	Hon Graham Edwards
Hon E.J. Charlton	Hon Mark Nevill
Hon Murray Montgomery	Hon Bob Thomas

Amendment thus negatived.

Hon PETER FOSS: I move -

Page 13, lines 20 and 21 - To delete the lines and substitute -

(a) by the State or the Commonwealth or any competent authority

I am concerned that the wording of this clause is unclear. The Bill talks of something being as a direct consequence of a written law of the State, and there is no problem with that as "written law" is defined in the Interpretation Act. That is clear. But then the Bill mentions in the same sentence "or the Commonwealth". Strictly speaking that means the one paragraph of subclause (4) contains a defined term "written law" and seeks to use the same term in that paragraph in a way not within the terms of the Interpretation Act, as "written law" as defined in the Interpretation Act cannot include a Commonwealth law. We must assume that when the words "written law" are used in that paragraph they first mean "written law" as defined in the Interpretation Act and then something that is not defined in that Act, but because one thing is defined in the Act the other should be given a similar meaning. I believe that is the conclusion a court would come to. It is a pity the paragraph is drafted in that way.

My second problem is that the clause does not deal with things such as a national wage decision or a decision under a national award, which I do not believe can be described as a "written law of the Commonwealth". One cannot say that a State award is a written law of

the State. Therefore, it seems to me that this paragraph is limited in what it allows and that the area covered is extremely fine. If the Government really wishes to be fair in this matter and to allow for actual costs imposed on the builder over which he has no control, the clause should refer to further costs actually imposed or incurred by the builder as the result of actions by any State or Commonwealth authority.

Hon JOHN HALDEN: A number of basic problems exist with what the member suggests in his amendment. First, what is a "competent authority" as that is undefined? Secondly, I point out in answer to the point about a national wage decision that the cottage building industry in this State is one of the most significantly non-unionised areas imaginable. A price is usually worked out between a builder and subcontractor and is the price for that one contract for doing such things as laying bricks or putting the roof on a house. I am sure Hon Peter Foss is champing at the bit to rise and tell me that there are associated works, if I can use that expression, where consumer price index rises would occur; for instance, if the price of goods rose. Of course, where goods are manufactured workers receive consumer price index increases. One must remember the period it takes to construct a house is short and that when a builder is costing a house he should consider such things. These factors will have a small impact. I do not believe the amendment is necessary. If a builder wishes to include such things in the contract price, so be it, but that is not required so far as I am concerned. Also, to add to the ambiguity of this situation, the member suggests a "competent authority", which is undefined.

Hon Peter Foss: That is a very well known term.

Hon JOHN HALDEN: It may be, but it is undefined.

Hon Peter Foss: No person who has any experience with these things would have any problem understanding that.

Hon JOHN HALDEN: Maybe he would and maybe he would not. It is, nevertheless, undefined, and we would not want to see any challenges in the courts in respect of terms that are not clear. There is no need for this amendment. Builders can adequately cover themselves in a financial sense in regard to the suggestions that have been put forward.

Hon PETER FOSS: I am grateful to the Parliamentary Secretary for making clear one matter that previously was not clear; namely, that it is the intention of this Bill not to allow rise and fall clauses for award changes. I would be grateful if the Parliamentary Secretary would also confirm that I was correct in my statement that the term "written law" was intended in the first part to pick up both any State Act and subsidiary legislation, which is the interpretation in the Interpretation Act, and by analogy to have the same effect with regard to the Commonwealth, even though the Interpretation Act does not have an interpretation which would allow that.

Hon John Halden: You are correct.

Hon PETER FOSS: I have no difficulty with the words "competent authority". That term is used regularly and is well understood, and I do not share the Parliamentary Secretary's concern about those words.

There now remains the question of awards. As the Parliamentary Secretary said, the cottage industry is, thankfully, free not only of awards but also of unions. That has been of great benefit to the cottage industry, and is one of the reasons that it is a fairly efficient, cheap industry. I am sure the Parliamentary Secretary would join me in hoping that the cottage industry will remain unaffected by unions and by awards, because that is a highly desirable state of affairs for both the industry and the people purchasing from that industry. I would be pleased to hear from the Parliamentary Secretary that he not only joins me in the wish that it remain that way, but also is able to assure the Chamber that with the cooperation of the Government and the Opposition, unions and awards will never find their way into this industry. Unfortunately, I have some concern that we may not continue to be so lucky. It may be that at some time, both unions and awards will creep into the cottage industry, and if that occurs the effect may be that the cottage industry will suffer from the same sorts of problems that have affected other parts of the building industry, where large increases have occurred which have greatly increased the costs of builders.

Hon Sam Piantadosi: That was at the instigation of builders. If you want to discuss what happened in the city centre, I would be happy to discuss that with you.

