WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Wednesday, 18 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 TO REPORT ON BILLS REFERRED UNDER THE NATIVE TITLE ACT

Order on Notice Paper

HON GIZ WATSON (North Metropolitan) [2.03 pm]: I move, without notice -

> That motion No 5 regarding the appointment of a select committee to report on Bills referred under the Native Title Act appearing on today's Notice Paper be made motion No 1 for Thursday, 19 November 1998.

Hon N.F. Moore: Could the member read out that motion again?

The PRESIDENT: I will ask for a copy of it.

Hon N.F. Moore: You might explain to the member the rules concerning motions without notice.

The PRESIDENT: Hon Giz Watson has moved without notice that motion No 5 appearing on today's Notice Paper be made notice No 1 for Thursday, 19 November 1998. The standing orders provide that when a member is in charge of a Bill or another matter on the Notice Paper, that member is able to move without notice to have its priority changed on the Notice Paper. Standing Order No 128 states -

> Any Member may move without notice that any notice of motion standing in his name, or any order of the day of which he is in charge on the paper for that day, shall be a notice of motion or order of the day for some subsequent day. No amendment or debate shall be allowed on any such motion; but the Council may proceed to division thereon as in other cases.

Question put and a division taken with the following result -

Ayes (17)

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

Noes (16)

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

Question thus passed.

Suspension of Standing Orders

HON GIZ WATSON (North Metropolitan) [2.11 pm]: I move -

> That standing orders be suspended so far as will enable me to move the following motion -
>
> > That the question on motion No 1 for Thursday, 19 November be resolved at that day's sitting.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.11 pm]: The Government will oppose this motion vigorously, for several reasons. Firstly, we have just witnessed the use of a standing order that I cannot recall having been used in similar circumstances for a long time. However, it is legitimate, so I will not complain about it. People need to understand that the House has just decided that it may send the native title legislation to a select committee. If that is what the Opposition - the Labor Party, the Greens (WA) and the Democrats want to do - that is for them to wear -

Point of Order

Hon PETER FOSS: Mr President, I am sorry to have to rise on a point of order while my Leader is speaking, but Standing Order No 434 states that -

> When a motion for the suspension of any standing order appears on the Notice Paper, such motion may be agreed to by a majority of Members present.

Standing Order No 433 states -

> In cases which in the opinion of the President are of urgent necessity, a standing order of the Council may be suspended on motion duly made and seconded, without notice, provided that such motion be agreed to by an absolute majority of the whole of the number of Members.

I do not believe the second point has been raised; namely, whether the President has been satisfied that it is a matter of urgent necessity.

Ruling by President

The PRESIDENT: Order! It has been the custom in the past in respect of Standing Order No 433 for the House itself to make that decision. I intend to abide by the previous decision of the House. I have said also in the past that the standing orders are in need of revision. I have now received a copy of the first draft of the revised standing orders. However, they will, no doubt, need to undergo a fair bit of consultation and discussion before they come into effect. I do not intend to vary the custom of the House that the House make that decision. However, given that the House has just carried a motion which effectively has changed the course of the business of the House, this matter must be resolved now so that we will know where we are going. It is up to the House to make that decision.

Debate Resumed

Hon N.F. MOORE: The Labor Party, the Democrats and the Greens are putting in place a process whereby they hope to create a select committee, to which I suspect they will then send the native title legislation - hopefully, from their point of view, to oblivion. The people need to know what is happening in this place; and it is a pity that we could not debate the last motion, because we could not tell the people that what is happening in this place is that the Labor Party is getting into bed with its colleagues on the other side in order to frustrate and delay the native title legislation. It is as clear as the nose on my face that that is what members opposite are about. This is one occasion when the Labor Party has an opportunity to exercise the balance of power in this Chamber. The Greens and the Democrats do not want native title legislation. Members on this side want that legislation, and the majority of the community wants that legislation. The Labor Party is sitting in the middle with regard to the Titles Validation Amendment Bill. It wants to send that Bill to a select committee, but only for five minutes, so that it can keep the Greens happy on the one hand, and it can keep the mining companies happy on the other hand, or so it thinks. However, the Labor Party is now hopping into bed with the Greens and the Democrats, because it has agreed to the motion put today by the Greens to facilitate the creation of a select committee of this House to inquire into the native title legislation. It is interesting that this House agreed many months ago to set up a Select Committee on Native Title. Hon Tom Stephens was the chairman of that committee, which spent many dollars travelling around the world, and spent much time and energy, looking at native title issues, and which presented a very thick report, which I, and I suspect most members, have not had a chance to read yet.

Hon Tom Helm: A very good report!

Hon N.F. MOORE: It probably is. Members opposite now want another select committee. There is only one reason for that, and Hon Helm knows very well what it is, and his constituents will learn what it is: They want to delay, frustrate and make it extremely difficult for us to pass state native title legislation. It is all about delay and frustration, and about driving the mining and resources sector in this country to total distraction.

Hon Tom Helm: It is all about 7:0!

Hon N.F. MOORE: Members opposite should go and have a good look. They should stop hanging around the south west under the trees and go up to the north and to the goldfields, where people are crying out for this legislation. It would do them a world of good to see there is a bigger world than the karri trees in the south west. They need to ask the people who create wealth and enable this economy to operate what they think about native title legislation, rather than sit under a tree and say that we should just close down everything tomorrow. That is what they are all about. The Labor Party is getting into bed with the Greens and the Democrats, who do not care about the workers in the timber industry.

The PRESIDENT: Order! The motion is whether standing orders should be suspended to enable another motion to be put. The debate should be on that subject and not move into native title and other areas.

Hon N.F. MOORE: With respect, Mr President, this move to suspend standing orders is to allow motion No 5, which the House has now decided will be motion No 1 tomorrow, to be dealt with and resolved at tomorrow's sitting. That motion will, if passed, set up a select committee of five members to deal with native title legislation. The purpose of that motion is clearly to provide a vehicle by which the native title legislation can be sent to a select committee. The only reason for doing that is to delay, frustrate and get in the road of all of the people in Western Australia who want the Titles Validation Amendment Bill to be passed now. The native title issue has been around for six or seven years. If Hon Giz Watson does not know what the community wants by now, she will never know. It will make no difference at all if we send this legislation to a select committee. If members opposite are opposed to that Bill, they should put up their hands and say they are opposed to it, and

vote against it. They should stop delaying and frustrating. They should stop denying people the capacity to create wealth in this country and to develop residential blocks in the remote areas of Western Australia - places that members opposite do not even know exist.

Hon Bob Thomas: You are trying to do that.

Hon N.F. MOORE: Hon Bob Thomas will wear this as will his party - I will make sure it does. The Labor Party has an opportunity -

Several members interjected.

The PRESIDENT: Order! I ask members to please not interject, otherwise in a moment I will take some action which will lessen the numbers in this House. Please take that as a warning.

Hon N.F. MOORE: The Labor Party has an opportunity in this House now to tell the resources and productive sectors of this community and the remote towns and cities of Western Australia that it will go along with the Government's native title legislation, that it will accept the fact that a decision must be made now and that it will not continue to be part of this frustration and delay. In other words, its members should tell the Western Australian community that they are not in bed with the Greens or Democrats and that the tail is not wagging the dog as has been the case for a long time in this House. The Labor Party does not have the guts to stand up for the people in Western Australia when it comes to competition with the Greens and the Democrats for those special interest groups.

Hon Kim Chance: Are you writing our policy now?

Hon N.F. MOORE: One of the most unedifying things I see in this House is the three parties opposite treading on and fighting with each other for the few votes they get from the special interest groups around the State. It is appalling to watch them. They all want to be greener, browner, or greater supporters of the trade union movement than each other. Members opposite will wear it this time. We now have an issue on which the Labor Party has an opportunity -

Point of Order

Hon TOM STEPHENS: Mr President, you advised the Leader of the House of the terms of reference of the motion with which he is dealing. He is wilfully defying the Chair. You told the House that numbers in this House will be affected by such defiance.

The PRESIDENT: I have been listening carefully to what the Leader of the House was saying because I advised the House of the requirement to speak to the motion. In the main, the Leader of the House has done that. I concede that a few minutes ago he was outside the motion and I was about to draw his attention to that. I remind the Leader of the House and other members that there is a requirement to speak to the motion.

Debate Resumed

Hon N.F. MOORE: The motion is to suspend the standing orders of this House to allow a select committee to be established tomorrow. The effect of that will be simple: If we go along with this motion and suspend standing orders and Notice of Motion No 1 is dealt with, we could finish up tomorrow with a select committee of this House to deal with any Bills referred to it in the session which propose to enact law under or in reliance on the Commonwealth Native Title Act 1993. Members opposite are asking us to form a select committee to deal with the two native title Bills. I am saying to the House - if Hon Tom Stephens does not like it I can understand why - that here is an opportunity for the Labor Party to get on side with Western Australians and oppose these minority parties who want to impose their will on everything that occurs in this place.

The member who has moved the motion belongs to a party which has three members in this House, and about 5 per cent of the vote. She is telling 17 members on this side of the House, who have nearly half the vote, that her party should have its own way on the most major piece of legislation, apart from the School Education Bill, before this House this session. No wonder Hon Tom Stephens does not like my telling the Labor Party it holds the balance of power on this issue. The Government is putting up the Bill. The Democrats and Greens say they are opposed to any change to native title. We saw what they did in the Federal Parliament. They think we should allow native title to exist as it does, notwithstanding all the problems it creates for the mining, resources, agriculture and residential sectors across the board.

We want to change that so that people have certainty. By voting against the suspension of standing orders the Labor Party has a chance of preventing any further delay in the passage of these Bills. Labor members have a golden opportunity to tell these minority groups that they are not the tail wagging the dog, that in fact Labor Party members can make up their own minds and do not have to go along with them on this matter. If they want to get on side with the vast majority of Western Australians, they should get on our side.

Hon Ljiljanna Ravlich: That is what you usually tell us.

Hon N.F. MOORE: Labor members hold the balance of power this time, but that is not always the case. I am saying to

Labor members in the most persuasive terms I can that if they do not support us on this, they will wear it not only in regional Western Australia but also right across the State. They do not have too many members in the bush now.

Hon Tom Helm: Get on with the motion.

Hon N.F. MOORE: I will have my say. I will feed the chooks like Hon Tom Helm does.

The PRESIDENT: Order! I am not sure the number of members in the bush of any party is relevant to the suspension of standing orders for the purpose of determining whether the question on Notice of Motion No 1 for Thursday night, 19 November, be resolved at that day's sitting.

Hon N.F. MOORE: Again, with respect, Mr President, I am trying to convince the Labor Party to vote against this suspension of standing orders. The suspension of standing orders is being sought to create a select committee to examine native title Bills. The best way I can persuade Labor Party members to vote against this is to tell them the consequences of their voting for it. If they vote for it, regional Western Australia will throw out the rest of their members as they have in the past.

Hon Ljiljanna Ravlich: What does that have to do with the motion?

Hon N.F. MOORE: It is very important. The fact that Hon Ljiljanna Ravlich lives in the East Metropolitan Region - I almost made a mistake; she does not live there at all -

Hon Ljiljanna Ravlich: So what? Big deal. Are you so desperate?

Hon N.F. MOORE: It would be very helpful to the member if she got out of her office here and visited Karratha, Kalgoorlie, Kununurra and Broome and asked what the people there think about native title legislation. If she asks they will tell her in no uncertain terms that her party will not get one vote in the bush unless it goes along with the Government on this. If Labor members go along with the Greens and vote for this motion, they will be doing themselves a grave disservice. I am trying to help members opposite make the right decision.

Hon Tom Stephens: You would help us sufficiently if you sat down and allowed me to respond.

Hon N.F. MOORE: I look forward to the response of the Leader of the Opposition. I am happy to conclude my remarks now. I have made the point as clearly as I can that this is another attempt by the minority parties to take control of major legislation in this State. The only way they can do that is with the support of the Labor Party. They want to suspend standing orders to establish a select committee to stop serious progress on the native title legislation. If the Labor Party goes along with them it will be forever condemned in regional Western Australia because the people there want the native title legislation passed now, as do the vast majority of people in the city. Any attempt to have this sent to a committee where it will be buried forever, as the Greens and Democrats want to happen, is not what the Western Australian public wants. I vigorously oppose this motion. The purpose of this attempt by the Greens is as clear as the nose on my face: It is to frustrate, delay or stop legitimate legislation that all Australians want passed now, not in six months time.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.29 pm]: I appreciate the Leader of the House's advice. However, that advice is superfluous to the Opposition's needs. It understands its position as a party very well in reference to the debates facing the House in the handling of difficult questions of native title. The Opposition's position is this: It recognises that it has the task of not simply sloganeering in this debate but of doing the hard yards in the debate in front of us; that is, to ensure that it does not rely upon a Government whose track record in this area has failed the people of Western Australia miserably.

Several members interjected.

The PRESIDENT: Order! I trust the Leader of the Opposition is speaking to the motion before the Chair.

Hon TOM STEPHENS: Indeed, Mr President. If the motion to suspend standing orders is carried, it will give the native title Bills a mechanism of expeditious treatment.

Hon Peter Foss interjected.

Hon TOM STEPHENS: Can the Attorney General not read? The position of the Labor Party on the Titles Validation Amendment Bill is that it would support a short, sharp referral of that Bill to a select committee, with a prompt report-back date as provided for by the notice of motion of Hon Giz Watson, which is the fifth motion on the Notice Paper. Pursuant to part 4 of that motion, there would be an opportunity for that Bill to be referred to that select committee - if it was established - with a report-back date which would return the Bill to the House before Christmas with a view to ensuring that urgent titles validation can be expedited through the Parliament. It is an offer from the Labor Party to allow the Government a chance to deal expeditiously with that legislation.

Point of Order

Hon PETER FOSS: I am having great difficulty determining from what the Leader of the Opposition is saying whether he

is speaking for or against the motion. The motion is that we suspend standing orders. If he could indicate whether he is in favour of or against the motion, I might be able to follow the logic of his remaining comments. At the moment, I do not know whether he is supporting or opposing the suspension.

The PRESIDENT: Order! I appreciate the point of order but I do not know that I have any power to require a member to indicate what he feels about a motion. I must ensure that the member is speaking to the motion to suspend standing orders. The Leader of the Opposition may have transgressed slightly but no more than the Leader of the House. I must manage this place in a reasonable way. The Leader of the Opposition knows the rules and knows he is meant to be speaking to the suspension of standing orders motion.

Debate Resumed

Hon TOM STEPHENS: If this motion to suspend standing orders is carried, it will allow these important Bills to be handled expeditiously. The Labor Party has not yet made a decision about whether to refer the second bill, the Native Title (State Provisions) Bill, to a select committee or this select committee.

Hon Simon O'Brien: Then how can you debate it to finality tomorrow? That is what this motion is about.

Hon TOM STEPHENS: Obviously, the member has not read the motion. If he does so, he will see that the motion will establish the conditions precedent. Therefore, if the House is of a view to refer one, two or three of the native title Bills to that select committee, the conditions precedent will have been met and there will be a select committee to send them to. However, the Labor Party also understands the standing orders of this place. It knows that the motion to suspend standing orders can only be carried with the support of an absolute majority. Although members opposite may not have counted the numbers in this place, the Opposition does so regularly and it knows that the motion to suspend standing orders can be carried only with the support of one or a number of government members. I suggest the Government consider its position seriously. It has positioned before it - courtesy of one of the minor parties, nonetheless elected by the people of Western Australia - a device whereby these Bills can be dealt with expeditiously. The Government's bona fides are on test. If it wants this legislation to be subject to scrutiny and analysis so that it can be fireproofed by appropriate amendment to ensure that it can withstand the various tests through which it must pass - the support of the legislators in this place, the approval of a federal minister, the support of a Senate and a High Court challenge - which the Government's legislation to this point has not succeeded in doing, it should support this motion. In view of all the hurdles through which this legislation must pass -

Hon Ken Travers: And its track record.

Hon TOM STEPHENS: And its track record. The Government is clearly not the font of all wisdom. It has failed the people of Western Australia miserably. The Government has in front of it a device which gives it a chance of improving the prospects of giving the people of Western Australia certainty, workability, equity and justice in the handling of native title questions of law. Give the people of Western Australia a chance for goodness sake! They want some certainty. The Government is not offering them that yet. Give the legislators in this place - all of us - the chance to support this motion to suspend standing orders so that, in turn, there will be a condition precedent which will allow for the referral of those Bills which the House considers appropriate to a select committee for expeditious treatment. The Labor Party is of the view that this motion should be carried, but it recognises that that can only happen with the support of the Government or at least a government member. I hope there are people on the other side who understand the complexity of the period through which we are about to pass.

Hon B.K. Donaldson: You are being ridiculous.

Hon TOM STEPHENS: What? That anyone on that side of the House would understand? I am accused of being ridiculous for suggesting that anyone opposite would understand.

The PRESIDENT: Order! I am waiting for the House to come to order, and I will wait if it takes until 6.00 pm. I assume the Leader of the Opposition is winding up because he is getting off the motion.

Hon TOM STEPHENS: I am winding down. I understand the challenge facing the Australian Labor Party. We will do our job to ensure that this Parliament has available to it the best prospects of producing workable, certain, equitable legislation for all the people of Western Australia. That can best be achieved by the Government supporting this motion to suspend standing orders. It does not require the House to be subjected to a filibuster which would deny the opportunity for this motion to be considered.

