WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 25 November 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 2.00 pm, and read prayers.

SELECT COMMITTEE ON BILLS REFERRED UNDER COMMONWEALTH NATIVE TITLE ACT

Appointment - Motion

Resumed from 19 November on the following motion -

That -

(1) A select committee of 5 members, a majority of whom constitute a quorum, be appointed to inquire into and report on any Bill or Bills referred to it in this session that proposes or propose to enact law under, or in reliance on, the Native Title Act 1993 of the Commonwealth.

(2) The committee have power to send for persons, papers, and records.

(3) The proceedings of the committee during the hearing of evidence be open to accredited representatives of the news media and the public.

(4) The committee report a Bill to the House on a date [if any] specified in the motion referring it and in any event not later than Thursday, 11 March 1999.

HON B.K. DONALDSON (Agricultural) [2.03 pm]: When the debate was adjourned last Thursday I was setting out why the native title legislation should not be sent to a select committee for consideration. Although I am a great supporter of the committee system, each and every member of this House should have an opportunity in this Chamber to debate the issues relating to the Titles Validation Amendment Bill. It is far more preferable that this legislation be dealt with in the Committee of the Whole House than be sent to a select committee. At the risk of repeating myself, I am very concerned about Standing Order No 234, which relates to the way in which committees report and present their recommendations. We often talk about democracy and accountability. Nothing would upset me more than to see important issues such as these being debated by well-meaning members of this House in a select committee, with judgment being passed on this legislation without many of us being involved in that committee process and, therefore, not having an opportunity to debate the issues and the philosophy behind some of the reasons for the recommendations that the select committee may put forward. The stated intent of these Bills is quite clear. This debate has gone for at least six years, and possibly longer. We cannot gain a great deal by referring this Bill to a select committee, as is being proposed by Hon Giz Watson.

The commonwealth Native Title Act when proclaimed raised a number of important issues. At that time, the extinguishment of native title on pastoral leases was assumed; however, following the Wik decision, we have learnt that that is not the case. In the past 36 hours a finding has been handed down by a Federal Court judge over a land claim in parts of the Northern Territory and Western Australia which will have grave ramifications for this State. From that point of view it is imperative that members of this House be allowed to debate fully the consequences of this legislation, so there is no misapprehension in the minds of their constituents that this legislation was progressed through a committee, rather than in this House of Parliament, in which it should receive full and due process. Different philosophies can be applied to varying degrees to not only the Bill, but also its intent.

Last week the Government indicated that some changes would be made to this legislation, and there may be other changes as well. It could be a moveable feast. It would be improper to pre-empt some of the decisions that may be made, and that is what the select committee proposal is all about. The appointment of this select committee is also a delaying tactic, which is very frustrating. It is an attempt to remove the rights of each member of this House to be involved in proper debate on this legislation. It is very important that the accountability and responsibility of members of this House be fiercely protected.

The decision handed down in the past 36 hours will no doubt be subject to appeal. I am certain that the Governments affected by that decision, which I have not been able to understand fully, will look at the fine detail to ascertain its effect on the compensation provisions following the passage of the Titles Validation Amendment Bill in Western Australia. The answers to that issue must be spelt out in this House in free and open debate. We have a responsibility to ensure that the members of the wider community understand the views of their parliamentary representatives on this matter. During the next couple of weeks Mr and Mrs Average Australia will be trying to absorb the ramifications of this most recent decision by the Federal Court on native title issues. They will probably say that they go to work every day and try to raise a family; that they try to establish a family asset, such as house, and that their second greatest asset is, perhaps, their motor car; and that they pay their taxes.

Yet we see a section of the wider Australian community given privileges and almost inalienable rights in the matter of mineral resources, if I am correctly reading the interpretation of the decision. This has great ramifications for a State such

as Western Australia, with its huge mineral base. As a property owner I - I assume this applies also to other members - do not have rights over minerals; the Crown has that right, even on private freehold land.

Hon Mark Nevill: You have a veto, though.

Hon B.K. DONALDSON: Yes, I have a veto. I am starting to wonder whether I am not being discriminated against. When we talk about racial discrimination, I have that strong feeling. I am sure that this morning the founders and chief executive officer of the One Nation Party must have thought they had won lotto. The groundswell of inequality that has started to develop now between the indigenous race and the white race is of concern; the gulf is growing the other way around and developing into a reverse inequality, which is unacceptable. This is why people are turning to a party such as One Nation.

Hon Mark Nevill: Are you prepared to give up your veto?

Hon B.K. DONALDSON: I will get to that in a moment. We are helping to re-establish a party that I believed was going down the gurgler, as I believed it rightly should. The Federal Court judge has given it one of the biggest boosts in a potential membership drive that I have ever seen for a political party in Australia. If members think that members of the general community are not thinking that, they should talk to some of these people. They should talk to people from the companies which are now investing offshore. I am sure Hon Mark Nevill is well aware of that. I could name a number of companies involved in mining resources in Western Australia which are taking that pathway.

Hon Mark Nevill: I would like to see the mining industry have access to agricultural lands.

Hon B.K. DONALDSON: They do. Look at Southern Cross.

Hon Mark Nevill: You have a veto. Are you prepared to give that up?

Hon B.K. DONALDSON: One only owns the top 30 feet of the soil, anyway.

Hon Mark Nevill: No-one should have a veto.

Hon B.K. DONALDSON: The question of whether one should have a veto has been around for a long time. If someone found a rich mineral deposit on my freehold property, I would not veto development of it. Actually, I would encourage it and ensure that I negotiated with the company concerned to collect some of the revenue by right of access. All I can do is use the right of access.

Hon Mark Nevill: You would not let them explore in the first place, though.

Hon B.K. DONALDSON: Yes, I did. I can tell Hon Mark Nevill that I could not get them there quick enough when they were drilling for kaolin. I encouraged them to come onto my property. Unfortunately, all they found was a great many not-big- enough deposits of kaolin and plenty of salt water. I was hoping that they would be able to identify a freshwater stream so that I could develop the site. I had no problem with mining companies coming onto the properties I owned.

Another issue in the Titles Validation Amendment Bill, which is one of the Bills that will form part of the package which it is suggested be sent to a select committee of five members, is that people are also realising that in the past 10 years about $20b has been provided in some form or other to the Aboriginal people. No-one denies the fact that money was needed to provide better education and better health for Aboriginals. Unfortunately, somewhere along the line that money has gone adrift. I refer to an article headed "Yellowcake Millionaires" from a mining magazine. It refers to royalty payments made to Aboriginal communities in the Northern Territory's Kakadu National Park. This relates to my concern and should be debated in this House. They are called yellowcake millionaires mainly because of the $20m in royalty payments that the Ranger uranium mine has provided to the Aboriginal community in the past decade. Unfortunately, a United Nations Educational, Scientific and Cultural Organization world heritage mission visited Kakadu recently and found the Aboriginal communities of Mudginberri living in squalor. Nobody denies that the Aboriginal communities should also profit from some of those developments. However, the wider community is concerned that a great deal of the money is not finding the target area, which is very sad when one thinks about it. The article went on to state -

> Over half the ABR money has been spent on land council administrative costs and only 12% has been applied for the direct benefit of Aboriginal people in the Northern Territory. In my view, this is not a good result.

More importantly, the Deputy Prime Minister, Tim Fischer, said that the bulk of the money was going to what he termed "bloodsucking bureaucracies". He has raised a very important point. At the end of the day, when we consider titles validation compensation in any form, we must ensure that those people who are supposed to benefit will benefit. I am sure Hon Tom Stephens will agree that it is possible that money is not finding its way to the right places and that an industry has been set up around the periphery that is absorbing some of the money which belongs rightfully to the Aboriginal people, in this case the Mudginberri people.

Hon Mark Nevill: You are in government now, so do something about it. Both Federal and State Governments can do something about it.

Hon B.K. DONALDSON: The Federal Government is attempting to do something about that by bringing in some

accountability measures. Inquiries have been conducted. It has been a problem. That is why I keep returning to the report of the Select Committee on Native Title Rights in Western Australia. That committee travelled to Canada and elsewhere to gain extensive knowledge. It produced a comprehensive report that I am still struggling to get through because it is a massive report. It is one of the biggest reports to have been submitted by a parliamentary committee to this House. The committee's experience and knowledge gained could form part of a healthy debate in this House. Debating the report clause by clause is the right mechanism to gather this information. It would be silly and a shame to have people with this knowledge denied the opportunity of utilising that knowledge, because they may not be appointed to the select committee proposed by Hon Giz Watson. I look forward to listening to their valuable input during this debate because it is very important that we hear from them. Committees travel to gain that sort of knowledge. I do not know whether Hon Tom Stephens would be able to find the time to be a member of the committee. It would be shame if he could not impart to all of us, not just to a small committee group, the knowledge that he has gained. That is very important to remember.

The key issue is not whether my views on the matters which would be subject to that committee's investigations are the same as those of other members. I still have the right to air my views. I am sure other members also feel that we should debate the issue in this place because it would ensure that many people in the community would be better informed and would not rush off to join parties in the light of what they see, rightly or wrongly, as an inequality growing between indigenous people and white people in Australia. I have heard people refer to it as practising racial discrimination in reverse. It is sad to hear people say that. Therefore, I think people are entitled to do more than just pick up a committee report on these Bills. If they do so, they will never appreciate the real effect of the debate and the points that are raised on both sides of the House in determining the future of this legislation.

I also have deep concerns about the misinformation that has been spread around. Certain lawyers - I am not targeting lawyers only, of course - have been touting for business amongst Aboriginal communities. That is why we see so many multiple claims over land title. Multiple claims occur because some lawyers see them as a way to get their snouts in the trough again. They go to an Aboriginal group living in an area and say, "Do you realise down the road such and such has just put in a claim? We would encourage you to put in a claim also." That has been one of the sad indictments of this whole native title issue, because it has built up expectations and given the wrong signals to many Aboriginal groups. The biggest tragedy of all is that the people who should be benefiting greatly from the advent of compensation or from the negotiation of some form of cash settlement are not doing so. That is the sad irony of the issue that we will be debating in this House.

I said earlier it is also clear that the people of Western Australia should have the ability to recognise where individual members stand. I know some members opposite will experience heartache in relation to the Titles Validation Amendment Bill. Based on talk and what one hears and reads in the media, I am sure some Labor members will experience a degree of discomfort because they realise the benefits of this legislation and they would like to see some of it pass through this House before it rises for the Christmas break.

Hon Tom Stephens: We are already committed to passing the Titles Validation Amendment Bill.

Hon B.K. DONALDSON: I know. That is what I am saying. As the Leader of the Opposition and Hon Mark Nevill are committed to the native title process - it is their absolute right to feel that way - they are concerned that a number of issues remain unresolved in this debate, from both a national and a state point of view, which it was hoped would assist those less fortunate and recognise some of their rights. As part of the Wik decision, the amendments that were passed through the House of Representatives and the Senate elaborated further on some of those issues.

At this stage I have not been able to read in full the report of the Leader of the Opposition and his committee, so I am not sure what they have been able to glean from that visit. I am sure there is a great deal of information in that report.

Hon Tom Stephens: There is, and the member should have read the report before he got up to make his speech.

Hon B.K. DONALDSON: Other pressing electorate matters and committee commitments have denied me that opportunity. I would have loved to have read more of that report before standing up here today. However, I am not here to debate the Bills, Mr President, because I know you would pull me into line straightaway. We are here to debate whether these Bills should be sent to a select committee. What it means is that at the end of the day no committee could do justice to a report on the Titles Validation Amendment Bill prior to the House rising for the Christmas recess.

Hon Mark Nevill: I am sure I could.

Hon B.K. DONALDSON: That would be most interesting. I would wish the member well on that. Obviously, Hon Mark Nevill must support it fully at the moment to be able to give it the tick. I have a great deal of experience of committees. Today I was involved with a committee, and the members of that committee would have liked to table a report tomorrow. However, we did not complete something which we were desperately trying to do. Unfortunately, issues always crop up. It is a moveable feast, and changes are made, as members would be well aware. Therefore, as any member of any committee would understand, it is very difficult to put a time frame on any report. Members have only a certain amount of time available between their normal parliamentary and electorate commitments. That must be recognised.

Hon Tom Stephens: If Hon Bruce Donaldson thought he was exasperating me, it is true that he is doing so.

Hon B.K. DONALDSON: I am surprised about that. I suppose I have actually had a win, because one always likes to have friendly humour across the Chamber.

Hon Tom Stephens: It is not humour; it is deadly serious.

Hon B.K. DONALDSON: It is also nice to see that maybe I am hitting the soft tissue of some members of the House. In any event, it is good to hear the member say that, because it encourages me even more to continue longer than I had intended.

Hon Mark Nevill: Is the member about ready to get on to the veto over private land?

Hon B.K. DONALDSON: I have never had a problem with getting rid of the veto over private land, because I have never been in the position that I would not encourage people to come onto my property to look and explore for minerals. Hon Mark Nevill is a former geologist and co-finder or finder of the Nifty copper deposits. Whatever land he may or may not have owned during those years, I am sure he would have loved to have been walking around with his little hammer, chipping away and finding something very useful.

Hon Tom Stephens: Does Hon Murray Nixon share the member's views?

Hon B.K. DONALDSON: Hon Murray Nixon is entitled to make his own statements. I am not his keeper. That is the beauty of being a member of Parliament. We all have our own views. That is what makes the parliamentary debate so enthralling and exciting: We can all tease out the ideas and come up with some answers. I certainly could not support the motion of Hon Giz Watson that these Bills under the commonwealth Native Title Act 1993 be referred to a select committee.

HON GREG SMITH (Mining and Pastoral) [2.28 pm]: Firstly, I do not agree with the motion that we form a committee. What disappoints me about the Greens (WA) is the way they just -

Hon Simon O'Brien: The member has only 45 minutes.

Hon GREG SMITH: I will be brief. It disappoints me that the Greens use the Aboriginal people and yet they are not concerned about them one iota. When the Greens head up to the Fitzroy, they make sure they take a couple of Aborigines with them. They have now found that to stop uranium mining they can use Aborigines. The Greens are not there for the Aboriginal people; they are there because they do not believe in uranium mining. We recently wanted to see the Martu people about the Kintyre uranium deposit. The Greens act under the guise of being extremely concerned about Aboriginal people, but it has nothing to do with that. They are concerned about uranium mining. I had always suspected this was the case. However, in *The West Australian* on Monday it was confirmed by Robin Chapple, who ran as the Greens candidate in the federal seat of Kalgoorlie. The article is headed "Green View - Inequity in native title Bills". It commences by saying -

> The Court Government is trying to push legislation through State Parliament to reinforce the recent Federal amendments to the Native Title Act (1993).
>
> The passage of the Bills has potentially serious ramifications for environmental management in the Kimberley and Pilbara regions.

It does not mention what it will do for Aboriginal people.

Hon Giz Watson: Read the remainder of the article.

Hon GREG SMITH: I have read the whole article. If the Greens want to talk about Aboriginal people and the environment, Aboriginal people have caused more species to be extinguished in Australia than have non-indigenous people. That demonstrates the agenda of the Greens with regard to supporting Aboriginal people. They do not want these Bills to be examined; they just want to hold them up and frustrate them, because they view native title and their environmental agenda as being tied together, so that they can use one to pursue the other. That is almost immoral. They have no genuine concern for Aboriginal people. The Greens go to Kakadu not to try to assist the Aboriginal people to deal with their health and education problems, but because they believe the Aboriginal people will suffer from radiation poisoning -

Hon Giz Watson: Is that not a health problem?

Hon GREG SMITH: It is not a genuine health problem. Radiation poisoning is a long way off the mark when we consider what is causing the health problems in that area.

I do not agree with the formation of this committee. I have received a number of letters about the Titles Validation Amendment Bill. One letter, which I can only describe as disgusting, is from the Noongar Land Council and states -

> Do you consider yourself a racist?
>
> The Titles Validation Amendment Bill 1998 currently before Parliament is racist legislation. If you vote in favour of this legislation you are a racist.

Can anyone think of a more disgusting use of the word "racist"? That letter makes the word "racist" so worthless that I do not know what we will call people who are truly racist. Every member of the Legislative Assembly voted for the Titles Validation Amendment Bill. Hon Tom Stephens has said that he intends to support that Bill. It is very unfortunate that people are using the word "racist" as though it is just a throwaway line and means nothing. We do have people in our society who are racist. What will we call them? I find this letter extremely offensive, because it demonstrates the lengths to which people will go to try to influence other people to vote against something by playing the racist card and branding them with that name. It will not work. The reason that we want to pass the Titles Validation Amendment Bill is that it is complementary to the legislation that has been passed by the Federal Parliament.

I received a similar letter from the Australians for Native Title and Reconciliation. However, that group has recommended that the Bill be referred to the Ecologically Sustainable Development Committee. What native title has to do with ecologically sustainable development is totally beyond me. A more appropriate forum may be the Constitutional Affairs Committee.

On the same day that I received the letter that said I would be a racist if I supported the titles validation legislation, I read in the Press that Aboriginal people want to set up a bank for indigenous people. It is racist to set up a bank that will be for only one group of people in society. There should be some consistency in the debate.

What concerns me about the Miriuwung-Gajerrong decision that was handed down yesterday is that there are between 100 and 150 claimants in those two groups, which have won a claim over 7 000 square kilometres in the east Kimberley. What will happen to the other Aboriginal people in the Kimberley who are not party to that claim? Will they lose their native title claim to that land?

A committee formed to consider native title should start by looking at how much native title has cost Western Australia, and at how much has not been able to be done in this State. The Ord River scheme has not been developed for about six years. There is a shortage of land for housing in Port Hedland, Karratha and Kalgoorlie. Goldmines are not being developed. Those are the matters that should be examined, so that the public will know what native title legislation has done to the economy of Western Australia. It is now more important than ever to get this legislation through the Parliament as quickly as we can, because the determination that was handed down yesterday has created even more uncertainty about where native title may or may not exist. Paul Keating told us that native title was extinguished on pastoral leases. A High Court decision told us that it was not. The Titles Validation Amendment Bill will deal with that matter - hopefully in the near future, if we ever finish with the School Education Bill - by validating the titles on which native title does not exist. We should get the Bill through this place as quickly as possible so that the people who have those titles can get on with their business.

The ALP has used a quote from the *Hansard* of the other place; namely, the three ways to deal with native title are legislate, litigate or negotiate. I believe we should deal with native title by using a combination of all three. We should legislate in this place to give us a workable regime under which to operate. That is what we are in the process of trying to do; and that is what the Greens are in the process of trying to frustrate, by moving that these Bills be sent to a committee. The proposed reporting date of that committee is 11 March 1999. As Hon Bruce Donaldson said, we all know what committees are like; the reporting date is March, but the next thing we know, it will be July, we still will not have a report, and the lawyers will be very busy.

We are in the legislation stage of that three-tiered approach to dealing with native title. We should get the legislation through the Parliament. The Titles Validation Amendment Bill is complementary legislation to comply with the amendments to the federal Native Title Act. The Miriuwung-Gajerrong decision has not changed the Titles Validation Amendment Bill. That Bill is as legitimate now as it was yesterday. Nothing has changed. I notice Hon Tom Stephens is shaking his head as though that is wrong -

Hon Tom Stephens: Except that the compensation bill has increased astronomically.

Hon GREG SMITH: It has not changed by one cent. The compensation bill today is the same as it was yesterday. We should get the Titles Validation Amendment Bill through the Parliament, because that will remove some of the uncertainty surrounding the native title debate by validating all those titles in Western Australia that are not subject to native title claims. The Native Title (State Provisions) Bill will, hopefully, give us a workable regime under which to negotiate and decide where native title exists or does not exist, and how it will be administered. The Select Committee on Native Title Rights in Western Australia, chaired by Hon Tom Stephens, has completed an extensive report on native title; and I look forward to Hon Tom Stephens' contribution when we go into committee on these Bills, because I have no doubt that Hon Tom Stephens is now quite learned about the other side of the debate on native title. I am fairly learned about the effects it is having on the mining industry and on the availability of residential and agricultural land.

Until the decision on the Miriuwung-Gajerrong claim was handed down yesterday, not one claim in Western Australia had successfully gone through the native title process in six years. Every person in here who is aware of the issue knows that the current legislation is unworkable. I congratulate the Senate for bringing in the higher threshold test because it was causing many of the problems. Aboriginal people in places such as Kalgoorlie and Roebourne have emphasised the need

to fix the native title legislation. They said that they had made a legitimate claim and wanted to negotiate to obtain something, although not much has been achieved; they were not getting rid of native title. Claimants from down south then lodged claims and they asked what those people were doing claiming their land. The lifting of the threshold is a major step forward.

As I said, a decision on one claim has been handed down in six years. I think there are 290 claims awaiting determination. If one determination is made every six years and 290 have yet to be resolved, it will be a number of years before the outstanding claims are resolved. I do not know whether anyone has seen the Miriuwung-Gajerrong determination. The decision in part is as follows -

(a) to possess, occupy, use and enjoy the *"determination area"*;

(b) a right to make decisions about the use and enjoyment of the *"determination area"*;

(c) right of access to the *"determination area"*;

(d) the right to control the access of others to the *"determination area"*;

(e) the right to use and enjoy resources of the *"determination area"*;

(f) the right to control the use and enjoyment of resources of others of the *"determination area"*;

(g) the right to trade in resources of the *"determination area"*;

(h) the right to receive a portion of any resources taken by others from the *"determination area"*;

(i) the right to maintain and protect places of importance under traditional laws, customs and practices in the *"determination area"*; and

(j) the right to maintain, protect and prevent the misuse of cultural knowledge of the common law holders associated with the *"determination area"*.

I wonder whether the Bush Tucker Man will find himself in court for telling people how to find some bush tucker in that area as a result of point (j). Will he now have to pay a copyright fee? I presume that will become the intellectual property of the native title holders. I have no problems with that. However, those people are like all of us; we share our knowledge.

The real concern about the decision of the Federal Court on the Miriuwung-Gajerrong case is that other enormous claims are hanging over places such as the goldfields. Judges operate on precedent. Once a determination has been handed down they are likely to say that the basis of that decision can apply in all cases. If a native title determination comes down over the goldfields on the same basis as the Miriuwung-Gajerrong case before the titles are validated and before a workable regime is implemented in Western Australia, it will be frightening. It will mean the Minister for Mines and the Minister for Lands will no longer have those roles.

If someone wants to start a mine they must first seek approval from the Minister for Mines. However, that will be only the start of it. They will then have to seek approval from the native title holders. At least in seeking approval from the Minister a set procedure is in place. Notification of intent must be lodged, followed by a cultural search to ensure there are no sacred sites in the area. In seeking approval of the de facto native title holder no process is in place. Will it be a matter of bargaining to see how much the miners will give? Ultimately litigation will resolve it, but we are trying to avoid litigation.

Hon Tom Stephens: At some stage in the process of this debate, not necessarily this one, one hopes the penny will drop about how wrong you are in your assessment of these issues. I do not know when it will occur to you. I hope you realise exactly how wrong you are in your assessment.

Hon GREG SMITH: I am looking forward to Hon Tom Stephens enlightening me about where I am wrong. I only know what I have seen with my own eyes, what experiences I have heard about and the letters I have read. Only last Friday the Chamber of Minerals and Energy in Kalgoorlie commented on how exploration had come to a standstill. When I asked whether the gold royalties or the price of gold were having an effect on mining, the CME people said that they were not and that it was native title. We explored every other possibility and they kept saying that it was native title.

The mining companies cannot do much exploration on greenfields but if they spend millions of dollars in exploration on brownfields and find a deposit the fun starts and the claimants line up. As occurred at Murrin Murrin after the first native title claimants were given money, by next morning another seven claimants were lining up for their bit. The lifting of the threshold and the right to claim once only is a big win. Hon Tom Stephens says I am wrong. I am looking forward to hearing in his contribution to this debate where I am wrong.

The PRESIDENT: Order! Hon Greg Smith referred to Hon Tom Stephens with respect to the native title report. It is possible he was Hon Tom Stephens while he was a member of that committee. If he is referring to anything he does in this House, it is as the Leader of the Opposition. There could be some confusion about whether Hon Greg Smith is talking about the office holder of this House or the person in the electorate somewhere else.

Hon GREG SMITH: Thank you Mr President. I am looking forward to the contribution of the Leader of the Opposition. Western Reefs Limited wrote to me recently saying -

> Our company and its Directors, employees and shareholders want the Government, Opposition, Democrats, WA Greens and minor parties to be aware of the effect of native title issues on the mining industry.
>
> We are concerned about the following issues:
>
> **1. Validation of titles**
> We support the validation of titles issued and accepted in good faith between 1st January 1994 and 23rd December 1996 should any of those titles carry any technical flaw in terms of validity of issue.
>
> The mining industry must have certainty of title to operate effectively and efficiently.