Hon PETER FOSS: I am grateful to Hon Sam Piantadosi for offering his expertise in the construction area. I agree that some people in the building industry have done the people of Western Australia a great disservice by permitting the concept of "no ticket, no start" and by doing deals with the unions, which I believe in the end is not in the best interests of the workers.

Hon Sam Piantadosi: The builders proposed the deals.

Hon PETER FOSS: I agree.

The CHAIRMAN: Order! I would be pleased if you would relate that to what we are debating; namely, that the lines be deleted.

Hon PETER FOSS: There is always the possibility that this may occur, whether at the instigation of the builders or of the unions. I know that for some time the unions have been making a number of efforts to try to unionise the cottage industry, because from time to time I have been peripherally involved in the disputes that have arisen. I concede that a builder may start it and it will affect the whole industry. However, whatever the reason, I am concerned that we are passing a Bill which will have effect not just today but until such time as some other change is made to it. The Parliamentary Secretary cannot answer my statement about the need to cater for changes by saying that at the moment it is peripheral, because that may not continue to be the case. The Parliamentary Secretary knows as well as I do that if the unions had their way, the cottage industry would be unionised now, because many elements have been trying to do that for some time.

The CHAIRMAN: Order! What does the cottage industry have to do with the deletion of these lines? I have asked that question three times now. I cannot relate what you are saying to the amendment on the Notice Paper.

Hon PETER FOSS: The cottage industry is the industry that is covered by the Home Building Contracts Bill. I am saying that the cottage industry could become subject to industrial awards, and if it did become significantly subject to awards, then this clause would not allow for rise and fall clauses where there was an award. My concern is that under those circumstances we could cause considerable injustice to a builder, and he would have no recourse.

Hon JOHN HALDEN: There was no real need for me to clarify the issue of whether consumer price index increases would be included. It is clear if one refers to clause 13(3) that increases in labour costs are not included within the rise and fall provisions of this Bill. That was the intention of the people who negotiated this Bill over a long time, and I am happy to go along with what they thought was appropriate in respect of this matter. They believe, obviously, that builders can accommodate CPI increases in the contract; so do I; and so also do most people in this Chamber.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote for the Noes.

Division resulted as follows -

Ayes (11)

Hon George Cash	Hon N.F. Moore	Hon Derrick Tomlinson
Hon Max Evans	Hon Muriel Patterson	Hon D.J. Wordsworth
Hon Peter Foss	Hon P.G. Pendal	Hon W.N. Stretch
Hon Barry House	Hon R.G. Pike	*(Teller)*

Noes (14)

Hon J.M. Brown	Hon Kay Hallahan	Hon Doug Wenn
Hon T.G. Butler	Hon Tom Helm	Hon Fred McKenzie
Hon J.N. Caldwell	Hon B.L. Jones	*(Teller)*
Hon Cheryl Davenport	Hon Garry Kelly	
Hon Reg Davies	Hon Sam Piantadosi	
Hon John Halden	Hon Tom Stephens	

Pairs

Hon P.H. Lockyer	Hon J.M. Berinson
Hon Margaret McAleer	Hon Graham Edwards
Hon E.J. Charlton	Hon Mark Nevill
Hon Murray Montgomery	Hon Bob Thomas

Amendment thus negatived.

Progress

Progress reported and leave given to sit again, on motion by Hon John Halden (Parliamentary Secretary).

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Hon Kay Hallahan (Deputy Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 5 November 1991.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON KAY HALLAHAN (East Metropolitan - Deputy Leader of the House) [5.54 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Aboriginal Foster Children, Newman

HON N.F. MOORE (Mining and Pastoral) [5.56 pm]: I do not think the House should adjourn until I describe a problem in my electorate which needs to be resolved by next Friday. Members may be aware that about two weeks ago I raised the question of two Aboriginal girls in Newman and my concern about their future. I want to read to the House a letter which appeared in the *North West Telegraph* on 10 October 1991, which I believe adequately describes the situation. I appeal to the Minister for Community Services to reverse the decision that he made. This is a letter from Graeme Campbell, the Federal member for Kalgoorlie, and it reads -

> Neither the chairman of the Yorganop Child Care Aboriginal Corporation or Mr Brian Butler, the chairman of the Secretariat of the National Aboriginal and Islander Child Care are in a position to speak with any authority on the fate of the two children whom Minister Ripper wants to send to Jigalong.
>
> Both these gentlemen are playing politics with the lives of two young children.
>
> Neither have any understanding of the relative conditions and most likely neither cares.
>
> The mother, grandmother, auntie and in the case of one child, the father, do not want the children to go to Jigalong.
>
> The reality of this case is that the welfare of the children has not been considered and the Department for Community Services is hell bent on maintaining a policy that was forced through by SNAICC back in 1984 when Clyde Holding was the Federal Minister for Aboriginal Affairs. The policy then was about power, not the child's welfare and this has never been questioned by the zealots of the department.
>
> What is needed is a Minister prepared to uphold the Child Welfare Act that correctly states that the material well being of the child is paramount.