HON PETER FOSS (East Metropolitan - Attorney General) [2.40 pm]: I cannot allow this debate to pass without drawing to the attention of the House that the effect of what has occurred today will be to take the business of the House out of the hands of the Government. I notice that the Opposition now finds this funny. It was not a matter that Hon Joe Berinson found funny, nor that we, as an Opposition, treated lightly. We have always respected the right of a Government to handle the business of the House. I heard Hon Ken Travers announce a new era in which the Opposition had the majority in this House, as if that was totally different from whatever happened before, whereas the coalition parties have for many years had a

majority in this place, through successive Labor Governments. One of the important points about that is that we allowed Governments to govern and to run the business of the House, because we happen to think that is important. It is true that there has been a change: We now have an irresponsible Opposition as opposed to a responsible Opposition. The difference is not that the majority is against the coalition Government in this House, but that the majority does not know how to behave.

Several members interjected.

Hon PETER FOSS: Members opposite do not like that, but they must listen to it. Members opposite must understand that as members of Parliament they have responsibilities to allow the business of this State to carry on. I have no problem with members opposite disallowing legislation - that is an entitlement of legislators. However, as the Government we are entitled to bring forward legislation to allow the country to be governed and for people to know where they stand. The Government's view is that it is important that the native title legislation pass through this Parliament, in whatever form. If members opposite choose to change it so that it is unworkable and unacceptable to the majority of Western Australians, so be it. Members opposite will have to explain to the electors at the next election why they did what they did to the legislation. However, the Legislature should not interfere in the capacity of this Government to govern. The Government has the right to say that this legislation has priority, and it should be dealt with. Members opposite may not pass the legislation - that is their right as legislators. However, as the Government - the people who must put our names on the line for what happens in this State - we have the right to say that we may bring legislation before the Parliament, and we require members to deal with it. That is why it has always been that the Government controls the business of the House. It has nothing to do with numbers, but the fact that a Government is entitled to govern. We were elected to govern. In this House, 17 coalition members were elected by the people of Western Australia with a 54 per cent majority on a two-party preferred basis - and in the lower House, we were elected to govern. Members opposite were not elected to govern, we were. The only reason members opposite happen to have the numbers at the moment is because the President is elected from our supporters, and under the Constitution the President does not vote. However, the people of Western Australia elected 17 coalition members in this House, and they expect to have a coalition Government. Members opposite can throw out the unwritten constitution - why not! It has been tried and tested throughout the British Commonwealth for hundreds of years, but members opposite can throw it out because they do not agree with the Government controlling the business. That is fine. Members opposite can make that statement. However, they should keep something in mind. I say this particularly to the Labor Party, because the Greens (WA) and the Australian Democrats will never govern. However, the Labor Party might just become the Government. It may be that it is totally impossible, but at least members of the Labor Party should contemplate the possibility that it might govern - at least it should hope that one day it will govern. It may be that the Labor Party has given up all hope of ever being in government again, and it does not care.

Point of Order

Hon J.A. SCOTT: Is that relevant to the terms of the motion that is before the House? I do not know whether the motion is about who is in government.

The PRESIDENT: Because other members were keen to present points of view, I listened carefully to what the speaker was saying. I have listed six points so far, the last being the right of a Government to govern. The Attorney General is addressing the matter of why the House should or should not vote for the motion. He has not entered into the issue of native title, political party status or whatever - except for a passing reference. At the moment the Attorney General is well within the bounds of the motion

Debate Resumed

Hon PETER FOSS: Every time the House votes to suspend standing orders and to take business out of the hands of the Government, we are creating a precedent for the future behaviour of the House. Therefore, my appeal is not so much to the Greens or the Democrats but to members of the Labor Party who in the future may have the responsibility of governing this State. If their votes in this motion pass a measure which changes the unwritten constitution of this State and begins the process of taking control of the House away from the Government, they will do a disservice to the people of Western Australia. A vote for this motion is a disservice to the people of Western Australia, because it is a vote against the capacity of a Government to govern.

Members opposite might think it is a lighthearted matter, and they can do it because they will lose anyway, because they do not have an absolute majority. One of the reasons I was keen to hear from the Leader of the Opposition whether he supported the motion, was that I believe it is far more than just the particular Bills that are being referred to, it is a vote about the process of the House, the Constitution of the State, and the capacity of Governments to govern. The Government believes that it is important to bring these Bills before the House so they can be resolved one way or the other. If this House sends the Bills off to a committee there will be two results: One, it will delay the capacity to tell the people of Western Australia at an early stage what their Legislature has decided - and as a Government we believe that is important; and, secondly, it will restrict the right of the people in this Chamber to speak on it. Hon Tom Stephens said that he wanted everybody to discuss those Bills, but he wants to send them off to a committee. We know what the result of that will be. The Bills will be sent to a group of five people, and at this stage we do not know who those five people will be. I suspect

members opposite may have in mind that it not be a majority of the Government. Members opposite intend to send the Bills off and to restrict most of the debate to five out of 34 members. By suspending standing orders not only have members opposite deprived the Government of the right to run the business of the House, they intend ultimately to deprive members of the House of the opportunity to debate the Bill fully in committee. For all those reasons this is a disgraceful motion. I am also mindful that this debate may go on for some considerable time, knowing full well that it will be lost because members opposite do not have an absolute majority.

Adjournment of Debate

Hon PETER FOSS: Accordingly, I move -

That debate be adjourned to the next sitting of the House.

Question put and a division taken with the following result -

Ayes (16)

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

Noes (17)

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

Question thus negatived.

Debate Resumed

HON CHRISTINE SHARP (South West) [2.52 pm]: I am surprised at the Government's opposition to the suspension of standing orders on this matter. This resolution of this motion will allow a motion to be debated that the native title legislation be resolved within one day; that is, that that motion be treated as a matter of urgency. It seems to me that everything we have heard from the Government in the past half an hour is about how urgent this matter is; therefore, I do not understand why the Government should not concur that this matter should be resolved as quickly as possible. When it is resolved as quickly as possible, as everybody would like to see, the motion will be moved that the Titles Validation Amendment Bill go to a committee of this place.

Why would the Government oppose such scrutiny? When the Attorney General spoke about overturning convention, he spoke as though we were seeking to do something extraordinarily radical and dangerous in this place in relation to the native title legislation. We are simply suggesting that that legislation go to a committee for scrutiny. In addition, as the Leader of the House has already informed us, over the past year a select committee of this House has looked at matters relating to native title and produced a full and important report on the matter. We are suggesting quite simply that this Chamber should build upon the expertise that has been gathered during this 12-month exercise to bring the best possible scrutiny of all parties to the proposition that illegal acts which took place some time ago and which are potentially challengeable under common law should be validated only in a way which is no longer challengeable and which is fair and equitable to all Western Australians, not just certain sections of the Western Australian community and those who are largely, and unfortunately, being driven by much wider, economic agendas than matters of principles for the rights of indigenous people.

A select committee is obviously a sensible option. We are not bringing a radical, ridiculous proposition to the House. It is a very sensible proposal and it is the Government that seems to be behaving in a hysterical way about this, as if we were proposing to burn the place down. A select committee is considered to be essential by the Western Australian Native Title Working Group on behalf of all Aboriginal people in this State. Do we not at least owe it to the Aboriginal people of our State to look at that matter carefully over a few months, to make sure we are not taking away their rights? The notion of a select committee is also supported in writing by the Law Society of Western Australia, which, from its legal expertise, is of the opinion that there are considerable legal problems with the Titles Validation Amendment Bill which must be sorted out. We are suggesting full and proper scrutiny by a committee. Whether the Government likes it or not, that is a very proper process; yet it is behaving as if we are being unreasonable. That is simply revealing its vested interests in this matter and its desire to -

Hon N.F. Moore: The vested interests of the vast majority of Western Australians.

Hon CHRISTINE SHARP: I wonder whether the Leader of the House has any way of substantiating the claim that the

Government is speaking on behalf of the vast majority of Western Australians. How can he substantiate that claim? My colleagues and I have also been elected to this place to represent some of the people of Western Australia, and those people are expecting us to do everything we can which is right and proper to stand up for certain principles and to make sure this House is not party to the unfair and long-term extinguishment of native title rights. We are very proud of that fact. There are many people in the community -

Several members interjected.

The PRESIDENT: Order! I am trying to listen to the member to hear whether she is talking to the motion.

Hon CHRISTINE SHARP: In the other place the member for Albany, in speaking to the debate on the native title validation -

The PRESIDENT: Order! The member cannot allude to debates in the other House in the same session. The member is meant to be speaking to whether standing orders should be suspended to enable the other motion to be moved.

Hon CHRISTINE SHARP: I have made the gist of the issue clear to the House, that we concur with the Government that this matter needs to be expedited. We are moving for the suspension of standing orders so that this matter may be resolved by the House tomorrow and may then be moved forward to a committee. We stand for that being a very right and proper process.

Hon Greg Smith interjected.

The PRESIDENT: Order! Hon Greg Smith. Before I call Hon Helen Hodgson, for those members who are concerned about the one-hour rule, we are now debating something which is outside the routine of business - that is, the suspension of standing orders. This motion is not caught by the one-hour rule.

HON HELEN HODGSON (North Metropolitan) [3.02 pm]: I will be brief because I realise the House needs to debate a number of matters this afternoon. I support the suspension of standing orders. Given the processes of this House, it is the only way in which it is possible to establish a select committee which will report back to this Parliament in a timely manner. In saying that, I do not agree with the position the Australian Labor Party has put on the record; that is, the committee needs to report back before Christmas. I do not believe that the matter should be resolved in unseemly haste. We need the opportunity to review the issues properly. However, the processes of this place and the order of business are such that, if the matter is not resolved within the next day, the normal routine of business will overtake the possibility of this motion having any chance of success. For those reasons, it is important that we debate the motion thoroughly at the earliest possible opportunity. The Australian Democrats support the suspension of standing orders.

Question put and a division taken with the following result -

Ayes (17)

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

Noes (16)

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

The PRESIDENT: As the suspension of standing orders requires an absolute majority and an absolute majority is not present for the ayes, that motion is not carried.

Question thus negatived.

ACTS AMENDMENT (MINING AND PETROLEUM) BILL

Introduction and First Reading

Bill introduced, on motion by Hon N.F. Moore (Minister for Mines), and read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [3.06 pm]: I move -

That the Bill be now read a second time.

This Bill proposes to amend the Mining Act 1978, the Petroleum Act 1967 and the Petroleum (Submerged Lands) Act 1982. The amendments contained in this Bill are important initiatives of the Government as they will assist the mining and petroleum industries in title administration.

Part 1 simply contains the short title for the Act and how it will commence operation. Part 2 contains amendments to the Mining Act 1978 as follows: It provides for a general purpose lease to be granted over an area in excess of the standard 10 hectares. This change will allow major mineral resource projects, which require secure title over larger areas for their infrastructure, to apply for one lease rather than multiple leases. The standard 10 hectares will still remain however, and any party wishing to apply for a larger area will need to demonstrate that there are satisfactory reasons for a larger area.

It provides that when the holder of a mining tenement transfers that tenement, any lease application previously made in substitution for that tenement will be transferred at the same time to the incoming party. For commercial reasons the holders of these primary tenements may wish to transfer their tenements, but currently there is no provision to also transfer the substitute lease applications. The transfer of one without the other creates legal problems and causes uncertainty, factors which have been accentuated by the long delays in having leases granted because of native title.

It provides that a condition may be imposed on the grant of a mining tenement or at any subsequent time requiring the lodgement of a security. This security will be held to ensure that proper environmental and rehabilitation measures are undertaken following the completion of any exploration or mining activity.

Currently a retention licence is granted to protect a delineated mineral resource that is considered uneconomic at present or is held for future ore reserves. To ensure that satisfactory investigations on the viability of the resource are carried out on a regular basis, provision has been included that requires the holder to undertake a specified work program over a given period.

It provides that a general purpose lease may be renewed for further periods of 21 years beyond the initial 42 years. There is currently only provision for one renewal of 21 years. This could be a problem in the future as there is no apparent avenue for continuity of tenure beyond 42 years. This change will bring general purpose leases into line with similar provisions applying to mining leases.

I now move to those parts of the Bill which relate to petroleum legislation. Part 3 of the Bill amends the Petroleum Act and, as mentioned earlier, is intended to improve the administration of petroleum titles. A provision has been included that extends the authority of a petroleum title to encompass reserved land. Currently, before reserved land can be included in a petroleum title, consultation is held with the vested authority and then the reserve is proclaimed crown land for the purposes of the Petroleum Act. This proclamation procedure, however, is seen as an act invoking the "right to negotiate" process of the Native Title Act even if that process had already been followed up to the grant of a title. By redefining "crown land" in the Act to include reserved land, the requirement to submit the title to the Native Title Act process more than once is removed. Reserved land will, however, remain protected because a system of formal consultation with the minister responsible for the reserve prior to any petroleum activities being allowed has been introduced into the Act.

The Bill also provides for the 12-month term of a drilling reservation with its discretionary renewals to be replaced with a three-year term plus a one-year extension as a matter of right where all conditions have been observed. This increased term is a more realistic period to plan for and undertake a drilling program.

Finally, a new provision has been included which will enable sensitive areas within a petroleum title to be protected by the imposition on the title of conditions which will prevent the holder from entering those areas.

Part 4 of the Bill amends the Petroleum (Submerged Lands) Act 1982. In this part some amendments have been included to reflect certain amendments to the Commonwealth Petroleum (Submerged Lands) Act 1967. There is a need under the Offshore Constitutional Settlement to maintain a commonality of codes and these largely clarifying amendments achieve that.

The Bill has been considered, and is supported, by both the Australian Petroleum Production and Exploration Association Ltd and the Mining Industry Liaison Committee. The Mining Industry Liaison Committee comprises representatives from the Chamber of Minerals and Energy of WA Inc., the Association of Mining and Exploration Companies Inc., the Australian Mining and Petroleum Law Association Ltd, the Amalgamated Prospectors and Leaseholders' Association and the Department of Minerals and Energy.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

SCHOOL EDUCATION BILL

Committee

Resumed from 17 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.

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

> That the amendments recommended by the Standing Committee on Public Administration be read into and deemed part of the Bill.

Hon LJILJANNA RAVLICH: Yesterday the Leader of the House pointed out that the Bill has 240 clauses. He was disappointed that 140 amendments have been proposed by the Standing Committee on Public Administration, the Australian Labor Party, the Australian Democrats and the Greens (WA). It is no surprise that on some of the fundamental issues the Government's policy is markedly different from the policy of other parties in this place. Some of these matters are of concern to us; that is the reason for the public administration committee having representatives from each of the political parties in this place. It is also a key reason why the Labor Party has proposed a number of amendments to the legislation.

I assure the Leader of the House that the drafting of 140 amendments has not been done purely and simply because members in this place have nothing better to do. I assure him that I have many better things to do than draft amendments which he deems unnecessary or, as he believes, as a vehicle to frustrate the Government's legislation. That is not my intent. My intent is to ensure that we achieve good legislation as a result of this process. The Labor Party's amendments address areas of policy weakness in the legislation. Although there are 140 amendments, many of those amendments were progressed in the other place by the Government through the use of its numbers there.

Hon N.F. Moore: It has a majority of members, which is why it is the Government.

Hon LJILJANNA RAVLICH: It has a majority of members. However, the bottom line is that if the Government had been interested in reaching a compromise and accepting some of the arguments that the Labor Party proposed in the other place, we may not have ended up with 140 amendments to deal with in this place. If the Leader of the House is surprised that there are currently 140 amendments to be addressed, that is a large part of the reason we are now looking at these 140 amendments. The Leader of the House is correct: We on this side are not the Government. However, we are representatives of the people who have put us in this place. This Chamber has a very important function to exercise in its role as the House of Review. I am pleased that this Chamber, for the first time in history, has been able to exercise that function. I assure members opposite that we will do whatever is necessary to protect the educational interests of students, parents and communities and we will exercise our role as members of the House of Review in order to achieve the most positive outcomes for those stakeholders.

The Leader of the House should thank us for our work. He should not be as negative as he is, something which he continually alleges that I am. He should be saying that the committee has done a very good job. It has recommended some excellent amendments. He should be thanking the other members in this place who have gone out of their way to study the legislation in great detail in order that they could recommend amendments which will enhance the legislation rather than take anything from it. He should recognise the reality that the Government has on its agenda many other pieces of legislation which it deems to be of high priority. Therefore, he should accept that the most effective way of dealing with this situation is to support the amendments recommended by the public administration committee and support the suggestion that they be read into and deemed part of the Bill.

I remind the Leader of the House that not only do we have before this place the School Education Bill, which I am confident will take the best part of two weeks to debate, but he wants to deal also with the Gas Pipelines Access (Western Australia) Bill, the Attorney General's law and order package, the mutual recognition legislation and any Bills that have timing as an issue, including the Government Financial Responsibility Bill and three native title Bills. We have four weeks of sitting to deal -

Hon B.K. Donaldson: Six.

Hon LJILJANNA RAVLICH: Four or five. There may be an extension.

Hon B.K. Donaldson: Make it six.

Hon LJILJANNA RAVLICH: I am happy to keep going. However, the bottom line is that the Leader of the House is running an argument that we should consider the public administration committee's amendments clause by clause. That is not an efficient way to operate.

Hon N.F. Moore: Why are you so frightened about them being scrutinised?

Hon LJILJANNA RAVLICH: I am not frightened at all about them being scrutinised. I am saying that if the Leader of the House wants to progress other legislation in this place - and the Government's agenda has been put on record - the most efficient way to deal with this Bill is for the proposed amendments of the public administration committee to be read into and deemed part of the Bill.