I beg to see how the Leader of the Opposition will let me know that the mining industry does not need certainty of title to operate efficiently and effectively. To continue -

> **2. Right to negotiate**
> We support the removal of the "right to negotiate" on pastoral leases and replacement with a right to consult.
>
> **3 State commission**
> We support the establishment of a State Commission to deal with native title issues in their entirety.
>
> In conclusion, we wish to stress how important the passage of these Bills through the Parliament is to Western Australia's and thus Australia's mining industry.
>
> The mining industry is tired of being forced to deal with unworkable and commercially impractical native title processes. This frustration is fuelling increased offshore investment by the industry and compounding the already severe downturn in the mineral exploration sector.

That is from the Managing Director of Western Reefs Limited. One of the titles we are validating in the Titles Validation Amendment Bill is the Challis Gold Mine which employs about 300 people and which had to renew its mining lease. The Government could not see any reason for that; it was just a mining lease. That is the sort of title that the Bill will validate. The Bill will also enable the validation of titles relating to the hot briquette iron plant at Port Hedland.

The PRESIDENT: Order! When Hon Giz Watson referred to debates in the other place, I reminded her of the standing orders. I must remind Hon Greg Smith about anticipating debate on a Bill that is currently in this House. The member is telling me that certain things are in that Bill. If that is the case, I am required to tell the member that he cannot anticipate the debate. Mentioning something briefly does not cause great distress in respect of the standing orders. However, the member should not develop an argument around that.

Hon GREG SMITH: We are debating the appointment of a select committee and the referral to that select committee of all the Bills associated with the Native Title Act.

The PRESIDENT: The member can talk about the problems in the establishment of the committee and associated matters rather than specific issues in the Bills.

Hon Tom Stephens: If the member must filibuster, he should filibuster within the requirements of the standing orders.

Hon GREG SMITH: I am grateful for that advice. The Leader of the Opposition is probably the best person to advise me on talking for a long time in narrow parameters, and any advice he can give me on the subject is appreciated.

Hon N.F. Moore: Hon Tom Stephens has not told us why the Labor Party wants to send these Bills to a committee.

Hon GREG SMITH: No, he has not. These Bills are so important to Western Australia that we should not frustrate their passage by referring them to a committee. Since the judgment on the Miriuwung-Gajerrong claim was handed down two days ago, the importance of getting workable legislation in place is even more important - not less important. Nothing that has occurred in the past two days has made it necessary to refer the Bills to a committee for examination. One of the Bills is complementary legislation to the federal Native Title Act. The letter I received from the Noongar Land Council said that I had better familiarise myself with the Land Regulations 1872, the Homesteads Act 1893, the Land Act 1898, and other historical Acts. I could not find those references in the Parliamentary Library. They are not federal or state Acts, so I presume they must be English Acts.

Hon Peter Foss: The Land Regulations were imperial Acts. Most of those have since gone. However, even though the legislation has been repealed, they deal with what happened at the time.

Hon GREG SMITH: They were not listed in the Commonwealth's list of repealed legislation.

Hon Peter Foss: No, they wouldn't be. They are important because they determine the situation at that time. Therefore, you would need to get somebody to search for historical legislation.

Hon GREG SMITH: I thank the Attorney General for that interjection. We have already appointed one committee on native title. The Select Committee on Native Title Rights in Western Australia tabled a comprehensive report. I have not read the entire report, but it has been interesting reading so far, and the work done by that committee is to be commended. The members of that committee should be able to contribute during the Committee of the Whole and to present both sides of the debate and to clarify what might be questionable within the Bills. It would be a waste of time to send the Bills to a new select committee at this point. Members of the previous select committee probably learnt most of what there is to know about native title. I hope no-one here will say that the committee's trip to Canada was a waste of time. The report was compiled over 12 months. The committee found that, after 12 months of examining native title, it did not know what that was. One of the mysteries of native title is that no-one can say what it is.

Hon Tom Stephens: Hon Greg Smith should read page 259 of Justice Malcolm Lee's determination on the Miriuwung-Gajerrong claim.

Hon GREG SMITH: I read page 259 of Justice Lee's determination, and if that is what native title is, the ramifications for Western Australia will be horrific, because wherever native title exists in Western Australia the native title claimants will have control of the resources and right of access. If we were to appoint a committee, its purpose should be to find out how much native title has cost the State. Under section 186 of the Mining Act, it is illegal for a third party to charge a royalty or receive remuneration for minerals. Justice Lee's determination is likely to be appealed - although it may not be. We will have to wait and see. We should not refer the native title legislation to a select committee that will not have the necessary legal expertise to examine it. These matters will probably be determined in the High Court. We should legislate so that the framework is in place within which native title claims can be made. The States are trying to make it easier to determine native title.

I beg members opposite to assist the Government to pass these and associated Bills as quickly as possible. Now that the decision on the Miriuwung-Gajerrong case has been handed down, it is more important than ever to get a state regime in place and to pass complementary legislation, so that native title claims within Western Australia can be dealt with. People are waiting for their titles to be validated. The Greens (WA) want to refer the legislation to a select committee. How would the Greens like someone to tell them they must wait another month, two months or four months before their titles will be validated? What sort of Christmas present is it to keep those people wondering?

Hon Tom Stephens: If Hon Greg Smith sums up, I will conclude my remarks by three o'clock and we can pass this resolution quickly.

Hon GREG SMITH: The Leader of the Opposition does not understand that we do not plan to pass this motion, because we do not agree with it. It is most unfortunate that some members opposite - I do not say all of them - do not fully appreciate the effect native title has had on the Western Australian economy, the mining sector, development in this State and -

Hon Peter Foss: On the relationship between Aboriginals.

Hon GREG SMITH: - between Aboriginal and white people.

Hon Tom Stephens: What part has the Liberal Party played in that? It has been causing, exacerbating and compounding the problem. From the start to the finish of this issue, the Liberal Party has ridden it to its narrow political advantage. Rise above your pasture!

Hon GREG SMITH: The Liberal Party had nothing to do with the division that occurred between Aboriginal people in this native title legislation. The unworkable legislation that is in place has allowed anyone, by the mere fact of lodging a claim - they need not have native title - the right to negotiate.

Debate adjourned, pursuant to standing orders.

BAIL AMENDMENT BILL

Assembly's Amendment

Amendment made by the Assembly now considered.

Committee

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

The amendment made by the Assembly was as follows -

Clause 15.

Page 15, line 19 - To insert the following -

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

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

Hon Tom Stephens: No such arrangement to deal with this matter now was made with any of us.

Hon N.D. Griffiths: No agreement was made to alter the orders of the day.

Hon PETER FOSS: I thought I had received the Opposition's agreement to deal with this today. Obviously I have not done so and for that I apologise. I do not wish to bring the matter on without the agreement of the Opposition.

Progress

Hon PETER FOSS: I move -

That the Chairman do now report progress and ask leave to sit again.

Question put and passed.

[The President resumed the Chair.]

Leave to Sit Again

The Chairman of Committees reported that the Committee had made progress and asked leave to sit again.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.04 pm]: The Labor Party has no intention of slowing the passage of this legislation. I was present during the conversation that the Attorney General had with his counterpart in this Chamber. We indicated that this legislation would be dealt with expeditiously. There was no request about when it would be handled. That was the conversation that was held in my earshot across the Chamber. A simple request is all that is necessary.

Question put and passed.

WOOROLOO PRISON SOUTH

Statement by Attorney General

HON PETER FOSS (East Metropolitan - Attorney General) [3.05 pm]: On 25 March this year I announced that a new 750-bed medium-security prison for males would be built on crown land near Wooroloo. This is a project of high significance to the functioning of the justice system in this State, and all the more so in view of the widespread community discussion about crime and punishment. Preparation for the new prison has now reached a stage at which it is practicable to report to the Parliament so that members and the community have authoritative information about what is proposed. During the very earliest stage of planning, it became apparent that the new facility had the potential to achieve much more than a simple, if large, addition to the State's prison capacity. It has also become the propellant for a far-reaching overhaul of the prison system and the principles and attitudes which underlie it. As a consequence of this additional dimension, the new prison has grown in importance and will, the Government believes, come to be regarded as the paradigm for the future.

A number of factors give special significance to this prison. First, it will be by far the biggest prison ever built in Western Australia. It will have about double the nominal capacity of Casuarina Prison, which is currently our largest prison. Second, for the first time in the modern era, there will be a period of surplus capacity in the prison system. This is important because it will enable us to relocate offenders from existing prisons and carry out substantial refurbishment and modernisation. Third, it will enable us to make more effective use of existing resources and, in particular, allow us to separate remand prisoners from the rest of the prison population. Fourth, it may, and I emphasise may, be Western Australia's first privately-operated prison. I will have more to say on that subject. Fifth, the project is well timed in that it has enabled the Government and the Ministry of Justice to draw together a large number of threads in a thorough re-evaluation of the philosophy and practice of imprisonment.

In planning the new prison, which has the working name of Wooroloo Prison South, the most critical element has been to maximise the use of the opportunity to get ahead of events. For years the prison system has been under such constant pressure from day-to-day needs that detailed consideration of future directions has inevitably been affected. In spite of the daily pressures, there has been a great deal of forward thinking, but it has, of necessity, been done in a piecemeal manner. The value of the new prison in this regard is that the planning process has brought many ideas together and made possible a comprehensive and coordinated evaluation. The results of this have been crystallised in the request for a proposal

document compiled to direct the four groups which have been selected to make submissions for possible private sector involvement with the new prison. The standards laid down in the document represent a major contemporary redefinition of prison practice, and the Government views them as a significant advance. They are drawn from experience in this State, other parts of Australia and other countries, and they take account of community expectations. These standards were developed for the immediate purpose of notifying potential private operators of the Government's requirements for operation of the new prison, but ultimately they will apply to all prisons in the State.

I turn now to the question of what role, if any, the private sector may play in Wooroloo Prison South. Four sets of options have been presented to the groups participating in the request for proposals. They are -

> The private sector will design, construct, maintain, finance and operate the prison.
>
> The private sector will design, construct, maintain and operate the prison, while the public sector will finance it.
>
> The private sector will design, construct, maintain and finance the prison, while the public sector will operate it.
>
> The private sector will design, construct and maintain the prison, while the public sector will finance and operate it.

Members will see from this that the only private sector involvement to which the Government is already committed is the design, construction and maintenance areas, in which the Government has no capacity and which must be done by the private sector in any case. The private groups' proposals for aspects other than design, construction and maintenance will be compared with public sector cost benchmarks. This will show whether savings can be made and, if so, where and how much.

Prisons are expensive. Because of their security features, they cost a great deal to build and operate. It would be irresponsible of the Government not to investigate every realistic opportunity to reduce these heavy costs. Private operators have demonstrated elsewhere in Australia and overseas that they can deliver significant savings to the taxpayer without compromising security or standards. Not every private prison has been an immediate and complete success; far from it. However, nor has every government-operated prison. Prisons are immensely complex institutions. In preparing for Wooroloo Prison South, the Government has put in a great deal of effort to learn from the virtues and faults of modern prisons, privately and publicly operated, around the world. We have looked at them in the context of this State's special characteristics. The Government recognises that the concept of privately operated prisons is new to Western Australia and that, as with any unfamiliar concept, some people will naturally have reservations at first. However, it is worth keeping in mind how perceptions are influenced by greater familiarity. We need only consider the high public regard for private schools and hospitals to see the truth of that.

Members should be in no doubt that cost will not be the Government's only criterion in deciding whether the new prison will be privately operated. The bottom line is that a privately operated prison will not only have to be cheaper, it will have to be better. That is what the standards developed for the request-for-proposal document are fundamentally about - better prisons. In developing the standards, we have reviewed not only the particular circumstances of this State and developments in prison practice elsewhere, but also the very philosophical basis of imprisonment - the reasons that we send wrongdoers to prison. At a time of vigorous public discussion of this issue, and with many people inclined to the view that punishment should be harsher than they perceive it to be at present, it is important for the Government to clearly state its position. Society demands punishment of those who break the laws which are made to protect people and property. In our society, imprisonment is the most severe punishment the law provides, and the degree of punishment is determined by the length of the sentence.

But our guiding principle is that people are sent to prison as punishment, not for punishment. Although prisons today are certainly not holiday camps, as some people seem to think, nor are they the grim and inhumane institutions of years gone by. Governments have learnt over the centuries that brutal prisons do not work; in fact, by dehumanising prisoners, they tend to make crime worse. While they may satisfy the demands of some for revenge, they are ultimately self-defeating.

As an aside, I emphasise here that the Government understands and sympathises with the current anger in the community at a time when there is a perception that crime, especially violent crime against the most vulnerable people, is increasing. However, if crime could be cured simply by savage punishment, it would have been eliminated aeons ago.

Government has a responsibility to look for solutions as well as to punish those who break the law. In doing this, it must look beyond the heat of the moment and make reasoned assessments. Locking lawbreakers away so that they are separated from families and friends, lose the freedom to come and go as they wish, are divorced from the amenities of the community, and are subjected to the discipline and restrictions of prison life, is punishment in itself. However, there needs to be more to imprisonment than punishment. It is common sense that prisons should make every reasonable effort to return to the community people who are better than they were when they went into prison. The community is entitled to expect a genuine attempt to break the cycle of crime by reducing the likelihood of reoffending. Unless we try to do that, prison becomes punishment without purpose.

The uses that are made of time spent in prison are therefore clearly important to the community. Prison populations are dominated by people with inadequate education, poor life skills and other social, cultural, physical and intellectual disadvantages. This is not to make excuses for them. The truth is that most, if not all, have had access to the opportunities our community provides but have failed to take them.

The Government is not going soft on crime, far from it. It recognises that it cannot help people who are not prepared to help themselves. However, it has a clear duty to the community to provide opportunity, incentive and support to all prisoners so that as many as possible will come out of prison with the skills to lead a more productive and fulfilling life, and consequently with less inclination to offend. The Government also recognises that while there is no question of pampering prisoners, they must be treated humanely and fairly if it is to have any realistic expectation that they will make a serious effort to better themselves.

In considering the matter of imprisonment, we do not choose between punishment and improvement. We must have both. An important change in the philosophical basis of imprisonment is reparation. We require prisoners to redress the harm they have done the community by doing work that reduces the cost of their imprisonment and also provides goods and services for the needy. These considerations underpin the specific standards which have been developed for the new prison at Wooroloo South and which I now summarise for the benefit of members.

There are seven key areas in which the Government would expect innovation from the private sector, and these are -

> Aboriginal prisoners: It is anticipated that Aboriginal people will make up approximately 40 per cent of the new prison's population. The Government requires strategies that take account of the cultural imperatives of Aboriginal prisoners while addressing the question of self-improvement.
>
> Links to industry: Productive work and the gaining of work-related skills are important in the personal betterment process.
>
> Substance abuse: Where prisoners have a history of substance abuse, including alcohol abuse, they are to be engaged in individually appropriate education and treatment programs.
>
> Education and vocational training: Prisoners must be engaged in accredited programs for an average minimum of four hours a week.
>
> Health services: Primary health care services must be comparable with those provided in the community and health care education must be provided.
>
> Self-harm: A multi-faceted approach is required to identify and safeguard prisoners who may be at risk. The penalty of $100 000 that will be imposed for each and every instance of death from unnatural causes demonstrates the importance the Government attaches to this subject.
>
> Equity, security and discipline: Prisoners are to be treated with due respect and, above all, with fairness. Charges alleging minor offences committed in the prison will be heard and any penalties imposed by a Ministry of Justice adjudicator. In more serious cases, the police must be called in. A private operator will have no authority in these processes.

Strong emphasis is placed on the development of an individual management program for each prisoner. This is based on the belief that treating prisoners as individuals offers the best prospect of achieving lasting betterment.

The focus on the individual is carried through into the comprehensive requirements relating to such personal matters as cultural and spiritual wellbeing. In a society of the extraordinary racial, cultural and religious diversity that we have in Western Australia, these are matters of high importance.

The highest priority of all, however, is to preserve the safety of the community. So seriously does the Government regard this that a private operator would face a penalty of $100 000 for any and every escape from Wooroloo Prison South. It believes that a penalty of this severity leaves no doubt about the Government's requirement that the prison be secure. It will be clear from the standards the Government has set out in the request-for-proposal document that the selection and training of staff by a private operator would be of fundamental importance. It is an area in which the community is entitled to demand high quality and high competence.

As in all other matters relating to prison management, the Ministry of Justice will retain full regulatory control in this area. Control will be exercised through a screening and certification procedure and stringent requirements will have to be met before a work permit will be issued. High standards have been set for staff training and programs for continuing development. All training courses will have to be approved by the ministry.

A staffing requirement to which I draw special attention is that a substantial proportion of the staff, including custodial personnel, must be of Aboriginal or Torres Strait Islander descent. It is envisaged that the minimum proportion of Aboriginal custody officers will be 10 per cent. In the event that the prison is privately operated, that operator will be

required to have formal strategies to recruit, train and retain Aboriginal staff. These strategies must be outlined in the submissions currently being prepared.

In all of these and other areas, the private groups invited to submit proposals are required to specify all the measures they would take to meet or exceed the standards the Government has set. This is not window dressing; the means of monitoring and enforcing compliance are also spelt out in the request-for-proposal document.

The Government, through the Ministry of Justice, is ultimately accountable for all prisoners in Western Australia. In order to fulfil its obligations, it will retain complete regulatory power over Wooroloo Prison South if a private operator is chosen. To carry this through in practice, the ministry will appoint a contract manager who will have unfettered access to all parts of the prison, and to all staff, information and prisoners in order to monitor compliance with the standards. The ministry's Director-General will cause independent reviews to be conducted on the treatment of prisoners. The reviewer will have full access rights to all information concerning the prison, including the monitoring reports, and the findings will be published in the ministry's annual report.

In the event of a major performance failure by a private operator, the Government's reserve powers would enable it to step in and assume control of the prison. Short of such an extreme situation, all performance measures are linked to the fees which would be payable to a private contractor. Sensibly, they include incentives for superior performance as well as penalties for shortcomings. I believe that members will see from the outline I have presented of what is proposed in the event that the prison is privately operated that the Government has set high standards and has designed mechanisms to make sure that they are met. The Government is very much aware of the opportunity this major project creates to make a substantial advance in prison policy and practice in Western Australia. In the interests of the whole community, it is determined to extract the maximum benefit from it, not merely in terms of cost economies, but in prisoner outcomes as well.

One important question remains: Will the new standards apply equally to the State's existing prisons? The answer is yes, but with some qualification. Such changes are much easier to introduce in a new prison, which can be physically designed to facilitate them. However, many will be harder to apply in establishments which are mostly decades old and whose design reflects the thinking and technology of those times rather than today.

I will cite two examples to illustrate the point. One is the prevention of suicide and self-harm by prisoners. Design and equipment play a very large role in this. Modifying an existing prison while it is in use is much more difficult and expensive than designing into a new facility the knowledge now available. Another is achieving a productive balance between punishment and development for Aboriginal prisoners, who make up a disproportionate share of the prison population. Cultural factors and Aboriginal people's complex and immensely strong family obligations create circumstances which can be addressed more effectively in designing a new facility than in modifying an existing one. As these examples demonstrate, introducing the new standards into the existing prison system at once and in full is not as easy as it may appear on the surface. Obviously, too, there would be an element of cutting off one's nose to spite one's face in imposing financial penalties on state-operated prisons for performance failures, since it is the State which would have to meet any operating shortfall that resulted.

I believe the community will accept that for the existing prison system, some of the new standards need to be viewed as objectives to work towards over a period. The refurbishment and modernisation of existing prisons that will become possible when Wooroloo Prison South is completed, with its initial surplus capacity, will be an important contribution to the achievement of those objectives. I emphasise that although some of the changes will take time, the existing prison system will be subject immediately to the same process of regulatory reviews as a privately operated prison. In a mixed system, this will be a crucial step forward. It will identify and quantify differences in operating standards between existing prisons and a private prison. At the same time, the experience of a private operator would provide valuable guidance for the existing prisons as they worked towards complying with the new standards in more complex and less flexible circumstances.

I would like members to have the opportunity to study for themselves the detail of what, although lengthy, has been no more than an outline of the Government's redefinition of prison standards. For that reason I table the request for proposals.

[See paper No 480.]

SCHOOL EDUCATION BILL

Committee

Resumed from 24 November. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 60: Local-intake schools -

Progress was reported after the clause had been partly considered.

Hon KIM CHANCE: I do not intend to move the amendment standing in my name at Y60 on advice that it is unnecessary. I therefore move -

Page 48, line 18 - To delete "their intake areas" and substitute "a list of schools that have not been declared to be local-intake schools".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 61 put and passed.

Clause 62: Principal -

Hon LJILJANNA RAVLICH: I understand that the Leader of the House proposes to move amendment A62. The Australian Labor Party would find that to be in order and would accept that.

Hon N.F. MOORE: I move -

Page 49, after line 22 - To insert the following subclause -

(4) Nothing in subsection (2) prevents a person from being appointed as a principal and being classified as a school administrator at the same time.

The amendment represents a better drafting of the amendment that was proposed by the Australian Labor Party, and I recommend it to the Committee.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 63: Functions of principal -

Hon LJILJANNA RAVLICH: I move -

Page 50, line 13 - To insert after the designation "(e)" and before the word "to" the words "subject to section 123,".

A key function of principals these days is the establishment of a plan which sets out their school's objectives and priorities. Another key function is to monitor and report on their school's performance in relation to the plan. The Australian Labor Party is of the view that plans which set out a school's priorities should be done in consultation with the school council. This amendment, which would add the words "subject to section 123", in effect identifies the relationship between the function of the principal and that of the school council. It is vital to reinforce the importance of the involvement of school councils. It was argued in the other place that that happens as a matter of course. However, I assure members that different school administrators have different management styles. Although some school principals pay lip-service to the fact that they draft their plans in consultation with school councils, in practice that might not occur. In effect, our amendment would enshrine in legislation that the relationship between the function of the principal and the school council be reinforced. The minister in the other place said that he would not support the amendment because it was implicit in the legislation that the principal would obviously consult the school council. From my experience in educational administration and as a teacher, I know that it is not a fait accompli - it does not necessarily just happen. We do not want to assume that it just happens; we want to make sure that it is provided for in the legislation.

Hon HELEN HODGSON: The Australian Democrats also support the amendment because it strengthens the objects of the Bill, which are to ensure that parents are involved in their children's education. It ensures that we have tripartite arrangements so that teaching staff, parents and principals are involved in decisions. That is a step forward.

Hon N.F. MOORE: The Government does not believe that the amendment is necessary. It is implicit in other clauses that there will be a consultation process. The Opposition and the Democrats do not seem to understand that every school is different and that every school principal has a different way of doing school business. I assure members that if they want to insist that every school plan and decision that is made in the school system is tripartite, most schools will achieve absolutely nothing.

Hon LJILJANNA RAVLICH: We have no problem with the fact that schools are different, but we believe there is a role for a school council to participate in the important function of developing a school plan and identifying, in consultation with the principal and staff, priorities for a school in any given period, usually a year.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I move -

Page 50, line 13 - To insert after "school" the words "in conjunction with the school's teaching staff".

I reiterate that the Australian Labor Party believes that the establishment of plans which set out the priorities of a school

should be done not only in consultation with the school council but also in conjunction with the school's teaching staff. Once again it is the same issue: A good principal will ensure that that occurs as a matter of course, but there are schools in which the teaching staff do not play an active part in identifying priorities for the school or in what should be in the school plan. We want to make sure that they are involved in that consultation mechanism and that they have input to the matter. I ask members opposite to support the amendment.

Hon N.F. MOORE: Again, the Government believes that the amendment is unnecessary. Of course, every good principal consults teaching staff. It is unnecessary to write it into the legislation. Circumstances change in different schools. I wonder whether, instead of "the school's teaching staff" the member might insert "the State School Teachers Union" and then we will have the whole thing completely stitched up.

Hon LJILJANNA RAVLICH: Any school plan should belong to the whole school community. Obviously, when people have had input to a plan and identifying priorities of the plan, there will be greater commitment to the achievement of the objectives in that plan. Although on the face of it the minister can be cynical, there are some very good underlying management reasons that the amendment will strengthen the legislation and operations at school level, rather than detract from them.

Amendment put and passed.

Hon LJILJANNA RAVLICH: My amendment is slightly different from that which appears on the Notice Paper. I move -

> Page 50, line 16 - To insert after the designation "(f)" and before the word "to" the following words "in conjunction with the school council and teaching staff".

The CHAIRMAN: The member requires leave to alter her amendment as it stands in her name on the Supplementary Notice Paper. The alteration is to delete "school" in the phrase "school council and teaching staff".

Hon N.F. MOORE: This process is complicated enough without members changing their mind with amendments on the run.

Leave granted.