It is signed Graeme Campbell, member for Kalgoorlie. That letter clearly outlines the situation facing those two girls in Newman, one of whom is about 15 months of age, and the other three years. Next Friday they are to be sent to live with foster parents at Jigalong in one case and at an outstation east of Jigalong in the other case.

Hon George Cash: Shame!

Hon N.F. MOORE: The situation is very serious and the girls will be forced to move next Friday. During the period of acclimatisation which has been set up by the Department for Community Services, the younger child has experienced considerable sickness and has spent some time in hospital following one visit to Jigalong.

This is not a question of race versus race; it is a question of the welfare and wellbeing of two young children. They are currently living with foster parents who love the two children dearly and will provide for them in a very loving and material way for the rest of their lives if so required. For philosophical, ideological and political reasons the department has decided that those two girls must be taken from those foster parents and given to another set of foster parents. There is a strong rumour in the district - though I do not vouch for this - that the new foster parents are not all that fussed about it anyway. The decision was made as a result of a policy which Graeme Campbell has described as being a political policy rather than one which had anything to do with the wellbeing of the children.

I sincerely ask the Minister for Community Services, Mr Ripper, to reconsider this decision. I have asked him by questions in the House and I have written letters to him and had no answer. The people of Newman have written countless letters to him and to the Premier seeking to reverse the decision. I asked a question last week about the decision to send the two children to Jigalong, and I was told the decision had been made by the Case Review Board. I asked whether it was correct that the Case Review Board which recommended that the Wilson girls be sent from Newman to foster parents at Jigalong did not visit Jigalong to assess the conditions of the foster home. The answer was that the independent Case Review Board heard evidence from all interested parties in matters relevant to the placement of the children. I was told that it was not usual for tribunals determining the placement of children in custody matters, including the Case Review Board and the Family Court, to inspect towns or houses. In other words, the decision was made without any consideration for the conditions under which the two girls would be sent to live. Any member of Parliament who has spent time examining Aboriginal communities throughout Western Australia will know that many of them are in a very poor and dilapidated condition. I do not blame the Aboriginal people for that; I blame the whole system which is doing its best to denigrate and destroy the Aboriginal community. It is a system based on handing out money and having rules and regulations such as that involved in this case which bear no relationship to the real needs of the Aboriginal people.

I feel very emotional about this issue, as do many other people involved in it. I sincerely request the Minister, Mr Ripper, at least to read the letters and at least to take some interest in the issues which have been put to him. He should for a few minutes ignore the advice given by his department which says that this is the only way to go. He should listen to the argument of the natural mother who says she does not want those children to go to Jigalong. She has told him that those children do not belong to the Jigalong community but to the fringe dwelling community at Newman. The Minister should listen to the people who tell him that if he sends those two girls out into the desert they will be separated from their extended family, the people Mr Campbell has talked about in his letter, the relatives of the two children who want them to remain in Newman because they know that is where their future lies.

Again I implore the Minister at least to reconsider the matter sympathetically and to ignore, for a little while at least, this hard and fast rule which seems to have been set some years ago by some Ministerial Council which has endeavoured to make a rule which will apply to everybody, regardless of the circumstances of the case. I sincerely ask the Minister for Community Services to please reconsider his decision before next Friday.

HON TOM HELM (Mining and Pastoral) [6.01 pm]: I was not going to make a contribution this evening, but after listening to that diatribe from Hon Norman Moore it is my duty to report to the House that some of the things he has just said contain an element of truth, but the one where he said he has some concern for the wellbeing of those children is not necessarily one of them.

Hon N.F. Moore: Rubbish!

Hon TOM HELM: If anyone has any emotional concerns about those families or those children I suggest it would not be Hon Norman Moore or Mr Graeme Campbell, the Federal member for Kalgoorlie. If their argument is about the welfare of those children because Jigalong is not a fit place in which to bring up children, then let us take all children away from Jigalong, including the white children who live there. That was the argument put forward by Hon Norman Moore.

Hon N.F. Moore: We are talking about two girls in particular who, since they were born, have lived in Newman. You could not care less about that.

Hon TOM HELM: If it is in the best interests of those two girls that they live with those foster parents, or temporary foster parents, in Newman, let us consider for a moment the case of James Savage, who was convicted of murder in America.

Hon E.J. Charlton: What does that have to do with it?