The Leader of the House also questioned a few minor problems relating to some amendments. He alluded to clause 22, which contains a slight drafting problem. The Opposition intends to recommit clause 22 at the end of the committee stage,

before the third reading. This amendment is not a major reconstruction of clause 22. We have given the Catholic Education Commission and the Association of Independent Schools an assurance that we will seek the support of our colleagues in the Greens (WA) and the Australian Democrats to address that problem.

The Education Act is more than 70 years old. If the new Act will not be substantially better than the old Act, what is the point of this process? Hon Derrick Tomlinson the other day read an extract from the 1928 Act which I said sounded awfully familiar. When Hon Christine Sharp compared the old and the new legislation, it was evident that no major progress has been made in many areas. This Bill must be a substantial improvement on the 1928 Act.

The Labor Party is aware of the time limits on the House. Therefore, it fully supports the motion before us. The Australian Labor Party will not compromise on the quality of this Bill, which must reflect principles of access, equity, involvement, review and natural justice. We will not be a party to the intent of the Leader of the House to unravel the work of the Standing Committee on Public Administration.

Hon N.F. Moore: How can I do that?

Hon LJILJANNA RAVLICH: The clauses were dealt with by the committee. This motion should be supported in the interests of not only Western Australian school children, parents and communities, but also all stakeholders in education in this State.

Hon B.K. DONALDSON: I have been enlightened this afternoon. First, I heard that the Government has the numbers in the other place! That is how I thought it worked. That was a revelation! The coalition has more numbers in the other place; therefore, we must be in government. I wish Hon Ljiljanna Ravlich would go away and consider that remark. We are talking about a House of Review. I indicated in this place some time ago that I was very unhappy with Standing Order No 234, and nothing has changed my mind. I am disappointed that we have allowed it to evolve from a sessional order into a standing order. Its intention is not reflected in the standing order.

As indicated by the Leader of the House, a number of amendments proposed by the Standing Committee on Public Administration will be accepted by the Government. However, it is not appropriate to accept the report cart blanche as that would not be operating as a House of Review. Frankly, the Leader of the House should be given the opportunity to identify the amendments which the Government is prepared to accept. Many amendments are proposed, both by the public administration committee and by other members of the Chamber. That in no way reflects upon the good work of the public administration committee. I believe in committee work. However, we are proposing to take a step too far which would abrogate the responsibility of every member of this Chamber on a Bill of great importance by not considering every clause. The Leader of the House has said that he will accept amendments to certain clauses. Some amendments were tried on in the other place and did not succeed because, lo and behold, the Opposition found that it did not have the numbers! Maybe we need to draw some pictures to explain to Hon Ljiljanna Ravlich why the Opposition does not have the numbers in the other place!

It is very poor that under Standing Order No 234(2)(a) the Chairman is obliged to put the question for the adoption of the entire report. I am not against standing orders; however, Stranding Order No 234 is in dire need of review. It was never intended to operate in this way. I ask members to approach the Bill in the manner the Leader of the House suggested in his contribution on this motion yesterday evening; namely, to allow the Government to indicate which parts of the public administration committee's report, and its schedule of amendments, the Government will support, and those it will not support. We should then progress from that point. To take the proposed amendments en bloc would be irresponsible with a Bill of great importance.

Other members may agree with many of those amendments. Many others will not. We are a House of Review. As a member of this place, like all other members, I must have the opportunity to make my case for each provision. Other members promoting amendments should be heard. Hon Helen Hodgson should not forget the difficulty she had in the past in this regard. She discovered the difficulty which can arise for members in this place. I ask members to reflect on these points before casting their vote. The schedule of amendments from the committee can be accommodated, but not in a bloc form as proposed under Standing Order No 234(2)(a).

Hon HELEN HODGSON: I support the committee process. Members of the Standing Committee on Public Administration, in dealing with a Bill of this size, found it to be valuable to strip away some of the peripheral matters and focus on the core issues when developing the recommendations and amendments now before the Chamber. I acknowledge that a relatively new standing order is being applied in this motion, and that custom and usage are being developed in its application. However, many aspects of the School Education Bill process are untried ground. My intention throughout consideration of this motion is to facilitate the process of dealing with the Bill. If the standing order is a way of facilitating that process, so be it.

I will ask the Leader of the House a number of questions, some of which were mentioned by Hon Bruce Donaldson. A significant number of amendments are proposed by the Standing Committee on Public Administration. This is not a simple Bill and a number of aspects were involved in developing these amendments.

I understand the Government has no problem with some of these amendments. I would be interested to know how the clauses brought forward from the committee can be separated into those about which the Government is not concerned and will accept with minimal debate, those it is concerned about because of technical deficiencies, and those it is concerned about because of policy matters. I need that information to determine the best way to facilitate debate on this Bill. I have not had an opportunity to speak with the Leader of the House today about this, but I have indicated to his adviser that I will seek that information. Alternative ways are available to deal with contentious amendments. One is as a consequence of the situation that arose to which Hon Bruce Donaldson referred, whereby the standing order was amended because I found I was unable to ask questions on a particular matter. There are procedures whereby matters can be raised even if the standing committee in question has decided it has no problem with the issue. There is provision in the standing order for clause 1 to be used to canvass issues even though the committee report has been adopted. Another facility available is to put the amendments on the Supplementary Notice Paper. I note that two or three amendments have been placed on the Supplementary Notice Paper by the Government. In the last couple of days people have referred to the number of amendments proposed by the various opposition parties which the committee has put together; however, I understand there may be alternatives that the Government wishes us to consider. I have no idea whether there is any truth in that or what the form of those amendments may be. Some criticism was levelled at Hon Christine Sharp yesterday because of the lateness of some of her proposed amendments, but the Government has not put some of its amendments on the SupplementaryNotice Paper yet. That is one way to ensure that the standing order functions efficiently.

Hon N.F. Moore: I submitted them a week ago.

Hon HELEN HODGSON: If information is available on the Supplementary Notice Paper, it allows members to decide whether to support the initial motion. If members were aware of substantive amendments proposed by the Government contrary to the recommendations in the committee report, it would assist them in making their decisions. I want to facilitate progress of business in this place. If amendments are on the Supplementary Notice Paper when the Bill is committed, they can be incorporated as the debate proceeds. It may be that members are unaware of some matters that the Government has not yet raised and, because they are not on the Supplementary Notice Paper, the standing order does not allow them to be accommodated. The opposition parties have done their best to comply with the standing order and, to make sure that people in this place are aware of the various issues of concern, they have put forward their proposals. They are still waiting to hear from the Government whether it has any counter proposals on any of these matters.

Hon N.F. MOORE: I am a little confused at the comments by Hon Helen Hodgson about government amendments which she does not have. I put some amendments to the Council office a week ago.

Hon Helen Hodgson: Three.

Hon N.F. MOORE: There may be four. Those are all the amendments the Government has, unless the Legislative Council makes some decisions with respect to some clauses and the Government feels there is a better way of doing it. In that case, the Government will respond when the occasion arises. The only amendments the Government has in mind at the moment are those on the Supplementary Notice Paper, and they have been available for a week. I was quite entitled to say last night that receiving some additional amendments, on top of the existing 144, on the night of the commencement of the committee stage, is a bit rich. I still think it is a bit rich, bearing in mind that the Bill is not being rushed through. It is proceeding more slowly than any Bill I can think of.

The key issue in this motion is about accepting the amendments recommended by the Standing Committee on Public Administration. That is all it seeks to do. It does not allow members to debate whether the Government is allowed to do it or whether the opposition parties agree to a range of things. The motion is about whether members in this place will agree with the recommendations of the public administration committee en bloc. I am arguing from the point of view of the basic administration of this Committee of the Whole and seeking to put in place a process which will make it easier for all members to work their way through this Bill. It is complicated legislation, and there are many amendments and potential amendments to amendments if certain things happen during the committee stage. If members agree to this motion, in effect they will have agreed to 72 amendments en masse, albeit some of them are technical amendments. That does two things: First, it means I cannot argue about them individually, unless I do so in this debate or on the first clause. That would make debate on the first clause a retread of the whole second reading debate, but with more detail. The alternative is to not agree to this motion and to go through every clause one at a time. When we reach a clause on which a recommendation is made by the Standing Committee on Public Administration to which the Government agrees, I will simply say so and we can move to the next clause. If the Government does not agree to an amendment to a clause, it is only fair to have a debate at that time on that issue. If all 72 amendments are dealt with in debate on clause 1, members will not know whether they are coming or going. Going through the committee stage will be a very complicated and difficult logistical exercise.

For Hon Helen Hodgson's benefit, I advise that of the 72 amendments recommended by the Standing Committee on Public Administration, the Government is prepared to accept 27 which relate to issues of any substance. The Government does not have a problem with a further 24 amendments which are technical, but it will oppose 21 other recommendations. The Government will agree to more than half the recommendations of the committee, but it would like the opportunity to debate

those amendments which it opposes. From time to time we hear in this place that it is a House of Review, and we have heard that again today, and that members are in this place to legislate for the good order of society in Western Australia. We are now in a situation where some members want the Legislative Council to simply accept the deliberations of a committee, without the capacity to change some of the recommendations it has made. If the Legislative Council takes the proposed path and if I agree to 27 amendments, in order to have those amendments passed, I must accept that the 21 amendments the Government opposes will not be argued. I am asking for a process that will give certainty about the way members go through this Bill; that is, they should start at the beginning and finish at the end. It is the best way to handle things. It will become very complicated if we move from one clause to another in no particular order. If we start at clause 1 and move through the clauses in chronological order, as we normally do in a Committee of the Whole, when we reach a clause on which the public administration committee has made a recommendation, if the Government agrees to that amendment I will simply say so and that will save all the time the member is concerned about. Where the Government disagrees with a recommendation, a debate will take place and that is only fair.

New clause 22 is strongly opposed by the Catholic and independent school systems. I can read out their letters.

Hon Ljiljanna Ravlich: No.

Hon N.F. MOORE: There are members in the Chamber who were not on the committee. They have just as much interest, if not more, in the Bill than committee members, who are trying to deny them the chance to debate clauses. Members opposite want to confine them to a general debate on clause 1. That would be grossly unfair to those members who were not on that committee, and that is why I argued that we should not send the Bill to a committee. I am told that members intend to recommit new clause 22 and a number of other clauses, because they have worked out those clauses are no good, they have a technical difficulty or they have some other problem. Why not work our way through the Bill clause by clause, and when we get to those clauses amendments can be moved? The Government will probably agree, and go onto the next one. Why go through the process of agreeing to clauses with which we do not agree? Members opposite want us to agree with the committee's report, but it has told the Chamber that there are some things that must be changed anyway!

Hon Kim Chance: It is a problem with the standing order.

Hon N.F. MOORE: I have been on my feet for an hour trying to tell members opposite something is wrong with it. I am giving members a way around this to make it simpler for all of us. If members opposite are frightened to argue the individual clauses because somehow we will unravel their work, they do not have their numbers in order. That is the only way that I can change what the committee has recommended. Dealing with each clause will save time, because we will get everything done in a logical order. I ask the Chamber to acknowledge that the Government is prepared to accept well over half of the amendments, but we want the opportunity to debate the other issues when we get to the clause, not in clause 1. If we debate the issues in clause 1 we will be constrained by time, particularly when members have only 10 minutes and they might want to argue about 33 clauses in which there might be a difference of opinion. On the basis that there are some problems with the committee's recommendations, and we have been told that a number of clauses will be recommitted, which adds further time and confusion to the process, why not accept that what I am suggesting is a good idea? It is not intended to cause any difficulty - it cannot because members opposite have the numbers. This will make it easier for members to arrive at a conclusion, rather than turning this into a spaghetti bolognaise, which is what it is now.

Hon HELEN HODGSON: I seek procedural advice from the Chair. Now that we have been advised that the Government has concerns with 21 clause, is it possible to comply with the standing order in a way that allows those 21 clauses to be severed out and to be dealt with as they arise in order in the Bill, while accepting the recommendations of the committee on non-contentious clauses, technical amendments and those amendments that have been accepted by the Government?

The CHAIRMAN: It is in order that the amendments recommended by the Standing Committee on Public Administration be read into and deemed part of the Bill and be subject to amendment, so presumably the 21 clauses that the Government has difficulty with could be excluded while reading in those that are agreed to. Therefore, the 21 clauses would take their ordinary place on the Notice Paper.

Hon HELEN HODGSON: Given the hour, would it be possible to work on the matter in the next 15 minutes?

Sitting suspended from 3.45 to 4.00 pm

Hon DEXTER DAVIES: I support the comments of the Leader of the House. As a member of the Standing Committee on Public Administration, I sought advice when that committee was deciding how it should handle this matter. As noted in the report, I was advised that my objections to clauses would simply be noted, and I would have the opportunity to debate the clauses during the committee stage. That advice appears to have been wrong. In addition, when I sought advice on other issues within the committee, on all occasions it was indicated to me that I would have the opportunity during the committee stage to debate those issues. It appears that because of an anomaly in the standing orders, I will be denied that opportunity, and that the standing orders will be used as a device to achieve something else. It is unacceptable that I will not now be able to raise those issues. That is not what the committee system is about; it is not what the debate within the Standing Committee

on Public Administration was about. It was obviously not the spirit in which members requested that the Bill be considered by the committee. I will be very disappointed with members opposite if they now seek to achieve their ends through deception rather than honour the goodwill with which the matter was considered in the committee. I certainly participated in the process in good faith and accepted in good faith the advice given to me. I do not think anybody on that committee will deny that that is a fact.

Hon BARRY HOUSE: Obviously Standing Order No 234A(2)(a) was meant to apply when there is unanimity on a committee on certain issues before it. If a committee can come back to the House and present a united front on a matter, the standing order would apply. However, it does not say that in the standing order. There clearly was not unanimous support for some amendments recommended by the Standing Committee on Public Administration. We have just heard Hon Dexter Davies say that he did not agree with certain issues raised in the committee. As I said yesterday during the second reading debate, I was a member of that committee. However, I decided that there was no way I could consider all of the issues in time, due to a variety of factors, and make a meaningful contribution. I certainly did not want to associate my name with the recommendations of that committee, because I had not been involved in the hearings and many of the discussions. Therefore, there was not total unanimity within the membership of the committee.

Education is a broad issue. We have 34 members in this Chamber who probably all have a view about some of the clauses. They should not be denied the opportunity to put their views by the Chamber imposing decisions from a committee which are tacked on to the Bill. Therefore, I believe the best course of action would be for Hon Ljiljanna Ravlich to withdraw this motion, if she is prepared to do so, and to take the clauses one by one.

Hon Kim Chance: Hon Ljiljanna Ravlich would have to vote against it to achieve Hon Barry House's aim. The Chairman moves the motion.

Hon BARRY HOUSE: That is fine. Then I implore Hon Ljiljanna Ravlich and her colleagues to vote against the motion in the interests of this Bill. With all the best intentions of saving time, we could spend all of that time, plus more, debating procedural points of view rather than the major issues. I believe we would defeat our own purposes if we pursued that course of action. We are far better off discussing the Bill clause by clause.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Before we continue debate, I want to make clear the point that I think Hon Kim Chance made clear by interjection. Standing Order No 234A (2) states -

> In a Committee of the whole House on a bill reported from a standing committee with recommended amendments:
>
> (a) the Chairman, before putting any question on the bill shall put the question *"That the amendments recommended by the standing committee be read into and deemed part of the bill";*

Therefore, it is on the motion of the Chairman of Committees, Hon John Cowdell, for whom I am deputising, not the chairman of the standing committee.

Hon N.F. MOORE: In response to the issues raised by Hon Helen Hodgson before the afternoon tea suspension, I understood she was suggesting that I might give her a list of the clauses that the Government would agree with, and then amend this motion to pass all those clauses. I am a little persuaded to that point of view. However, I would rather we did not go down that path. I am happy to provide Hon Helen Hodgson with a list of the clauses that we agree with so that she knows which ones I am talking about. I would rather not agree to them all upfront, because there may well be some technical change required to some of them down the track, depending on other amendments which are made, and we would then have to recommit them. I am trying to avoid this idea of passing things which might have to be changed later on. I am happy to give any member who wishes a list of the clauses with which we agree. Members will then know when we reach those clauses that I am not having them on when I start talking about them. As I indicated earlier, if the Government accepts them, I will simply say we accept them and sit down.

Hon CHRISTINE SHARP: I am very interested in the offer by the Leader of the House to draw up a short list which identifies the clauses with which the Government has difficulties, areas which have technical problems and other areas about which there is agreement that amendments may pass. I deplore the fact that it has taken so long for this information to be made available to us. Matters of this nature should be more appropriately dealt with before we find ourselves forced to divide - perhaps in a few moments - without the opportunity to see the list and to see exactly what -

Hon N.F. Moore: I have just received it. You gave us some amendments last night.

Hon CHRISTINE SHARP: We have an informal process called the business management meeting. It would have been very helpful if the Government had indicated its short list at the time of the business management meeting, at least last Thursday, so that members had the opportunity to consider -

Hon Barry House interjected.

Hon CHRISTINE SHARP: The member is quite right: I did not inform the Government. However, I was not asking for

its cooperation. In this case the Leader of the House is asking for our cooperation to undertake the process in the way that he wants, rather than in the way that we want. If the Government is asking for cooperation, it must communicate and negotiate. I do not know how other members feel, but I have been completely kept in the dark about the Government's position on the committee's report and the various amendments.