The CHAIRMAN: The question is that the following amendment, as altered, be agreed to -

> Page 50, line 16 - To insert after the designation "(f)" and before the word "to" the following words "in conjunction with the council and teaching staff".

Hon N.F. MOORE: Several of these clauses involve the same matters raised earlier by the Opposition. The principal is to be involved in school plans and essentially to take a leadership role in the school. Essentially, the opposition claim is that the principal must do this in consultation with everyone else. Who will take responsibility and blame when something goes wrong? It will be the principal. It is typical that people want input on everything which takes place, yet when the crunch comes, the responsibility for decisions made is left with the person with responsibility - namely, the principal. The Government does not support the thrust of the amendment.

Amendment, as altered, put and passed.

Clause, as amended, put and passed.

Clause 64: Functions of teachers -

Hon LJILJANNA RAVLICH: I move -

> Page 51, line 20 - To insert after the words "for the" the words "teacher's contribution to the".

This clause deals with the functions of teachers as outlined in an extensive list. I am concerned about subclause (1)(d) as a teacher at a government school is deemed to be answerable to the principal for the educational achievements of student under his or her instruction. On the face of it, not much of a problem arises with that. However, the Australian Labor Party believes that teachers should not be answerable to the principal for the educational achievement of students relating to factors over which teachers have control. However, we know that teachers have no control over certain factors which impact upon the educational performance of children. The argument is whether teachers should be held accountable for things over which they have no control in the academic performance of children in their class. Frankly, many factors impact on the educational outcomes of students, such as the child's home environment, the school environment and the nature of the child, as the intellectual capacity and social development of the child obviously have a bearing. With a move towards curriculum outcomes, it should be easier to assess a teacher's contribution to the educational achievements of a child. I am confident that the Leader of the House will argue how a teacher can be held accountable for his or her contribution to the educational achievement of a student. If one can measure a student's performance in outcomes, one should have some measure of the teacher's contribution to the educational outcome of students under his or her control. The Labor Party does not believe that teachers should be held accountable for everything, but should be answerable only for the things over which they have

control. They should be answerable to the principal for their contribution to the educational achievements of students under their instruction.

Hon HELEN HODGSON: The Australian Democrats will not support this amendment. The fact that clause 64(1)(d) makes reference to "students under his or her instruction" incorporates the necessary safeguard to clearly refer to the instruction contributing to educational outcomes. The Democrats regard the amendment as unnecessary.

Hon N.F. MOORE: I share the views of the Democrats on this rare occasion. It is ironic that the Labor Party argued that teachers must participate in determining a school plan - we have legislated to that effect - and be part of the organisation setting up a school plan. However, now the member states that teachers should not be responsible collectively for what happens in the school, but only for the contribution they make with a particular child. One cannot have it both ways.

Amendment put and negatived.

Clause put and passed.

Clauses 65 to 72 put and passed.

Clause 73: Educational programme for children with a disability -

Hon LJILJANNA RAVLICH: I move -

Page 55, line 22 - To insert after the word "officer" the following -

provided that the educational programme for that child is part of a system of individual education programmes implemented by the school for students with disabilities and specific learning difficulties whereby -

(a) each programme is developed and regularly reviewed in conjunction with the child, the child's parents, the child's teachers and any relevant specialist teacher; and

(b) each programme moves with the child as she or he progresses through the school or moves from one school to another.

This amendment reflects the recommendations of the Shean report on the education of children with a disability and specific learning difficulties. The amendment will do two things. Firstly, it will reinforce parental rights to be involved in the education of their children. Secondly, it will be a legislative requirement for programs to follow a child to differing schools. The amendment reflects the collaborative approach of two educational programs for students, as per the recommendations of the Shean report. One of the difficulties for students with disabilities is that their education can be very disjointed if they transfer to another school and start another program. It is imperative that once a program is designed for a student with learning difficulties, which should occur in consultation with the student's parents, that program should transfer with that child if he or she changes school. That is not to suggest that there cannot be modifications to the program in consultation with new teachers and new schools. However, we do not want to see a student's learning interrupted, particularly students with possibly severe learning difficulties. I ask members to reflect on how difficult it must be for students with a disability, particularly as they are integrated into more mainstream educational situations. We do not want such students to become further disadvantaged. The support mechanism put in place should reinforce the learning which takes place. A danger arises if we do not put a system in place by which a learning program moves with a student. As I have already explained, it does not mean that learning programs cannot be reviewed. There should be emphasis on ensuring that the programs are transportable from school to school. I ask members to support this amendment.

Hon N.F. MOORE: This clause was considered by the Standing Committee on Public Administration and it did not recommend any amendments to this clause.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: The committee looked at a proposed amendment - I presume the same one as the member put forward - and came to the conclusion that no amendment was required to this clause. There was no reference to a split vote. The intent of the amendment is already included in the drafting and the amendment is unnecessary.

Amendment put and a division taken with the following result.

Ayes (15)

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

Noes (14)

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

Pairs

Hon Bob Thomas	Hon Dexter Davies
Hon John Halden	Hon Barry House

Amendment thus passed.

Hon LJILJANNA RAVLICH: I move -

Page 55, after line 22 - To insert the following subclause -

(3) The Minister must ensure that appropriate resources are provided to a school where a child with a disability is enrolled.

The question of adequate resourcing in the area of disabilities has been under consideration for a long time. The State School Teachers Union of WA in particular has expressed concern about the resourcing required for teachers of students with disabilities. There is pressure on those teachers because of insufficient teacher-aide time to assist with disabled students. As you know, Mr Chairman, the degree of disability varies from student to student.

Sitting suspended from 3.45 to 4.00 pm

Hon LJILJANNA RAVLICH: It is very important that resource adjustments are made when students with disabilities are enrolled at a school. I have personally seen the situation arise when a school enrols a couple of students with disabilities and its resources are not reorganised over time so that it can adjust to the additional pressures in dealing with those students. It is very important that when a student with a disability transfers to a school, for example during the course of the year, the appropriate adjustments are made quickly to ensure that the resources are provided to the school in which that student is enrolled. We should not repackage existing resources; additional resources should be provided to schools where these students are enrolled. I urge members to support this amendment given the importance of this issue.

Hon N.F. MOORE: Proposed new subclause (3) is another example of this Chamber trying to govern the education system, but at the same time putting into legislation terminology which means absolutely nothing. What are appropriate resources? One can write in a document of intent or a statement of principle that one wants to provide appropriate resources for the education system, appropriate resources for those with disabilities, appropriate resources for those doing physical education and all the other things. However, to write into legislation that "the Minister must ensure that appropriate resources are provided to a school where a student with a disability is enrolled" is an absolute nonsense. How on earth will anybody know what are the appropriate resources? Appropriate resources for children with disabilities varies according to the child, the parents and the community. Everyone has a different view on what is an appropriate resource. I would hate to be the minister who must try to implement this because I think litigation would be pouring through the system. Every parent of a child with a disability who does not think that appropriate resources are being applied will take action. The minister is required under the law to provide appropriate resources. Appropriate resources, by definition, vary from individual to individual. We will perhaps finish up with a crazy situation of a court deciding what must be provided in schools. This amendment is completely inappropriate. I understand the intent of the member, and every Minister for Education in history and in the future will share her view about the need to provide adequate resources for every child, as well as children with disabilities. However, to put it into legislation is making an absolute nonsense of what she is seeking to achieve.

Hon LJILJANNA RAVLICH: A very special case exists for students with disabilities. If this amendment means nothing, I do not see why the minister finds it so objectionable. The minister has struck the nail on the head. If we are to be talking about appropriate resources, that is exactly what we are talking about. We are talking about the special needs of students with disabilities. If that means providing a teacher with specialist qualifications, that is what it means. If it means having special teaching aids, that is what it means. The minister was correct in saying that that would depend on the needs of a child. Those children should not have their education disadvantaged in any way, shape or form. Their special needs should be assessed, and the appropriate resources should be provided to them so that they can have an equal opportunity to fulfil their educational potential.

Hon N.F. MOORE: The honourable member clearly does not understand what she is doing. I was trying to be accommodating and to indicate to her that the Government understands what she is seeking to do, but it makes the minister's role impossible to legislate in these terms. She is proposing to put in the proposed new subclause the words, "The minister must ensure", so it is an absolute obligation to ensure that appropriate resources are provided. The member cannot tell me,

and I cannot tell her, what the appropriate resources are for every child with a disability, yet she expects and wants to oblige the minister to provide them. It may be that for some children a ramp is required; for other children a lift is necessary; for other children all sorts of different teaching aids are necessary; and for other children three full-time staff members are necessary and appropriate. Putting to one side the potential resource implications of this, every parent with a disabled child who does not think they have all the things that they want - many of them are very demanding and it can be understood why; no criticism is intended - will use this clause to ensure they receive everything they think is necessary. I can see this being an open sesame for litigation of all sorts. At the end of the day, members of Parliament do not know what are the appropriate resources for every child. It will eventually be decided by a court on a range of different issues. Once the court starts determining what the school must provide, the sky is the limit for the number of dollars it will cost.

Amendment put and a division taken with the following result -

Ayes (15)

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

Noes (14)

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

Pairs

Hon John Halden	Hon Dexter Davies
Hon Bob Thomas	Hon Barry House

Amendment thus passed.

Hon N.F. MOORE: The two amendments that have been agreed to demonstrate two things. The committee process has no credibility whatsoever because the Public Administration Committee agreed we should not amend this clause. Yet, because it could not get it through the committee, the Labor Party moved an amendment in this place. Ironically and interestingly, those Labor members of the committee who signed off the report voted against its recommendations. That dispenses once and for all with any suggestion of credibility in respect of the Public Administration Committee's report.

Hon Kim Chance: That is absolute rot! Why did you not make this speech earlier?

Hon N.F. MOORE: Members opposite argued very strongly that we must send this Bill to a committee; it needed to be assessed by a committee. They had a committee hearing and a report was produced, which members opposite wanted passed in its totality. When we decided to debate it clause by clause, they changed their minds. They wanted one vote on the whole report so they would not be exposed for changing their minds. Because the Labor Party could not get its way in the committee system it has tried to get it in the Chamber. It has done that with the support of its members and others on the committee, which made a decision not to amend the clause. Let us put to one side any suggestion that the committee's report and some members of the committee have any credibility. They have no credibility if they believe they can change their minds willy-nilly on the way through.

By including the clause about appropriate reports, there is no doubt in my mind that this process is about absolutely destroying this Bill. If anyone in the media or someone higher up is listening to this, I hope they will tell the world what is going on here. Members are dismembering a Bill; they are destroying an Education Bill for some strange reason that is beyond me.

Members opposite are including clauses that are impossible to implement. Hon Ljiljanna Ravlich had better hope that she is not the Minister for Education in a future Government, because she will spend her life in court defending the decision she has just made.

Hon Ljiljanna Ravlich: At least I would not refuse to support an amendment for fear of having to defend it.

Hon N.F. MOORE: One of the member's problems is that her lack of experience in legislation is becoming obvious. She moved an amendment to a Bill some time ago that would have abolished an agency five years prior to the legislation being debated. That is how clever she is when it comes to legislation.

We now know definitely that members opposite intend to destroy this Bill. I do not know why. Perhaps they will tell us so that the exercise we are going through is understandable to someone like me who thinks very strongly and seriously about

education. The Bill presented to the House reflects the view of a popularly-elected Government - with a record majority in the Legislative Assembly - that this is the direction we should be taking. Members have foreshadowed 140 amendments to 240 clauses. They are trying to rewrite the Bill for some strange reason that is beyond me. They are including stupid clauses and clauses that will not work. They have asked to defer consideration of some other clauses because their drafting is inadequate. They had a committee hearing and a report on this Bill, and then they ignore its findings when it suits them. I want to know what is going on. This is not what I believe constitutes legislating. Members opposite are emasculating what was a very good Bill. It is time the public knew what the Opposition is doing in this place.

Clause, as amended, put and a division taken with the following result -

Ayes (15)

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

Noes (14)

Hon M.J. Criddle	Hon Ray Halligan	Hon Simon O'Brien	Hon W.N. StretchHon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon B.M. Scott	
Hon Max Evans	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon M.D. Nixon		

Pairs

Hon John Halden	Hon Barry House
Hon Bob Thomas	Hon Dexter Davies

Clause, as amended, thus passed.

Clauses 74 to76 put and passed.

Clause 77: Enrolment of children below compulsory school age -

Hon KIM CHANCE: I move -

Page 57, after line 14 - To insert the following new subclause -

(1) In this section a reference to a "community kindergarten" means a community kindergarten registered under Part 5.

The Public Administration Committee considers that children below compulsory school age should have the benefit of local area priority. In dealing with clause 77 I am in a position similar to that in which I was regarding clause 60; that is, that the five amendments deal with the same outcome. Therefore, I will follow the same process I followed when dealing with clause 60, and speak to the principle once and once only in respect of the amendments dealing with clause 77. The amendments have the effect of not only giving children the benefit of local area priority - that is, children who are below compulsory school age - but also including reference to a community kindergarten. In the context of the amendment, the term "community kindergarten" applies to kindergartens registered under part 5. The argument is obvious enough and it probably does not need to be stated at great length, but I believe that Hon Barbara Scott will speak on the clause. Having introduced the issue, I think that I have stated the broad case.

Hon B.M. SCOTT: As Hon Kim Chance said, clause 77 refers to enrolment in the pre-compulsory years of education. I will put some comments on the record because I feel responsible for having convinced the Standing Committee on Public Administration to go along certain lines because of my background in education. Clause 77 states -

A child is entitled to be enrolled at a particular government school for each year in which the child's pre-compulsory education period falls if -

(a) there is available for the child at that school -

(i) an appropriate educational programme; and

(ii) classroom accommodation;

and

(b) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

On the face of it, it seemed that it did not give parents the opportunity to access long-established community facilities and

community kindergartens. My concern was that it did not clearly indicate to parents that there was an opportunity to enrol their children in the kindergarten year or in the pre-primary year at the local community kindergarten. Many members will be aware of the community division and discussion over the years about local community kindergartens. Most have been built by the local authority and all are funded by parents and provide very good facilities. Many communities have been concerned that such facilities were unavailable for their K or P children because schools put pressure on the local community to have the children on the school site because it increased their enrolment numbers. Principals said, "Yes, we have an appropriate program and we have classroom accommodation because we will bring in a transportable."

In the second reading debate I spoke at length about the importance of parents as partners in education. Parents have truly been partners in every facet of education and the history of the 400 or 500 kindergartens across the State. Some of those kindergartens are now officially designated pre-primary centres. They were built by local government and had much community input, therefore there is a sense of community possession of them. In most cases they are well equipped with very good playing facilities. In my second reading speech I referred to my report on pre-primary education which I delivered to the then Minister for Education, Hon Norman Moore, in 1994. That report identified an existing stock of buildings in this State that should be reserved for the kindergarten and pre-compulsory years of schooling. We suggested that although the underlying criteria for buildings for pre-compulsory years should be that they are appropriate buildings - that is the first measure - kindergarten programs would become the responsibility of the Minister for Education. The purpose of putting that into the report was to try to prevent what we have seen in the history of pre-primary provision in this State since the early 1980s, when pre-primary was first provided in this State; that is, not to duplicate facilities in a community and to recognise the huge input that communities had in respect of those buildings. We now have government-funded teachers who are responsible to the Minister for Education. In the past it was difficult for parents to make certain decisions. Sometimes they preferred the local community kindergarten building, but the fees prohibited them from accessing it.

The Government has now introduced the common funding model which makes it possible for minimal or no fees to be charged. That innovation means that parents are not as restricted as they were. If they wish to send their children to a community kindergarten, there is no longer the argument that they cannot attend because fees are prohibitive. The common funding model allows parents to send their children to the local community kindergarten. As Hon Kim Chance has said, it is important for parents to be partners in the whole education system, and we on the Standing Committee on Public Administration felt strongly that little children in particular should have access in the local community. Most members do not need to be reminded that it is often the first opportunity to go outside the home to join a social group other than the family. For many young mothers who move into a new suburb the kindergarten is often the link with the community and a lifeline for many families. I have always contended that the local community kindergarten, being a separate, small entity, offers a comfort zone not only for little children but also for parents. Therefore, I have argued, and successive Governments have agreed, that community kindergartens should be maintained.

In the Scott report to the Government we identified the existing stock of buildings which should be used to deliver early childhood programs. We said that they should be considered as an integral and worthwhile part of the early childhood system. We wanted to avoid a situation in which a perfectly good community facility - that is, one with trained teachers, appropriate buildings, siting, and so on - was not being used. I argued in the Standing Committee on Public Administration that even as an interim measure we should make sure that such centres remain viable entities in the community in the interim period until 2001, when the entry age will change and children going into pre-primary will be almost a year older as they must turn five by 30 June. Kindergarten children will need to be four years of age by June 30 and will move to four sessions a week. At the moment, four-year-old children; that is, kindergarten children, have only two sessions a week. In 2001 we will need double the building facilities that we have at the moment just to accommodate the four-year-old children. There is a need, which seems wise and sensible, to keep these buildings as a viable entity in the community, for all the other reasons, but also for a purely financial and economic reason. They are truly community facilities which build stronger families and stronger communities.

The amendment to this clause was brought about by my influence on the committee. I thank the members of that committee for their indulgence. However, it has been explained to me that this amendment is satisfied on page 163 where the flexibility for five-year-old children to be enrolled in community kindergartens until 2001 is accommodated. This amendment may put community kindergartens further under the jurisdiction of the Education Department. I am not convinced that this is the case. Clause 77 of the Bill neglects to recognise and give parents the opportunity to enrol their children in a community kindergarten and to prevent this head-on situation which we still have in the community where principals say, "Yes, you are entitled to enrol here. There may be a community kindergarten down the road, but we do not know much about it." It is not seen as an integral part of the service that is being delivered and which is in the best interests of young children.

Hon N.F. MOORE: Regrettably, the Government does not support this amendment. We believe that it creates conflict with clauses 185 and 192 in a policy sense. It is not necessary and it has an unintended consequence in that, although the Bill enables community kindergartens to take only four-year-old children from 2001 onwards, this provision enables them to take four and five-year-old children in contradiction to clauses 185 and 192. The Government does not support this amendment.

Amendment put and passed.

Hon KIM CHANCE: I understand that I do not need to move the next listed amendment which is AB77 because it is of a clerical nature. I move -

Page 57, line 15 - To delete "particular".

The argument for this has essentially been outlined. Where the Bill states that "a child is entitled to be enrolled at a particular government school", removing "particular" will extend the right of enrolment to a government school or, in the next amendment, all local community kindergartens. It will broaden the range of schools to which this applies.

Hon N.F. MOORE: If I understand what the member is seeking to do, deleting "particular" will mean that a child is entitled to be enrolled at every government school. I am not sure that we necessarily provide these facilities at every government school at present or whether that will be the case in the future.

Hon KIM CHANCE: That is not an outcome of which the Standing Committee on Public Administration was aware. The removal of the term "particular" has not been presented to the committee as having the effect of meaning "every". That is an interesting interpretation. Perhaps if I read the clause in its total context it may become clearer. It is proposed that the clause will be amended to read -

A child is entitled to be enrolled at a government school or local community kindergarten for each year in which the child's pre-compulsory education period falls if - . . .

It then goes into the variations. I am not sure that that means "every" government school. I cannot read that meaning into it. It is certainly not the intention because paragraph (a)(i) contains the requirement that, for a child to be enrolled, there must be an appropriate educational program. Obviously if the government school concerned does not have facilities for pre-compulsory school-age children, the school would not be required to enrol those children. Paragraph (a)(ii) states that if there were facilities for pre-compulsory age children at that school but those facilities were fully enrolled, the school would not be required to take the child. I understand what the Leader of the House is saying, but I cannot read into the clause the meaning that he has read into it.

Hon N.F. MOORE: I am interested in, and a little intrigued by, the way in which the member is removing "particular" in one set of circumstances, but proposed new clause 80 states -

The following persons are entitled to be enrolled at a particular government school . . .

I am not sure what that means in that context either.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 57, line 16 - To insert after the word "school" the following words "or local community kindergarten".

I have spoken about this amendment in the general principle and additionally in the last clause, so nothing more needs to be said.

Hon N.F. MOORE: To what does the word "local" refer? What is a local community kindergarten? How can we define what "local" means?

Hon KIM CHANCE: I have referred to a community kindergarten as being one which is registered and is defined in part 5. In that context, the registered kindergarten would be in the locality. Local has a common meaning. The registered kindergarten which is part of the local-intake area would be the local community kindergarten. I do not think it has any other meaning other than the colloquial meaning.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 57, line 18 - To insert after the word "school" the words "or community kindergarten".

This is exactly the same amendment as that just passed rendered as amendment AD77 on the Supplementary Notice Paper.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 78: Enrolment of children of compulsory school age at local-intake school -

Hon KIM CHANCE: As the amendments on the Supplementary Notice Paper indicate, a linkage exists between clauses 78, 79 and 80. As the Public Administration Committee found no justification for treating children of compulsory and post-compulsory age differently, it recommended amendments in the first report to clauses 78, 79 and 80. In consultation with

parliamentary counsel, we arrived at a somewhat different proposition from that contained in the Bill. I refer the Committee to page 31 of the addendum to the ninth report under the heading "clause 78", as follows -

> However the Committee considers that the amendments to clauses 78, 79 & 80 recommended in the Schedule more efficiently achieves the Committee's intention @ 4.5 of the Ninth Report.

The committee had some difficulty framing the draft amendments in order that they would make sense in the context of the legislation. After three or four attempts, we settled on the format outlined in the Supplementary Notice Paper. The amendment calls for the deletion of clauses 78, 79 and 80 in the Bill. New clause 78 proposed by the Public Administration Committee is different from clause 78 in the Bill. It recognises the entitlement of local-intake schools.

The CHAIRMAN: The member will realise that he must oppose clauses 78, 79 and 80 and foreshadow what he proposes in their place. We do not allow amendments which delete clauses. The member can oppose the clause and foreshadow the substitute clauses 78, 79 and 80.

Hon KIM CHANCE: In that case, I speak to the insertion rather than the deletion, as is necessary. I must explain to the Chamber what I seek to put in place of clause 78 of the Bill. The key change is in proposed paragraph (b), which reads -

> a child whose post-compulsory education period falls within a year, for that year,

This is simply designed to extend the beneficiaries or persons entitled to be enrolled at a local-intake school from those of compulsory school age, to students whose compulsory school age period falls within a certain year. I will move a new clause after opposing the existing clause.

Hon N.F. MOORE: So that the Committee knows what is taking place, the member is moving to delete three clauses, and to replace them with an entirely new policy position. I will not argue with that position as I have done enough of that today. I want the Chamber, and anybody else listening elsewhere, to understand that this is part of the process of completely rewriting this Bill. It is taking out three significant clauses relating to the enrolment of children in schools, and imposing the Opposition's policy position. It is another example of this place trying to legislate government policy. Frankly, that is out of order.

Clause put and negatived.

New clause 78 -

Hon KIM CHANCE: I move -

> Page 58, line 1 - To insert the following clause to stand as clause 78 -
>
> **Enrolment at local-intake school of children who live in the school's intake area**
>
> **78.** The following persons are entitled to be enrolled at a local-intake school -
>
> (a) a child of compulsory school age; and
>
> (b) a child whose post-compulsory education period falls in a year, for that year,
>
> if -
>
> (c) the child's usual place of residence is in the intake area for the school;
>
> (d) an appropriate educational programme is available for the child at that school; and
>
> (e) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

New clause put and passed.

Clause 79: Enrolment of children of compulsory school age at other schools -

Hon KIM CHANCE: The argument for this clause is essentially the same as that for clause 78. The Public Administration Committee saw no justification for treating children of compulsory and post-compulsory age differently.

I now take up the issue raised by the Leader of the House regarding the large changes he stated are being made by these amendments to the Bill. There is a difference in the local area intake provisions. The key change of the amendment at this point simply concerns making available for the year the benefit of local area intake to those students who in that year reach their post-compulsory school age. This is not a substantial difference; it is barely a difference at all in respect of policy. It is a matter of saying that if a student reaches post-compulsory school age, that student also continues to have the benefit of being able to stay on at a local area intake school. It is barely a policy change that anyone would have noticed. In general terms we have that situation in place now. I imagine that under the provisions of the Bill, should it become law, it will continue to be available. The Leader of the House is trying to say it is a radical policy change, but it is nothing of the kind;

it is simply a matter of trying to clear up an area in which the Government's legislation is lacking. What is the Government's intention for those students who reach the post-compulsory school age but still have half a year of schooling to go? Is the Government determined to send them off to some other school? The amendment clarifies the situation and provides some certainty for students in that position.

Clause put and negatived.