Hon TOM HELM: If we are considering the welfare of those children, let us look at the policy, and the procedures that are in place to ensure that the policy is not abided by against all of the considerations. Let us just see how those decisions are arrived at in the first place and look at the appeal provisions which are put in place to ensure that it is not a Labor policy, a Liberal policy or anybody else's policy which is being followed come hell or high water, but rather that an ability exists for people to appeal decisions made in what other people believe are the best interests of the children involved. The appeal board does not consist of people who make policy or who have some vested interest in this instance. It can be said quite fairly that Hon Eric Ripper, the Minister for Community Services, who is responsible for this matter, has read and probably taken on board all of the things people in Newman have said, as have I. Because I live in Port Hedland I am well aware of the day to day concerns of the people in Newman, and I am well aware of those who are really concerned about the wellbeing of these two children, including the foster parents. However, I am also aware, as are they, of the inconvenience we have had in the past when Aboriginal children have been fostered out to quite caring and loving parents but have not turned into what can be accepted as normal, well adjusted juveniles or adults. If Hon Norman Moore ever goes to Newman - I do not know about Jigalong - he will know that the number of Aboriginal families who live there is quite small; in fact I suggest there are only two.

Hon N.F. Moore: Rubbish!

Hon TOM HELM: It will not benefit those children if either Hon Norman Moore or I get on our high horse and use principles as a guide. It is impossible to do that. I recall the Minister for Community Services saying that it was probably one of the hardest decisions he had ever made. It has been a most difficult decision to make. The Minister goes all over the place, wherever he can, to get advice. Thank goodness he did not take advice from Hon Norman Moore or Mr Campbell.

The facts are quite simple and I will repeat them. If we are talking about Jigalong - or, as Hon Norman Moore says, other Aboriginal communities - as not being fit places in which to bring up children, let us take all of the children out of there.

Hon N.F. Moore: I am talking about a comparative situation.

Hon TOM HELM: I never hear Hon Norman Moore talk in this place about a bipartisan approach to Aboriginal affairs which would look at improving those communities, which are out of sight and out of mind in the middle of the desert.

Hon N.F. Moore: Rubbish!

Hon TOM HELM: If the member wants to tell me that he did so, and when, I would be pleased to back down and say I am sorry.

Hon N.F. Moore: You should read all the pages of *Hansard* at some time.

Hon TOM HELM: I have not heard him say, for instance, that we should talk about how we can improve the conditions of the people living in those desert communities. If it is the case - and I use Hon Norman Moore's words - that it is not a fit place in which to bring up those children -

Hon N.F. Moore: I didn't say that at all.

Hon TOM HELM: There are white families and white children living in those communities. If Hon Norman Moore is saying that the natural mother has a right, which I do not deny for a moment, to say where her children are fostered, I agree with that, and it has been taken on board.

Hon N.F. Moore: And ignored.

Hon TOM HELM: It has been taken on board, along with a whole series of things that the Minister has taken on board in making this decision. However, the bleeding hearts on the other side of the House, who do nothing but whinge about things that are wrong but do

nothing much to fix them, should remember this: The natural mother does not want those children. That is the fact of the case. But not anybody can foster them. That must be taken into consideration, and it has been; it has not been ignored. None of these issues has been ignored.

I ask this House not to consider the comments made by Hon Norman Moore on this matter but only to recognise that many people in Newman are genuinely concerned. I suggest that the two people who are least concerned but who just see an opportunity to derive some political advantage from this are the people who do not really care; namely, Mr Graeme Campbell and Hon Norman Moore.

Adjournment Debate - Vancouver Day; Town and Shire of Albany

HON MURIEL PATTERSON (South West) [6.07 pm]: The House should not adjourn until I tell members of an important event which took place in Albany between the Town of Albany and the Shire of Albany during the Vancouver celebrations held recently. On television and in the newspapers we learn of the renewed spirit of conciliation and understanding at an international level. Who would ever have thought that we should live to see a day when the United States and the former Soviet Union could disarm their nuclear bombers and agree to settle their differences with reasoned argument?

Meanwhile, closer to home, there has been an act of statesmanlike vision and generosity of spirit. I refer to the declaration of friendship signed between the Town of Albany and the Shire of Albany on Vancouver Day, 30 September. To understand the significance of this action one has only to recall how previously neither council spoke to the other except on the front page of the *Albany Advertiser*. None of us who lived through those years will easily forget the vitriolic squabbles which seemed to erupt every second week and gave our town such bad publicity in the rest of the community and the State. Now it is just a memory, and so are the deep divisions of opinion which used to mark the municipal boundaries of the Town of Albany and the Shire of Albany.

The new spirit of international cooperation and harmony is being mirrored on the Rainbow Coast, where the town and shire councils enjoy an increasingly close and amicable working relationship. As evidence of this, a truly historic agreement was signed in the presence of the Chief Justice, David Malcolm, at the recent presentation of a civic mace to the Town of Albany. The agreement was -

> Whereas this year of 1991 marks the bicentenary of Captain George Vancouver RN landing on the shores and, thereby, securing the future of Australia as one continent, the separate Councils of the Town and Shire of Albany in the sovereign State of Western Australia, within the Commonwealth of Australia, perceive that the common good of peoples arises from peace and understanding between communities. Accordingly, and on this historic occasion, both Councils pledge, through this document of formal agreement, their acknowledgement of these ideals.
>
> By this Agreement of Friendship the Town and Shire of Albany shall seek to further encourage support and cooperation between their communities; emphasising mutual interests; fostering individual concepts; recognising the aspirations and goals of the two communities, to the benefit of all and to the enhancement of Albany and its hinterland.
>
> Moreover, the two councils shall also severally support their similar aims and endeavours, and seek with goodwill to encourage the participation and involvement of both groups and individuals within their municipalities, in the spirit of this agreement . . .