Many months ago, I suggested to the Leader of the House informally that it would be appropriate for him to talk to the various non-government parties about the passage of this legislation through the Council. He failed to take up that suggestion and that is his prerogative. However, when he fails to discuss, explain and negotiate with people who may not be of his opinion and who do not have to bow to his opinion, and adopts a position which keeps those people in the dark, it makes it very difficult for those people to support him. During the debate about the process of this Bill, as opposed to the amendments to the Bill, the Government benches took an attitude of hostility to the committee process. It is a reflection of the debate on native title legislation which we had only an hour ago. It is an attitude of total hostility and opposition to what is being proposed. Throughout the passage of the legislation, instead of cooperation and help from the Leader of the House and others who have carriage of this legislation, we have had a failure to negotiate and inform. That failure to discuss matters in an informal way is now being reflected in this debate.

I have thought long and hard about Hon Kim Chance's motion and the argument that the Leader of the House is putting up in opposing the motion. I will stand firm on this because there has been ample opportunity over the months for the Government to change its approach in dealing with the inevitable fact that this Bill would be substantially amended in the Legislative Council. At every step of the way the Leader of the House has displayed umbrage at that, and now, at the eleventh hour in the Chamber, he requests our cooperation. If the hand of cooperation had been extended a little earlier so that I could have seen what I was being asked to cooperate with, I may have been prepared to accept that. However, I am not prepared to do that at this stage because it would take me far too long to look at that list, absorb it and understand the gist of it so that I could vote in an informed way. I will be supporting the motion.

Hon DEXTER DAVIES: I understand about cooperation. However, if anyone is to believe in the integrity of the committee system, I implore the members of the Standing Committee on Public Administration to cooperate. I was given the indication, I understood the implication and had the understanding in good faith, up to the eleventh hour, as was the chairman of the committee, that all members would have the right to debate these issues. From a misunderstanding of the standing orders, an opportunity has been provided to manipulate the situation. I sat on that committee, and I sought advice and was told by members of that committee, who are all present now, that I would have the right to debate those matters. We argued matters and put those recommendations forward under that understanding. To be deceived by that process leaves a nasty taste in my mouth. This process is tricking people. If members opposite want to have us believe that our committee system has integrity, for which we are arguing so strongly, I suggest that they think very carefully about what they are trying to do now.

Good faith prevailed in the committee's deliberations and the chairman will back that up. I asked about this matter and I was given the indication that we would have the opportunity to debate the issue within this Committee. Members of this Committee are taking a big risk if they want the committee system to maintain any integrity whatsoever. The Chairman has clearly pointed out that it is a new standing order and difficult to interpret. Some members believe an opportunity has arisen to take advantage of it, which is fine, except that the advice which I was given and which I took in good faith, along with everyone else, is now being denied; yet members opposite are talking about good faith at the eleventh hour. If they operate on those lines and can go home and rest easily, so be it.

Hon KIM CHANCE: I do not know which Scottish poet - it might have been Robert Burns - said that "the best laid schemes o' mice an' men gang aft a-gley". Whenever I think about this standing order, I am reminded of that passage of poetry. I mentioned to someone during the afternoon tea suspension that I am not sure who introduced this standing order to the Chamber, but I am finding it hard to find its mum and dad because everyone is disowning it.

Hon N.F. Moore: I would have moved the standing order quite sensibly because it should apply to a certain set of circumstances.

Hon KIM CHANCE: In terms of its being one of the best laid plans of mice and men - and I am sure it was - it has failed its first test.

Hon N.F. Moore: Second test. It has been amended.

Hon KIM CHANCE: I was not aware of that. In that context, the issues that have been raised by Hon Dexter Davies do sting somewhat. I understand how he feels. I should explain how I saw the assurances that were given at the time. When a committee member signs a report, there is an expectation in this Chamber that the member will feel a moral tie to that report. I am aware that it is an issue on which some of our members have been tested from time to time - and it is a test. The context in which I thought I was advising Hon Dexter Davies was that if in the text of the report he separated his view from the committee's general view, and did so by name, he was not bound by the moral requirement to support the committee's view on that issue. If he genuinely intended that the question be relevant to this standing order, it is tragic that we misunderstood each other. Even if I had understood his question to be within the context of the standing order, I

probably could not have advised him any more accurately because my understanding of the standing order is superficial. People have argued that my understanding of any standing order is superficial. However, my understanding is that this was the first time that this particular standing order had been used. I would have given him the wrong advice anyway. However, I apologise if what I said misled him. It was not the intent. Notwithstanding that, there is nothing which technically prevents the member from arguing the issues he raised in the committee on the effect of the sentencing legislation on head penalties in the context of this motion. He is able to argue it technically. When the Leader of the House implied last night that that was the only alternative open to the Government, if the Government were to put this case -

Hon N.F. Moore: Clause 1 can do that too in a second reading debate.

Hon KIM CHANCE: Yes. That can be done in the context of this motion and in the debate on clause 1, the short title. Therefore, technically there is an opportunity to raise those issues. The difficulty for Hon Dexter Davies is that he may agree with every one of the other recommended amendments and disagree strongly, as I know he does, in that one area. He is placed now in the position where, on that basis, he must vote against the committee's report. All I ask him to accept is that it is a difficulty which arises from the application of the standing order in this case and not from any intent to mislead. I would be horrified if he thought that he was deliberately misled by me or by any other member of the committee. Setting that aside, there are issues arising from the application of this standing order. It is not a matter for me to decide. I will support absolutely the decision made by Hon Ljiljanna Ravlich.

Hon LJILJANNA RAVLICH: There is obviously some confusion about the interpretation of standing orders. One thing that has evolved is that as more information has been sought from the Clerks, members have become clearer on what may happen to the committee's report and how the passage of that report through this place may be managed. I was unclear when we were deliberating in the Standing Committee on Public Administration how many of these matters could be dealt with. My interpretation of the advice given about proposed committee amendments on the Supplementary Notice Paper and subsequent amendments was different from the interpretation of other members. I do not mean to criticise the Clerks in this place; they do a fantastic job. However, there is no doubt, given that the standing order is not used frequently, that members have different interpretations of its application.

Irrespective of whether we think it is a good or bad standing order, the bottom line is that the standing order exists. The Australian Labor Party will take the opportunity to do what this standing order enables it to do; that is, to ensure that the public administration committee's recommended amendments are read into the Bill. I can understand that the Leader of the House may have a problem with that. However, I ask him to accept our argument that we too have constituency groups that rely very much on our doing the right thing by them. Those people have seen the standing committee's report. They have been advised of the recommended direction to be taken and the thinking of the committee's members on some of the recommendations in that report. The people I represent would be horrified to know that there are now 27 clauses with which this Government does not agree and a further 20-odd with which it has technical difficulties. The Leader of the House believes that 27 of the amendments proposed by the committee have technical faults and he will oppose 21 amendments. Therefore, it is not in the interests of the people I represent to open up all those clauses for debate.

Hon N.F. Moore: Do you say that you think the people you represent do not want this debate in the Chamber?

Hon LJILJANNA RAVLICH: No.

Hon N.F. Moore: That is all I am asking.

Hon LJILJANNA RAVLICH: No. The people I represent are happy with the recommendations of the Standing Committee on Public Administration.

Hon N.F. Moore: If it is such a good position to have, why don't you let us argue about each clause now? That is what you are stopping us from doing. I am not trying to change the standing committee's report. I will argue against some of it as I am entitled.

Hon LJILJANNA RAVLICH: But the Leader of the House is opposed to 21 amendments.

Hon N.F. Moore: Yes, of course I am.

Hon LJILJANNA RAVLICH: The Leader of the House has not said what in the proposed amendments he opposes. He has given us clause numbers, and he has done that at the very last minute.

Hon N.F. Moore: Because we normally do that clause by clause when the Committee is sitting.

Hon LJILJANNA RAVLICH: The Leader of the House knows that there was a high possibility that we would not move clause by clause.

Hon N.F. Moore: I thought you would have more sense.

Hon LJILJANNA RAVLICH: That is a matter of judgment. Many of these issues are a matter of judgment. The Leader

of the House seems to be preoccupied with taking us on a guilt trip because we want to use the standing orders that prevail in this place to get a positive outcome for the constituents we represent.

Hon N.F. Moore: You represent about one-third of the people in Western Australia.

Hon LJILJANNA RAVLICH: That is right. However, my one-third is no less important than the Leader of the House's two-thirds.

Hon N.F. Moore: That is quite right. However, there happen to be more of us than of you.

Hon LJILJANNA RAVLICH: If I represent only one-third, I will ensure that I represent them to the best of my ability. We are acting within the standing orders in this place.

Hon Dexter Davies. In good faith?

Hon LJILJANNA RAVLICH: The Australian Labor Party is committed to moving the Standing Committee on Public Administration's amendments en bloc and, as I have already specified, recommitting clause 22 and four other clauses.

Hon N.F. Moore: You have just admitted that five clauses need to be recommitted because there is something wrong with them and you are asking us to vote for them now. Get real! You are asking us to vote for these things but you acknowledge that they are wrong.

Hon LJILJANNA RAVLICH: I am advising the Leader of the House of the Australian Labor Party's intent. I do not like the model he is presenting to me; he may not like the model that I present to him. The bottom line is that he is being very uncooperative in not supporting this motion.

Before the School Education Bill was sent to the public administration committee, I indicated my intention to expedite the process. I did not want to see three parties move consequential amendments on 100 clauses in this Chamber and produce a Bill which was almost unworkable. By moving the committee's amendments en bloc, we will eliminate that possibility.

Hon Dexter Davies: What about the integrity of the committee process?

Hon LJILJANNA RAVLICH: Hon Dexter Davies should not talk in that way given his contribution to the RFA process.

The Australian Labor Party is committed to having the public administration committee's amendments read into and deemed to be part of the Bill. Positions we adopt in this place are always based on judgments about what, on balance, is the best action to take. My judgment may be wrong, but it is that it will be advantageous to the process and the people I represent that this motion be supported.

Hon HELEN HODGSON: At the start of this debate I was unsure which method would produce the most expeditious handling of the Bill. Whichever way we go, extensive debate will ensue on the 21 standing committee amendments to which the Government does not agree. The question is the best way to manage debate. I have taken on board Hon Dexter Davies' comments. I had hoped that by finding a motion to separate the 21 clauses we might be able to preserve the integrity of standing orders while ensuring that people were able to put a policy position. Ultimately, my decision is based on what I believe to be the best way for debate to be handled in this Chamber. I am mindful of the position of Committee members, public administration committee members and Chamber staff who must work through the competing amendments on the Supplementary Notice Paper. It will probably be better to handle debate in sequential order so an orderly fashion is retained. Although I am confident that all members will not agree with the decision, and some will berate me noisily, my decision is based purely on what I believe to be the best procedure for handling the Bill.

Where I agree with the policy matters of the committee report - and I was in agreement with all the arguments of the committee report - members will not find any variation in the position of the Democrats. I do this confident that the numbers will allow the different positions to be aired, but that the majority voices in the Chamber will ultimately have the same effect as passing this motion. I have listened to the debate about numbers. If one considers the number of people who voted for the Government, and the number of votes lodged by people not necessarily agreeing with the Government, one might find that the Government did not receive a higher percentage of votes for the Legislative Council lodged across Western Australia than the non-government parties at the last election. Although we might quibble about the number of voters represented by each of the three non-government parties, when we speak with one voice we represent the majority of people in this State on this issue.

I will not support the motion, even though I support the process. I do so in this instance because this debate will be so complex that a sequential-order approach will be the most painless way to proceed. I do so on the understanding that the Government agrees with a large number of amendments. I hope that the Government is happy to leave as they stand the other items in the committee report which were raised but which the committee felt no need to take further. I hope we will not find extensive debate on matters which the committee accepted, even though it did not recommend amendments to the Bill. I do not include amendments already on the Supplementary Notice Paper in that comment, as everyone has the right to propose such amendment. I will not support the motion. This is purely a procedural matter and my views on policy have not changed, as will be borne out in debate.

Hon DERRICK TOMLINSON: I am not sure how many electors are currently in the East Metropolitan Region, but I suspect it is in the order of a quarter of a million people. I do not represent 16.23 per cent of the electorate, which was my quota for election, but a quarter of a million people of the East Metropolitan Region regardless of how they voted at the time I was elected. A principle I have always followed in this place is that, although I owe my position in this place to the party which endorsed me, I am a member of Parliament representing the best interests of Western Australia. That has not stood me in good stead in advancement in my party as from time to time I have said and done things contrary to the preferred party position. However, I have acted as a member of Parliament, not as a member of the Government or the Opposition. We need to bear that point in mind when considering who won what vote in the 1996 election.

I commend the position Hon Helen Hodgson has taken. I have an awful sense of deja vu in this debate. When the Bill was referred to the Standing Committee on Public Administration after its first reading, I predicted this outcome. Fortunately, one of my predictions has so far not come to pass - that is, I was confident that no second reading debate would ensue. However, the President gave a contrary position and he was right as a second reading debate was held.

Hon Ljiljanna Ravlich: It was not much of a debate.

Hon DERRICK TOMLINSON: Indeed, but the Opposition did not give us much to debate.

I also predicted that this standing order would apply. Members are here to represent the best interests of the electors of Western Australia, not sectional interests. This Bill is probably one of the most important pieces of legislation we will debate this year. However, this motion, if passed, would deny members the opportunity to look at matters of detail. If members go ahead with the motion to accept these amendments en bloc, they are denying close scrutiny of the clauses by the Committee of the Whole. I am a great believer in the committee system of this place. I have been vigorously involved in that system for the whole time I have been a member of Parliament. However, the committee system should not be used to subvert legislation. I do not care if members oppose government policy; that is their right and responsibility. If, in the best interests of the electors, it is their opinion that government policy is wrong, they are obliged to oppose it. However, they should not use the standing orders and procedures of this place to subvert government policy for a partisan tactical advantage. I will not talk about the question of good faith and so on; let other people who have been affected by good faith argue that, because I have argued that in the past when censure motions have been moved against me for doing exactly the same thing I have just heard discussed. I will not discuss it. I am concerned that the committee system is being used quite deliberately for partisan tactical advantage and not to advance a policy of the Bill. I am also particularly concerned that after this Committee of the Whole has accepted in toto the recommendations of the committee, it will then be asked to reconsider some of the matters accepted in toto because procedural problems as a consequence of the amendments have already been identified. If the public administration committee had done its work as well as we are told it had, those things would have been sorted out beforehand. I grant that things were done in too much haste. I accept that, and when things are done in too much haste errors are made. It is far better for legislation to have an elongated gestation to get it right than to hurry things through.

The Leader of the House has set out a procedure to be followed which will expedite matters and has given an undertaking that the list of amendments with which the Government is comfortable - it might not agree with them but it is comfortable with them - will be accepted. Those which the Government opposes for reasons of principle, technical issues or procedure, will be debated. I cannot think of a more wholesome way to proceed in this Parliament. Where there is agreement, why waste time arguing? However, where there is disagreement on policy, procedure or whatever, members have an obligation to talk it through. This is a case where the standing order should not apply. This is a case where the Committee of the Whole should exercise its discretion and consider each clause in seriatim and not in toto. Members already have the undertaking that where there is no argument, there will be no argument and the recommendations of the committee will be accepted. Where there is argument, let us have the vigorous argument and decide after discussion what action should be taken on each clause in turn.

Question put and a division held, with the Chairman casting his vote with the ayes -

Ayes (15)

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

Noes (18)

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

Question thus negatived; amendments not deemed part of the Bill.

Clause 1: Short title -

Hon LJILJANNA RAVLICH: I reiterate some comments I made earlier about the importance of education. I hope the process we go through will result in the absolute best outcomes for excellent legislation for all Western Australian children, parents and communities.

Hon SIMON O'BRIEN: There probably will be excellent outcomes now that Parliament has had the opportunity to participate instead of hearing about the sectional interests that were supported by Hon Ljiljanna Ravlich a moment ago. Her motion received the thumping that it deserved.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Objects -

Hon LJILJANNA RAVLICH: I move -

> Page 3, line 4 - To insert after the word "education" the following words -
>
> > which best promotes their life opportunities and assists each child in achieving her or his educational potential

The Australian Labor Party has some difficulties with the objects of the Bill because they do not go far enough and they do not reflect the principles of access, equity, involvement, review and natural justice. For example, clause 3 states -

> (1) The objects of this Act include the following -
>
> (a) to recognize the right of every child in the State to receive a school education . . .

That says nothing about the quality of education; it merely recognises the right. Therefore, we have some difficulties with that provision. Paragraph (b) states -

> to allow that education to be given in a government school . . .

Once again, there is no consideration of the quality of education. The objects are deficient. The amendments which have been tabled in my name reflect the principles of access, equity, involvement, review and natural justice, and Western Australian children deserve no less. If my amendment were accepted, clause 3(1)(a) would read -

> (1) The objects of this Act include the following -
>
> (a) To recognize the right of every child in this State to receive a school education which best promotes their life opportunities and assists each child in achieving his or her educational potential;

We have also recommended the insertion of new paragraphs (d) and (e), which state -

> (d) to promote a high standard of education in government schools and to ensure that education is provided to all children without discrimination on the grounds of sex, race or religion;
>
> (e) to have a child's education provided at a government school in the child's local area unless the school can satisfactorily demonstrate why it is unable to enrol the child;

Without referring to each of the objects, our amendments emphasise the responsibility of the State to provide for a high-quality public education system. The substantive objects reflect what the Bill is all about - that is, it is an administrative Bill which does not address quality. There is no mention of the quality of education or of equity. The proposed amendments reinforce the need for quality education and the role of government in the provision of public education. All members want a strong education system, be it public or private, throughout the State. The Bill should reinforce the importance of the state education system. The minister in the other place acknowledged that to some people the objects might appear to be relatively bland. They do. His gravest concern with the proposed amendments was that if they were enacted they could be acted upon in the courts. If we adopt that thinking, we might not legislate for anything. It is beholden on us to ensure that equity and quality are definitely in the Bill. I would not like taxpayers' money to be spent without having a guarantee of a state education system of quality.