New clause 79 -

Hon KIM CHANCE: I move -

Page 58, line 19 - To insert the following clause to stand as clause 79 -

Enrolment at local-intake school of children who do not live in the school's intake area

79. The following persons are entitled to be enrolled at a local-intake school —

(a) a child of compulsory school age; and

(b) a child whose post-compulsory education period falls in a year, for that year,

even though the child's usual place of residence is not in the intake area for the school if —

(c) an appropriate educational programme is available for the child at that school;

(d) classroom accommodation is available for the child at that school and

(e) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

New clause put and passed.

Clause 80: Enrolment of children in post-compulsory education period -

Hon KIM CHANCE: I will be moving an amendment to clause 80 which will require clause 80 as printed to be defeated. The principle involved in clause 79 is simply continued into this clause. It is again treating students of compulsory and post-compulsory age in the same way.

Clause put and negatived.

New clause 80 -

Hon KIM CHANCE: I move -

Page 59, line 4 - To insert the following clause to stand as clause 80 -

Enrolment of children at schools that are not local-intake schools

80. The following persons are entitled to be enrolled at a particular government school that is not a local-intake school—

(a) a child of compulsory school age; and

(b) a child whose post-compulsory education period falls in a year, for that year,

if —

(c) an appropriate educational programme is available for the child at that school;

(d) classroom accommodation is available for the child at that school; and

(e) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

New clause put and passed.

Clauses 81 to 83 put and passed.

Clause 84: Matters to be considered under sections 82 and 83 about educational programme -

Hon KIM CHANCE: I move -

Page 62, line 14 - To insert after the word "accrue" the word "to,".

Hon N.F. MOORE: The Government does not oppose this amendment or the next one.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 62, line 15 - To delete the word "all" and substitute the words ", the child and all other".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 85 and 86 put and passed.

Clause 87: Disabilities Advisory Panels -

Hon CHRISTINE SHARP: I will not be moving amendments G87 and I87 on the Supplementary Notice Paper. Amendment G87 is superfluous.

Hon KIM CHANCE: I move -

Page 65, after line 9 - To insert the following -

; and

(c) who is not a parent of a student at a school to which the matter relates.

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

Amendment put and passed.

Hon CHRISTINE SHARP: I will not be moving my amendment J87, which includes mention of the principles of natural justice and procedural fairness and adds those requirements to the processes of the Disabilities Advisory Panel. I do so on the basis that I have received advice that the provisions under my proposed subsection on the requirement to be heard are already in the Bill and that the additional function proposed under proposed subclause (5), including the principles of natural justice and the duty of procedural fairness, is already incorporated in subclause (2) of the Bill, which prevents a biased hearing. I am advised that by formally requiring principles of natural justice and procedural fairness, my proposed amendments could constrain courts as those requirements already exist under common law.

I also ask your advice, Mr Chairman, on how you would like me to deal with the previous amendment, which is similar to this. It came before I received the advice and stands on the Notice Paper as D39, which has already been passed.

The CHAIRMAN: With respect to your latter question, at the appropriate time you should seek the recommittal of the Bill. With respect to proposed amendment J87, as you have not moved it, we accept that you have indicated in the Chamber that you do not propose to move it.

[Questions without notice taken.]

Hon KIM CHANCE: I move -

Page 65, line 19 - To insert after "representation" the following -

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

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

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 88 and 89 put and passed.

Clause 90: Suspension for breach of school discipline -

Hon N.F. MOORE: I move -

Page 66, line 14 - To insert after the word "may" the words "wholly or partially".

We believe this is a better way of amending this clause than that proposed by Hon Ljiljanna Ravlich. The intention is to clarify that a child may be suspended from part of an educational program, not just a whole of the program.

Hon LJILJANNA RAVLICH: The Australian Labor Party believes this amendment does what its amendment set out to do. By not allowing for partial suspension, we may be disadvantaging some students. We all know of situations in which some students go on work experience programs and benefit enormously from them. Those programs may provide them with an

opportunity to move out of the school system into employment. We do not think that, in the event students do not do the right thing in a classroom, all their opportunities should be denied. This partial suspension will enable a school to suspend a child from a certain part of his program but enable him to continue with the part of the program that the school deems to be important for the student. I do not think we are throwing the baby out with the bathwater. In view of that, we support the amendment.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I move -

Page 66, line 16 - To insert after the words "committed a" the words "serious or repeated".

This amendment deals with suspension for breach of school discipline. As clause 90(1) stands, the principal of a government school may suspend - either wholly or partially, following the previous amendment - a student who in the principal's opinion, has committed a breach of school discipline.

The Australian Labor Party considers suspension to be a very serious matter which should be applied only to serious and repeat breaches of discipline. It may be used in some circumstances by some principals to shift undesirable students out of the school system. That would not be desirable. Some assurance is required regarding the severity of the breach-invoking suspension. That should be defined through regulations at least, although our preference is that it be spelt out in legislation. The Minister for Education in the other place said that regulations will be enacted. Has that drafting taken place and what is its nature?

I am concerned that the youth training allowance is forcing many 16 or 17-year-old people back into the school system, some of whom do not necessarily want to be at school but have nowhere else to go. Many students without prerequisite subjects will find it hard to enter the technical and further education system; however, they may fulfil the requirements to return to a state high school. Some such students may be problematic, possibly because they may have few other options available to them. Suspension may present an opportunity for some principals to move students out of the school system. We would not want to see that occur; it should not happen easily. The Labor Party included this amendment to ensure that principals at government schools suspend a student only if the offence committed is serious and repeated. I ask members to support the amendment.

Hon N.F. MOORE: The Government does not support this amendment as it is unnecessary. As Hon Ljiljanna Ravlich pointed out, clause 90(2) indicates that matters relating to suspension will be determined in regulations. It is possible for the House to disallow the regulations if it does not agree with them. The member also wanted to know what will be included in the regulations. They are not yet drafted. Why draft them with 140 possible amendments to the Bill with no idea of the final product? It will not bear much resemblance to the original form.

I understand that the current process with suspensions will continue. A hard look is being given to the length of suspensions and the questions the member raised about what happens to children at risk when suspended. However, the member is a little over-critical of principals. I am married to a principal and I hear the problems she has with particular children and staff at her school. All the principals to whom I speak are not running around anxiously getting kids out of their schools. They are dedicated educationalists endeavouring to sort out young people's problems. Suspension is an option of last resort. The patience some schools have regarding their recalcitrant children is amazing. In my day, schools were happy to get rid of such students much earlier in the process than happens now. We had corporal punishment in those days, which was a different thing altogether. Sometimes that discipline avoided the need for suspension, which may be a reason to apply it again. However, I will not argue that point now.

I become a little annoyed when I hear Hon Ljiljanna Ravlich assert that principals have ambitions to make life easier for themselves by throwing kids out onto the street. It is not the case. The member should be careful when making such allegations.

Hon LJILJANNA RAVLICH: I am definitely not anti-principals or deputy principals, having been a deputy principal. Not long ago the Government spent a substantial sum of money trying to rid the education system of non-performing school administrators. Most administrators are good. Naturally, a handful are not as effective as they might be. One does not necessarily legislate for the best scenario; in fact, I legislate for the worse case scenario. I am pleased that the assurance is given that provision will be made in the regulations for suspension matters. Therefore, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon N.F. MOORE: I move -

Page 66, after line 20 - To insert the following subclause -

(3) Regulations under subsection (2) are to provide for the educational instruction to be given to a suspended student.

This amendment is the preferred wording to the ALP amendment T90, which the Government hopes will not be moved.

Hon LJILJANNA RAVLICH: The Australian Labor Party accepts the Government's amendment. It must be reinforced that students are suspended from attendance, not education. Importantly, if students are suspended from the school system and nothing is provided for them, a real possibility arises that these students will roam the streets and create mischief. Suspension is a serious matter. For too long the practice has been that students are suspended for a couple of weeks and very little meaningful work is provided for them in continuing their education. A strong argument is mounted for their continuing their education when on suspension. If suspended students miss out on key parts of the curriculum, or fall behind the rest of the class, they will create a problem for teachers when they return to school. This issue needs to be addressed at a couple of levels to ensure that students do not fall behind in their academic activities and are given purposeful work when suspended so they do not create mischief. I am pleased that the Leader of the House moved his amendment outlining that the regulations will include a requirement that educational instruction be given to a suspended student. The ALP supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 91 put and passed.

Clause 92: Chief executive officer may exclude from attendance at school -

Hon LJILJANNA RAVLICH: I move -

Page 67, after line 24 - To insert the following subclause -

(2) A recommendation under subsection (1) shall have no effect unless the principal has —

(a) satisfied the chief executive officer that all reasonable steps have been taken to overcome any detrimental impacts of the school environment on the child;

(b) given reasonable notice to the student and her or his parent or guardian of the recommendation; and

(c) provided the parent or guardian with copies of any information referred to the chief executive officer under subsection (1).

The Australian Labor Party has some concerns with the way this clause is structured. Subclause (1) provides that if the principal of a government school is of the opinion that there are grounds under clause 91 for the exclusion of a student from attendance at the school, the principal may recommend to the chief executive officer that the CEO exercise his or her powers under clause 94, and put before the CEO such information as the principal thinks appropriate. Paragraph (b) causes me some concern, although the Labor Party is not moving an amendment to it. It appears to me that it puts the principal in a fairly powerful position as the principal may make the determination of the information that should be provided to the CEO. I do not want to have a go at principals, but sometimes the school environment is such that the reason a student is being excluded is not all that clear; in fact, there may well be situations in which the teacher or the school administrative team has not done the right thing. Certainly the principal will not write to the CEO and say that a teacher or the principal himself or herself has not done the appropriate thing when dealing with a matter of discipline.

Our proposed amendment is that a recommendation under subclause (1) shall have no effect unless the principal has satisfied the CEO that all reasonable steps have been taken to overcome any detrimental impacts of the school environment on the child. One does not have to go too far to find school playgrounds where there is racism, bullying or other sorts of behaviour which may have a detrimental impact on a child and cause the child to react in a certain manner. It is important that schools uphold their duty of care and exercise responsibility in that regard.

We have also proposed that a recommendation under subclause (1) shall have no effect unless the principal has given reasonable notice to the student and his or her parent or guardian of the recommendation and provided the parent or guardian with copies of any information referred to the CEO under subclause (1). It is fairly important that if a decision is made to exclude a student that all the information be presented both to the CEO and to the parents, because it gives the parents some insight into what is going on and also an opportunity to take appropriate action, having been fully informed. It is dangerous when parents are kept in the dark and not fully informed about decisions which have led to the exclusion from attendance of the child. The ALP believes that a number of steps need to be taken before that decision to exclude is final. It is a very serious step to take. We want to make sure that the system has checks and balances to ensure that students do not become victims of the environment that may prevail in a school, and that parents and guardians are fully informed of why a certain decision or recommendation has been made. We ask members opposite to support this amendment.

Hon HELEN HODGSON: I am in a bit of a dilemma with this amendment. I note that on the Supplementary Notice Paper there is another amendment standing in the name of the Leader of the House which attempts to deal with the same sorts of

issues. My problem is that although I have listened carefully to what Hon Ljiljanna Ravlich has had to say about her amendment, I am not totally satisfied of the need for subclause (2)(a). I can understand what the member is attempting to do, but the definition of "school environment" is problematic. We must consider that in conjunction with the committee's proposed amendment on the Supplementary Notice Paper - not that I am foreshadowing anything - which refers to the panel being in a position to advise the school of any issues that the school should be addressing as part of its disciplinary action. We are dealing with the matter in a circuitous way if we look at the matters in subclause (2)(a). However, I agree with the comments on subclause (2)(c) that the parent or guardian should be provided with a copy of the report that the principal is to provide to the CEO. I think paragraph (c) should refer to paragraph (b) of subsection (1) rather than subsection (1). It may be that the parent had absolutely no idea that the child was getting into so much trouble at school. I hope that this sort of information being made available to the parents would short-circuit the whole process and make the matter before the panel run more smoothly. I will be interested to hear the comments of the Leader of the House on the issue of providing adequate information to the parent or guardian and whether there is some way of incorporating that in the Government's proposed amendment, which is probably a tidier drafting, particularly when taken in conjunction with the other proposed amendments to this clause.

Hon N.F. MOORE: I commend the member for her perception on this occasion.

Hon Ljiljanna Ravlich: Do not get too nice!

Hon N.F. MOORE: One must try every angle.

Briefly, amendment H92 is a better drafting proposal than amendment U92. When the Government saw Hon Ljiljanna Ravlich's amendment to clause 92, it sought to find a better drafting process. Although we do not have a problem with the general thrust of what she is seeking to do, we do have some serious problems with the drafting, as Hon Helen Hodgson also indicated. The words "any detrimental impacts of the school environment on the child" are a bit abstract in many respects. It would be far better to go down the path of what we have proposed in H92, where in subclause (3) we refer to "the breach of school discipline, or the behaviour", which is the reason the student has been removed from the school. If the Opposition agrees with me, I would prefer that it not proceed with U92, with a view to dealing with H92. May I also indicate to the member that under clause 92(1)(b) it is necessary for the principal to put before the CEO such information as the principal thinks appropriate in respect of the exclusion. We think that covers the member's concerns.

Hon LJILJANNA RAVLICH: My only concern with the Government's proposal is that the current amendment H92 which is foreshadowed does not pick up Hon Helen Hodgson's, my and possibly Hon Christine Sharp's concerns about ensuring that parents or guardians are provided with copies of any information referred to the CEO under subclause (1). I wonder whether the Leader of the House could give me an undertaking that we could come back to H92 and have a look at finding a suitable set of words, perhaps over the dinner break. It is important to get this right. I accept his argument that it might be difficult to define "school environment", but he must accept that in some circumstances, although "school environment" might be hard to define -

Hon Kim Chance: It was intended to cope with bullying.

Hon LJILJANNA RAVLICH: That is correct, and racism.

Sitting suspended from 6.00 to 7.30 pm

Hon N.F. MOORE: In respect of the matter raised by Hon Helen Hodgson, I have circulated a further amendment to amendment H92 which may or may not satisfy the member's requirements. It is on the table now, and I suggest that Hon Ljiljanna Ravlich withdraw amendment U92.

Hon LJILJANNA RAVLICH: My parliamentary colleagues and I have considered the Government's amendment. As we are satisfied with it, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon N.F. MOORE: I move -

> Page 67, after line 24 - To insert the following subclauses -
>
> (2) Within 3 days of making a recommendation to the chief executive officer, the principal is to notify the student and a parent of the student that the recommendation has been made.
>
> (3) If the chief executive officer is satisfied that all reasonable steps have been taken to deal with the breach of school discipline, or the behaviour, that is the subject of the recommendation, he or she is to refer the recommendation in accordance with subsection (5).

Mr Chairman, do I need to move a further amendment ahead of our agreeing to amendment H92?

The CHAIRMAN: Yes.

Hon N.F. MOORE: I now move an amendment on the amendment as circulated in writing -

> In subclause (2), after the word "made", to insert the words "and provide the parent with the reasons why the recommendation has been made".

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Hon KIM CHANCE: I move -

> Page 68, line 6 - To insert after “officer” the following -
>
> > , setting out comments about how the matter had been dealt with and recommendations about how the matter should be dealt with

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

Amendment put and passed.

Hon CHRISTINE SHARP: I move -

> Page 68, after line 9 - To insert the following new subclause -
>
> > (4) In its examination and report under subsection (2) in relation to a student, other than a child to whom paragraph (b) of that subsection applies, a Panel is to advise the chief executive officer whether in its opinion the child’s behaviour could be improved if —
> >
> > (a) economic, social, cultural or lingual factors;
> >
> > (b) specific learning difficulties; or
> >
> > (c) other causes,
> >
> > were addressed.

The amendment echoes amendments with regard to the functioning of other panels. I have spoken already about how the functioning of the advisory panels is the main mechanism in the Bill to provide for an interventionist approach to children who have difficulties with the school system for one reason or another. The amendment refers to common difficulties that may in part cause some disciplinary problems that certain children may cause or experience. They speak for themselves - economic, social, cultural or lingual factors, specific learning difficulties, or other causes. Another cause might be harassment because of homosexuality, for example. There is a raft of reasons for some children finding that they are not well accepted at school or that they do not fit into educational programs. Those problems might affect their behaviour and they might then appear before the School Discipline Advisory Panel. The amendment gives clear instructions to the panel that it must consider the social causes of difficulties rather than educational program difficulties per se.

Hon N.F. MOORE: The Government is not enthusiastic about this amendment. It is unnecessarily prescriptive and it is probably inappropriate when we consider the exclusion of certain students. The issues about which Hon Christine Sharp spoke would have been well and truly considered and dealt with ahead of exclusion taking place. The process of excluding a child occurs when every other avenue has been exhausted. To say that we would not have done it if other issues had been in place would be an admission of failure to go through the proper processes of considering every reason why a child misbehaved in such a way that he needed to be excluded. The issues that Hon Christine Sharp talked about would have been well and truly considered long before a decision on exclusion was made.

It would be unusual for an exclusion panel to advise the chief executive officer, "We have decided to exclude Johnny Smith, but we think that he should not be excluded and his behaviour would improve if he were not bullied in the schoolyard or tormented for being a homosexual." A school or anybody else who took an interest in that matter would have dealt with it long before exclusion arose. Exclusion would be the last resort when one would say, "Everything else has been tried and there is no way in which the child can benefit by being at school; exclusion is the appropriate course of action." It is too late to then say that things could be different if things had been done differently.

Hon CHRISTINE SHARP: I disagree with the minister's argument. In certain events the minister's point could be true, particularly in cases in which children have already met with a panel, say, over non-attendance factors. However, other children may appear before a panel for the first time. As already indicated, these panels are the only formal requirement for any kind of interventionist mechanism or the modification of education programs to prevent children from being mischievous in the system. It will be the first occasion on which some children go before any mechanism in this regard. Nowhere else does the Bill require principals or the CEO to necessarily and automatically deal with children in this way.

Hon N.F. MOORE: I will try to be a little more charming this time - it might help! We have agreed under amendment H92 to the following -

> (3) If the chief executive officer is satisfied that all reasonable steps have been taken to deal with the breach of school discipline, or the behaviour, that is the subject of the recommendation, he or she is to refer the recommendation in accordance with subsection (5).

Before the CEO can do anything about an exclusion, he must be satisfied that all reasonable steps have been taken to deal with a breach of school discipline or behaviour. The matters referred to in the amendment could easily relate to problems of school discipline and behaviour. It seems ludicrous for a process of exclusion to be undertaken, and then once someone has been excluded, to require the CEO to make a statement about whether the behaviour could have been improved if other actions had been taken. That is the wrong end of the process. We need a process to deal first with economic, social, cultural and lingual factors, or specific learning difficulties or any other causes of a child's problem. If one cannot deal with the problem, having taken into account all those issues, the panel then recommends exclusion. The process should be dealt with before reaching the exclusion stage.

Hon KIM CHANCE: I am genuinely confused. I hope the minister might help me. If the minister had left his complaint at the statement that the amendment is over-prescriptive, I probably could have copped it. I am confused about the matter of timing. Returning to subclause (2), before anything happens, the CEO is to refer the recommendation and other information to the panel. Hon Christine Sharp's amendment then provides that subsequent to that reference to the panel in subclause (2), the panel is to advise the chief executive officer whether in its opinion the child's behaviour could be, or would have been, improved if paragraphs (a), (b) and (c) were or had been addressed.

The process is that a recommendation is made to the chief executive officer that the student be suspended. The chief executive officer then takes that recommendation to the school disciplinary advisory panel. From that point, Hon Christine Sharp's amendment seeks the advice of the panel to the chief executive officer. That seems to follow a logical time frame. The matter is referred to the panel, which advises the CEO. Hon Christine Sharp's amendment seeks to direct part of that advice at least to those three factors identified in (a), (b) and (c). If I follow the time line correctly, Hon Christine Sharp's amendment asserts that the advice the panel provides to the CEO should include the factors outlined in proposed subclause (4). I am genuinely confused about why the minister says that these factors would already have been considered. Surely, this is a safety net to ensure that those factors are considered. The advice from the panel to the CEO is a recognition of the need for that safety net. The amendment states that the safety net should also address economic, social, cultural or lingual factors, specific learning difficulties or other causes. I do not see the problem. I hope the Minister can tell me whether I have missed something in that time line.

Hon LJILJANNA RAVLICH: The minister's comments implied that any visit to the school disciplinary advisory panel is a foregone conclusion as the student involved will be excluded; therefore, we do not need Hon Christine Sharp's amendment. That is not my interpretation of the clause. A student may be sent before a panel, which, having considered the factors outlined by the member's amendment, may make a decision of non-exclusion. In considering those factors, it might recommend another course of action be taken; perhaps the student be transferred to a neighbouring school or some other strategy. I would be concerned if appearance before a school disciplinary advisory panel were a foregone conclusion; that is, the student will be excluded with no other alternatives made available to him or her. That is not my reading of the legislation. Hon Christine Sharp's amendment is very good as it will help to find a solution to some of the problems which might be considered by a school disciplinary advisory panel.

Hon N.F. MOORE: I will not keep arguing the point about these ongoing amendments designed to ensure that no child is ever disciplined. It suggests that one must look at every conceivable reason for a child doing the wrong thing. It is suggested that the panel investigate whether the child's behaviour could have been improved if economic, social, cultural and linguistic factors had been addressed. These are subjective issues. The panel must report on how a child's behaviour could have been improved in view of these aspects. It states that school principals and administrators need someone to do their job for them.

For a child to be excluded, or "expelled" as it was in our day, is a serious business - it is the end of the line. If it reaches the stage of a school determining to go to a panel, it is unnecessary for the panel to then identify why the school made a mistake or how the child's behaviour could have been improved if the school had taken other action. It would not get to that stage. The panel is quite capable of saying yes or no; there is no question about that. However, to put in legislation that it must give reasons for how a student's behaviour could be improved means that perhaps we might put the panel in charge of the school and let it run the whole show. We are turning out nanny state stuff here.

Hon Kim Chance interjected.

Hon N.F. MOORE: That is exactly what the Opposition is intending. It is trying to create a situation where no student will ever be excluded because there will always be a good reason that his or her behaviour could have been improved if someone had not said the wrong thing. There comes a time when people must make decisions about exclusions. When I was minister I made quite a number of them without any compunction at all. One accepts the recommendations of those who have had

to wear the reasons for the expulsion in the first place. If members want to keep putting this sort of stuff in, they will continue to do so.

Hon CHRISTINE SHARP: I reject the interpretation of the Leader of the House. Basically his analysis is doing away with any need to have a panel. Why have a panel if all it can do is say yes or no? Why does the chief executive officer not say yes or no? The point of the panel is that the panel, as required under the Bill, should have extra expertise which one would not necessarily expect the school teacher or the school principal to be able to bring to bear on a particular child's case and to relate it to best professional practice when dealing with children of that type, or someone's experience of similar cases. This is the opportunity for the panel to play a real role as opposed to some kind of bureaucratic function. If the Leader of the House had his way, why have a panel at all?

Hon N.F. MOORE: Why add the intrusion of this panel on the system in the way the other day we added the intrusion of the panel responsible for attendances' going along and helping the school? Its members would arrive and say, "I am here to help you." This is the same sort of attitude.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 93: School Discipline Advisory Panels -

Hon LJILJANNA RAVLICH: I move -

> Page 68, line 19 - To insert after the words “3 persons,” the words "one of whom must be a parent or community representative".

This is similar to a previous amendment. Clause 93(1) states the minister is to appoint a school discipline advisory panel consisting of not less than three persons, whenever it is necessary for the purposes of clause 92(2)(a). Clause 93(2)(b) states that the members for a particular case are to include at least one person who is not an employee within the class referred to in clause 228(1). That clause outlines the respective persons as public service officers as defined under part 3 of the Public Sector Management Act, as members of the teaching staff, as other officers or as wages staff. We want to see at least one of those three persons being a community or parent representative. Although clause 93(2)(b) states that at least one of those persons must not be an employee within the class referred to in section 228(1), it would be quite easy for somebody to be nominated who is not in any one of those four categories and not a member of a community or a parent. We want to ensure that one of those persons on the school discipline advisory panel is a parent or a community representative. We do not necessarily want to see a school discipline advisory panel consisting of departmental representatives. We want to guard against the possibility of that happening. I urge members to support this amendment.

Hon N.F. MOORE: The Government does not support this amendment on the grounds that it adds an unnecessary restriction to the membership of the panel. Under this clause the minister will be obliged to appoint persons of such experience, skills, attributes or qualifications which are appropriate to the case. It may well be that a parent or community representative is not appropriate in some cases. I am interested to know what a community representative is. How does the member define "community representative"?