The document was signed by Annette Knight, Mayor of Albany; Doug Stoney, shire president; Murray Jorgensen, town clerk; and Des Cunningham, shire clerk. This is a strong case for extending our greetings to the civic leaders of Albany Town and Shire who are creating positive, optimistic change within Western Australia.

Question put and passed.

House adjourned at 6.11 pm

QUESTIONS ON NOTICE

ABORIGINAL RESERVES - RESERVES, LEASES AND FREEHOLD LAND LIST

936. Hon N.F. MOORE to the Minister for Education representing the Minister for Aboriginal Affairs:

Further to my question on notice 716 of 27 August 1991, would the Minister provide the following -

(a) a list of all the reserves, special purposes leases and other leases which make up the 25.958 million hectares held for Aboriginal use and benefit, showing the location, title, area and use of the land; and

(b) indicate which of the areas listed in (a) have been set aside since 16 April 1985?

Hon KAY HALLAHAN replied:

The Minister for Aboriginal Affairs has provided the following reply -

(a) The Aboriginal reserves, special purpose leases, other leases and freehold land acquired for Aboriginal use and benefit up to 30 June 1990 are set out in appendixes 5.4, 5.5, 5.8 and 5.9 of the annual report of the Aboriginal Affairs Planning Authority, a copy of which is being provided to the member. This listing details the location, title and use of that land.

(b) From 1 July 1990 until 27 August 1991 the following additional lands were acquired for Aboriginal use and benefit. [See paper No 776.]

DISABLED CHILDREN - ADOPTION
Natural Parents' Special Benefits

1015. Hon P.G. PENDAL to the Minister for Education representing the Minister for Community Services:

With reference to recent newspaper advertisements by the Minister's department for adoptive homes for two Down's syndrome babies -

(1) Are any special benefits made available to the natural parents of disabled children to keep those babies?

(2) If not, will the Minister consider such extra help for especially vulnerable parents?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply -

(1) The Commonwealth Department of Social Security pays the Child Disability Allowance - CDA - to parents caring for a child with a disability who resides at home and requires additional care or attention. This payment is not means tested and is paid in addition to the Family Allowance. In addition, families on low incomes are eligible for the Family Allowance Supplement. A range of State Government support services from the Department for Community Services, the Authority for Intellectually Handicapped Persons and the Health Department are also available to families caring for children with disabilities. Any family suffering severe financial distress can approach the Department for Community Services for emergency financial relief.

(2) Not applicable.

BUILDING MANAGEMENT AUTHORITY - GARBAGE BINS
Perth City Council Invoice No 4234 Payment

1025. Hon N.F. MOORE to the Minister for Education representing the Minister for Construction:

(1) Has the Building Management Authority paid invoice No 4234 rendered to it by

the Perth City Council on 16 April 1991, with a due date for payment of 1 May 1991?

(2) If not, why not?

(3) Have rubbish bins provided by the PCC to premises listed on the above invoice been removed by the PCC?

(4) If so -

(a) which premises have had rubbish bins removed;

(b) when were the bins removed in each case; and

(c) why were the bins removed?

(5) What is the total amount of invoice No 4234?

(6) Has the BMA received any reminders from the PCC for payment of the above invoice to be made?

(7) When is it intended that the BMA will make payment of the above invoice?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following reply -

(1) No.

(2) This invoice has been cancelled by the Perth City Council.

(3) The bins were removed but have since been replaced.

(4) (a) Storeroom, 86 Brown Street, East Perth.
Office, 1 Harvest Terrace, West Perth.
Office, 5 Harvest Terrace, West Perth.
Office, 7 Harvest Terrace, West Perth.
House, 7/9 Read Street, East Victoria Park.
Hall, 14 Aberdeen Street, Perth.
Office, 605 Wellington Street, West Perth.
Shop, 266 William Street, Perth.
House, 4 Welshpool Road, Bentley.

(b) First week in October.

(c) Due to non-payment of the invoice.

(5) Not applicable.

(6) Yes.

(7) The Building Management Authority is not responsible for payment of this invoice. That is why the Perth City Council agreed to cancel the invoice. The Perth City Council has issued new invoices to the appropriate agencies.

LAND TAX - VALUATIONS
Phase-in Period Change

1055. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

(1) With reference to the current land tax debate, has the phase-in of valuations been changed in recent years from a four year phase-in period to a three year phase-in period?