It is important to support the objects because they enhance the intent of the Bill. It has been put to me that, because of the proposed amendments and because the same things do not follow throughout the remainder of the Bill, there might be some inconsistencies. Although that argument might appear to have some validity on the face of it, if we follow it through to its logical conclusion any amendment could fall into the same category. I commend the amendment to the committee.

The CHAIRMAN: For the information of members, I will put the proposed amendments in order so that although members may wish to refer, as the previous speaker did, to each of the proposed amendments to clause 3, the question before the Chair is that page 3, line 4, the words proposed to be inserted be inserted.

Hon HELEN HODGSON: I intended to seek clarification on that matter. Generally, I support the opportunity to broaden the objects. It is important that the Bill state the policy behind it and that the objects indicate the intention of constructing the education system. However, I have a minor issue to raise in respect of amendment B3, which I will raise at the appropriate time.

Hon N.F. MOORE: To seek clarification, Mr Chairman, do you want me to confine my remarks to the simple question -

The CHAIRMAN: It might be easier if Hon Norman Moore confined his remarks as we get to each question, otherwise we will be all over the place.

Hon N.F. MOORE: I acknowledge that, but several issues are raised. The amendments would change the objects of the legislation. I want to talk about objects in general because some fundamental principles are attached to what is being done which apply to all the amendments, and they must be made clear.

Clause 3(1) states -

> The objects of this Act include the following . . .

Whatever the objects are, they must be relevant to the legislation. It is not sufficient or competent to put in a range of things that we think are objects of education which have no relevance to the legislation. We are dealing with a Bill, not a statement of general principle about what we should do with education in Western Australia. We are saying in legislation what the objects of the legislation are.

Several things are proposed by way of amendment which are already covered and are unnecessary, but I shall comment on the broader principle of some matters that have been raised. Last night, at the end of the second reading debate, I said that it is hard to legislate for philosophical views or for the principles that members want to be included in the objects of the legislation because people's philosophical views and circumstances change from time to time. Also, we are dealing with a Bill that is more about educational administration than about educational policy or philosophy. It was suggested to me that if the 1928 Act had contained a range of the philosophical views of people at that time, the whole thrust of education in those days would have been about primary school education, because that was what education was all about, and I suspect that there would have been no reference to high school. Girls would have been told to do needlework because that would have been put in the Act. That is what girls did in those days. It would have been a very male oriented piece of legislation because that was the view at the time. Minority groups would have been treated as such. There may well have been a general view in society at that time that they should be given no consideration whatsoever.

[Questions without notice taken.]

Hon N.F. MOORE: This clause relates to the objects of the proposed Act. I indicated to members before question time by way of a description of the world in 1928 that if legislators had tried to introduce values into the objects of the Act, we could have ended up with some extraordinary objects in the 1928 Act which members would find repugnant today. However, those objects could have represented the majority of views of the day. That does not mean that people in 2028 will necessarily agree with the current proposal. A shift in principles and values may occur in the future. Therefore, the Government considers that the four objects outlined in the Bill itself adequately cover requirements. As outlined in the second reading speech, this Bill is not a statement of philosophical belief or principle in education, but is essentially an administration Bill relating to school education in Western Australia. It is not out of the question, of course, for organisations like political parties or interest groups involved in education, or indeed the Education Department, to have statements of principles which guide the way in which they go about their business. Many of the laudable propositions contained in Hon Ljiljanna Ravlich's amendment could be contained in such a statement. That is the proper place for it to reside, rather than in legislation. Parliament enacts legislation outlining what it intends might or might not happen in the future. I am concerned that this set of amendments will take the objects of the Act well beyond what is appropriate in such legislation.

The Government opposes the amendment, although it is not opposed to the sentiments expressed in most of the member's propositions; however, their inclusion in this Bill is inappropriate. In many cases they are unnecessary because the matters recommended or referred to in the member's amendments are covered by various clauses of the Bill anyway. The Government opposes not only amendment A3, but also all the other changes proposed to clause 3.

Hon DERRICK TOMLINSON: I have considerable difficulty in accepting this amendment as a proposed object of the Bill, for the reasons outlined by the Leader of the House, and also as a statement of educational principle. The intention is to import into the Bill educational principles as a guide for the maintenance of the system. I will not dwell on the fact that it is difficult to understand the amendment because of the shift in tense from singular to plural and back to singular. Even the grammar is off-putting. Although that is a matter of little consequence, it reflects upon the person who wrote it. I am not sure what "promotes their life opportunity and assists each child in achieving his or her educational potential" means.

Hon Ljiljanna Ravlich: You would have a fair idea as an ex-chalkie.

Hon DERRICK TOMLINSON: I am an ex-chalkie, as the member puts it. The very term "educational potential" worries me. I would have been comforted if another phrase were put forward for the objects of the proposed Act. I am not entirely happy with this phrase, but I offer this as an alternative: Provide for a system of school education which promotes excellence and equality of outcome for all children. This is preferable to the statement "his or her educational potential", which can be read as limiting. One can limit the child's educational opportunity to meet his or her educational potential, and not "advance" the potential of the child. At what point does one measure the potential? Is it at entry to the system, or does one look at the cognitive inputs and "affective" inputs, and say, "That is the potential of that child"? Is that done without taking into account three years later the potential of the child by virtue of the rich educational opportunities he or she has had? Is that achieving new potentials by that very process of learning?

Hon Ljiljanna Ravlich: We all know about students who are not educated to their potential.

Hon DERRICK TOMLINSON: Of course! If one says that the object of education is to allow each child to achieve his or her educational potential, it does not go far enough. I would be far more comfortable if the member had included words which reflect something liberating regarding the educational opportunities it promotes, rather than limiting that opportunity. It is a statement of educational philosophy which is quite hackneyed, and because it is hackneyed, it is quite meaningless. What is the point of including a meaningless statement in the Bill? If members want to put an object in the Bill, it must be meaningful and achievable. I would have thought words along the lines to which I have just referred would be more acceptable.

The 1928 Education Act, until 15 years ago, was quite discriminatory. Until about 1986 or 1987, the education of children with physical and intellectual disabilities was, by law, the direct responsibility of the parent. There was no provision in the education system under the 1928 Act for the education of disabled children. Until 1973, there was no financial provision in the Education budget for the education of what we would now call the "ed-support" children. They received a grant in aid to philanthropic or self-care organisations such as the Spastic Welfare Association of WA, and so on. It was not until the initiatives of the schools commission that special education was recognised as a state responsibility. I caution members against including in the objects of this Bill, with all of its limitations as an educational statement, an inadequate statement of educational philosophy of the kind that is contained in the amendment proposed by Hon Ljiljanna Ravlich. I strongly recommend that if she wants to amend the Bill, that she do so in a way that is meaningful and achievable. This proposal is not.

Hon LJILJANNA RAVLICH: The question of what is meaningful is a matter of judgment. One of the key objects of this Bill should be to do as my amendment suggests; that is, to promote life opportunities and to assist children to achieve their full educational potential. That is a marked improvement on the substantive subclause which is purely and simply "to recognise the right of every child in the State to receive a school education". So what? It says nothing about the quality or level of education. We must accept that, for many children, education is the key to the sort of future and life they will have. Many children, particularly those from less affluent backgrounds, do not have the connections - the old school ties. They cannot be assisted; their uncles are not accountants and cannot open doors for them.

Hon Derrick Tomlinson: Some very poor children have high educational achievements.

Hon LJILJANNA RAVLICH: I am sure they do. I am not saying they do not. However, I look at myself in this regard. Education was the key vehicle by which I could aspire to go from being a migrant who could not speak English to being a member of Parliament. Who could have foreseen that? The life opportunity which education provided for me enabled me to achieve that. If that opportunity had not existed, one could have been categorised and ended up not fulfilling one's full potential. Education has a critical part to play in promoting the life opportunities of students and assisting every child to achieve his or her full potential. It is poor judgment on the part of Hon Derrick Tomlinson to suggest that those words are meaningless. They are not meaningless at all.

I am a little confused by the Government's position, because Hon Derrick Tomlinson said that this amendment does not go far enough and the Leader of the House said that it goes too far. I support this amendment as it adds to the objects of the Bill. This Bill should go further in its objects rather than purely reflecting administrative framework. Many complaints have been made to me by a range of people about the objects of this Bill. They have argued the same point: The principles of access, equity, involvement and review of natural justice should be embodied within the objects of the Act. They are very disappointed that that is not the case. The Australian Labor Party has taken the opportunity to try to address that matter. There is no doubt that, irrespective of which way we word the amendment, we will never come up with a form of words to which everyone is agreeable. This amendment was discussed in the Legislative Assembly. It had a passage in that Chamber. It has been around for about two and a half months. It has been on the Notice Paper for at least a month. In view of that, if the Government were prepared to come up with a middle-ground position and were prepared to enter into negotiations about what is acceptable to it which is an advance on these four substantive objects, I would be the first member to listen and reach that middle ground. That has not been the case and I have no other option but to move the amendments which are before us. They are a vast improvement on the substantive clause.

Hon N.F. MOORE: Amendment A3 adds the words "which best promotes their life opportunities and assists each child in achieving her or his educational potential". I do not understand the meaning of the words "life opportunities". It is a very broad term and could mean many things to many different people. It is not exact enough - unless there is a definition - to be included in the objects of the Bill. We are asked to provide life opportunities for young children. What does that mean? I do not know what it means. Hon Ljiljanna Ravlich might think that a life opportunity is becoming a member of Parliament; I might think it is having a job; Hon Kim Chance might think it is getting a farm; and someone else might think it is going on the dole for the rest of his life and having a great time.

Hon Ljiljanna Ravlich: Should the education system not assist these children?

Hon N.F. MOORE: Who is to say what it actually means? The amendment does not say what it means. If an object of this Bill is that every child should achieve his or her educational potential, down the track someone will say, "My child has not achieved his educational potential. It is an object of this Act and you have an obligation to deliver on the objects of this Act." How do we know what is a child's educational potential? It is difficult to determine that at any time in a child's life, particularly when that child begins his or her schooling. Clause 3(2) states -

> Any person who has a function under this Act is to seek to ensure that the objects stated in subsection (1) are achieved.

There is a requirement under clause 3(2) for anyone involved in education to seek to ensure that the objects are achieved. That places an obligation on people working in the education system to achieve these objects. How can the department achieve the object of ensuring that each child achieves his or her educational potential, when it is almost impossible to judge that potential? Many people think their children are brighter than they are, and they become cross when their child does not achieve 500 points in the tertiary entrance examination. They do not accept that the child is not capable of achieving that result, and they seek to blame the system. As former teachers in this place know, teachers receive plenty of correspondence from parents along those lines and those views are often expressed in newspapers. Including those two phrases "life opportunities" and "educational potential" as objects of this legislation is inappropriate in this part of the Bill, taking into account clause 3(2) which requires people to seek to ensure that these objects are achieved. I ask the Committee to ensure that it includes in these objects only items with meanings that everybody understands; items which are achievable rather than those which are desirable but not achievable.

Amendment put and a division held, with the Chairman casting his vote with the ayes -

Ayes (15)

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

Noes (15)

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

Pair

Hon J.A. Scott	Hon M.D. Nixon

Amendment thus negatived.

Hon TOM STEPHENS: For the sake of the record, I indicate that it is the intention of the Opposition to move at some convenient stage for the recommittal of that clause for reasons that members will understand.

Hon LJILJANNA RAVLICH: I move -

> Page 3, after line 8 - To insert the following paragraphs -
>
> (d) to promote a high standard of education in government schools and to ensure that education is provided to all children without discrimination on the grounds of sex, race or religion;
>
> (e) to have a child's education be provided at a government school in the child's local area unless the school can satisfactorily demonstrate why it is unable to enrol the child;

In the view of the Australian Labor Party it is absolutely critical that reference be made in the objects to the quality and

standard of education to be provided in government schools, and to ensure that education is provided to all children without discrimination on the grounds of sex, race or religion. It is important that some reference be made to the standard of education because it cannot be assumed that all schools offer a high standard of education. In my view it should be included as something to aim for. With reference to education being provided without discrimination on the grounds of sex, race or religion, too often people make the assumption that there is no discrimination on those grounds within the education system. I do not think that is necessarily the case, and it is beholden on us to legislate to ensure discrimination does not exist.

Members will note in proposed paragraph (e) of that amendment an issue which is a high priority for the ALP and which it regards as critical. It was addressed by the Standing Committee on Public Administration, and it is also included elsewhere in the Bill. The provision is that a child's education should be provided at a government school in the child's local area, unless that school can satisfactorily demonstrate why it cannot enrol a child. On many occasions I have spoken in this place about the importance of schools in local communities and of making sure children have access to their local schools and that they are not disadvantaged. There is a strong likelihood that the notion of children attending local schools and those schools being the focal point of the community is under threat under the local area education planning model. It is important to reinforce the importance of some of those fundamental principles, particularly in relation to children's access to local schools and to the standard of education that children in government schools should expect to receive. Also, there should be no discrimination on the three grounds referred to.

Hon HELEN HODGSON: I agree with the sentiments expressed by Hon Ljiljanna Ravlich. However, I have one reservation, so I propose to amend the amendment. I move -

> That the amendment be amended by inserting after the word "unable" in line 3 of paragraph (e) the words "or it is inappropriate".

The reasons for that amendment are well canvassed in the report of the Standing Committee on Public Administration. Sometimes there are matters to do with travel, country schools, the availability of educational programs and so on and there are special reasons for a child to have access to an alternative to a local school. That does not renege on the basic premise that all children should have a local school available to them wherever that is possible, but there will be circumstances in which it is inappropriate. For those reasons it is tidier to cover that issue in the objects with the amendment that I have drafted.

Sitting suspended from 6.00 to 7.30 pm

Hon DERRICK TOMLINSON: On the first reading, paragraph (d) in amendment B3 is inoffensive - that is, to promote a high standard of education and so on without discrimination on the grounds of sex, race or religion. It is a reinforcement of sections 18, 44 and 61 of the Equal Opportunity Act. However, there may be conflict between those sections of the Equal Opportunity Act and the proposed amendment. Each of those sections contains a prohibition on discrimination in education on the basis of sex, marital status, pregnancy, race, religious and political convictions and so on. The amendment proposed by Hon Ljiljanna Ravlich proposes a prohibition on discrimination on the basis of sex, race and religion. However, section 18(3) of the Equal Opportunity Act reads -

> Nothing in this section applies to or in respect of a refusal or failure to accept a person's application for admission as a student at an educational institution that is conducted solely for students of the opposite sex to the sex of the applicant.

In other words, it is not unlawful for single-sex schools to discriminate against a person of the other gender. That is clearly the case in the non-government sector. There have not been single-sex government schools in Western Australia since Perth Girls, Princess May and so on were replaced by the comprehensive schools.

Hon Kim Chance: There are some single-sex classes.

Hon DERRICK TOMLINSON: Yes. I can remember the experiment in single-sex classes with instruction on mathematics and science to try to determine whether gender discrimination was a factor in the attitudes of girls towards those subjects. I am not sure of the outcome; however, I suspect it was similar to the Victorian experience. However, if one takes a liberal reading of the principle advanced by Hon Ljiljanna Ravlich, that would not be permitted in a government school. Neither would it be permitted for a government school to be a single-sex school; in fact, it would be unlawful. The proposal in Hon Ljiljanna Ravlich's paragraph (d) of amendment B3 is in conflict with section 18(3) of the Equal Opportunity Act. That Act contains provisions prohibiting discrimination on the grounds of race. Section 44(3) reads -

> Nothing in this section applies to or in respect of an educational authority prescribed by regulations in relation to such circumstances, if any, as may be prescribed by regulations.

I can see regulations being highly desirable, for example, in the education of Aboriginal children in remote area schools. In fact, there are provisions in remote area schools which are discriminatory and would become unlawful under the proposed amendment. They are lawful under the Equal Opportunity Act, but there is conflict between the two sections.

There is a similar potential conflict in section 61(3) of the Equal Opportunity Act. I am not sure of the consequence of that conflict. I am not sure of the legal impact of that statement and of the principles and objects of the Bill upon the operation of that Act. Neither am I sure what conflict may arise with the clear provisions of the Equal Opportunity Act. I would seek the advice of legal counsel on those matters. I am not sure which Act would take precedence. I assume - nothing more than a crude, untutored assumption - that because the Education Act is the most recent Act, it would take precedence over the Equal Opportunity Act. The consequence would be that we would negate some important provisions. I do not know. However, I would like some advice on that before I vote for this provision.

I turn to paragraph (e) of amendment B3. I listened with some interest to Hon Helen Hodgson talking about rural and remote schools and the difficulty in having access to education in rural and remote areas. Most other provisions for education in rural and remote areas refer to access to an appropriate school. For example, the Commonwealth Government's isolated children's assistance program and the living away from home allowance in Western Australia are based upon the premise that a child does not have reasonable daily access to an appropriate school. We are not talking here about an appropriate school. An appropriate school is generally accepted as being appropriate to the age, educational level and intellectual and social development of the child. An appropriate school may be a primary school. It may be appropriate for a primary school child but would not be appropriate for a secondary school child, particularly an upper secondary school child. Therefore, an object of the Act is to provide a child with education at a government school in the local area. However, what if the child lives at East Bullamakanka where there is a class for primary school children and the child wants to enrol in year 12 programs? We have senior tops in some of our district high schools. I have an opinion about those which I will not express. However, we do not offer that type of access to education at a government school in the child's local area by right.