Hon LJILJANNA RAVLICH: I would define a community representative as being a member of the community who is not defined under clause 228(1)(a), (b), (c) or (d). The argument that it adds an unnecessary restriction is not particularly compelling. There is enormous scope for a panel to be constituted of people who may have the experience, skills and attributes but may well be departmental people. I earlier outlined a case in which it would not be inconceivable that members of this panel might be constituted of a representative from a district office, someone from central office and a school representative. If and when such a school discipline advisory panel were constituted, I do not think that any student appearing before it would necessarily get an objective and fair hearing.

Hon Simon O'Brien: Does clause 93(2)(b) as printed already not require that there be one member of the panel who is not in the classes you have mentioned?

Hon LJILJANNA RAVLICH: Yes, but it does not specify that the person must be a parent or community representative. For those reasons I urge members to support the amendment.

Hon N.F. MOORE: Hon Simon O'Brien has hit the nail right on the head. I will not argue much more about it. Hon Ljiljanna Ravlich has said that a community representative is somebody who represents the community and is not one of those other people. Why do we need to put in a Bill that we must have somebody who is not somebody else or does not come under some sort of category? Can the member not accept that in the formulation of a panel it is more important to get the appropriate people for the occasion than simply to say that we must have somebody who is not a representative of some other group? If the member ever becomes part of a Government she will have to accept that Governments and ministers make decisions. They succeed or fail on those decisions. We need to give them the flexibility to make the right decisions. If the appointment of a panel requires some flexibility, we should give it to the person who is doing the appointing. To say that one person must be a parent and one person must be a community representative -

Hon Ljiljanna Ravlich: Or.

Hon N.F. MOORE: Or, I am sorry - a parent or a community representative -

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: We do not know what it is. That is why I am saying we do not need to put it in the Bill.

Hon Ljiljanna Ravlich: Do you know what a parent is?

Hon N.F. MOORE: I know what a parent is but I do not know what a community representative is.

Several members interjected.

The CHAIRMAN: Order!

Hon N.F. MOORE: If I said something that was not strictly correct, I will check the *Hansard*. I was saying that it should not be necessary to have a parent or a community representative on every panel. First, it might be inappropriate for a parent for a variety of reasons, without knowing what they might be at the moment. Second, we do not know what a community representative is, and neither does the member. Why put it in the Bill?

Amendment put and passed.

Hon CHRISTINE SHARP: I will not move the next two amendments on the Supplementary Notice Paper, L93 and N93. We have already discussed them.

Hon KIM CHANCE: I move -

Page 69, after line 3 - To insert the following new subclause -

(4) A Panel cannot deal with the case of a child if a member of the Panel is -

(a) a member of the teaching staff of the school at which the child is enrolled; or

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

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

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 69, line 6 - To delete the word "and".

At page 69 we are dealing with subclause (4), which provides that the minister may give written directions to a panel as to its procedure and the panel may give the child whose case is before it and the child's parents, an opportunity to be heard. At that point we seek to insert "and the school's principal". At present the minister can give directions in writing to the panel on its procedure. The panel can then give the child whose case is before it and that child's parents an opportunity to be heard. Otherwise the panel might determine its own procedure. The effect of the amendment is to allow the panel, as well as advising the child and the child's parents, to advise the school's principal. It is a matter of involvement of the school in the panel's considerations.

Hon N.F. MOORE: Obviously amendments AN93 and AO93 should be considered in conjunction with each other. It is the Government's view that the principal will have already made very clear his view on a case. He provides the information under clause 92(1)(b). To suggest he should be heard again is overkill. He will have made his submission to the panel and it is then for the panel to make the decision. I will not slash my wrist if this is passed, but it will provide the principal with a second bite of the cherry.

Hon B.K. DONALDSON: I am surprised the Opposition did not move an amendment that seeks to enable a child to give evidence by video.

Hon Ljiljanna Ravlich: That is a bit cynical.

Hon B.K. DONALDSON: A young child could feel intimidated standing up in front of a panel. I am surprised, with all the accountability measures being introduced in this Bill, which are destroying it, that Hon Kim Chance did not include something along those lines.

Hon LJILJANNA RAVLICH: I cannot see why the Government will oppose these amendments. It purely and simply provides the child's parents and the school principal with an opportunity to be heard. They may not want to be heard.

Hon N.F. Moore: This is about adding the word "principal".

Hon LJILJANNA RAVLICH: It does not make it compulsory for the principal to be heard; it is purely and simply an opportunity for the child's parents and the principal to be heard if they choose. I cannot see why the Government has a problem with that.

Hon KIM CHANCE: I think the amendment as worded may need to be withdrawn because I do not believe it reflects the standing committee's intention. It was my belief that the committee's intention was that the outcome of this amendment would be that the panel would be able to give such advice and assistance as was deemed necessary to the child, the parents and the school principal. These amendments literally translated provide for the school's principal to have an opportunity to be heard. I understood the committee felt that the school's principal could be advised by the panel, not that the school's principal could be heard.

Hon HELEN HODGSON: I think I recall that to which Hon Kim Chance was referring. A couple of issues were involved, one being that the school needed the opportunity to be heard so that it could support the case for the disciplinary action being undertaken.

Hon N.F. Moore: I am pleased the committee has reached unanimity on this matter!

Hon KIM CHANCE: I am swayed by the other committee members. They must be correct after all, in which case I will not seek leave to withdraw the amendment.

Hon HELEN HODGSON: I refer members to section 5.6 of the basic report, not the addendum, which reads -

> Since the purpose of the disciplinary advisory panels is to bring the expectations of schools, parents and students closer together, it is essential that the panel needs to be able to advise and seek commitments from all parties, including the school.

The intention is that the school be heard so that it is part of the process.

The CHAIRMAN: Members need to be aware that given the way amendments on the Supplementary Notice Paper have been considered, if we deal with these amendments AN93 and AO93, we will not be able to deal with Hon Christine Sharp's subsequent amendment O93, which mentions students, because we will have already considered this subclause.

Hon CHRISTINE SHARP: I will not move that subsequent amendment for the reasons of restraint of the provision of natural justice and procedural fairness.

Amendment put and passed.

Hon KIM CHANCE: I move -

> Page 69, line 6 - To insert after "child's parents" the words "and the school's principal".

I do not believe I need to argue the case because we treated these two clauses together effectively and the arguments have been put.

Amendment put and passed.

Hon KIM CHANCE: I move -

> Page 69, line 12 - To insert after "representation" the following -
>
> > but nothing in this subsection prevents the child and parents from being accompanied by another person when appearing before the Panel

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

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 94 and 95 put and passed.

Clause 96: Review of decisions under section 95 -

Hon KIM CHANCE: It is my understanding that the Government intends to support the second notified amendment, AR96, to this clause. Is it correct that the Government does not intend to support the first amendment, AQ96?

Hon N.F. Moore: That is correct.

Hon KIM CHANCE: I move -

> Page 71, lines 10 to 12 - To delete the lines.

This amendment deletes subclause (2), which provides that a review of the decision of the chief executive officer in relation to a student who is excluded from attendance at a school be limited to determining whether fair and proper procedures were followed by the principal in making the decision. The Public Administration Committee sees no reason that similar reasons should not apply to children of compulsory and post-compulsory age. The committee recommends that the school disciplinary panel procedures should apply to post-compulsory students. The committee's amendments in AR96 effectively put in place what the committee believes is a better procedure for achieving that end.

Hon LJILJANNA RAVLICH: Subclause (2) should be deleted because it is restrictive. It is about a review to determine whether fair and proper procedures were followed by the principal in making the decision, whereas the new subclause proposed to be inserted applies a proper review in itself. It requires that within 28 days of the CEO's receiving an application made under subclause (1), the CEO is to refer the matter to the school discipline advisory panel under clause 93, and that panel is to examine the matter and report to the CEO with its recommendations. It is not restricting it to whether fair and proper procedures were followed by the principal. It produces a review mechanism. I ask members to support this amendment.

Hon N.F. MOORE: The reason the Government thinks subclause (2) should be left in, but it will accept the rest of the amendments, is that subclause (2) gives some reason for review. The review is to look at whether fair and proper procedures were followed by the principal in making the decision. It is a review of the process, and that is the reason for review. If that is taken out, what will be reviewed - the whole decision, the reasons for making the decision or the processes of the decision? If the Opposition wants to take away from the principal the right to make the decision in the first place, then it should delete subclause (2). We should leave subclause (2) in there as it sets the parameters for the review. If it is left in the Bill, the Government will accept the remainder of Hon Kim Chance's amendment.

Amendment put and negatived.

Hon KIM CHANCE: I move -

Page 71, lines 15 and 16 - To delete the lines and substitute the following subclauses -

(4) Within 28 days of the chief executive officer receiving an application made under subsection (1) —

(a) the chief executive officer is to refer the matter to a School Discipline Advisory Panel under section 93; and

(b) the Panel is to examine the matter and report to the chief executive officer with its recommendation.

(5) The chief executive officer is to provide the School Discipline Advisory Panel with any information or material relating to the application that is requested by the Panel and that is in the possession or control of the chief executive officer.

(6) The chief executive officer after considering the report and reviewing the decision in terms of subsection (2), may confirm, vary or reverse the decision and, within 14 days after receiving the report, is to give the applicant notice of that decision.

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

Amendment put and passed.

Clause, as amended, put and passed.

Clause 97: Limitation on matters for which fees for instruction and charges may be imposed -

Hon HELEN HODGSON: I will not move amendments M97 and N97 in view of some amendments placed later on the Notice Paper.

Clause put and passed.

Clause 98: Charges for provision of certain materials and services and fees for instruction -

Hon HELEN HODGSON: This is similar to a matter we discussed earlier, when we inserted a new subclause. Because it refers to that new subclause, the procedure we adopted earlier was to defer consideration until the subclause had been considered.

The CHAIRMAN: That is correct. The new subclause is amendment R98.

Hon HELEN HODGSON: I move -

Page 72, after line 11 - To insert the following new subclause -

(2) Regulations referred to in subsection (1) cannot provide for the payment of any fee, other than a fee payable only by agreement as mentioned in section 103, for instruction provided at a government school by persons other than any member of the teaching staff if that instruction is required for the provision of schooling to the students concerned in accordance with the curriculum framework under the *Curriculum Council Act 1997* applicable to those students.

This amendment is designed to deal with a situation in which fees are payable in respect of tuition. Clause 98(1) provides that instruction provided at a government school by persons other than any member of the teaching staff can attract fees. The committee heard evidence of instances in which basic curriculum subjects were provided by non-departmental staff. I am very concerned about the possibility of curriculum subjects being provided in a way that leaves the parents liable to pay school fees. The intention behind this amendment is to ensure that fees will be paid only in respect of basic Curriculum Council tuition with a voluntary agreement on the part of the parents.

Hon Simon O'Brien interjected.

Hon HELEN HODGSON: The amendment makes reference to the curriculum framework under the Curriculum Council Act 1997. In some cases music is a curriculum subject. I have no difficulty with parents agreeing that if their child wants to undertake a specialised instrumental course that they will pay a tutor to conduct that class. The parents may agree that that is an extracurricular item. However, I have difficulty with the concept of a school's deciding to employ a physical education specialist instead of a music specialist and then employing a local musician to teach the choir. That choral tuition would be part of the normal music exposure a child should have under the curriculum framework. I am trying to identify the differences between a core curriculum subject and a subject that is genuinely extracurricular. Fees should be levied only where it is an extracurricular subject and the parent has agreed to pay the fees.

Hon N.F. MOORE: It seems the member has a problem with music teachers.

Hon Helen Hodgson: It is an example that was brought to the attention of the committee.

Hon N.F. MOORE: Schools often engage outside staff to run programs that could easily be within the curriculum framework; for example, scuba and flying courses, which are offered at some schools. Is the member suggesting that if a child learns to fly that the Government should pay for the instruction?

Hon Ljiljanna Ravlich: The parents should pay by agreement under clause 103.

Hon N.F. MOORE: The member is seeking to delete that.

Hon Ljiljanna Ravlich: No.

Hon N.F. MOORE: How am I supposed to read the member's mind?

Hon Ljiljanna Ravlich: You seem to know everything else about me.

Hon N.F. MOORE: I am sure I do not, and I do not want to. Some things are personal and I do not want to know about them. I cannot read the member's mind in respect of clause 103. I can read it in respect of some other things, but not that. Members must understand that there comes a time when schools provide certain instruction that is legitimately paid for by the parents and not by the Government. I can assure members that as a taxpayer I have no intention of paying for the flight instructor who teaches a child to be a pilot.

Hon LJILJANNA RAVLICH: The Australian Labor Party supports this amendment. The leader's comments are not inconsistent with the intention behind the amendment. Clause 103 refers to optional costs and agreement to contribute towards the cost of providing an educational program for a student. Hon Helen Hodgson is saying that for those extracurricular activities, such as diving or flying, the option exists for the parents to pick up the cost by agreement. I do not think the members are speaking at odds with one another. This is a very good amendment. It reinforces the fact that optional costs will be paid only by agreement - they will not be forced upon parents. This type of amendment is long overdue.

Hon CHRISTINE SHARP: I support the amendment; it has a lot of merit. The critical point is that this amendment and the regulations that would be designated under it refer to those schooling areas that are in accordance with the curriculum framework; that is, they are curriculum activities. The example that the minister proposed of learning to fly would be classified as extracurricular. This amendment seeks to make a distinction between those areas of tuition which are not core learning areas and to which some children and parents may wish to subscribe, and for those fees may be levied. However, there must be a core area that relates to the basic curriculum, and the tuition for those subjects should be provided free of charge to all parents in Western Australia as a matter of principle.

Hon HELEN HODGSON: I thank my colleagues for their support. I will respond first to the issue of the flying lessons. I am well aware that at least one school in Western Australia offers an aeronautics course. It is my understanding that the curriculum involves the science of aeronautics and does not involve actually learning how to fly an aeroplane. If the student

then chooses to learn how to fly an aeroplane as well, that is up to the student and his or her parents. I would classify that as an extracurricular activity. That is the crunch. Parents do not object to paying for genuine extracurricular activities where they have a choice in the matter; they can choose whether or not it is their and their child's wish to involve themselves in those activities and can afford it. Then they say, "I am sorry son, we cannot afford for you to learn how to fly a plane. We can afford for you to attend the appropriate school and learn science, but the lessons will have to wait until you are earning your own income." That is the reality of it. Parents do not object to paying for extracurricular activities if they know about these costs in advance and can make that choice. They object to having a child enrolled in a school which include certain activities as part of the curriculum course and being told that they must pay fees to enable the curriculum to be delivered.

Hon N.F. MOORE: Can the member who has the proposed amendment to delete clause 103 indicate through *Hansard* whether it is the intention to not proceed with that amendment?

Hon Ljiljanna Ravlich: It is my intention not to proceed with the deletion of clause 103.

Hon N.F. MOORE: I thank the member for that. I understand that Hon Helen Hodgson also has an amendment on the same clause. Does she propose to proceed with that amendment?

Hon HELEN HODGSON: I intend to proceed with amendment I103. However, that is not a total deletion of the clause. That deals with the ability to recover costs in a court of law. We have some problems with that matter because these agreements should be entered into between the parents and the school and the whole issue is about voluntary arrangements.

Amendment put and passed.

Hon HELEN HODGSON: I move -

Page 72, line 10 - To insert after the word "or" the words ", subject to subsection (2),".

This is simply tidying up to ensure that the regulations will be subject to the exclusion with which we have just dealt.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I move -

Page 72, after line 17 - To insert the following subclauses -

(3) A parent shall not be charged for any item that is provided for in a school grant.

(4) For the purposes of this section, school grants are deemed to include funds for the following items -

(a) the supply of curriculum materials such as items as dictionaries, atlases, reading books, maths and social studies materials;

(b) library usage and electronic access to information;

(c) resources and school consumables such as photocopying costs and paper;

(d) other items prescribed in regulations.

(5) Any charge for -

(a) ancillary costs such as transport or admission in relation to excursions and school camps; or

(b) extra-curricular activities,

in relation to a child enrolled at a primary school, shall be voluntary and any voluntary levy requested of parents shall not exceed the limit prescribed by regulation and shall be payable only by agreement as mentioned in section 103.

(6) Any regulation that provides for a charge for the purchase or hire of textbooks in relation to a child or student enrolled at a secondary school must prescribe a limit for that charge which must not be exceeded.

One of the key areas of concern for everyone involved in education and more so for parents, is the issue of what is defined in the school grant, what should be the parent's responsibility in terms of payment, what is a voluntary fee, how voluntary is a voluntary fee and what can or cannot be charged for. There are many variations on a theme throughout the state system. This amendment attempts to clearly define a school grant. It also calls on the Government to ensure that regulations are drafted which would clearly specify those items which are to be included in a school grant.

Proposed subclause (5) says -

> Any charge for -
>
> (a) ancillary costs such as transport or admission in relation to excursions and school camps; or
>
> (b) extra-curricular activities,
>
> in relation to a child enrolled at a primary school, shall be voluntary and any voluntary levy requested of parents shall not exceed the limit prescribed by regulation and shall be payable only by agreement as mentioned in section 103.

We have the odd situation in this State in which the Government pays $3 696 a year for each student attending a state primary school and $4 906 for every high school student. That is the school grant and it covers a range of costs including teachers' salaries, infrastructure, capital works programs, maintenance, curriculum documents and most consumables. However, in reality, these costs are not clearly defined. If parents wanted to know what was or was not provided for in the school grant in order to make a judgment about whether what they were asked to pay for was a legitimate request, that information is not available and, therefore parents are not in a position to make that judgment. There is also a common complaint that many matters which are provided for in a school grant are charged for through the voluntary fees levy. This amendment proposes to tidy that up. It is no secret that the voluntary charge of $9 in primary schools is interpreted broadly by many primary schools. Some research which was undertaken by the Western Australian Council of State School Organisations early this year indicates that voluntary fees range from a minimum of $9 in some schools and increase to $15, $18 or $20 in other schools. There are wide variations in the voluntary fees that are charged in primary and secondary schools. I want to put on record the Ombudsman's opinion about this area. Many people dismiss the argument of tidying up school grants versus voluntary fees. As a result, the problem never seems to be resolved. It is obviously a significant problem because the Ombudsman's report, which was tabled in this place a couple of days ago, allocated a section of the report to the issue of school charges. I will quote some of the comments that were made by the Ombudsman. His report states -

> In my report last year I referred to complaints I had received from parents who questioned the capacity of schools to make certain charges. I made reference to a legal opinion the Education Department had received from the Crown Solicitor that schools did not have the legal authority to impose book hire deposits and bus replacement levies. During this year complaints were received about further items and at my request the Education Department obtained further advice from the Crown Solicitor to the effect that fees for school chaplains (student welfare) and certain photocopying are not compulsory.

Obviously, some schools are charging for those costs. It continues -

> Also during the year complaints were received about individual schools wording notices to parents in a way which suggested that :
>
> - they were required to make a higher financial contribution to the school for each of their children than the $9.00 voluntary contribution authorised by the Department; or that
> - schools had the authority to recover school charges through the courts.
>
> Early in February 1998 I suggested to the Director General that the Department consider making a public announcement setting out fees which can be compulsorily charged and approved recovery methods. I was of the view that, if this were done, parents would know their compulsory obligations and be in a position to question schools which exceeded their statutory powers or did not otherwise comply with departmental guidelines.
>
> The complaints were finalised by:
>
> (a) The school which had implied that financial contributions were compulsory and greater than $9.00 placing a corrective notice in its newsletter inviting parents to apply for a refund of any monies paid above $9.00.
>
> (b) The school which had levied a "faculty photocopying levy" waiving the fee in the case of the complainant's child.

What about every other child who paid that fee? It continues -

> (c) The school which had suggested that schools had the authority to take court action revising its policy statement and providing a copy to parents.
>
> (d) The school which had indicated that school welfare levies were compulsory agreeing to adjust its information brochures for parents to clearly indicate that such levies are voluntary.
>
> (e) The Director General agreeing to make a public announcement about fees and approved recovery methods *"when Parliament has agreed to those aspects in the Education Bill, which is currently being debated."*

> Although I believe that the above resolution has benefit for all concerned, I was not fully satisfied with the situation. I was disappointed that (c), (d) and (e) had not occurred (or would not occur) sooner. At the time of preparation of this report the new *School Education Bill* had not completed its passage through the Parliament.

That clearly indicates we have a problem. It is an apparent problem which obviously someone like the Ombudsman is dealing with all the time, given that many of the complaints would go to him. This amendment will do two things: First, it will define the school grant; secondly, as referred to in subclause 4(c) of the amendment, it will enable regulations to prescribe the other things which should be included in the school grant. It is important that those regulations be drafted so that everyone across the system can have an understanding of what the grant is and what it covers so that there is no duplication of charging in the system.

It is also absolutely essential that voluntarily fees be just that, and be paid for via an agreement as per the mechanism which is provided in clause 103. The position of the Australian Labor Party is very clear. We intend to preserve the rights of Western Australian children to a free public education system. The amendment proposed is that a parent shall not be charged for anything that is covered either in a school grant or by voluntary fees, in both primary and secondary school, unless an agreement is made to the contrary.

The minister made the point in the debate in the other place that the fees and charges would be increased in accordance with the consumer price index. I have made the point in this place that the consumer price index might be fairly low this year. If that is used as a yardstick to justify an increase in voluntary fees, we would have to take into account that people's wages are not indexed in accordance with the consumer price index, and probably have not been for a decade. In that case, it is probably a poor instrument to be used as a means to set fees across the State. The position of the Australian Labor Party is very clear about this. In privatising and contracting out, this Government promised Western Australian taxpayers a social dividend. It has never delivered the social dividend. Perhaps we can reintroduce that concept of a social dividend by making sure parents are treated in a fair and equitable way and by providing a free public education system in this State.

Hon N.F. MOORE: I find it quite extraordinary that we are getting this ideological stuff about free education. If I remember rightly, Pam Beggs conducted an inquiry into school fees when the Labor Party was in office and made recommendations for certain levels of school fees, which the then Labor Government introduced.

Hon Ljiljanna Ravlich: They were voluntary.

Hon N.F. MOORE: They were not voluntary. They were secondary school fees. The member gets up here and talks about free education, but is quite happy to have a fee for secondary education.

Hon Ljiljanna Ravlich: It is a voluntary fee for secondary education.

Hon N.F. MOORE: It is not; it must be paid, and so it should be paid. The member is quite happy to argue the philosophical and ideological views that everything should be free and yet say that she agrees with the compulsory secondary education fees. She seems to forget this: If everything is free, someone still has to pay. Those opposite do not seem to realise that the money the Government spends on things, such as education, must come from somewhere, and it comes from the pockets of taxpayers. We spend $1.5b a year on education. We spent $1b on failed business deals in which the previous Labor Government was involved, and we are still paying for them. The member should not ever dare to talk about our wasting money.

Let us come back to the additional subclause. The additional words are contrary to the parts of clause the member is prepared to accept; for example, existing clause 98(1) says -

> Regulations may be made providing for charges that may be made for -
>
> (a) materials provided in an educational programme of a government school . . .

One can only assume when we look at the amendment proposed by the member that that will be acceptable. I assume that is the case. Further, proposed subclause (4) of the amendment states -

> For the purposes of this section, school grants are deemed to include funds for the following items -
>
> (a) the supply of curriculum materials such as items as dictionaries -

I think there is a bit of a typographical error there -

> - atlases, reading books, maths and social studies materials;

Surely the materials provided in an educational program under existing clause 98(1)(a) are the same as those being referred to in proposed subclause 98(4)(a). Mr Chairman, I would appreciate your ruling on the fact that proposed clause 98(4)(a) is in direct contradiction to existing clause 98(1)(a).

While the Chairman is contemplating this matter, I advise that clause 98(1)(b) states -

> services or facilities for use in, or associated with the provision of, an educational programme of a government school . . .

That also is the sort of material referred to in proposed clause 98(4)(b) and (c). They are the sorts of things that are contemplated to be paid for in existing clause 98(4)(1)(b). I am suggesting that the amendment is a direct contradiction to that part of the clause that one can assume the Opposition will accept. I will leave that for a moment and come back to it shortly. Proposed clause 98(5) states -

> Any charge for -
>
> (a) ancillary costs such as transport or admission in relation to excursions and school camps; or
>
> (b) extra-curricular activities,
>
> in relation to a child enrolled at a primary school, shall be voluntary and any voluntary levy requested of parents shall not exceed the limit prescribed by regulation and shall be payable only by agreement as mentioned in section 103.

For the benefit of the taxpayers of Western Australia, that means that any charge for transport to a school camp, admission to a movie, to Adventureworld or any extracurricular activity is not compulsory. Does that mean that if the South Coogee Primary School students are to go on an excursion to Adventureworld the day after they finish their exams at the end of the fourth term, the taxpayers should pay for that?

Hon Ljiljanna Ravlich: No; they are to pay by agreement.

Hon N.F. MOORE: That means if they do not agree, the children whose parents will not pay stay home or stay at school. Therefore, only those children whose parents are prepared to pay will be involved.