(2) If so, what was the reason for such change?

(3) Is the Minister aware of considerable discontent by landowners of commercial property in Main Street, Osborne Park of the values being applied to their respective properties and the hardship which is being caused to both owners and tenants in respect of the amounts being demanded by the State Land Tax Department for both land tax and metropolitan region improvement tax on these properties?

(4) Given a significant change in values in the Main Street, Osborne Park area, is it

intended to revalue these properties more accurately reflecting their actual unimproved capital value?

(5) If not, why not?

(6) If yes, when will these revaluations occur?

(7) Will the respective owners be forwarded adjusted land tax assessment notices?

Hon J.M. BERINSON replied:

The Acting Treasurer has provided the following reply -

(1)-(2)

No. The phase-in of valuations was changed from a three year to a four year period in 1988 to further ameliorate the effect of valuation increases.

(3) No.

(4)-(7)

As has already been announced, the Government will be introducing legislation to remove the most recent general revaluations from the calculation of land tax assessments for 1991-92. Revised assessments will be issued to affected owners.

HAMELIN BAY - BOAT RAMP
Repair Work

1065. Hon BARRY HOUSE to the Minister for Education representing the Minister for the Environment:

(1) Is the Minister aware that the Hamelin Bay boat ramp, a facility which is the responsibility of the Department of Conservation and Land Management, has been severely damaged by winter storms and has not been repaired because of the apparent lack of funds.

(2) Will this boat ramp be repaired by CALM?

(3) If so, when?

(4) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(4)

Damage to the Hamelin Bay boat ramp will be repaired in the near future. The Departments of Conservation and Land Management and Marine and Harbours will coordinate the repair work.

QUESTIONS WITHOUT NOTICE

TRADING HOURS - FRIDAY NIGHT SHOPPING
Central Business District

646. Hon GEORGE CASH to the Minister representing the Minister for Consumer Affairs:

I have given notice of this question.

(1) Has a decision been made to implement Friday night shopping for the central business district?

(2) If so, when will it be implemented?

Hon KAY HALLAHAN replied:

I thank the member for notice of the question, to which the Minister for Consumer Affairs has provided the following reply -

(1)-(2)

No. The matter is currently being examined by the retail shops advisory committee, which is consulting with interested parties. Part of this consultation has involved a survey of businesses and has now been completed. It is expected that a recommendation will be made to the Government shortly.

WESTRAIL - FREIGHT SERVICES, COUNTRY CENTRES
Subsidy Studies

647. Hon GEORGE CASH to the Minister representing the Minister for Transport:

I have given notice of this question.

(1) What recent studies have been undertaken in regard to subsiding Westrail to cart freight to country centres?

(2) What was the result of the studies?

Hon KAY HALLAHAN replied:

Again, I appreciate notice of this question. The Minister for Transport has provided the following response -

(1)-(2)

No recent studies have been undertaken in regard to subsiding Westrail to cart freight to country centres. The land freight transport policy working party has issued a public discussion document which canvasses some of the issues concerning the level of cost recovery on Westrail freight services.

RAILWAY HOTEL, KALGOORLIE - DEMOLITION ORDER
Conservation Order

648. Hon P.G. PENDAL to the Minister representing the Minister for Heritage:

Notice has been given of this question.

(1) Will the Minister inform the House of the latest position over the demolition order/conservation moves for the Railway Hotel in Kalgoorlie?

(2) What is the Western Australian Heritage Council's advice to Ms Hall in this matter?

(3) Who, or what, if anything, is currently impeding the restoration program?

Hon KAY HALLAHAN replied:

I thank the member for giving notice of this question. The Minister for Heritage has provided the following response -

(1)-(3)

The Kalgoorlie-Boulder City Council has called tenders for the demolition of the Railway Hotel but has not proceeded because of a conservation order placed on the building by the Minister for Heritage. That conservation order expires on 3 November and negotiations are current between the owner, the local government authority and the Heritage Council to resolve the problem. The Kalgoorlie-Boulder City Council is not prepared to lift the demolition order to facilitate the financing of restoration work. The Heritage Council is exploring ways of preserving and restoring the building.

HOSPITALS - BUSSELTON HOSPITAL
Budget Allocations

649. Hon BARRY HOUSE to the Minister representing the Minister for Health:

I have given notice of the question.

(1) What was the Budget allocation for the Busselton Hospital in 1989-90 and 1990-91?

(2) What is the indicative Budget allocation for the Busselton Hospital in 1991-92?

(3) Does this represent a cutback of five per cent in real terms?

Hon KAY HALLAHAN replied:

I thank the member for giving notice of the question. The Minister for Health has provided the following response -

(1) The base Budget allocations - excluding adjustments for one-off items of expenditure and revenue allocations - were $4.334 million in 1989-90 and $4.742 million in 1990-91.

(2) The allocation for 1991-92 is $4.697 million.