Hon Kim Chance: It is dealt with in the body of the legislation.

Hon DERRICK TOMLINSON: If so, does this object reflect the principle contained in the body of the legislation? I would strongly urge against adopting as a principle of an Act something which might be in conflict with other law.

Hon N.F. MOORE: Paragraph (d) of the amendment reads -

> to promote a high standard of education in government schools and to ensure that education is provided to all children without discrimination on the grounds of sex, race or religion;

It is possible to read that provision as indicating that we should look for a high standard of education only in government schools, and that all children are to be educated without discrimination on the grounds of sex, race or religion. If the interpretation is that all children means children in government and non-government schools, it suggests that it will be contrary to this legislation for schools to discriminate on the basis of sex and religion. Many private schools are based on single gender enrolments. Therefore, it is ridiculous to suggest that that is not appropriate. Also, to suggest that private schools cannot discriminate on the basis of the religion of students ignores the fact that most private schools are based on the religious affiliations of the students who attend. It is possible to construe this amendment to mean that all children, those at government and non-government schools, are to be educated without discrimination on those grounds. It would be a ridiculous state of affairs.

We have already heard some suggestion that the government should provide single gender classes - I do not know whether such schools have been contemplated, but that may occur in the future - and talk about an Aboriginal school has received enthusiastic support. Such schools and classes would be contrary to the proposition in paragraph (d). As Hon Derrick Tomlinson indicated, laws at a federal and state level deal with this proposed object. If it were passed, this provision would send a message to the non-government sector that Parliament is legislating on the type of students who may attend its schools.

Paragraph (e) is grammatically strange as it reads "to have a child's education be provided at a government school". Maybe I am being pedantic, but it is not correct grammatically. Also, it refers to providing a child's education at a government school in the child's local area. What about the non-government school sector? Are we to be required to provide a government school place for every child in Western Australia, regardless of the fact that nearly 30 per cent of all students attend non-government schools? Is that the intent? That is ridiculous.

Paragraph (d) is unnecessary and would present some serious problems if passed in its present form. Paragraph (e) does not make sense because a large number of children do not attend government schools. It would be ludicrous for the Government to provide places for them if not needed. These amendments should be defeated. In the event that the Chamber accepts the amendments, I suggest that the word "sex" be replaced with the word "gender" in paragraph (d). Also, amendments may be required to fix up the grammatical errors which seem to drift into the member's drafting from time to time.

Hon KIM CHANCE: A couple of serious issues raised must be addressed, the most serious of which is the possible conflict of this measure with equal opportunity legislation. The Clerk has a lovely phrase in Latin to explain why this supposed conflict is not a problem: In law, the specific has precedence over the general. Clause 3 of the Bill deals with objects, the

purpose of which is to define the general intent of the legislation. Matters of discrimination are dealt with properly in the equal opportunity legislation in the clause to which Hon Derrick Tomlinson referred. In such circumstances, no conflict will arise. The referral in the equal opportunity legislation is specific and the amendment is general. Ergo, the specific has precedence over the general. It is not a conflict and never will be.

I do not see a conflict regarding the discrimination to which the Leader of the House referred. His argument would be cogent if paragraph (d) applied to a single school; however, the paragraph would apply to the entire education system and any institution operating under the proposed Act. Therefore, paragraph (d) refers to the system, not a particular school.

Although a single gender, female school may appear to be discriminating against potential male enrollees, discrimination would arise only if no such thing existed as a single gender, male school. Single gender, male and female schools are provided; ergo, no discrimination will arise. Again we can talk about matters in the general and the specific. Matters relating to the specific are covered in the equal opportunity legislation.

Hon N.F. Moore: Why do we need to put in the amendment then?

Hon KIM CHANCE: It is appropriate in defining the objects of legislation dealing with education to make such inclusion. These are aims to which the system will aspire, and an aspiration to anti-discrimination on the basis of gender, race or religion is a worthy general aspiration. It is not one of the specific issues defined in the body of the legislation. One cannot impute that a statement in the defining objects of the legislation has precedence over specific legislation.

I do not know how the Leader of the House could possibly read paragraph (e) in the way he suggested. It is an object to be able to provide a place for a child in a government school within a child's local area. However, if a child is a student at a private school, he or she will not look for a place at a government school. That problem would not arise. If the private education sector is catering for something like 30 per cent of students, those 30 per cent of students do not demand places in government schools. I do not know why we are speaking at length on the objects of the measure. It is simply a matter of ensuring that where there is a demand in a local area for a government school, a government school should be available.

Hon B.K. DONALDSON: I draw to the attention of members the objects and structure of this Bill. In technical or legal terms the second reading speech reflects the Bill which was referred by the Legislative Council to the Standing Committee on Public Administration. The four key objectives of the Bill are set out in the second reading speech as follows -

> that every Western Australian child has a right to receive a school education;
>
> that parents have a right to choose the form of education that best suits their child's needs, whether at a government school, a non-government school or in a home education setting;
>
> that parents have a responsibility to work together in partnership with schools for children's schooling to be successful; and
>
> that a government schooling system must be provided to meet the educational needs of all children.

The objects set out in clause 3 of this Bill pick up those key points made in the second reading speech. There is much more elaboration of those points in the following four or five paragraphs of the second reading speech and, although I will not read them out, I remind members that this is the stated intent of the Bill. It sets out the framework. If this matter came before the legislation committee, for example, there could be no argument against the clause. I note that this clause was not regarded as a problem by the Standing Committee on Public Administration.

Hon Kim Chance: It was outside our standing order.

Hon B.K. DONALDSON: That is a shame because I am sure Hon Kim Chance, as chairman of that committee, and his fellow committee members would have come to the same conclusion as I did about this clause. This Committee of the Whole House is trying to introduce clauses to amend the stated intent, the structure and the policy of the Bill.

Hon Kim Chance: It was outside our standing orders because it is a matter of policy.

Hon B.K. DONALDSON: That disappoints me because this policy was established in the second reading speech. Before members wander off into the wilderness, I draw that to their attention because the objects and structure are clearly identified in existing clause 3.

Hon LJILJANNA RAVLICH: I have already stated the view of the Australian Labor Party that the four objects stated in clause 3(1)(a) to (d) do not go far enough. I fully endorse the comments made by Hon Kim Chance. Members could spend a long time debating whether the proposed amendments to paragraphs (d) and (e) are in conflict with the Equal Opportunity Act. That is a matter of judgment. I do not think there is any conflict. If anything, the amendment would reinforce the provisions in the EO Act. It is important that these principles be embodied in the objects of this Bill. I believe it is fair and reasonable that one of the objects of the state education system be to promote a high standard of education and to ensure children are not discriminated against on the grounds referred to.

Amendment on the amendment put and a division held, with the Chairman casting his vote with the ayes -

Ayes (13)

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

Noes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*

Pairs

Hon E.R.J. Dermer	Hon Max Evans
Hon John Halden	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien
Hon J.A. Scott	Hon M.D. Nixon

Amendment on the amendment thus passed.

Amendment, as amended, put and a division held, with the Chairman casting his vote with the ayes -

Ayes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Ken Travers	
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Noes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
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Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*

Pairs

Hon E.R.J. Dermer	Hon Max Evans
Hon John Halden	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien
Hon J.A. Scott	Hon M.D. Nixon

Amendment, as amended, thus passed.

The CHAIRMAN: We are now considering amendment C3 which is to delete the words "acknowledge the importance of", and substitute "ensure".

Hon LJILJANNA RAVLICH: I propose an alternative amendment. Instead of deleting the words "acknowledge the importance of" and substituting "ensure", I would like to substitute "encourage".

The CHAIRMAN: For the clarification of members, the amendment that I read out has not been moved. In future, rather than dealing with amendments which apply to a whole clause, I will deal with them amendment by amendment in case it causes confusion, as it has with me in this case. We have before us the proposed amendment to delete the words "acknowledge the importance of" and substitute "encourage". The question is still that the words proposed to be deleted be deleted.

Hon N.F. MOORE: That makes 141 amendments now. It would be helpful if we were given some advance notice of the fact that the amendments which have been put on the Notice Paper will not be moved and will be substituted by something else. I had a good argument to use about the word "ensure". At last some commonsense is beginning to prevail. How members could ensure that parents take an interest in their children's education is beyond me. At last the member has seen the light on at least one of these clauses. Why does the member not leave in "acknowledge the importance of" and "encourage"? We want to acknowledge the importance of a parent's involvement at the same time as we want to encourage them. However, we certainly do not want to ensure it because there is no way we can make that happen.

Hon LJILJANNA RAVLICH: I have been in this Chamber for 18 months and this is the first nice thing that the minister has said about me, that some commonsense prevails. We find the amendment proposed by the minister to leave in the words "acknowledge the importance of" and add the new word "encourage" acceptable. Upon looking at this clause a little more closely, I agree with the sentiment that it would have been difficult to "ensure" the involvement and participation of parents. However, it is very important that we acknowledge the importance of and encourage the involvement of parents. From my teaching experience, when parents of children are involved, teachers tend to be more receptive and take a keen interest in what is happening to children. There are many provisions in this legislation about the role of the Western Australian Council of State School Organisations and parent bodies generally which would sit well with the proposed amendment which has been put forward by the minister. We find that an acceptable amendment.

The CHAIRMAN: We have an amendment before the Chair. We cannot accept anything that is not in order. If the member is seeking the leave of the Committee to withdraw the second amendment and substitute the word "encourage" after the words "acknowledge the importance of", I will ask the Committee whether leave is granted. Is leave granted?

Point of Order

Hon DERRICK TOMLINSON: I am not quite sure who is moving what. An amendment was moved by Hon Ljiljanna Ravlich. We also had a suggestion which was acceptable to Hon Ljiljanna Ravlich. The Chairman then ruled that Hon Ljiljanna Ravlich had not moved it, but then he moved it from the Chair. Who is moving what, Mr Chairman?

The CHAIRMAN: I indicated to Hon Ljiljanna Ravlich that if she wanted to move the way she had indicated, which was to accept the suggestion of the minister, she would have to move that by seeking leave. I presumed that was what she was doing; that is, seeking leave to do that. We have before the Chair the amendment to delete the words "acknowledge the importance of" and to substitute the word "encourage". The question before the Chair is that the words proposed to be deleted be deleted. Then we will go onto the substitution.

Amendment (words to be deleted) put and negatived.

Hon KIM CHANCE: I move -

> Page 3, line 9 - To insert after the word "of" the words ", and encourage,".

The clause would then read -

> to acknowledge the importance of, and encourage, the involvement and participation of a child's parents in the child's education.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I move -

> Page 3, after line 11 - To insert the following paragraphs -
>
> (e) to ensure that all parents and students have the right to an independent review of a decision made by the chief executive officer (or equivalent) which affects the educational interest of the child;
>
> (f) to ensure that the principles of natural justice are applied in any decision making process affecting the education of a child;
>
> (g) to mitigate educational disadvantage arising from a child's gender, or from geographic, economic, social, cultural, linguistic or other causes; and
>
> (h) to develop a teaching staff that is skilled, dedicated and professional.

The Opposition believes that we should include in the objects a provision to ensure that all parents and students have a right to an independent review of decisions made by the chief executive officer or equivalent which affects the educational interest of the child. Many complaints are made about the lack of due process when decisions are made. It is important that the issue of procedural fairness be addressed and it be incorporated as a part of the objects. Many parents feel, when a decision works against them, that the system protects those within the system, and they do not have a fair hearing on matters that concern them. It is beholden on members to ensure that the objects of this Bill include the provisions for procedural fairness. That will ensure that the hearing rule is complied with, and that the decision-maker is obliged to hear from the person who is aggrieved and whose interests may be adversely affected as a result of a decision that is made.

It will ensure also that judgments about decisions are made in an unbiased manner and that they are based on good, sound evidence. Proposed paragraph (e) should be a defining object. It is an area that has been overlooked for a long time and it warrants being included in the objects. The Opposition believes it is important that the principles of natural justice be applied to any decision-making process affecting the education of a child. That is only fair, and that is why it has been included. Proposed paragraph (g) refers to one of the key objects being mitigating educational disadvantage arising from

a child's gender, or from geographic, economic, social, linguistic or other causes. The Opposition believes that education has a key role to play in that regard. If teachers are poorly trained or do not have the required skill levels, obviously that affects the education system as a whole. It is well recognised that poorly trained staff lead to a poor education system. It is beholden on any Government to ensure that the teaching staff is skilled, dedicated and professional. Questions have been asked about whether teachers receive sufficient levels of professional development. I am sure that that issue will be debated elsewhere. However, it must be established as an object that we ensure that teachers are highly skilled, dedicated and professional, and that they are developed to a certain standard.

The Government will probably argue against the inclusion of these provisions. It will obviously base its argument on the point it has used in the past; that is, the substantive clauses are sufficient and we should have no more. The people to whom I have spoken believe that the objects do not go far enough. The amendments moved by the Labor Party would be a vast improvement on the current objects in the Bill and I ask the Committee to support the amendment.

Hon N.F. MOORE: The Government does not support these amendments. Proposed paragraph (e) refers to ensuring that all parents and students have the right to an independent review of a decision made by the chief executive officer or equivalent - whatever that means - which affects the educational interests of the child. The issue that most directly affects a child's educational interests is probably his exam results. Would this amendment mean that a student could take his results to an independent reviewer to get a second opinion on whether he should have passed or failed?

Hon Kim Chance: Only if the legislation specifically provides that.

Hon N.F. MOORE: The Opposition is saying that it should be an object of the legislation that we provide for anyone dissatisfied with his exam results to have an independent review. If members opposite do not believe there are enough problems now they should go ahead and make this an object of the legislation. This amendment would provide for anyone who was disgruntled with a decision of the CEO to have an independent review no matter what the decision, except to the extent that it affected the educational interests of the child. According to this amendment, any decision that the CEO of the Education Department makes should be subject to some form of independent review. Members should imagine trying to run an education system in which every decision is subject to independent review; and by whom - the Ombudsman, the Auditor General or some new organisation? This is ludicrous in the extreme; I have never read anything so stupid in all my life.

The member should imagine that she is the CEO of the Education Department. She makes a heap of decisions, because that is what she is required to do, and every decision is subject to review. She would never make a decision; and, if she did and it was overturned, she would throw in the job. It would be like my saying that every time the member makes a decision it should be subject to an independent review. Someone might stand in the gallery and say that he does not like her decision and rule it out of order. Hon Christine Sharp might ask herself what she is doing here as a member of Parliament if her decisions were subject to such review. That is drawing a long bow, obviously, but the principle is the same. We employ people to be CEOs or equivalents, whatever that means. What is the "equivalent" of a CEO? There is a CEO or there is not. The legislation provides for a CEO, but this amendment refers to an "equivalent". No-one knows who that is. However, there will be a review of any decision the CEO or his equivalent makes that affects the educational interests of the child. Every decision could easily be construed to do so, and it must be subject to some form of independent review. This is going beyond the pale. I understand what members are trying to achieve, and that is probably covered in proposed paragraph (f), which refers to natural justice. This goes well beyond any suggestion of natural justice; it is all about interfering with the day-to-day operations of the Education Department. Every child in Western Australia who does not get 100 per cent in his exams will be rushing off to this independent reviewer to get the result checked. Like some of the other amendments, proposed paragraph (f) is unnecessary. There is enough law already in place to ensure that natural justice applies in respect of this decision-making process.

Hon Ljiljanna Ravlich: Why do parents complain they do not get a fair hearing?

Hon N.F. MOORE: Parents complain for all sorts of reasons, and many of those complaints are totally unfounded. The member seems to think that everyone who complains has justice on his side. One of these days she will realise that people who come to her to complain do not always tell the truth. The parents who complain about children at school in many cases take the child's point of view against that of the teacher, and it is often wrong. Everyone complains about something at some time. However, to suggest that every time people complain they should be able to rush to an independent reviewer is ridiculous.

Proposed paragraph (g) refers to mitigating against educational disadvantage. I do not know how one goes about achieving that. Clearly, if a child lives in a remote part of the State, mitigating against disadvantage is difficult to understand. Proposed paragraph (h) relates to teaching staff. The Government agrees with this statement. Everyone wants a dedicated, skilled and professional teaching staff. However, this Bill is not about the teaching staff in that sense, so it cannot be an object of this legislation. Therefore, I return to what I said at the beginning of this debate: To try to change these objects to talk about things which are not in the Bill demonstrates the unnecessary nature of many of the amendments. Proposed paragraph (e) has the potential to create serious problems if somehow the object of the Act had to be put into effect.

Hon DERRICK TOMLINSON: If one accepts the position argued previously by Hon Kim Chance that this is a statement of principles to guide the education system, it is hard to reject them, because they are almost mother's milk principles and not offensive in any way if they are correctly phrased. Proposed paragraph (e) suffers the same problem which was anticipated in the amendment C3. Mr Chairman, I presume we are now dealing with Supplementary Notice Paper 4-2.

The CHAIRMAN (Hon J.A. Cowdell): Indeed we are.

Hon DERRICK TOMLINSON: There is a moving feast of paper. We were going to adopt 4-1 in toto; now we are dealing with 4-2; I am sure we will reach 4-3. It would be nice to be told what we are dealing with. However, the problem that was anticipated by Hon Ljiljanna Ravlich in C3, page 3, line 9, by moving to insert "ensure", needs to be anticipated in proposed paragraph (e), "to ensure that all parents and students have the right". How does one ensure that they have a right? One might ensure that there are processes and mechanisms, but how does one ensure they have a right? A right is a principle established by mores, convention or social custom. How does one ensure a principle established by a convention, social custom or the prevailing political values? How does one ensure that they have those rights?