Hon Kim Chance: Generally other parents pay for those who cannot go.

Hon N.F. MOORE: Hon Kim Chance is saying that we should have a great socialist idea where those who can pay do so and those who cannot do not but they get the benefit of the exercise. The good old socialist member opposite always has been on the side of those who take, not those who give, therefore of course he agrees with this. Anybody who is on the take-side of the argument always agrees with this. He never wants to give. However, what the Opposition suggests, more importantly than anything, is that any extracurricular activity that a school might engage in must be paid for by the taxpayer; in other words, by the parents. It also suggests, without having it in the Bill, that if some parents do not want to pay, their children are still entitled to engage in the extracurricular activity at the expense of every other parent.

Hon Kim Chance: Where does it say that?

Hon N.F. MOORE: What the Opposition is saying is that any charge for ancillary costs such as transport or admission in relation to excursions and school camps or extracurricular activities shall be voluntary. When a school decides to organise an excursion or a school camp, or transport in relation to those activities, payment is voluntary. What about those students whose parents will not pay? Are they to be excluded from the excursion or will the school pay?

Hon Kim Chance: That is exactly the situation now.

Hon N.F. MOORE: I do not think it is at all. The parents pay if a child goes on an excursion now; I certainly pay. Whenever my children go on an excursion I pay and I am happy to pay. It is not for the taxpayers of Western Australia to pay for my children to go to Adventure World for an excursion.

Hon Christine Sharp: It should be voluntary.

Hon N.F. MOORE: It should be voluntary? Therefore, one does not have to pay?

Hon Kim Chance: Or if you do not want your child to go, you do not pay.

Hon N.F. MOORE: Therefore, members opposite are saying that there should be a rule that only those who can pay are the ones who will go.

Hon Kim Chance: That is what happens now.

Hon N.F. MOORE: That is not what happens at all. If Hon Kim Chance had any children in school, he would know that these days everybody goes on the excursion and everybody pays.

Several members interjected.

The CHAIRMAN: Order! Members should be aware that if they are not in their seats, they cannot contribute by way even of interjection.

Hon Tom Helm: Even acting Whips?

The CHAIRMAN: Especially acting Whips.

Hon N.F. MOORE: Schools are involved in many activities, such as attending the theatre to see a play as part of the school curriculum. There may be a group of students who want to go to a production of a play, therefore in order to access the whole curriculum it is necessary for the child to go on that excursion to attend that event. The Opposition is saying the parents do not have to pay if they do not want to. In other words, the school must pay for the school bus and the cost of admission for the child to the theatre.

Hon Christine Sharp: That is not what it says.

Hon N.F. MOORE: It does say that.

Hon Christine Sharp: It says it is voluntary.

Hon N.F. MOORE: All right, it is voluntary. When things are voluntary, most people do not pay.

Hon Christine Sharp: You just said you do.

Hon N.F. MOORE: I do. However, it is not voluntary, or I am not told it is voluntary. When a note comes home from the school saying, "Your son Daniel is going to Adventure World the day after the exams and it will cost you $20", I do not write back and say, "It is voluntary, I am not paying, but you take him anyway because he is a good boy." I send the money along. It may be that it is voluntary, I do not know. I have always considered it to be compulsory. However, what members opposite are arguing for is for any parent to say, "Because it is voluntary I will not pay, but I expect my child to go on the excursion because if he does not go, he will miss out on that part of the curriculum." It is not fair that the taxpayer should pay for bus rides, for people to attend the theatre or to go to a whole range of extracurricular activities that in some cases are pleasurable outings and not part of the curriculum at all.

The whole issue is one of a real difference in attitude between members opposite and government members. We argue that parents should make a reasonable contribution to the extracurricular costs that are associated with education. As a taxpayer, I do not believe I should pay for a number of the things that schools do which are in addition to the normal school curriculum and which cost a deal of money. There is an obligation on parents to make a contribution to the things which are in addition to the normal core curriculum activities of a school. I include in that transport costs, admissions to excursions, school camps and things of that nature. The Opposition's idea that because it is voluntary children do not have to attend is against the spirit of what we are trying to achieve. We are trying to ensure that children experience these things. They are organised by schools because presumably they are beneficial to the child.

Mr Chairman, I return to my original question, whether you believe that clause 98(1)(a) and proposed subclause 98(4)(a) contradict each other; and whether clause 98(1)(b) and proposed subclauses 98(4)(b) and (c) also contradict each other because one says that we agree that a fee can be charged for these things and the other says that it cannot.

Hon KIM CHANCE: Mr Chairman, may I make a comment before you advise us of your consideration on the matter?

The CHAIRMAN: Hon Kim Chance may make a plea in mitigation.

Hon KIM CHANCE: Thank you, Mr Chairman; I knew you would listen to argument.

I want to address only the principle contained in the claimed conflict between clause 98(1)(a) and proposed subclause 98(4)(a). Clause 98(1)(a), as the Leader of the House correctly indicated, relates to charges which can be made for materials provided in an educational program of a government school. The Leader of the House rightly, again, said that the Opposition is obviously happy with that because we have not sought to amend it. He then pointed to the apparent conflict in proposed subclause 98(4)(a), which, in essence, relies on proposed subclause 98(3), which provides that a parent shall not be charged for any item which is provided for in a school grant. Then, in proposed subclause (4)(a), a school grant is deemed to include funds for the supply of curriculum materials such as dictionaries, atlases, reading books, and maths and social studies materials. The Leader of the House says that those two provisions are in conflict. In one the Opposition is prepared to support charges for materials provided in an educational program but, on the other hand, is not prepared to support charges to be made for those named materials. I contend that the principle contained in clause 98(1)(a) is a general principle. The specific provision in proposed subclause 98(4)(a) enumerates specific items which are excluded from the general by virtue of proposed subclause (3).

Hon N.F. Moore: How can you have exclusion if you have the words "such as" in there, which is an all encompassing phrase?

Hon KIM CHANCE: We then go back to proposed subclause (3).

Hon N.F. Moore: You might then tell me what would be left in clause 98(1)(a) that would have to be paid for.

Hon KIM CHANCE: That is not the question the Leader of the House asked. I was answering his first question. He must give me time to think about the second question.

Hon N.F. Moore: There is no question that proposed subclause (4) is taken in conjunction with proposed subclause (3).

Hon KIM CHANCE: Yes. That answers the principle question raised by the Leader of the House. However, we should allow the Chairman to give us advice before we address the second question raised by the Leader of the House.

Ruling by the Chairman

The CHAIRMAN: Members, there may be a contradiction between proposed subclauses (3) and (4)(a) of clause 98, which need to be read together, and clause 98(1). The proposed subclauses state -

> (3) A parent shall not be charged for any item that is provided for in a school grant.
>
> (4) For the purposes of this section, school grants are deemed to include funds for the following items -
>
> (a) the supply of curriculum materials such as items as dictionaries, atlases, reading books, maths and social studies materials;

Therefore, the amendment has a specific proposal that there cannot be a charge for these items. We have already adopted clause 98(1)(a), which specifically says -

> (1) Regulations may be made providing for charges that may be made for -
>
> (a) materials provided in an educational programme of a government school; or

The question is the dimensions of those two sets. Provided that funds raised by charges for what is known as an educational program, are greater than a subset of that educational program - that is, a school grant for curriculum materials, dictionaries, atlases, reading books, and so on - this further amendment would be in order. I do not think it is clear. However, given that there is a possibility of viewing it in this way, I will rule the amendment in order. However, it would only be on the basis that the definition of educational program is wider than what is specified under subclause 4(a) as a school grant item. It is a confusing amendment. People may have to consider this conflict at a later date. However, at this stage I rule the amendment in order.

Hon N.F. MOORE: Although I think, Mr Chairman, you have made the wrong ruling, I do not propose to move to dissent from your ruling. One cannot have under proposed clause 98(4)(a) a phrase which says "the supply of curriculum materials such as". I should try to ascertain from you, Mr Chairman, or the mover of this amendment, what "such as items as" means, because I suspect this is a typographical error or sloppy drafting.

Hon Kim Chance: It is a typo.

Hon N.F. MOORE: Tell me what it is supposed to read.

Hon Kim Chance: "Such items as". The first "as" should be removed.

Hon N.F. MOORE: The first "as" should be removed.

Hon Kim Chance: It is a clerical amendment.

The CHAIRMAN: The deletion of that "as" could be considered a Clerk's amendment.

Hon N.F. MOORE: It depends which "as" one deletes. We already have enough problems with the drafting of these amendments to make this Bill almost totally unworkable. Therefore, I need to make absolutely sure what we are talking about. With the deletion of the first "as", proposed clause 98(4)(a) reads -

> the supply of curriculum materials such items as dictionaries . . .

That does not make much sense. Perhaps we removed the wrong "as".

The CHAIRMAN: I think the individual members of the Committee of the Whole might consider an amendment to that proposed subclause so that it will make literal sense.

Hon N.F. MOORE: While somebody is exercising his mind on that - presumably the person who has moved the amendment - the very notion of having the words "such as" means that what we are defining is not exclusive; we are suggesting that these things are representative of a range of curriculum materials. To save the person who moved the amendment the trouble of going through every particular subject that is ever taught in a school and itemising what might be used, the collective words "such as" have been used. One cannot have a subclause or a subgroup of educational materials when one has a cover-all phrase like that. I do not know whether I am making myself clear. It seems to me that if this clause

is passed, nobody will know what one can charge for. Nobody will know what materials provided in an educational program of a government school are when in fact we have already said that schools cannot charge for curriculum materials such as certain things, but it could include every other thing that is a material provided for an educational program.

This is another example of this Bill being put into a configuration where it is simply not workable. If this is included in the ultimate Act, how on earth will a school principal decide what he can charge for? He is being told in clause 98(1)(a) that he can charge for materials provided in an educational program of a government school. He will therefore say that he will be able to charge for all these things to run the school. However, further along he finds that he cannot charge for curriculum materials such as dictionaries, atlases, reading books, maths and social studies materials. He will see that the paragraph says "such as" those things. What other things does it contemplate? He will look down the curriculum and say, "We do health education, so we cannot charge for health education materials; we do physical education, so we cannot charge for gym shoes; we do painting, so we cannot charge for paints; we do music, so we cannot charge for musical instruments. We do all these other things which are the 'such as' items." Under proposed clause 98(4)(a), the principal cannot charge for those items.

It is as clear as the nose on one's face that these two provisions contradict each other. However, I could accept that they were not contradictory if the words "such items as" were removed - or whatever words the Opposition now wants to include - and a definition of what is not chargeable were included. That list of items should be set out from the beginning to the end. However, if one tries to do that, one will create all sorts of silly anomalies, which I would not think even Labor Party members would be capable of creating. However, on the basis of the Chairman's ruling, that is the only way in which that can be regarded as being a subset of clause 98(1)(a). With all sincerity, I suggest that we are creating a clause which is totally unworkable. I would argue, Mr Chairman, that you should reassess your judgment on this.

Hon KIM CHANCE: In the light of the issues that the Leader of the House has raised, consideration of this clause should be postponed until after clause 240 has been dealt with.

Hon N.F. MOORE: I think this amendment should be postponed indefinitely. I will go along with this suggestion at the moment. However, regrettably, what this is showing again is either sloppy drafting or amendments that have not been thought through. We now have five or six clauses that have been postponed so that we can consider the drafting of them. I say to the members who are putting these forward that they should have thought about them longer and harder before doing so. We might have been able to save ourselves a great deal of time. I am happy for consideration of the clause to be postponed. However, in the meantime I hope members come to understand that if they do not change their minds on this, they will create a totally unworkable situation for schools.

Hon LJILJANNA RAVLICH: The comments of the Leader of the House are arrogant to the extreme. These amendments have been around for a long time. They were debated in the Legislative Assembly. If the Government had really -

The CHAIRMAN: Order! The postponement motion is not debatable.

Further consideration of the clause postponed until after consideration of clause 240, on motion by Hon Kim Chance.

Clause 99: Overseas students and adult students -

Hon KIM CHANCE: I move -

Page 73, line 13 - To delete the line and substitute the following head note -

Fees for instruction of overseas students

The CHAIRMAN: This amendment is to a head note, and that is not subject to amendment. Therefore, that amendment is out of order.

Amendment ruled out of order.

Hon KIM CHANCE: I move -

Page 73, lines 16 to 20 - To delete the lines and substitute the following -

and who is a non-resident is to pay such fees for instruction as may be prescribed and in accordance with the regulations.

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

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 73, line 21 - To delete "a".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 100: Financial hardship-

Hon KIM CHANCE: I move -

> Page 74, lines 2 to 4 - To delete "the remission or reduction in circumstances of financial hardship of any fee or charge provided for by this Subdivision" and substitute the following -
>
> —
>
> (a) the reduction, waiver or refund, in whole or in part, of any fee or charge provided for by this Subdivision; or
>
> (b) deferred payment, payment by instalments or other forms of assistance for the payment of any fee or charge provided for by this Subdivision.

Hon SIMON O'BRIEN: I am concerned about the words "the reduction, waiver or refund, in whole or in part, of any fee or charge". I wonder whether the waiver of any fee or charge in whole is acceptable to the Chamber, in view of reports which have been presented from time to time by the Joint Standing Committee on Delegated Legislation about whether it is properly within the power of subsidiary legislation to waive charges that would normally be payable. I am making a technical point, not an ideological point, and am looking a bit further down the track when problems may arise if regulations are promulgated under this Act. I make that observation because the Delegated Legislation Committee has had to consider that issue in the past.

The CHAIRMAN: I consider that Hon Simon O'Brien is making a contribution to the debate, rather than seeking a ruling. It is up to other members whether to comment on that procedural aspect.

Hon HELEN HODGSON: I understand that the circumstances to which the member has referred are situations where regulations are used to impose fees and charges, and where a decision must be made about whether they are a tax, and that it is quite normal to have regulations that deal with the waiver of such charges.

Hon CHRISTINE SHARP: I want to raise some points that have been raised recently by the Anglican Social Responsibilities Commission. I do not intend to move an amendment because of the lateness of this proposal, but I mention to the Leader of the House the commission's belief that the application for fee relief should not have to be made to the principal, because the principal is a very influential figure in the community, and it may be embarrassing for persons who are experiencing financial problems to have to personally approach the principal and beg for a personal assessment to have their fees waived. What the commission has said is reasonable, and I am sure the Leader of the House will understand and may have already thought of this problem by intending that the regulations will address this matter. I would be grateful if the Leader of the House could comment on that.

Hon N.F. MOORE: I had not contemplated that matter. The vast majority of principals are sensitive, caring people -

Hon Kim Chance: People of principle.

Hon N.F. MOORE: Yes, principals with principle. I do not share the member's concern that they may rush off and tell the world that so and so cannot pay his fees. If the application is not made to the principal, should it be made to the school secretary or the director general? I have been advised that clause 235 - the confidentiality clause - may deal with the concerns raised by the member. I do not have a problem with the principal being the person to whom the request is made. It may be better in some cases that it be the principal rather than the classroom teacher, because the principal has a broader view.

Hon CHRISTINE SHARP: I agree that the confidentiality clause will reinforce what the Leader of the House has said; namely, that most principals will act with great discretion in this matter. However, that is not the point that the commission is making. The commission is talking about the people who may need to make such an application. We may understand what principals are like - and the Leader of the House has just divulged that he is married to a principal - but many people in the community who may need to apply to have fees waived may not be familiar with the culture of school principals and may find it extremely embarrassing to have to approach a person whom they know personally and who knows of their circumstances in the community. It would not be difficult for the school to circulate information to all parents that this facility was available under regulation, and that the application for consideration could be made centrally to the CEO.

Hon N.F. MOORE: This is incidental to the issue, but I am happy to take on board the point made. Somebody must make a decision about whether the waiver is to be accepted, so somebody needs to know something about the circumstances. I cannot think of any reason that it should not be the principal.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 101 to 103 postponed until after consideration of clause 98, on motion by Hon N.F. Moore (Leader of the House).

Clauses 104 to 115 put and passed.

Clause 116: Dissemination of certain information on school premises -

Hon LJILJANNA RAVLICH: I move -

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

Under the provisions of clause 116(1) a person must not on the premises of a government school give to students, whether orally or in writing, information to which this clause applies and information which is not part of the educational program of the school, if the purpose of doing so is to impress a particular viewpoint or message on the minds of the students. The penalty for any breach is $2 000. Specifically, this clause applies to information intended to generate support for a political party. The Opposition understands the reasons for that. It also applies to information that advertises any commercial goods, product or service except as allowed under clause 209(2)(d), or promotes a particular denomination or sect, except as allowed under clause 69. The Opposition has no problem with those provisions.

However, the Labor Party has a problem with subclause (2)(d) relating to information that advocates the case of a party to an industrial dispute, including the chief executive officer. Quite clearly, there are situations in which information must be conveyed to parents. A classic case is where the Western Australian Council of State School Organisations wants to communicate with parents about industrial action that might create difficulties for parents perhaps in dropping off or picking up their children at school. This clause may prevent appropriate material being distributed into schools, and legitimate communication between teachers and parents could be hampered as a result of this clause. The Government has argued that if a parents and citizens association wants to communicate with parents, it should do so directly by writing to them. However, the Government is well aware of the cost implications of that.

In clauses 124 and 125 the Government wants to give WACSSO additional functions and wants it to become incorporated, but it will not allow such an organisation to pass on necessary information to students so that they can pass it to their parents.

Hon N.F. Moore: If you believe this, you will believe anything. It is the worst argument I have heard all night. It is absolutely appalling, and even the member is blushing.

Hon LJILJANNA RAVLICH: I am not blushing at all. It is quite legitimate given that the Government wants to give school councils and WACSSO additional functions, and wants them to pick up the tab for becoming incorporated bodies and accept the responsibility of being able to sue and to be sued. However, the Government will not trust that organisation to send information which is required to be communicated to parents. It will not allow WACSSO to give information to students to be passed to their parents. That is pretty lousy. This proposed amendment recognises that at times there is a genuine need for information to be communicated to parents, but the provision in paragraph (d) would not permit that. Therefore, the Opposition seeks to delete it.

Hon N.F. MOORE: Let us have a good hard look at this clause. Clause 116(1) states that a person must not on the premises of a government school give to students - not staff - whether orally or in writing, information to which this clause applies. Subclause (2) provides a list of information that cannot be provided to students on school premises. The first is any information that is intended to generate support for a political party; that is, students cannot be talked into becoming members of the Labor Party or the Australian Democrats. I agree with that.

Hon Kim Chance: No chance of talking them into being a Liberal!

Hon N.F. MOORE: It is not necessary to talk students into that; they do it as a matter of course, and they do not have to join a party. I agree with that provision in the Bill. Schools are not places in which to recruit political party membership. It also applies to a person who advertises any commercial goods, product or service, except as allowed for under another clause. A person cannot promote a denomination or sect, except as allowed under clause 69; that is, a person cannot try to talk students into becoming a Christian, a Muslim, a Hindu or whatever. I agree with that.

The clause also provides that one should not be able to provide students at school with information that advocates the case of a party to an industrial dispute. I do not know that WACSSO gets involved in industrial disputes. We have just had a long, laborious story about sending notes home with children because WACSSO wants to inform parents that their children should be collected after school because a bus strike is planned. WACSSO is not a party to an industrial dispute, although it is affected by it. It is the job of the school to send notes home to parents informing them that due to an industrial dispute there will be no buses or classes. Providing that information is not WACSSO's job, and I do not know when it has done it. The member might tell me of an occasion. I cannot remember when it used schools to disseminate its views on industrial

disputes. This clause does not refer to WACSSO's views; it refers to its being a party to an industrial dispute. The usual parties to an industrial dispute are the employer organisation - in this case the Government - and the employee organisation - in this case the State School Teachers Union, or an individual. Generally speaking, it is the union and the employer.

The clause also refers to the chief executive. The CEO of the education system is not entitled to advocate the Government's case to students in a school. What is wrong with that? Members of the Opposition are asking the Committee to allow the SSTU to churn out its propaganda through the students. Will the CEO be able to do the same?

The manner in which the member tried to justify removing this clause was ludicrous. She did not even mention the SSTU and an industrial dispute; she talked about WACSSO and sending notes home with children. That is why I said she was blushing. Clearly she does not feel that she has the gall to argue the result that her amendment seeks to achieve. If the member thinks this is a good idea, she should say so. The amendment seeks to allow the SSTU and the CEO to use the children in the education system to promote their side of an argument in an industrial dispute. It is as clear as the nose on one's face what it seeks to do and what the Labor Party is seeking to change.

I went through this when I was minister. I had the SSTU using students to take home its propaganda. I had students marching on my office because they were told that was the best way to get across a political-industrial message. That was outrageous. Children are not to be the pawns of some industrial organisation or CEO. That has happened in the past, and if it continues to happen because this clause has been removed, members opposite are giving organisations involved in industrial disputes the capacity to get into the minds of young people who do not understand the issues. Why are we not allowed to preach Christianity in schools and to convert children but we can fill their heads with industrial rubbish from a union or employer?

Of all the clauses we have debated so far, this is the most serious. With the utmost sincerity I argue strongly that this clause should not be removed. If the Committee agrees to remove it, it is seriously letting down the children of this State and providing an opportunity for them to be indoctrinated in industrial issues while at the same time they cannot be encouraged to become Christians or Muslims because members opposite think that activity is inappropriate in a school ground. It is a pity that the member cannot explain the intention of the amendment. It is seeking to allow the SSTU to use children in our schools to disseminate its industrial rubbish.

Hon LJILJANNA RAVLICH: There is definitely no intent to use this as a vehicle for the State School Teachers Union to put its case into schools via children. The provisions of this clause make it almost impossible for information to be passed from legitimate organisations such as WACSSO -

Hon N.F. Moore: Tell me how it is involved in industrial disputes.

Hon LJILJANNA RAVLICH: In the past it has had difficulty communicating with parents during an industrial dispute. It has been impossible for it to advise parents of the issues I outlined earlier. It is laughable that the Leader of the House is talking about allowing the minds of young people to be influenced while at the same time he has an open book in relation to advertising and sponsorship. He does not appear to think that will pollute the minds of young people in the school system. This is hypocrisy.

Hon N.F. Moore: Rubbish! You are trotting out the same old union garbage.

Hon LJILJANNA RAVLICH: It is not union garbage; it is a legitimate argument. The bottom line is that the Leader of the House does not mind selling the minds of young school children in the State if there is a dollar in it. However, he has some ideological hangup about the SSTU for some reason. Perhaps it gave him a hard time when he was the minister. That is the difficulty with this clause: It would be impossible to get information to parents via students when there is a legitimate reason for that information to be conveyed.

Hon N.F. MOORE: I am very interested to hear the views of other parties on this issue. It is of such importance that the Committee is entitled to know their views. I hope they will tell us what they think.

Hon HELEN HODGSON: I have also heard the arguments about the difficulties in sending information home when teachers are involved in industrial action. It would be a problem if one could not send home information that the school would be understaffed and there would be problems with the children being cared for the next day. I appreciate that the clause deals with impressing things on the minds of children rather than conveying information. However, in the heated atmosphere of an industrial dispute it could add another flame to the fire and aggravate the situation. Therefore, it is not necessary to include this clause in the legislation.

I genuinely believe that teachers and principals would not use propaganda to influence children. It would be a case of ensuring parents were aware of what was going on. To some extent, we must rely on teachers' professional integrity to do the right thing and convey information without necessarily arguing a case. They should know that they can convey information without being accused of arguing a case and, therefore, having action taken against them with the threat of a $2 000 fine. Although I recognise the intention behind the clause, it goes too far in that respect and it opens the possibility

of teachers being caught up in the heat of an industrial dispute in a situation in which, by passing on information, it is alleged that they have tried to pass on information to impress a particular viewpoint or message. Therefore, I support the deletion.

Hon CHRISTINE SHARP: I had a similar analysis to that of the minister with regard to the purpose of the deletion, and that was at least partially to protect the State School Teachers Union. It seemed to me that that was the clear intent of the clause. Perhaps the Australian Labor Party should be a little more honest about what it is standing up for. I am happy to stand up for the right of the chief executive officer and the school teachers union to communicate. They are not communicating to children; they are using the children to take home to parents information about which they would be interested, such as the way in which education is conducted in our schools. The information could relate to class sizes and so on. It could be all sorts of issues that the Education Department or the State School Teachers Union wished to communicate to parents. I assumed that that was the purpose of the deletion, and I feel quite comfortable with that.

Hon N.F. MOORE: I draw members' attention to what the clause states, which is -

(1) A person must not on the premises of a government school give to students . . .

Not to their parents via students, but to students -

. . . whether orally or in writing, information -

(a) to which this section applies; and

(b) which is not part of the educational programme of the school,

if the purpose of doing so is to impress a particular viewpoint or message on the minds of the students.