(3) No. The decrease in real terms against last year's Budget allocation is approximately 3.7 per cent.

STATE PLANNING COMMISSION - APPOINTMENTS
Heinrich, Les; Walker, Charlie

650. Hon P.G. PENDAL to the Minister for Education representing the Minister for Planning:

I gave notice of this question yesterday, but I did not receive a reply.

(1) Will the Minister confirm that Mr Les Heinrich and Mr Charlie Walker were transferred to the former State Planning Commission by the Government in order to work on statistical projections?

(2) Was such work related to future growth trends for electoral boundary purposes?

(3) Were both individuals members of the Australian Labor Party at the time, one as a Labor candidate for Cottesloe and the other as a member of the ALP's Mt Pleasant-Brentwood branch?

(4) Will he table all documents relating to their appointments to the State Planning Commission, including all recommendations made by the relevant Public Service authorities?

(5) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

(1) No.

(2)-(5)
Not applicable.

SCHOOLS - PRESCHOOL CLASSES, COUNTRY AREAS
Minimum Number of Children

651. Hon J.N. CALDWELL to the Minister for Education:

What is the minimum number of children required by the Ministry of Education for a preschool class to operate in a country area?

Hon KAY HALLAHAN replied:

The figure is 12 preprimary students. The question may have been drawn to the attention of the member because the rural integration program called RIP is implemented in preprimary schools when preprimary class numbers fall and a decision is made to integrate five year olds in the first year of primary school. That has operated in some areas for some time. One Opposition member in the other place drew my attention to that fact this week. Where that system is operating the people are happy about it. The preprimary schools have taken four year olds and five year olds when numbers have declined to the extent it was not viable to run a class otherwise. Concern was

held in some areas about five year olds missing out. A member spoke to me this week saying he believed that the schools in two country towns in his electorate were to be closed. I checked for him and found that was not the case. This seems to be an area of anxiety and rumour. If members are concerned about this I am happy to check for them to ascertain whether their local primary school is subject to closure. By doing this we can perhaps save people worry.

EDUCATION - PRESCHOOL CLASSES, COUNTRY AREAS
Minimum Number of Children - Four Year Olds

652. Hon J.N. CALDWELL to the Minister for Education:

Does that answer mean that children aged four years can be included in a class number if the required number of five year olds is not met?

Hon KAY HALLAHAN replied:

My advice is that the RIP program operates when only 12 five year old preprimary students are in a class. If the class has 12 five year olds in it and has the capacity to take more students, four year olds will be taken. However, there must be 12 five year olds in the class before the four year olds can be added to make up the class size. I believe the current formula for class size is not more than 25 pupils. Because of the inquiries I have received this week from another member, if any member has a problem about a school in a particular town and lets me know I will check the matter for them as it is silly for people to be worrying unnecessarily about a school closing if the projections for the next year show that the school is viable.

EDUCATION MINISTRY - KENT STREET LAND, BUSSELTON
Community Services Department Transfer - Family Centre Construction

653. Hon BARRY HOUSE to the Minister for Education:

(1) Was approval for transfer of vacant Ministry of Education land in Kent Street Busselton to the Department for Community Services given recently so that a family centre could be constructed on that site?

(2) Is the Minister aware that this block of land near the centre of the town was earmarked as an integral part of future plans for educational facilities for Busselton contained in a submission drawn up by education officials and a committee of local principals and presented to the Minister?

(3) Does the transfer of this block of land for other purposes mean that the Minister has rejected the proposals contained in the development plan for education facilities in Busselton?

(4) If not, why was another block of land not considered for the family centre?

Hon KAY HALLAHAN replied:

(1)-(4)

If my memory serves correctly, I have given approval for the land requested to be released for the building of a family centre. I understand that decision was well received in Busselton because concern was held that suitable land would not be found in a suitable location to use for that purpose.

Hon Barry House: Concern is held about that block being reallocated to family centre use when it was clearly earmarked for education.

Hon KAY HALLAHAN: If the member puts his question on notice I will get an update on the particulars for him.

BUSES - SCHOOL BUSES
Inspections - Non-departmental Officers

654. Hon W.N. STRETCH to the Minister for Education:

(1) Has the Minister directed that safety inspections on buses used by the country school bus service be undertaken by non-departmental staff?

(2) If not, is it the Minister's intention to do so?

(3) If so, when?

(4) Is the Minister aware that considerable concern has been expressed by some parents and school bus operators that this change in the inspection process will lead to a drop in safety standards?

(5) If the Minister is aware of this, has she addressed those concerns?