Hon Kim Chance: Hon Derrick Tomlinson left out statute.

Hon DERRICK TOMLINSON: Proposed paragraph (e) says that parents and students have the right to an independent review. I would be much more comfortable if the amendment had said something to the effect of: To ensure that there are procedures for independent review of decisions made by whatever it might have been. Therefore, one is ensuring a process to guarantee the right. However, one cannot ensure a right. A right either exists or it does not. If the right exists by social convention, one would need to ensure that there are mechanisms or constructs to protect and to preserve the right. The problem that Hon Ljiljanna Ravlich anticipated in the previous amendment is imported into this one. However, proposed paragraph (e) then states, "which affects the educational interest of the child". I can accept what is stated in proposed paragraph (f); that is, "any decision making process affecting the education of a child". However, what is meant by the words, "which affects the educational interest of the child"? If a decision affects the education of a child, that is not offensive. However, if it affects the educational interest of a child, that is offensive. Why not, for clarity in drafting, use the same language that is contained in proposed paragraph (f), which is quite clear, rather than the obscure words, "affects the educational interest of"? It is bad drafting.

I have always in this place objected strongly to legislation which is imprecise or capable of more than one meaning. If we are to make the law, the law must be capable of accurate interpretation. Here we have words which are reduced to gobbledegook because they cannot be operationalised, in the terms in which they have been presented, to achieve the principle that the member wants to achieve. If one wants to achieve something, one should make the meaning clear. I cannot accept the gobbledegook that is contained in these proposed amendments.

Hon KIM CHANCE: I do not know why we are spending so much time on a matter of general legislation.

Hon N.F. Moore: What is general legislation?

Hon KIM CHANCE: It is not specific, in other words.

Hon Derrick Tomlinson: Do you want sloppy legislation?

Hon KIM CHANCE: No. We are talking about amendments to the objects of the Act which seek to include among the objects the matter of independent review. If one is uncertain about the meaning of this clause, one should look to the specific. The specific is in the body of the Bill and its amendments.

Hon Derrick Tomlinson: Perhaps Hon Kim Chance should give a blind man a guide.

Hon KIM CHANCE: Probably the best suggestion we can make, if it is a matter of great concern to the Government, is that we set aside this amendment, deal with the specific, and then come back to it.

Hon B.K. Donaldson: Hon Kim Chance cannot give us an answer.

Hon KIM CHANCE: No, I have just given the answer. However, after I gave the answer I suggested that if government members do not understand what we mean - I am not putting anyone down when I say that - it might be better if we go through the specific and handle the legislation -

Hon Derrick Tomlinson: We might guess at what the Opposition means. However, if we have to guess at what it means when we are legislating, who will guess about what the Opposition means when the legislation is in fact law?

The CHAIRMAN: Order!

Hon KIM CHANCE: Anyone who can put together in the same sentence words like organisationalised and gobbledegook and suggest that there is no relationship between the two of them -

Hon Derrick Tomlinson: I think the word was operationalised.

Hon KIM CHANCE: I am sorry, operationalised. I have read the word once before in my life, and amazingly that was tonight during the dinner break when I was reading WorkSafe's magazine.

The CHAIRMAN: Order!

Hon KIM CHANCE: It was a direct quote from Neil Bartholomaeus, and I thought how beautiful it was that a word like that would come from someone like Neil Bartholomaeus. I suggest Hon Derrick Tomlinson might have read the same thing. It is gobbledegook. If one is talking about a child's interests, that is not gobbledegook. Generally and specifically we are talking about the child's educational interests. How can government members possibly not understand what that means?

Hon Derrick Tomlinson: Tell us!

Hon KIM CHANCE: It does not mean examination results.

Hon N.F. Moore: Why not?

Hon KIM CHANCE: That is more in the nature of an outcome. I would have thought that the child's interest was a matter of where and how the child is going to develop within the system. That is looking after the child's interests.

Hon N.F. Moore: Therefore, this does not mean examination results?

Hon KIM CHANCE: I would have thought that was more of an outcome than an interest. However, one might argue that outcomes are interests. Nonetheless, I would not have thought that the word "interest", in its application to a child in the context of education, was difficult to understand. It is certainly not gobbledegook. However, if members are still uncomfortable with what it means, by all means set it aside, and we can go through and consider the specifics of the legislation when this matter of independent review is dealt with clause by clause.

Hon N.F. Moore: If there are no specifics in the Bill itself -

Hon KIM CHANCE: There are specifics in the Bill. That is the important thing.

Hon N.F. Moore: Hon Kim Chance has added many things into this set of objects which have nothing to do with the Bill.

Hon KIM CHANCE: Independent review is not one of those. Independent review is certainly one of the issues which is dealt with at length in both the Bill itself and in the committee's amendments. If members are still uncomfortable with that, perhaps we ought to set that aside. We will then deal with the specifics and come back to this part and decide whether the child's educational interest in matters concerning independent review of decisions is an accurate wording. I think it is. If the Government does not, that is fine. If members feel uncomfortable with it, we will leave it and come back to it. However, we should not get bogged down on generalities when the generalities are not legislation. It is part of the law.

Hon N.F. Moore: We are getting bogged down by the very poor drafting of this clause.

Hon KIM CHANCE: I will not comment on that either. One can always argue something is poor drafting. I have seen worse. Let us not get bogged down by it but get on with it. If we must come back to this clause, let us come back to it.

Hon B.K. DONALDSON: I will not let pass this opportunity to put on public record the absolute stupidity and nonsense that Hon Ljiljanna Ravlich is trying to thrust upon the members of this Chamber with the amendment to this piece of legislation. It is offensive, quite frankly. What the member is really getting at through the amendment is a bit like saying that every time a chief executive officer or the Commissioner of Police makes some decision, the person affected will have the right to an independent review. That is the power the member is giving. Let us not run away from the fact.

Hon Kim Chance interjected.

Hon B.K. DONALDSON: Stop talking about being pedantic. What the member is saying is an affront to the education system as we know it today. What she is trying to impose on this piece of legislation is the most stupid thing I haver ever seen in my life.

Hon Ljiljanna Ravlich interjected.

The CHAIRMAN: Order!

Hon B.K. DONALDSON: I want the member to go out into the wider community and talk to the parent groups who take an interest in their children and who have been supporting them for years and probably supporting the member as a teacher. What is the member doing? She is trying to emasculate a piece of legislation that people have been asking for now for 70 years.

Hon Kim Chance: Are you arguing against the independent review that we have had already?

Hon B.K. DONALDSON: No, I am arguing against exactly what the member is saying here - that all parents and students have the right to an independent review. That could come down to whether all children have to wear a pair of shoes to school, for argument's sake.

Hon Kim Chance: If it says so specifically. That is what I have just spent 10 minutes trying to tell you.

Hon B.K. DONALDSON: The member knows as well as I do that something like that is subject to interpretation. The only body that could interpret it is a court. What members opposite are doing this evening is emasculating a piece of legislation that parents and teachers have been arguing for over a long time. Members opposite should go back to the grassroots. Hon Kim Chance has forgotten where he really comes from in trying to put up this absolute rubbish. It is an affront to me as a member of this Chamber to see this absolutely unadulterated rubbish being pushed in front of us. It makes a joke and a mockery of this Parliament. I do not want to be part of it. I will not have my name associated with it. I can go out and front up to the people whom I represent. It involves not only the Agricultural Region but all Western Australians. I will tell them where it all came from.

Several members interjected.

The CHAIRMAN: Order!

Hon B.K. DONALDSON: I will tell them it came from Hon Ljiljanna Ravlich, Hon Kim Chance, the Labor Party and their stooges in the Chamber. Senator John Button said it very well when I was in the Senate a few years ago when he looked at the Democrats - there were no Greens at the time - and said, "They remind me of gnomes at the bottom of the garden." That is exactly what they really are all about. I am putting on public record the absolute nonsense that is going on in this Chamber tonight over this piece of legislation. If I were the Leader of the House, I would pull this Bill out of this Chamber right now.

Amendment put and a division held, with the Chairman casting his vote with the ayes -

Ayes (14)

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

Noes (13)

Hon M.J. Criddle	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Dexter Davies	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon N.F. Moore	Hon W.N. Stretch	
Hon Ray Halligan	Hon M.D. Nixon		

Pairs

Hon Ed Dermer	Hon Max Evans
Hon John Halden	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien

Amendment thus passed.

Clause, as amended, put and a division held, with the Chairman casting his vote with the ayes -

Ayes (14)

Hon Kim Chance	Hon Helen Hodgson	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Norm Kelly	Hon Christine Sharp	Hon Giz Watson
Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
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Hon Ray Halligan	Hon M.D. Nixon		

Pairs

Hon Ed Dermer	Hon Max Evans
Hon John Halden	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien

Clause, as amended, thus passed.

Clause 4: Definitions -

Hon HELEN HODGSON: I will not be moving the amendment standing in my name. When I was working on the Bill, I found an anomaly that I had difficulty with. I have received information within the last five minutes by a note passed across the Chamber which has allayed my concerns about that matter. It would have been useful to have received that information earlier.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: When enrolment compulsory -

Hon KIM CHANCE: I move -

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

The amendment under my name is the first of the amendments which have originated from the review by the Standing Committee on Public Administration. This clause is arguably one of the more interesting, if not controversial, of those clauses in which the effect of the matter to which I referred in my brief speech at the second reading stage provided instances of the division within the committee. Indeed, it was on this provision that the committee found its only division of opinion. It relates to the provision of a head penalty for certain offences within the Bill. The determination by the committee was that while a penalty for those offences was warranted, a head penalty was not. I refer members to appendix 3 in the committee's ninth report. In raising the issues that he did, Hon Dexter Davies made a powerful and cogent argument for the retention of either the head penalty as indicated in the Bill, or some form of head penalty. If the literal definition of the word "cogent" is taken, that would suggest that the rest of the committee were convinced by it. It would be more accurate to say that we found his argument to be impressive and to make sense; there is no doubt about it. However, on balance, it was the opinion of the majority of the committee that while a penalty should be retained, there was no reason for a penalty other than the daily penalty for each day that the offence continues. In the presence of a daily penalty, the head penalty was no longer required. The Bill at this stage provides for both; a head penalty for some of these offences of $5 000, as in this clause, and in others of $1 000. In all cases when penalties are involved, a continuing penalty of $25 a day applies.

Clause 9 relates to offences connected with a failure to enrol. The committee was in no doubt that it is a serious offence for the adult who is responsible for a child to wilfully refuse to enrol that child, or in the case of home educators, to not comply with the provisions of the Act. Each individual member of the committee would probably have his own argument against the matter of the head penalty, which in this case is $5 000. One of the most powerful arguments that I heard concerned the issues that were raised by the Aboriginal Legal Service in respect of traditional desert people who may be far from access to their -

Hon Bruce Donaldson: They are paid to allow the kid to go to school.

Hon KIM CHANCE: I am not sure what that has to do with it. Is the member suggesting that if they receive welfare benefits, they should be required to pay a fine? I cannot see the connection.

Hon B.K. Donaldson: You are talking about ensuring that a child goes to a school program and then you are bringing in penalties and saying if they cannot afford it, you will take notice of what they are saying.

Hon KIM CHANCE: I do not think I have said they cannot afford it. I think the member is pre-empting what I might say. I was talking about traditional desert people, who are highly unlikely to be receiving any welfare benefit if they are truly traditional people. If they are close enough to a town to pick up any benefit, presumably they are close enough to a town to locate a school. For those people who may be away from a town for months on end, when the child of that family has reached enrolling age, does that mean when they come into town - it might be Laverton, Leonora or Warburton - they will face this fine? I do not think any member disputes that that is a possible scenario and each will make his own argument. Hon Dexter Davies argued that the penalty should be there to indicate the seriousness of the offence. The Sentencing Act and the Interpretation Act are relied upon to grade that sentence. The justice system is relied upon to deliver the outcomes. At that point, we might differ because I have seen, especially in justices' courts in remote Western Australia, some spotty administration of justice in cases involving unsophisticated people who have come in and pleaded guilty. I do not feel all that comfortable with the possibility that a family may come in and be charged with an offence that can carry a fine of $5 000, notwithstanding the fact that they may be welfare recipients. I cannot see the relevance of that comment. Whether or not they are welfare recipients, they may not be able to afford a large fine. I am not suggesting it might be $5 000; it might be $1 000, but they may not be able to afford a fine of that magnitude. How will their capacity to continue to function

as a family be affected if they are hit with a fine of $1 000? That was the concern that was raised initially by the Aboriginal Legal Service. It seems to me that the provision of a $25-a-day penalty, exactly the same penalty as is provided for in the Bill, is sufficient to show the seriousness of the requirement in law to enrol a child of enrolling age. It does not require the addition of a head penalty.

I have already referred members to appendix 3 of the final report. I hope members have had a chance to read it. That appendix was included for the advice of the committee initially, at the very good suggestion of Hon Dexter Davies. It has been said that the decision the committee ultimately made in its recommendation ignored its own advice; and that may well be an argument that Hon Dexter Davies will use. I do not believe it does, because much of appendix 3 argues that we cannot have a compulsory education system if we do not have a sanction. The amendments proposed by the committee retain the penalty. Paragraph 4.8 on page 8 of appendix 3 states -

> It should be remembered that even if fines are not expressly imposed by the Bill that the courts still have the power to fine an offender . . .

This means that notwithstanding that the Chamber might choose to eliminate the head penalty for this and similar offences, if a court determined that there was a need for a fine, even a substantial fine, the court would have the power to impose that fine.

Hon DEXTER DAVIES: I did put the case forcefully, and I still believe strongly in the importance of compulsory education for our children. The amendment proposes to delete the head penalty and substitute a $25-a-day penalty from the time the court considers that the person should have complied. That will reduce the ability of the magistrate to determine whether a fine should be imposed, and it will increase the likelihood that the very people about whom we are talking will be fined, and that they will be fined an amount far in excess of what would have been imposed by a magistrate, because under the Sentencing Act, a fine would be imposed only after every other possibility had been taken into account.

Hon Ljiljanna Ravlich: Previously it was "$5 000 and", not "or". That is the problem.

Hon DEXTER DAVIES: The magistrate could make that choice. The safeguards that are provided in the Sentencing Act mean that a fine would be imposed only in the most serious cases. This amendment proposes a fine of $25 a day -

Hon Kim Chance: That is the maximum. It may be $1 a day.

Hon DEXTER DAVIES: This amendment will increase the likelihood that a fine will be imposed, whereas previously it was most unlikely that a fine would be imposed. That is not the right way to go. The $5 000 head penalty is an indication of the importance of compulsory education. If we remove that and have a fine of $25 a day, we will increase the likelihood that people will pay a fine of $25 a day. I urge members to oppose the amendment.

Hon HELEN HODGSON: I was a member of the committee that examined this issue of fines and penalties as part of its terms of reference. We had a lot of serious discussion about that matter, as indicated by the attachment to our report, which examines the way in which the Sentencing Act is applied. We started from the premise that fines should be a last resort, and we maintained that premise. It was suggested at various times that we not have fines at all but have alternative mechanisms. However, we had to accept that because of the way the various pieces of legislation interact, we need to have a penalty in order to create an offence and trigger the other mechanisms that will come into play. The key factor is that we have retained the discretion of the court with regard to the amount of the fine. This is why I disagree with Hon Dexter Davies. While I appreciate his sincerity in making his comments, the proposed fine of $25 a day is subject to the same provisions of the Sentencing Act as would apply to the $5 000 head penalty. We are trying to ensure that the size of these fines will not impede children who have not been in the system from being brought back into the system. This is why the size of the head penalty is fairly significant. The proposed daily penalty has not been changed. Only the head penalty has been changed. The courts will still have the discretion to determine the size of the penalty.

We considered this matter long and hard. We came back to this issue several times before we resolved some of the legal issues that were involved, and the way in which the Sentencing Act works. The committee decided in the end that we should ensure that the penalties were regarded as the last resort, that the penalties did not prevent parents from making sure their children were enrolled in the school system, and that the court retained the discretion to levy the appropriate penalty to reflect the seriousness of the offence. The $25-a-day formula will allow that to happen. It will also ensure that it is made clear to parents that they have an obligation, and mechanisms will be provided to ensure that parents are clear about the date by which they should comply. Hon Dexter Davies is correct. There could be circumstances in which $25 a day adds up to more than the original penalty. However, that is where the court's discretion to decide the level of daily penalty will become relevant. I acknowledge where the member is coming from, and the genuine concerns that he put to the committee. However, the committee 's recommendations are a better way to go.

Hon N.F. MOORE: The Government opposes this proposition for a number of reasons. First, the intention is to provide a significant penalty for failure to enrol to indicate the importance of enrolment. This is not about attendance, but enrolment. Enrolling is not a difficult or arduous task. Even Aboriginal people living in the remote parts of Western Australia invariably

are given the opportunity to enrol; whether they attend regularly is another issue. The intention of a $5 000 penalty as the maximum penalty is to emphasise to the community the importance of enrolment. The committee's amendment to $25 a day from the time that the court considers the person should have complied, and then $25 a day if the offence continues after conviction, could have the effect of requiring a person to attend court twice. Members opposite want to avoid people going to court. However, as I read the amendment, a person will go to the court and the court will decide that the person has not been enrolled and so convict him and require him to pay $25 a day from the date the court considers he should have been enrolled to the date of conviction. After that, if the person still does not enrol, who will say for how many days he has not been enrolled? I suspect the person will have to go to the court again and someone will need to convince the court that he or she has not paid the penalty beyond the date of conviction. We cannot have someone collecting the money without a judge making an order to pay it.