That is what it is about. Opposition members now tell us that it is fair and reasonable for the State School Teachers Union to disseminate its propaganda in schools for the purpose of impressing a particular viewpoint or message on the minds of students. They think that is okay. They have got it all wrong this time, I can tell them that now. It is outrageous. The clause is to protect children from the particular points of view of adults, whether they be people in religious organisations, political organisations or unions, or the chief executive officer who wants to churn out propaganda in respect of a certain point of view. The people who are being excluded are those who are giving a point of view which is outside the need of any child to have that point of view shoved down his throat. It is all about trying to impress a particular viewpoint or message on the mind of a student. It has nothing to do with sending notes home to mum and dad.

It is nonsense that the Western Australian Council of State School Organisations cannot get its message across without going into schools. WACSSO never goes into the schools of Western Australia to disseminate its message by way of notes to children. There are about 700 000 students in our schools. If WACSSO wanted to send out 700 000 notes to students, it would not have the capacity to do that in a million years. If it is an important matter such as the school bus not running this afternoon or tomorrow afternoon, how on earth would WACSSO get out 700 000 notes to parents throughout the school system with one day's notice? It is absolute nonsense and Opposition members know it. I cannot even believe that the Opposition would use that as an argument, quite frankly. I have listened to representatives of the minor parties who say that they will support the Opposition. Opposition members will allow the State School Teachers Union to disseminate information to students on school grounds to impress a particular viewpoint or message on the minds of the students.

Hon Kim Chance: Is that the situation now? It is a genuine question.

Hon N.F. MOORE: I hope it is not the situation now, but it might be. My advice is that it is ambiguous now. The clause makes the position very clear. The deletion would allow the State School Teachers Union or the Australian education union or Joe Blow, who happens to look after his own interests from an industrial perspective, to give students information which is designed to impress on those students' minds a particular viewpoint about an industrial dispute. It will also allow the chief executive officer of the Education Department to go into every school and impress upon all the students that the Government's position on the industrial dispute is the right decision to take and to fill their heads with government propaganda on a particular industrial dispute. Again, for the sake of the future of the debate, paragraph (d) states -

advocates the case of a party to an industrial dispute . . .

I repeat that WACSSO is not a party to an industrial dispute. A party to an industrial dispute is an organisation which is involved in the dispute - usually the employer or the employers' association and a union, not WACSSO, not anybody else, just those two organisations. The Opposition would allow the union or the employer to fill the kids' heads with propaganda about an industrial dispute. That is totally unacceptable. I sincerely hope that the House does not accept the amendment.

Hon KIM CHANCE: I was amazed when I first saw the clause. Although the report indicates that the committee did not consider it, that does not mean that we did not look at it, because we had to go through that process to determine whether it was a matter that the committee should look at. Ultimately, as is apparent, we decided that we should not consider it for whatever reason. When I first looked at the clause I was struck not so much by what was contained in subclause (2)(a) to (d) but rather by what was left out. I found it surprising. That is why I asked the minister what the situation is now. I am

pleased that the minister advised me that it is ambiguous, because that is pretty much what it is. There is no prohibition on the heinous activity that the minister tells us will occur if we knock out subclause (2)(d). It just is not happening.

Hon N.F. Moore: Let us make sure that it never happens.

Hon KIM CHANCE: I was not very clear. I will run that past the minister again. I do not believe that the things that the minister has told us will happen if we knock out subclause 2(d) are happening now.

Hon Ray Halligan: Is anything happening under paragraph (a) at the present time? Why not take that out as well? Why not take out paragraph (b)?

Hon N.F. Moore: Chuck the whole lot out!

The CHAIRMAN: One at a time, members.

Hon KIM CHANCE: I show members my copy of the Bill to indicate my first reaction upon reading this clause: I placed a red line through all four paragraphs. Why enumerate specific things which cannot be handed to students?

Hon N.F. Moore: Read the entire clause. It states that the information should not be provided if the purpose is to impress a particular viewpoint or message on the minds of students. There must be an intention to do so.

Hon KIM CHANCE: Yes, but the first question in my mind is why is offensive material not included on the list? The first thing one would expect to be on the list is not there; namely, putting into the minds of student information on drug taking and pornography.

Hon N.F. Moore: Other laws cover that, as you well know.

Hon KIM CHANCE: That is why I had a problem with the whole provision.

Hon Ray Halligan: You're trying to take the high moral ground.

Hon KIM CHANCE: No, I am not. The drafting of the Bill is deficient. All these terrible things will happen if we knock out subclause (2)(d) because the State School Teachers Union, the Director General of Education Department or the missos, who also have members in schools, and a number of other individuals, will suddenly be filling our children's heads with one side or another of an industrial dispute. Why has it not happened before?

Hon N.F. Moore: It has happened.

Hon KIM CHANCE: The Leader of the House outlined that point. However, in all the years in which I have had children at school, I have not had one note from my children from the SSTU.

Hon N.F. Moore: It has nothing to do with notes to parents. That is the furphy raised by your colleague.

Hon KIM CHANCE: Clause 116(1) reads -

> A person must not on the premises of a government school give to students, whether orally or in writing -

Written information is probably a note.

Hon N.F. Moore: If the purpose in doing so is to impress a particular viewpoint on the student - keep reading and you'll get it right!

Hon KIM CHANCE: It refers to "on the minds of students", which is critical. Many things are missed out from that list. Why not get rid of everything in the provision and substitute any matter which might be deemed offensive?

Hon N.F. Moore: You may as well; it would be like everything else you have done with this Bill.

Hon KIM CHANCE: I am not suggesting that as an amendment. Surely it would have been better for the Government to take the provision away and rethink it. Paragraph (b) refers to information which advertises any commercial goods, products or services, except those permitted under clause 209(2)(d). That includes not only sponsors, but also advertisers who are not sponsors; therefore, it also includes straight-out advertising.

Hon Simon O'Brien: We know it is about people from radio stations or soft drink companies who, without permission, go into schools and conduct promotions and hand out flyers. It is a disruption for the school. If paragraph (d) is the one we are concerned about at this time, and you recognise that it does not apply, why not leave it in? If it were to apply, would that be desirable?

Hon KIM CHANCE: We are trying to fix something that is not broken. In doing that, we are ignoring things like offensive material. My colleagues have had a discussion behind the Chair on these matters. I raise these points because this list is neither proper nor exhaustive. I can understand the point the Leader of the House raised. I would be happier for the

Government not to take the provision away - I know I said that earlier - but rather that it rethink the items enumerated on that list.

Hon CHRISTINE SHARP: I reiterate Hon Kim Chance's remarks. He suggested that the Government should look again at this entire clause. He did not recollect exactly how the Standing Committee on Public Administration debated this clause. I remind him that he is right in his recollection as we looked at this clause and determined dissatisfaction with it. According to my notes of our deliberations, it was one of the clauses on which we ran out of time for deliberation. We did not return to it, although we determined we wanted to look at it again.

When I was looking at the amendments I wanted to move in my name, I picked up this clause again. The member will remember in the discussion we had in the Public Administration Committee that we decided that generating a list from (a) to (d) was highly prescriptive, yet left out important areas which the committee thought should be included. The example of offensive or soft pornography was raised.

Progress reported, pursuant to standing orders.

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Report on a Proposal to Travel

Hon Mark Nevill presented the twenty-fifth report of the Standing Committee on Estimates and Financial Operations in relation to a proposal for travel, and on his motion it was resolved -

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

[See paper No 483.]

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Labour Relations Legislation Amendment Bill 1997 (No 2) - Reporting Date

Hon Kim Chance reported that the Standing Committee on Public Administration had resolved that the time in which it had to report on the Labour Relations Legislation Amendment Bill (No 2) 1997 be extended from 26 November to 16 December 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 484.]

STANDING COMMITTEE ON LEGISLATION

Weapons Bill - Reporting Date

Hon Bruce Donaldson reported that the Legislation Committee had resolved that the time in which it had to report on the Weapons Bill be extended from 26 November to 3 December 1998, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 485.]

BOTANIC GARDENS AND PARKS AUTHORITY BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

TRUST REMOVAL (MOUNT CLAREMONT LAND) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [9.59 pm]: I move -

That the Bill be now read a second time.

This Bill proposes to effect the removal of a trust from lot 87 held by the Crown in certificate of title volume 1809, folio 190. Lot 87 is bounded by Rochdale Road and Whitney Crescent, Mt Claremont. The declaration of trust was put in place in 1961 by the City of Perth when council released some 81 residential lots in this area. The land was subject to the City of Perth Endowment Lands Act and to ensure that lot 87 remained available to the public, the trust for recreation purposes

for the use of the people for all time was deemed. With the restructure of the City of Perth, control of lands subject to the City of Perth Endowment Lands Act passed to the Town of Cambridge.

With the formal creation of the Bold Park reserve and other recreation lands in the immediate vicinity, the benefit of retaining lot 87 for public open space is considered minimal. The removal of the trust will free up this area for eventual release for residential purposes. Proceeds from the sale of lot 87, together with two other areas which have been returned to the Crown from the Town of Cambridge, will be used to offset costs incurred in the creation and ongoing management of the Bold Park reserve. Proceeds will be made available to the Kings Park Board, the board of management for the park. Sale proceeds in excess of $11.5m will be disbursed equally to the Town of Cambridge and the board. The Town of Cambridge supports the removal of the trust. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens (Leader of the Opposition).

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had disagreed to amendments Nos 2 and 4 to 10 made by the Council, and had disagreed to amendments Nos 1 and 3 and substituted new amendments as set forth in schedule A.

House adjourned at 10.01 pm

QUESTIONS ON NOTICE

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

ENGLISH AS A SECOND LANGUAGE CLASSES, PRESCHOOLS

345. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

(1) What provision has been made by each District Education Director to ensure that bilingual/bicultural pre-school workers are utilised by pre-school centres in the metropolitan area and regional centres?

(2) Has any pre-school centre initiated any English as a Second Language classes in the metropolitan area and regional centres which are suitable for pre-school children?

(3) Which pre-school centres have utilised the services of the Ethnic Child Care Resource Unit in dealing with Non-English Speaking Background/Cultural and Linguistic Diverse Backgrounds children in -

(a) the metropolitan area; and

(b) regional centres?

(4) Will the Education Department take steps to familiarize pre-school centres with the relevant services provided by the Ethnic Child Care Resource Unit?

Hon N.F. MOORE replied:

(1) The District Director is responsible for monitoring the utilisation of resources such as bilingual/bicultural pre-school workers to ensure the needs of students are met. The provision of bilingual/bicultural services are made available on a needs basis through government schools and community-based pre-schools to pre-primary age students from culturally and linguistically diverse backgrounds and involve the District Service Centre and the English as a Second Language (ESL) Visiting Teacher Service.

(2) Programs accessed by pre-primary age students are provided by each school to meet the needs of the students concerned. 66 schools utilise the ESL Visiting Teacher Service to assist in the provision of ESL classes, plus an additional 20 schools are grouped into clusters which have access to an ESL Visiting Teacher and an ethnic aide.

(3) The Ethnic Child Care Resource Unit Inc is a private organisation which operates on a fee for service basis. Pre-school centres may utilise this service and data is not collected by the Department on the number that choose to do so. The Hon Member may be able to get this information directly from the Ethnic Child Care Resource Unit.

(4) The ESL Visiting Teacher Service advises schools on the availability of services such as those offered by the Ethnic Child Care Resource Unit. Avenues are available through the Education Department of WA for private organisations such as the Ethnic Child Care Resource Unit to promote themselves to schools.

LPG GAS PRICES

385. Hon J.A. SCOTT to the Leader of the House representing the Minister for Energy:

(1) Is the Minister for Energy aware that Woodside is selling LPG gas landed in Japan for 9.6 cents per litre, whereas Wesfarmers is charging Western Australian consumers 34 to 36 cents per litre?

(2) Is the Minister further aware that bottles of LPG gas are being sold for 68 cents per litre in Perth whereas they sell for 48 cents per litre in Victoria?

(3) Can the Minister explain why Western Australian consumers and industries are being forced to pay significantly higher prices than overseas and eastern states buyers?

(4) Is there a difference between the base price of Natural Gas in Western Australia and Victoria?

(5) If so, what is this difference and what is the reason for it?

Hon N.F. MOORE replied:

(1) The Minister for Energy understands that Woodside's export price from the Burrup Peninsula was around 13 cents per litre in 1996, rising to around 16 cents per litre in 1997, reflecting the international producers price for LPG. The landed price in Japan would be higher, as it includes shipping costs. The Minister is also aware that consumers

of autogas LPG in the South West of Western Australia are paying in the range of 34 to 36 cents per litre for LPG retailed by Wesfarmers and four other independent retailers of autogas in this market.

(2) The Minister for Energy also understands that LPG in 45 kg cylinders in Perth is presently priced at 59 cents per litre and in Melbourne at 54 cents per litre. For 9 kg cylinders refilled at the retailer the price is presently about the same in Perth and Melbourne.

(3) The price of LPG at the retail level in the domestic market has to reflect the costs of transport, storage, marketing and retail operations, and should always therefore be above the international producer price for bulk cargoes. While the State is fortunate to have a very reliable supply of LPG, it does not have the diverse and competitive LPG market of the Eastern States, where the price of LPG may be heavily discounted from time to time.

(4)-(5) The base price of natural gas ex the producers' facilities in Western Australia is now averaging below $2 per gigajoule thanks in part to the Government's phased liberalisation of access to the market encouraging competition between gas producers. In Victoria the base price ex the Longford facilities, the dominant supplier to that market, is a contractual matter and therefore not readily available.

PERTH MODERN HIGH SCHOOL - BALLET STUDIO

512. Hon KEN TRAVERS to the Leader of the House representing the Minister for Education:

With regard to the planned $800 000 ballet studio for Perth Modern High School -

(1) Who will run the courses in ballet at this studio?

(2) Will students be charged extra fees to attend this course?

(3) If yes, what is the expected cost to students?

Hon N.F. MOORE replied:

(1) The courses will be run by the Graduate College of Dance (WA) Inc. for students enrolled at Perth Modern School in 1999.

(2) Yes.

(3) Expected costs per school term are:

Year 8	$660
Year 9	$660
Year 10	$770
Year 11	$825
Year 12	$825

Financially disadvantaged parents can apply for assistance under a means test.

HOLLYWOOD HIGH SCHOOL - CAPITAL WORKS

513. Hon KEN TRAVERS to the Leader of the House representing the Minister for Education:

In relation to Hollywood High School -

(1) Can the Minister for Education confirm that the school has just had over $2m of new capital works spent on it?

(2) If yes, what capital works were carried out at the school?

Hon N.F. MOORE replied:

(1) Hollywood Senior High School was allocated funds in the 1996/97 capital works program. The total cost of the project was $2.2 million.

(2) The project consisted of an upgrade to the administration and student services areas, science, computer studies, home economics, design technology, general teaching areas and staff studies. These works were required to provide an acceptable standard of facilities for both staff and students at the school.

GOVERNMENT CONTRACTS OR CONSULTANCIES - FORMER MINISTERS OR SENIOR PUBLIC SERVANTS

524. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Public Sector Management:

(1) What policy guidelines exist for former Government Ministers or former senior public servants in terms of seeking or being awarded Government contracts or consultancies?

(2) Will the Minister for Public Sector Management table those guidelines?

Hon MAX EVANS replied:

(1)-(2) Apart from a time related limitation under section 59 of the Public Sector Management Act 1994 applying to members of the Senior Executive Service who are paid compensation for early termination of their contracts, there are no restrictions on the engagement of former government officials on contracts for services. As with all others their engagement remains bound by the general contracting requirements laid down by the State Supply Commission.

SCHOOLS - PRINCIPAL'S DETERMINATIONS ON ABSENCES

532. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

In section 26 of the *School Education Bill 1997*, the School Principal is given the power to form an opinion that the reasons for absences are not genuine -

(1) What policy guidelines or factors will the School Principal be required to take into consideration when making a determination as to whether the reasons for a child's absence from school are genuine or not?

(2) Will the School Principal be required to follow a procedure to ensure that his/her opinion will be applied consistently and without discrimination?

(3) If not, why not?

Hon N.F. MOORE replied:

This is a matter for which specific administrative guidelines are yet to be developed. The following information is, however, provided for guidance.

(1) Policy guidelines will be provided under clause 226 of the *School Education Bill*, which enables the Director-General of Education to issue "CEO's Instructions". In the case of doubtful reasons for non-attendance, matters to be considered include whether patterns of absence are noted, or there is doubt that the parents have authorised a child's non-attendance. Within the policy framework, the intention of the *Bill* is that principals will be required to exercise their professional judgement on a case by case basis.

(2) No specific procedures will be prescribed.

(3) Allowance needs to be made for circumstances to vary on a case by case basis and for principals to make professional judgements.

SCHOOLS - PRINCIPAL'S TERMINATION OF AN ALTERNATIVE EDUCATION PROGRAM

533. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

With regard to the powers of the School Principal under the *School Education Bill 1997* -

(1) With reference to section 23 and section 24 of this Bill, what opportunity is there for a school community to be assured that a School Principal will not arbitrarily terminate an alternative education program which has been previously approved?

(2) Will School Principals be required to follow a set procedure when terminating an alternative education program?

(3) If not, how will the Minister for Education ensure that Principals can justify their decision to terminate a program, if that decision is later challenged?

Hon N.F. MOORE replied:

This is a matter for which specific administrative guidelines are yet to be developed. The following information is, however, provided for guidance.

(1) Clause 24 of the *Bill* makes reference to "arrangements alternative to attendance". The Clause is intended to cover a variety of situations, of which an "alternative educational programme" would be one example. Arrangements under these clauses will require individual written agreements between the principal and the child's parents. Under sub clauses 24(3)(b) and 24(4) the arrangements may only be varied or terminated in consultation with the person with whom the arrangement was made. In view of the responsibility of the principal for the safety and welfare of students when away from school premises on school activities [see clause 63(1)(c) of the *Bill*], it is necessary for the principal to have the capacity and discretion to terminate such an arrangement at short notice. School principals will be required to work within the framework of the legislation and the policy instructions of the Director-General

of Education. Clause 226 of the *School Education Bill* makes provision for the Director-General to issue instructions for such matters.

(2) No procedure will be set beyond the extent provided in sub clauses 24(3)(b) and 24(4) and the Chief Executive Officer's instructions under clause 226.

(3) If a person is aggrieved by a decision of a school principal in this matter, an independent review may be sought under clause 216 of the Bill. Such a review is to take account of appropriate procedure, fairness and adequacy of information.

SCHOOLS - TRUANCY

534. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

With regard to the issue of truancy -

(1) What has the Minister for Education's department identified as being the major contributory factors leading to truancy in Western Australian schools?

(2) Does the *School Education Bill 1997* include provision for a co-ordinator to divert truants to an appropriate agency to address their truancy?

(3) If not, why not?

Hon N.F. MOORE replied:

(1) This is an extremely complex issue with a great many factors considered as possibly leading to truancy. Chief factors identified by the 1997 "WA Child Health Survey" were, level of schooling, family background, and socio-economic background. The Education Department policy initiative entitled "Making the Difference" is aimed at identifying students at educational risk and providing strategies by which participation and achievement in schooling are improved. Patterns of absenteeism provide one indicator of "at-risk" students.

(2) Yes. Part 2, Division 5 of the *School Education Bill* contains provisions at clauses 39 to 42 for the establishment and operation of School Attendance Panels. Children or their parents may be referred to these Panels by a government school principal or by a school attendance officer.

(3) Not applicable.

SCHOOLS - TRUANCY

535. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

With regard to cases of chronic absenteeism or truancy, can the Minister for Education advise -

(1) Will the Government establish provisions within the *School Education Bill 1997* that channel repeat offenders to an appropriate intervention program, instead of the courts?

(2) If not, what steps will the Government take to ensure that truancy is tackled through appropriate intervention programs before it is necessary to see children appear in the State's court system?

Hon N.F. MOORE replied:

This is a matter for which specific administrative guidelines are yet to be developed. The following information is, however, provided for guidance.

(1) Yes. Part 2, Division 5 of the *School Education Bill* contains provisions at clauses 39 to 42 for the establishment and operation of School Attendance Panels. These Panels are a new initiative in legislation to provide a guarantee of intervention prior to any action by the Children's Court or a Juvenile Justice Team. The role of School Attendance Panels includes the provision of advice, assistance and recommendations to schools, parents and children. These may include direction to existing intervention programmes or the development of individual solutions. Such interventions are managed at the local level. The intention of the drafting of the *Bill* is that court action is a last resort to deal with truancy, to be used only if other strategies have failed.

(2) Not applicable.

WESTERN POWER - MR IAN WARNER'S DIRECTORSHIP

537. Hon KEN TRAVERS to the Leader of the House representing the Minister for Energy:

In relation to Mr Ian Warner's directorship of the board of Western Power Corporation -

(1) Under what contractual arrangements is Mr Warner's director's fee of $34 680 paid to law firm Jackson McDonald?

(2) What is the purpose of this arrangement?

(3) Are any tax instalments deducted from Mr Warner's fee before payment to Jackson McDonald?

(4) Will the Minister for Energy table a copy of any contract between Mr Warner and Western Power in relation to the payment of his fees as a director?

(5) What other payments, if any does Mr Warner receive from Western Power and to whom are they made if not to Mr Warner?

Hon N.F. MOORE replied:

(1) None. Mr Warner's director's fee is paid in accordance with his instructions.

(2)-(4) Not applicable.

(5) None, other than the employer's superannuation liability.

OSBORNE PARK HOSPITAL AND JOONDALUP HEALTH CAMPUS - PATIENT ACTIVITY TRANSFER

611. Hon E.R.J. DERMER to the Minister for Finance representing the Minister for Health:

I refer to the answer to question on notice 301 of 1998 which stated that in the 1997/98 financial year patient activity was transferred from Osborne Park Hospital to the Joondalup Health Campus -

(1) Which specific health services were included in the transferred patient activity referred to in the answer?

(2) How many patient treatments were included in each of the separate health services transferred?

(3) Which specific health services were discontinued at Osborne Park Hospital as a result of this transfer?

(4) What was the total cost of the transferred patient activity referred to in the answer?

Hon MAX EVANS replied:

(1)-(2)

Maternity	150 cases
Neonates	122
Surgical	1036
Rehabilitation/Aged Care	192
General Medical	75
Total cases	1575 (from 01/01/98 to 30/06/98)

(3) Nil.

(4) $2.7 million.

OSBORNE PARK HOSPITAL - PATIENT NUMBERS

612. Hon E.R.J. DERMER to the Minister for Finance representing the Minister for Health:

(1) How many patients are estimated to be treated at Osborne Park Hospital in the 1998/99 financial year?

(2) How many patients are estimated to be treated at Osborne Park Hospital in the 1998/99 financial year in each of the following health service categories -

(a) medical;
(b) surgical;
(c) obstetrics; and
(d) paediatrics?

(3) How many medical FTE's are budgeted to be employed at Osborne Park Hospital in the 1998/99 financial year?

(4) How many non-medical FTE's are budgeted to be employed at Osborne Park Hospital in the 1998/99 financial year.

(5) How many FTE's are budgeted to be employed at Osborne Park Hospital in the 1998/99 financial year in each of the following categories -

(a) nursing;
(b) medical;
(c) medical support;
(d) administration/technical support;
(e) hotel services; and
(f) maintenance?

Hon MAX EVANS replied:

(1) 10,064 (estimate).

(2)

(a)	medical	2040
(b)	surgical	4750
(c)	obstetrics	1530
(d)	paediatrics	1744(including neonates)

(3) 256.00 FTE
(Medical staff considered as clinical and constitutes doctors, nursing and medical support staff).

(4) 142.00 FTE

(5)

(a)	nursing	186.00 FTE
(b)	medical	20.00
(c)	medical support	50.00
(d)	admin/technical support	52.00
(e)	hotel services	76.00
(f)	maintenance	14.00

HOMESWEST CONTRACTS

614. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

With regard to land development and/or construction contracts awarded by Homeswest worth $500 000 or more since July 1, 1995, can the Minister for Housing provide the following details of each contract -

(a) the name of the contractor/s;
(b) the date the contract was awarded;
(c) the project the contract was awarded for;
(d) the original contract cost;
(e) if completed, the actual final cost of the contract?

Hon MAX EVANS replied:

I am not prepared to commit the resources required to answer the questions raised. Homeswest is a large organisation and has let many contracts in excess of $500,000 since 1 July 1995. However, if the Member has a specific enquiry on a contract let since 1 July 1995 I would be prepared to commit the resources to answer that question.