Hon KAY HALLAHAN replied:

(1)-(5)

The inspection service for school buses will be transferred to the Police Department at the beginning of 1992. That transfer is presently being negotiated by officers from both departments. Some years ago a functional review recommended that school bus safety checks and covering regulations should come under the Police Department, as it has the legislative framework to deal with them, and one would have thought it had the functional arrangements to deal with the matter. It is very surprising to find that when we decide to transfer this function to the Police Department, people should start to indicate that they do not think the function will be carried out thoroughly enough, and that somehow safety standards will be lowered. I do not accept that point of view, and neither does the Government. We do not expect the Police Department to do anything other than a very thorough job to ensure the safety of school students travelling on buses. I find this a very curious concern.

There are some administrative and other matters to be worked out between the two departments, and that work is going on. I believe that school bus inspectors in the Ministry of Education have done a very good job; I am not saying anything other than that. They have built up quite a supportive relationship with the school bus drivers. As a result this worry and resistance to the transfer of the inspection process to the Police Department is unnecessary. If the concern was related to those grounds, we could accept and understand it, but I cannot accept or understand it on the ground of lack of safety when the function is transferred to the Police Department.

BUSES - SCHOOL BUSES

Inspections - Areas without Police Inspections

655. Hon W.N. STRETCH to the Minister for Education:

I can assure the Minister that parents are concerned.

Hon Kay Hallahan: I am receiving many letters about that.

Hon W.N. STRETCH: I support the Minister's comments about general approval of the job done by the inspectors. However, what procedures is the Minister putting in place for those areas which do not have police inspection services within a reasonable driving distance, such as some areas in the north and in the north eastern wheatbelt?

Hon KAY HALLAHAN replied:

I understand the Police Department will be responsible for the function of inspecting school buses and ensuring their compliance with safety standards, and therefore the safety of students. In some country areas the Police Department delegates its functions, I presume to garage operators in the main. Those operators to whom it delegates those duties are very able to carry out the duties required of them by the police. The same will be true of school bus operators.

I know that is another area of concern, but the Police Department will not have people carrying out inspections on its behalf unless they have been thoroughly recommended and approved. It is not a reasonable concern for these people to have. I suspect that if the concern is based on personal relationships which have developed, we will see similar relationships develop

between the school bus operators and those persons carrying out the inspections on behalf of the Police Department. We will have another set of supportive relationships developing, and this matter will then not be a matter of concern. We are in a transitional phase where people are reluctant to let go a service with which they are familiar. We will not minimise the safety standards on any school buses.

BUSES - SCHOOL BUSES
Inspections - Concerned Parents' Correspondence

656. Hon W.N. STRETCH to the Minister for Education:

Has the Minister addressed the parents and concerned people on this issue, because they are concerned? Will she take steps to tell them that their concerns are groundless, and if she has not done so already, will the Minister undertake to do so in the very near future?

Hon KAY HALLAHAN replied:

I have had a great deal of correspondence on the matter. Letters have gone back to some of the correspondents and I am in the process of replying to many more. I ask country members particularly please to carry a message along the lines that I have given in my reply today, because I suspect my letter will go back without the benefit of interaction. I do not think these people will receive from the letter the same comfort which they could obtain from personal interaction with parliamentarians, particularly their local member of Parliament. Members could play a useful role in allaying some of the concerns which are, I think, ill founded.

SCHOOLS - MUNDARING PRIMARY SCHOOL
Land Purchase

657. Hon DERRICK TOMLINSON to the Minister for Education:

Does the Government have in hand a proposal to purchase the land on which the Mundaring Primary School is situated?

Hon KAY HALLAHAN replied:

I ask the member to put his question on notice.

FINN REPORT - AUSTRALIAN EDUCATION COUNCIL
Post-compulsory Education and Training for Youth Review

658. Hon T.G. BUTLER to the Minister for Employment and Training:

Some notice has been given of this question. Has the Minister taken a position on the recently released Finn report of the Australian Education Council's review of young people's participation in post-compulsory education and training?

Hon KAY HALLAHAN replied:

I thank the member for some notice of this question because it is the main reason for the Australian Education Council's meeting last week. The Government strongly endorses the Finn target that by the year 2001, 95 per cent of 19 year olds should have completed at least 12 years of education. Members will be interested to hear that there was a consensus of all States to support that as a reasonable target right across Australia.

An area of some contention was the funding requirements, particularly the need for substantial funding for the growth factor. We are inclined to overlook this as our democratic profile changes. Western Australia is expecting that its 15 to 19 year old numbers will have grown by 14.7 per cent by the year 2001, while the projected figure for the whole of Australia is only 0.9 per cent. The larger States will not therefore be subjected to the same growth rate. We will have a difficult job making it clear to the rest of Australia that we have needs above and beyond the rest of Australia, hence the difficult situation which has developed in getting the Federal Minister to

understand the needs of Western Australia. The Government will be making its position very clear in all forums. We do not consider the takeover of TAFE by Canberra to be a reasonable response. I was very pleased indeed to have the support of the Confederation of Western Australian Industry in our local newspaper today. It is a difficult and contentious issue, and may well be sorted out only at the special Premiers' Conference to be held here in Perth in November.