HOUSING CONTRACTS

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

With regard to the Minister for Lands' answer to question 398 of October 15, 1998, can the Minister provide the names of the contractors for the following projects-

(a) Greenhead Residential Stage 6;
(b) Kalbarri Residential Stage 7;
(c) Exmouth Residential Subdivision Stage 2;
(d) Derby Residential;
(e) Kalbarri Residential Stage 6;
(f) Ledge Point Residential Stage 4;
(g) Jurien Residential Stage 3;
(h) Broome Cable Beach Stage 5A; and
(i) Boulder Golf Course Subdivision Stage 3?

Hon MAX EVANS replied:

(a) Goldfields Contractors.
(b) Northcoast Holding Pty Ltd.
(c) Densford Pty Ltd.
(d) A&E Contracting Pty Ltd.
(e) Geraldton Drainage Constructions.
(f) Triad Contractors.
(g) Glenbrook Civil Engineering Contractors.
(h) G&B Drainage.
(i) Malavoca Pty Ltd.

WATER CHARGES, REDUCTION IN CROSS SUBSIDY

633. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

I refer the Minister for Water Resources to answer to question 510 of 1998 -

(1) Has the Government completed its program of increasing residential water charges so as to reduce the level of cross subsidy being provided by commercial customers?

(2) If not, when will this program be completed?

(3) What does the Government consider an appropriate balance for the cross subsidy between residential and commercial customers?

(4) When did the Government agree to the reduction in the cross subsidy?

(5) On what basis did the Government take the decision to reduce the cross subsidy?

(6) Will the Ministry table copies of any documentation used to justify these increases?

Hon MAX EVANS replied:

(1) No.

(2) When the phase-in programme for meter based charges for business customers has been completed.

(3) There is no agreed level of cross subsidy between residential and commercial customers.

(4) 1993/94.

(5) Business customers paid water service charges based on the Gross Rental Value of the property which on average were substantially higher than the cost of providing the service. In addition, all metropolitan residential customers were provided with a 150kl per annum free water allowance.

(6) No.

SWAN AND CANNING RIVERS CLEAN-UP, ADVERTISING CAMPAIGN

635. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

I refer to the Minister for Water Resources' response to questions 507 of October 27, 1998 and my previously unanswered question 1425 of March 18, 1998 and I ask -

(1) What was the cost of the Water and Rivers Commission's advertising campaign promoting a clean-up of the Swan and Canning Rivers conducted earlier this year?

(2) Which advertising company produced the campaign?

(3) Over what dates did the Water and Rivers Commission run this advertising campaign?

(4) What other advertising does the Water and Rivers Commission have planned?

(5) Will the Ministry ensure that future Parliamentary questions are answered promptly to prevent them becoming dated?

Hon MAX EVANS replied:

(1) The Water and Rivers Commission has not conducted an advertising campaign promoting a clean up of the Swan and Canning Rivers.

(2)-(3) Not applicable.

(4) The Water and Rivers Commission has no plans for an advertising campaign relating to the clean up of the Swan and Canning Rivers.

(5) High priority is given to answering questions. The time taken to answer a question is often dependent on the level of detail requested and I am sure the Member would not want an ill considered response.

QUESTIONS WITHOUT NOTICE

MIRIUWUNG-GAJERRONG NATIVE TITLE CLAIM, STATE'S COSTS

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

In reference to the decision of Justice Lee in the Federal Court yesterday confirming native title in relation to the Miriuwung-Gajerrong people, what is the breakdown of the total cost the state has spent on this native title claim as at the date of the decision yesterday, including legal advice?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The State Government has spent approximately $3.348m on the case, comprising $2.981m on legal costs; $60 000 by WALIS, the land claims mapping unit; $266 669 by the Department of Land Administration; and approximately $40 000 by other agencies who were involved in giving evidence to and the preparation of information for the Federal Court. This is separate from the cost involved by the more than 100 other parties involved in the court case.

McCARREY CONSULTANCY

586. Hon TOM STEPHENS to the minister representing the Minister for Aboriginal Affairs:

I refer to the $105 542 consultancy given to Les McCarrey without the consultancy going to tender.

(1) Why was this consultancy not advertised?

(2) Who was involved in the awarding of the consultancy?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Minister for Aboriginal Affairs informs me that -

(1)-(2) The legislative review of the Aboriginal Affairs Planning Authority Act was a crucial element in the development of a framework in which the Government could plan for the improvement in the outcomes so necessary in the Aboriginal Affairs portfolio. Many of these crucial elements revolved around the need for greater autonomy and self-management for Aboriginal people and greater accountability in Aboriginal affairs. These factors were part of the Government's priorities in pursuing its public sector reform agenda. As many of these priorities came from the Independent Commission to Review Public Sector Finances, chaired by Les McCarrey, it was vital that he be appointed to chair the group. He was the most qualified person of those considered by the minister and the Cabinet.

BANDYUP WOMEN'S PRISON

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

Can the minister confirm, or does he not know, whether on Monday, 23 November at Bandyup Women's Prison insufficient bread was available for prisoners, bedding was set on fire, only one phone was available for use by prisoners, and prisoners did not receive medication at the prescribed times? Given that according to his answer yesterday a proposed new facility for women prisoners may not be available for many months, what immediate action will the minister take to relieve the conditions at Bandyup?

Hon PETER FOSS replied:

I cannot confirm, admit or deny that. I will certainly investigate whether that is the case. I am not sure whether the second question is predicated on the first or whether the first one is a softening -

Hon N.D. Griffiths: You are aware of the sick conditions at Bandyup. What are you going to do about them now?

Hon PETER FOSS: I want to know whether Hon Nick Griffiths was predicating the second question on the first. I intend to take some measures in the meantime to relieve the pressure at Bandyup. I do not think Hon Nick Griffiths correctly represented what I said yesterday. My comments appear to have been misinterpreted or misunderstood. I said that I had made a decision as Minister for Justice that we should proceed with Pyrton. I wish to make it clear that the decision by the Government is not confined to the Minister for Justice. Other matters must be examined. One is that the State Planning Commission must give approval. It does not matter how much I want the institution to be at Pyrton, if the State Planning Commission says no, we cannot have it at Pyrton. To say I have not made a decision is incorrect. I have made a decision, but the whole of government has not made one. Each person has a role to play.

If approval is given by the State Planning Commission, I hope that early in the new year prisoners will be moved to Pyrton.

However, I intend to place prisoners in another prison so that we can relieve the pressure for a period. It will not be what I regard as an appropriate long-term solution; however, it will help relieve some of the pressure in the short term.

CHILD IN THE BJJ CASE

588. Hon J.A. SCOTT to the Attorney General representing the Minister for Police:

(1) Who instructed officers to apprehend the child of the case BJJ - question without notice 825 of 19 October 1995 - outside the office of solicitors Bailey and O'Brien in Hay Street, Perth near the Central Law Courts on Monday, 23 November between 7.15 am and 9.00 am?

(2) Is it the same child whose claims as a witness and victim of extremely serious crimes in this State involving a police officer are before the International Human Rights Commission in Geneva?

(3) When apprehended, was the child en route to a solicitor for the purpose of giving evidence in a criminal case?

(4) Is it true that police officer Vicki Carroll-Smith was asked to write up a statement in which the child rescinded her previous allegations against police officers and other civilians?

(5) Through this action, did police officers under the command of Senior Sergeant Paul Greenshaw interfere with a witness of a crime case currently before the courts resulting in her action to rescind serious allegations of police corruption?

(4) Is this the same officer who in 1995 approached the Department of Family and Children's Services with an unfounded allegation that the child was in danger?

(7) Who arranged for the child to be placed into the care of her previously named perpetrators, her mother and nine-years older sister against whom she had made serious allegations since 1991?

The PRESIDENT: Order! Question (4) sounded questionable. I am not suggesting it is seeking a legal opinion as such; I did not interpret it to be doing that. The Attorney General will be able to better understand the question because he appears to have a copy of it.

Hon PETER FOSS replied:

Most of the questions are improper because they assume many facts and ask why they happened, whereas it should be first ascertained whether they did occur. This member has an unfortunate tendency to frame his questions in that way. The questions suggest a dramatic situation, whereas the reality is different. The answers I have seek to correct the impression created by the questions, which are unfair. They make statements which are not correct. Hon Jim Scott should confine himself to direct questions, otherwise he could cause people to assume answers which are not correct.

(1) The 17-year-old girl in question was not apprehended by police in any manner on Monday, 23 November. She approached police requesting assistance to leave her home as she was fearful for her safety. The question assumed that somebody instructed officers to apprehend the child, but she was not apprehended and no such instruction was given.

(2) This person has previously made claims that she witnessed and was subject to serious criminal offences allegedly involving serving police officers. It is not known if this matter is currently before the International Human Rights Commission in Geneva.

(3) As was stated in the answer to question (1), the girl was not apprehended but attended at Curtin House, Northbridge seeking assistance.

(4) Sergeant Smith was not asked to write up any statement. Her meeting with the girl in question was videorecorded, and during the interview she rescinded all the allegations previously made.

(5) No police officer has interfered with any witness connected with any pending court matters subject to the allegations previously made.

(6) This officer has not made any unfounded allegations to Family and Children's Services.

(7) The girl is not currently in the care of her mother or sister.

WOOROLOO PRISON PROJECT

589. Hon HELEN HODGSON to the Minister for Justice:

With regard to the request for proposal for the Wooroloo prison project -

(1) Who has been consulted in the development of the request for proposal?

(2) Have any potential tenderers been consulted in the development of the RFP?

(3) Will the project go to tender? If so, when; and, if not, why not?

(4) What cost savings does the minister anticipate if a non-government operator is awarded the tender?

(5) Will the minister undertake to table any contracts entered into to allow a non-government operator to operate the prison?

(6) Will legislation be introduced to enable the project to proceed as a privately operated prison; and, if so, when is it anticipated that such legislation will be introduced?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The request for proposal was developed by a project team established within the Ministry of Justice, and managed by a steering committee with representation from the Ministry of the Premier and Cabinet, the Treasury, the Department of Contract and Management Services, and the University of Western Australia Crime Research Centre. Independent consultants have also been utilised by the project team. During the development of the RFP, local residents, representative Aboriginal groups, the Shires of Mundaring and Northam, the Crown Solicitor's Office, the Department of Environmental Protection, and the Ministry for Planning were consulted.

(2) No.

(3) Yes. Expressions of interest for the project were advertised on 30 May 1998, and the request for proposal was advertised on 25 September 1998.

(4) Potential cost saving details are unknown at this time.

(5) As no contracts have been entered into, this is still under consideration.

(6) Enabling legislation has been drafted. It is intended to introduce the Prisons Amendment Bill during the current session of Parliament.

INFILL SEWERAGE AND WASTE WATER TREATMENT PROJECTS, SOUTH WEST

590. Hon MURIEL PATTERSON to the minister representing the Minister for Water Resources:

What capital works funding has been allocated towards infill sewerage projects and waste water treatment projects in the south west for 1998-99?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Water Corporation has allocated capital funding of $6.4m for infill sewerage projects and $17.4m for waste water treatment projects in the south west in 1998-99.

CORRECTIONS CORPORATION OF AUSTRALIA PTY LTD

591. Hon LJILJANNA RAVLICH to the Minister for Justice:

I refer to a recent announcement that Corrections Corporation of Australia Pty Ltd has been awarded the prisoner transport contract and ask -

(1) Will officers employed by Corrections Corporation of Australia Pty Ltd be accountable to the public of Western Australia?

(2) Does the contract with CCA include a clause relating to accountability to government?

(3) If so, will the minister provide a copy of that clause; and, if not, why not?

(4) How will the Government guarantee that CCA officers will cooperate with the appropriate government bodies, including the Ministry of Justice, should problems arise with prisoner security?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) There is currently no contract.

(3) Not applicable.

(4) Any contract will be performance based and will be closely monitored. In addition, both legislative and procedural requirements govern the conduct of providers of the services.

LIQUID PETROLEUM GAS PRICE INQUIRY

592. Hon MARK NEVILL to the Leader of the House representing the Minister for Energy:

(1) Has the minister or the Office of Energy lodged a submission to the inquiry on liquid petroleum gas prices being undertaken by the Australian Competition and Consumer Commission?

(2) If yes, will the minister table this submission?

(3) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) No.

(2) Not applicable.

(3) The Coordinator of Energy has met with the Australian Competition and Consumer Commission's representatives involved in this informal inquiry. During the meeting the Coordinator of Energy assisted the ACCC with information available to him in relation to the inquiry. This cooperative approach has been taken when assisting previous inquiries by the ACCC.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, COMPLIANCE WITH MINISTERIAL CONDITIONS

593. Hon CHRISTINE SHARP to the minister representing the Minister for the Environment:

In fulfilment of condition 18 of the 1992 ministerial conditions on the Department of Conservation and Land Management's implementation of its forest management plans, and in accordance with a statement by the Environmental Protection Authority dated 18 September 1996, the EPA has been preparing a report setting out its advice to the minister on CALM's compliance with the ministerial conditions.

(1) Has the minister been provided with the EPA report on CALM's compliance?

(2) If yes, when did the minister receive the EPA report?

(3) Has the minister been provided with draft versions of the EPA report; and, if yes, how many draft versions has the minister viewed?

(4) Has the minister met with the Chairman of the EPA within the past 30 days to discuss drafts of the EPA report?

(5) If yes, have issues in dispute between the EPA and CALM concerning compliance been discussed at those meetings?

(6) Has the minister discussed or recommended changes to any draft of the EPA report?

(7) Has the minister met with the Chairman of the EPA within the past 30 days to discuss the completed EPA report?

(8) If yes, have issues in dispute between the EPA and CALM concerning compliance been discussed in those meetings?

(9) Has the EPA's report or drafts of the report been referred to the Crown Solicitor's Office for an opinion?

(10) If yes, will the minister table this opinion?

(11) When will the EPA report be released to the public?

(12) Will the advisory committee's report to the EPA be released as part of the EPA report?

(13) Will the minister now table the EPA report and the advisory committee's report to the EPA?

(14) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) At 5.45 pm on 11 November 1998.

(3)-(4) No.

(5) Not applicable.

(6) No.

(7) Yes.

(8) No.

(9) Yes.

(10) No.

(11) Shortly.

(12) Yes.

(13)-(14) The standard process with respect to the publication and release of EPA reports will be followed.

The PRESIDENT: Before I call Hon Kim Chance to ask the next question, I advise that Standing Order No 140 makes it clear that questions shall be concise. Asking a 14-part question is not complying with the standing order. More than that, as approximately 30 minutes only are allowed for questions without notice, questions of that length impinge on the opportunity for other members to ask a short, sharp and concise question. If members have questions with that many parts, it seems appropriate for them to be placed on notice. As it happens, the answers were very short and concise. It is members' question time, but Hon Christine Sharp has cut a few people out of question time today.

GERALDTON REGIONAL HOSPITAL, ORTHOPAEDIC SURGEON

594. Hon KIM CHANCE to the minister representing the Minister for Health:

(1) Is the Minister for Health aware that the only orthopaedic surgeon in Geraldton is limited to one theatre day per week due to funding restrictions?

(2) Is the minister also aware that this limitation on the surgeon's ability to deal with his caseload has led to an increasing waiting list, which includes one patient who chipped a bone in her knee on 27 October and must wait until 15 December for surgery?

(3) In the light of these increasing financial and waiting list problems at Geraldton Regional Hospital, will the minister urgently review the hospital's funding arrangements for the current year, so that people in the mid west can have an assurance that basic theatre services will be reasonably available?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The orthopaedic surgeon resident to Geraldton Regional Hospital has only ever had one theatre day per week. Limitations on elective surgery for the orthopaedic surgeon resulted in a reduction of one and a half hours per list. This occurred in March 1998. Through the operations of the central wait list bureau and the policy of the Health Department for procedures for patients to be done in their local communities, opportunities will arise for cases to be returned to Geraldton and undertaken by the resident orthopaedic surgeon. The Geraldton Health Service is negotiating on this matter presently. These cases will be additional to his current case allocation and will be funded as additional work for the health service.

(2) The prioritisation of patients for orthopaedic surgery is at the discretion of the clinician within his or her overall case allocation. Why did he not decide to do it? Should the nature of the case be deemed urgent or an emergency, the hospital will accommodate extra theatre time.

(3) The Health Department and the Geraldton Health Service have been negotiating the quantum memorandum of understanding. This has now been resolved and a new memorandum of understanding offered by the Health Department has been accepted and includes an additional $1.173m. This will ensure that the operations of the Geraldton Health Service will continue at current levels. Waiting list information provided by medical practitioners for orthopaedic and general surgery indicates an acceptable waiting period and the priority of the cases on the waiting list is determined by the clinicians themselves. The opportunity now exists for the Geraldton Health Service to reinvest efficiencies that are made from either workplace reform or work practice changes in the light of this additional funding into additional clinical activity.

HEALTH, WAITING LISTS

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

Given that in the months of July, August, September and October there was an increase in the teaching hospitals' waiting list for the number of cases admitted that month and the number of cases deleted that month -

(1) Will the minister advise for each month how many cases were deleted from the list because patients did not respond to the central wait list bureau questionnaire to all wait list patients?

(2) Will the minister table a list of the number of people deleted from the list and the reason for the deletion?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) The central wait list bureau has not deleted any patients from the elective surgery wait list who have not responded to the questionnaire sent to them. I seek leave to table a list of the number of patients deleted from teaching hospitals' elective surgery waiting list by reason for deletion.

[See paper No 482.]

REGIONAL FOREST AGREEMENT, PUBLIC CONSULTATION PAPER

596. Hon NORM KELLY to the minister representing Minister for the Environment:

(1) Does the minister consider the Regional Forest Agreement public consultation paper released earlier this year to be a draft RFA?

(2) Has the minister referred the public consultation paper to the Environmental Protection Authority for assessment under section 38 of the Environmental Protection Act?

(3) If not, why not?

(4) Does the minister intend to refer any other documents to the EPA for assessment prior to the signing of the RFA?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) No.

(3) The public consultation paper is not a proposal for the purposes of section 38 of the Environmental Protection Act.

(4) Not applicable.

CENTENARY FEDERATION GRANTS, MINING AND PASTORAL REGION

597. Hon GREG SMITH to the Leader of the House representing the Premier:

Which towns in the Mining and Pastoral Region have received centenary federation grants and what are those grants for?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

Kalgoorlie - $5m from the Federal Government and $2.5 from the State Government for the Prospectors and Miners Hall of Fame; Balgo Hills - $0.5m from the Federal Government for an art centre to support Aboriginal arts enterprises; Port Hedland - $0.295m from the Federal Government for Dalgety House heritage conservation; Perth to Kalgoorlie - the goldfields water pipeline heritage restoration received federal government funding of $1m; Boulder - interactive walk as part of Boulder redevelopment, State Government-WA 2001 project, $20 000; and Karlkurla - environmental project involving community restoration of minesite near Kalgoorlie, State Government-WA 2001 project, $10 000.

The WA 2001 community centenary project will conduct the second round of funding in February 1999, the third round in July 1999, and the final round in February 2000.

SOUTH WEST HEALTH CAMPUS, INTENSIVE CARE UNIT

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

Will an intensive care unit be located at the new health campus in Bunbury; and, if not, why will this major regional hospital not be equipped with the unit?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It is expected that high dependency nursing will be available at the South West Health Campus.

WORLD SWIMMING CHAMPIONSHIPS, HOSPITALITY BOXES

599. Hon KEN TRAVERS to the Minister for Tourism:

(1) Apart from the hospitality suite at the World Swimming Championships organised by EventsCorp, did any other agencies under the minister's responsibility have hospitality boxes?

(2) What other government departments or agencies, including government corporations, had hospitality boxes at this event?

Hon N.F. MOORE replied:

(1) Western Australian Sport Centre Trust.

(2) The Water Corporation and the University of Western Australia.

PASTORAL LEASES, EXCLUSIVE OR NON-EXCLUSIVE

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

With reference to exclusive pastoral leases granted in Western Australia -

(1) Will the minister provide a list of these leases, the dates each lease was originally granted, the dates the leases were recently renewed, the size of each lease, the name of the leaseholder in each case, and the annual rental for each lease?

(2) Is there a differential in the annual rental that applies to exclusive pastoral leases compared with non-exclusive tenure?

(3) If yes, how is the differential calculated?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Neither the current Land Administration Act nor previous laws under which pastoral leases are or were granted define whether a pastoral lease is exclusive or non-exclusive.

(2)-(3) All current leases are subject to the same terms, conditions and the manner in which rentals are determined.

NARROWS BRIDGE, RIVER DRILLING INVESTIGATIONS CONTRACT

601. Hon CHERYL DAVENPORT to the Minister for Transport:

BHP Engineering Pty Ltd has been contracted by Main Roads WA to undertake river drilling investigations for the duplication of the Narrows Bridge.

(1) What is the estimated value of the contract?

(2) How was BHP Engineering Pty Ltd selected for the contract?

(3) What are the commencement and completion dates for the contract?

(4) When will BHP Engineering provide a final report to Main Roads?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) $194 063.

(2) From a pre-qualified list of suppliers. BHP Engineering submitted the lowest price of the four firms asked to bid.

(3)-(4) The contract was awarded on 13 October 1998. The contract was completed with provision of a final report on 24 November 1998.

NATIVE TITLE LEGISLATION, APPOINTMENT OF SELECT COMMITTEE

602. Hon B.K. DONALDSON to the Leader of the House:

(1) Is the Leader of the House aware of public criticism attributed to Hon Tom Stephens that the Government is deliberately delaying a vote on the appointment of a select committee to investigate the native title legislation?

(2) If so, how does Hon Tom Stephens' position compare with public comments made by the opposition resources spokesman?

Hon N.F. MOORE replied:

(1) I am aware of the comments of Hon Tom Stephens. In a news report on radio stations 6WF today, the member accused the Government of deliberately delaying a vote on a motion by Hon Giz Watson. The government members who have spoken on this matter so far are very serious about it and are very anxious to ensure that their views are well known, just as are Hon Tom Stephens and other members of the Labor Party. They took up two or three weeks of the time of this House to debate industrial relations legislation. They talked until they just about could not talk any more. Any suggestion about filibustering on the part of the Government is absolute rubbish. Members on this side of the House are using their opportunity to explain to members that they do not support any further delays in this legislation.

(2) The news report also indicated that Labor's Resources Development spokesman, the member for Eyre, said that there is no need for an inquiry into the Government's native title Bills. The member for Eyre is also reported to have said that Parliament has the ability to come up with a workable compromise that will ease the difficulties faced by the mining industry. The report said that the member for Eyre is pushing for the Bill to be passed in the current state parliamentary session - as are members on this side of the House.

TAILINGS DAMS, OROYA AND FIMISTON I AND II

603. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice 1125 raised on 11 November 1997; a letter dated 20 August 1997 from Hon Norman Moore, with the reference 83694 83951 83933, which was addressed to Mr S. Kean; a letter from Mr S. Kean to the Ombudsman dated 10 December 1997; and a letter from the Ombudsman to Mr S. Kean, with the reference 27819:MA:AE:TE on 12 December 1997. In providing the answer to part 17 of the question on notice, the minister stated -

> The Ombudsman investigated these matters following a complaint from Steven Kean, a director of Optimum Resources. The Ombudsman commenced his investigations on 11.1.96 and terminated these on 27.12.96.

In fact, the Ombudsman did not conduct investigations into the Department of Minerals and Energy concerning the Oroya, Fimiston I and Fimiston II tailings dams and did not exonerate the Department of Minerals and Energy.

(1) Has the minister misled the Parliament in providing an answer?

(2) If so, will the minister apologise to the Parliament?

(3) If not, will the minister explain why not?

The PRESIDENT: Order! In that question the member has raised various arguments - almost a debate - about the issues being canvassed. Questions are meant to be concise and to seek facts; they are not meant to speculate on all sorts of other sundry matters. If any members want to talk to me about what should, or should not, be in a question, I am more than happy to discuss that at any time. I can only offer the member some guidance about raising debatable issues in questions.

Hon N.F. MOORE replied:

I thank the member for some notice of this question. Before I provide an answer, I am happy to offer the member a briefing on this issue at any time she likes. That will save her raising argumentative matter in questions.

(1)-(3) I am informed that in 1994 Mr Steven Kean lodged a complaint against the Department of Environmental Protection with the Ombudsman regarding the Oroya tailings dam. An investigation into this complaint was commenced by the Ombudsman; however, the complaint was withdrawn by Mr Kean in November 1995. In January 1996, the Ombudsman initiated an own-motion investigation into matters regarding the Oroya tailings dam. This investigation was terminated in December 1996 without a finding having been made. At the request of the Ombudsman, the Department of Minerals and Energy provided information to the Ombudsman about these matters during both of these investigations. The provision of this information to the Ombudsman led to a misunderstanding by the Department of Minerals and Energy that it was being investigated by the Ombudsman in these investigations. In fact, these investigations related to the Department of Environmental Protection and the Oroya tailings dam, rather than the Department of Minerals and Energy. This misunderstanding was reflected in my answer to part 17 of question on notice 1125.