Hon Ljiljanna Ravlich: Why is that different from the Bill?

Hon Kim Chance: It is $25 a day in the Bill.

Hon N.F. MOORE: The daily penalty is imposed from the date on which the person did not enrol the child until the date of conviction. However, if he then fails to pay he will be charged again. It is a different offence. The amendment would require the person to go to court twice for the one offence. The Government will not support the amendment. It is important to demonstrate the magnitude of the importance of enrolment bearing in mind that we have agreed collectively that compulsory education is part of the Western Australian way of doing things.

Hon Dexter Davies is quite right, the Young Offenders Act and the Sentencing Act are based on principles of sentencing that require magistrates to take full account of the circumstances of the offender before imposing a penalty. The penalty of $5 000 is a maximum.

Hon Kim Chance: As is $25 a day.

Hon N.F. MOORE: They are all maximums; I accept that. The magistrate will take into account the circumstances of the failure to enrol and make a decision accordingly. We should pursue the clause in the Bill.

The Government has placed amendment E9 on the Notice Paper. That provides another couple of subclauses to add some protections in the process of prosecuting a parent who does not enrol his child.

Hon LJILJANNA RAVLICH: There is no doubt that the public perception of the Green Bill was that the fines were excessively high. It will most harshly affect those people with the least capacity to pay. Failure to pay a maximum head penalty could lead to people ending up in the court system. The minister is aware this was an issue of considerable debate by the Standing Committee on Public Administration. We tried to deal with it in a fair manner looking at a number of possible scenarios. The amendment before the Chamber is deemed to be the most appropriate way to deal with the issue.

The public consultation report which was prepared for the Green Bill noted that many members of the community were alarmed at the excessively high penalties in the Bill. There was a view that the legislation should focus on a positive approach to dealing with non-compliance issues and also that the emphasis on the penalty should be the maximum in each case. Although I do not have a problem with that notion, it is beholden on us as legislators to legislate for the worst possible scenario rather than the best. Even though it is a maximum head penalty it does not mean that a judge making a decision would not be inclined to penalise at the higher level rather than the lower level. The public consultation report also expressed the view that the number of fines should be minimised, and the amount of penalty should be reduced. There has been some reduction, but nowhere near what members of the community would find acceptable. I fully support the amendment because it is fair. We were dealing with a $5 000 head penalty and a daily penalty of $25. It was not an either/or situation; it was a combination of the two. That would have been disastrous for many people.

If the substantive motion remains and the penalty of up to $5 000 is imposed, and an individual is charged for not being able to pay that sum, that will have a negative flow-on effect through the community. The long-term costs and charges to society as a whole in dealing with matters of non-payment is an issue that needs consideration.

We can look at this issue at micro and macro levels - that is, tying up court resources and what happens to people who do not have a capacity to pay a substantial sum of money. The clear thinking behind the committee's recommended change to the clause is that a $25-a-day penalty would encourage parents to enrol their children in school. That would act as a real incentive. It would take a considerable period of non-enrolment before one clocked up the maximum $5 000 - leaving aside the additional requirement for $25 a day. The amendment will be a pretty strong incentive for parents who do not have their children enrolled, to enrol them. It is a much more equitable way to go rather than to hit parents with $5 000 plus a daily penalty of $25. I support this amendment.

Hon DERRICK TOMLINSON: I spoke in another forum against this form of penalty. I find it personally objectionable that we transport educational problems into the justice system for their resolution. However, I accede to the argument presented earlier by Hon Helen Hodgson and presented to me in the same forum in which I opposed it, that it is necessary

to create a penalty and to bring the child into the justice system to trigger the other actions necessary to ensure enrolment of the child in an educational program.

I would like some explanation of how this will work. Most of the illustrations related to Aboriginal children in remote locations. That is probably the least likely circumstance in which this will apply. It is more likely to apply to home educators who have already indicated that they are so offended by the provisions of home education registration that they will refuse to register their children, or to enrol them. They will test the law.

Hon Kim Chance: We hope fewer people will be offended as a result of these amendments.

Hon DERRICK TOMLINSON: Let us hope so. Hon Dexter Davies presented the scenario of a child not being enrolled on day one. Six months later the child and the parent are in court and a conviction is recorded. A penalty is then incurred daily from the day on which the court determined the child should have been enrolled. If the court determines the child should have been enrolled at day one, six months later - 180 days - a maximum penalty of $4 500 could be applied. The court would probably use its discretion and impose a penalty of $1 a day. If ever it got to that situation I am sure the court would use that discretion.

The offence is triggered, the conviction is recorded and a penalty applies for the conviction relating to the offence. That is a retrospective move. Then we see in the amendments a prospective penalty of $25 for each day on which the offence continues after conviction. Hon Norman Moore asked the question: How will this be applied other than by bringing the offender back for a second conviction?

Hon Kim Chance interjected.

Hon DERRICK TOMLINSON: The Bill simply refers to a $25-a-day penalty for a conviction of an offence; that is, the retrospective $25 a day. Here we are talking about a prospective penalty of $25 a day. As I understand it, and I would like an explanation, the only way to make that prospective penalty apply is to bring the offender back to court and convict him or her again and impose the subsequent penalty - failing to enrol after the day of conviction.

Hon Kim Chance: It is about the execution of a court order.

Hon DERRICK TOMLINSON: Does the prospective become the retrospective, and when does retrospective stop being retrospective and become prospective? I am not trying to be smart; I want some explanation of this retrospective and prospective penalty from the conviction relating to the day on which enrolment should have occurred and for some indeterminate time at a maximum penalty of $25 a day after the day of conviction. May I have some explanation of how that will be made to work?

Hon MURRAY MONTGOMERY: As I understand the court system, a case involving the $5 000 penalty being suggested would be heard by at least a magistrate. With a $25-a-day fine, one could have a couple of justices of the peace hearing the case. The likelihood of a JP's imposing a penalty towards the maximum rather than the minimum end of the scale would be higher than if a magistrate were hearing the case. At the same time, a $25-a-day penalty imposed by two JPs will probably sit there because that is the way the amendment reads. Perhaps the member has it in the wrong context. It should be dealt with in a higher court rather than by JPs. The penalties might be high, but a magistrate hearing those cases may find himself being rather lenient compared with a JP. I ask the minister or perhaps Hon Kim Chance to comment.

Hon DEXTER DAVIES: I refer to Hon Ljiljanna Ravlich's comments about a parent being lumbered with a $5 000 fine and not being able to pay. Hon Kim Chance is correct; we should have read the advice provided, which clearly states -

> The amount of any fine imposed by the court must constitute an appropriate punishment balancing the need to punish the offender, and the offender's capacity to pay. Thus, the amounts and method of payment of the fine will need to take into account, as far as practicable, the financial resources and income of the offender and the nature of the burden that its payment will impose.

The legal advice clearly states that that will not happen and that those things will be taken into consideration.

I heard the argument when I was at WACSSO that the $5 000 fine will scare everyone. WACSSO put up these proposals because it was convinced that every parent would be fined $5 000, they would not have the capacity to pay and everyone would be disadvantaged. That is why I asked for the advice on how that would be imposed. Clearly those provisions will prevent that happening. The system provides that what the member predicts will not happen, yet it is continually put up as something that will impose a financial hardship on someone. The law quite clearly states that that will not happen. I point that out because just before Hon Ljiljanna Ravlich sat down she said that some parents will have a $5 000 fine slammed on them and they will be inconvenienced because they cannot pay. The advice that we received clearly explained that. Those matters will be taken into account. The member was giving the impression that that was not going to happen. That is why that advice was sought and given and it should be made clear to all members.

Hon N.F. MOORE: I also ask the same question of the proposed amendment as was asked by Hon Derrick Tomlinson, but

I go a step further: In the event that a parent is convicted and is required to pay a fine of $25 a day from the time the child should have been enrolled, the parent is fined that number of days multiplied by $25 or whatever the magistrate decides is an appropriate amount, and then the parent decides not to enrol a child beyond the period of conviction, when does that refusal to enrol beyond the conviction, which is accumulating at $25 a day, become a new offence in which the parent is then charged again for not enrolling the child? Assuming that it takes place, and the parent is again convicted, is the parent convicted on the number of days since the first time the parent was required to enrol his or her child past the first conviction and through the second conviction? Does the prospective money that has been paid between the first and second convictions also have to be paid or does it simply mean that once a parent is convicted of failing to enrol a child, all the parent needs to do from then on is pay $25 a day and ensure that the child is never enrolled?

Hon KIM CHANCE: Firstly, on the question asked by Hon Derrick Tomlinson as to whom he should direct a question, Hon Ljiljanna Ravlich has carriage of the Bill for the Opposition, but as Chairman of the Standing Committee on Public Administration I have carriage of the amendments which stand in my name. If it relates to a matter of the Standing Committee on Public Administration the question should be addressed to me. If it relates to the Australian Labor Party's amendments, it should be directed to Hon Ljiljanna Ravlich.

As for the question asked by Hon Derrick Tomlinson and developed by the Leader of the House about the prospectivity of the penalty, the issue is clear enough in its retrospective sense. However, it is not truly retrospective because the offence is created before the offence is committed. It has a retrospective effect. It is that point in time between the offence and a conviction. I have been considering what the Leader of the House said when I said, "It is the same as the Bill", and he said, "No, it is not." Let us return to the Bill and consider the effect of the two. The prospective nature of the penalty will be $25 for each day on which the offence continues after conviction. The Bill states that the penalty shall be $5 000 and a daily penalty of $25. Perhaps I misunderstood the Bill's intention, but it seems to me that when a daily penalty is prescribed anywhere else, it is for the ongoing offence. Consider a person who commits an offence under the Act by which Western Power makes regulations about the use of mains electricity. I can recall a number of offences in that Act which deal with illegal tapping into a power main. The head penalty is $10 000, plus $1 000 a day for the continuing offence. It is much the same in the Country Areas Water Supply Act - an illegal connection to a water main carries a fine of $5 000, plus a daily fine of $500 a day for the continuing offence.

In my reading of the Bill, the words "and a daily penalty of $25" mean the same thing. If the offence continues after the conviction and is not properly addressed, in the days that intervene between those two points the fine will be $25 a day for the continuing offence. In that sense there may be a difference between the Bill and the amendment, but not in the terms that I understand. The amendment states "$25 for each day on which the offence continues after conviction".

Hon N.F. Moore: The member will find that the Bill relates to the days from which the enrolment should have taken place until the day of the conviction.

Hon KIM CHANCE: It is not in the same sense as an illegal connection to a main in which the continuing offence -

Hon N.F. Moore: Magistrates do not fine people on what they might do.

Hon KIM CHANCE: An illegal connection to a utility incurs an ongoing fine for the continuing offence. I might be wrong, but I had taken the Bill to mean the same thing; that is, that while the offence of non-enrolment continued, it would be $25. The answer could be that I and the committee have misunderstood the effect of the Bill. The next question I should ask is, how it will be operationalised?

Hon Derrick Tomlinson: Wash your mouth out.

Hon KIM CHANCE: I would imagine that upon conviction an order would be made by the court, whether or not a penalty of a financial nature had been imposed, requiring the enrolment of the child. If the court issues an order on 20 February and that child is not enrolled until 30 February, the offence would be a breach of the court order.

Hon N.F. Moore: Was that 30 February?

Hon KIM CHANCE: I meant 28 February. Had it been 30 February, they would have been in deep trouble. I was trying to make the maths easier and the Leader of the House caught me out on the calendar. That would be an indication of the amount of time for which the offence continued. I am not sure whether that is an incorrect assessment. It seems to me that there is no effective difference in that regard between the amendment and the Bill, except that the Bill attempts to spell out the price of the ongoing offence. There was a perception of an ongoing offence. When does the offence become a new offence? That is a good question. That would be a matter for the court to determine. Presuming the child was never enrolled for the length of time we are considering, the single offence would remain the same offence because the amendment deals with both the retrospective and the prospective terms of the offence. If the offence had applied for a 20-day period prior to conviction and a 10-day period post-conviction, that would be a single conviction. The sentencing options provided by the amendment would allow the court to deal with both matters by the issue of a court order of 10 days which existed after the original conviction.

I will address the question that was raised by Hon Murray Montgomery. I think he was saying that as a result of a possible head penalty as high as $5 000, that would be an offence that was too serious to be heard in a justice's court. Is that correct?

Hon Murray Montgomery: That is right.

Hon KIM CHANCE: I did not know that. At what point does a justice's court cut out?

Hon Murray Montgomery: At $1 000. It is fairly wide.

Hon KIM CHANCE: Would it be true to say that if a determination was made some time into the hearing in a justice's court, and the time that had elapsed created a potential fine greater than $1 000, the justice's court would refer it to a Magistrate's Court?

Hon Murray Montgomery: It is the head penalty that matters. The $25 a day can be imposed cumulatively.

Hon KIM CHANCE: Hon Murray Montgomery certainly raised an interesting point. It is not a matter for our consideration, because I am being asked to make a judgment about whether it is better for somebody to go before a justice's court or a Magistrate's Court.

Hon Murray Montgomery: What I was trying to illustrate is that Hon Kim Chance has caught himself up in an issue which could end up with justices of the peace imposing penalties almost as great as the total penalty, or at the higher end of the scale for the head penalty.

Hon KIM CHANCE: It is an interesting aspect and one which we have not considered. I thank Hon Murray Montgomery for raising that.

Hon HELEN HODGSON: During the time that Hon Kim Chance has been covering some of those issues, I might have found the answer in the Interpretation Act to some of the dilemmas that have been raised. I draw members' attention to sections 70 and 71 of the Interpretation Act. Section 70(4) specifies -

> Where in a written law a penalty specified in respect of an offence is referred to as being a daily penalty, that reference indicates that, in addition to any other penalty that may be imposed in respect of the offence, a penalty may be imposed for each day or part of a day during which the offence continues.

If we compare the drafting of the original Bill, which simply refers to a daily penalty, with the drafting of the amendments from the committee, we find they have the same effect, although possibly the committee would not have chosen that form of words had it been aware of this subsection at the time.

The other issue that has been raised is the question of when a new offence is created. That is covered in section 71 of the Interpretation Act. Subsection (2) states -

> Where -
>
> (a) by or under a written law an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified; and
>
> (b) failure to do that act or thing constitutes an offence; and
>
> (c) a person is convicted of an offence in respect of a failure to do that act or thing,
>
> that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and, unless otherwise provided, the penalty applicable to each such separate and further offence is $50.

We have an alternative provision of $25 in this case. Therefore, it seems to me that the question by the Leader of the House is answered by saying that in the event that a person does not respond straightaway to the conviction, a new offence is created each day by virtue of the Interpretation Act. There is no need to bring that person back to the court to establish that another offence has been committed.

Hon N.F. Moore: Who collects the money?

Hon HELEN HODGSON: The issue of collection of the money is one for the court system and the judicial system in the normal way. It is not an issue for the School Education Bill as such. It is a question for the courts, the magistrates, and the Justices Act. As I was skimming through the Interpretation Act, I found a provision dealing with the collection of fines under the Justices Act 1902. However, those are matters which are beyond the School Education Bill, because it would not be expected that the education authorities would be pursuing fines in any event, whether it be under the original drafting of the Bill or under the proposed amendment. It is not the responsibility of the education authorities to be pursuing fines that are levied in the courts. I am aware of that sometimes causing anomalies. In my previous professional life in tax, one found that a person who was convicted of an offence in a court under the tax provisions often ended up paying far less by way of

penalty than the administrative provisions provided, and that payment went to the courts and not into the federal tax system. Often the source of the offence has nothing to do with the collection or the use of the revenue, because it goes into the justice system and is collected in that manner. I hope that clarifies a couple of the issues that were raised in the last 15 minutes of debate.

Hon N.F. MOORE: I thank the member for directing us to the Interpretation Act. That has been helpful. We will have a problem with this daily penalty question, full stop. The member has clearly pointed that out. I wonder if I can go into a bit of a Dutch auction here and suggest to members that we eliminate daily penalties altogether from this question and revise the penalty of $5 000? I understand that for some reason or other the Opposition in the other place amended a number of penalties, but it did not seek to amend this one. I think one will find that from the time the Bill was first debated in the Assembly until the time debate was finished, the penalties were reduced. However, this one was not touched.

Hon Kim Chance: This is not the only one of its kind.

Hon N.F. MOORE: I understand that. We can consider the others as we go further down the track. However, I think the Government would have been prepared at that time to reduce this penalty had the Opposition moved an amendment to reduce it. Therefore, perhaps a compromise is to, say, halve the $5 000 and consider a $2 500 penalty. It still demonstrates the significance of the issue. If we eliminate altogether the daily penalty of $25, we simply have a penalty of $2 500. That would demonstrate the significance of the issue in the minds of the Legislature, and it would give the judiciary the capacity to make a decision between zero and $2 500 as a penalty. We could take away this question of daily penalties, because that has created some problems about retrospectivity and prospectivity. It would be a better idea to have a penalty of, say, $2 500. I put that on the table and without moving any amendment. I wonder if members would give me their immediate response to that.

Hon KIM CHANCE: It is an interesting thought. Hon Helen Hodgson referred us to section 70(4) of the Interpretation Act. My first contention was that there is no effective difference in the prospective nature of the daily penalty between the Bill and the amendment. Although the wording of the amendment is different, the effect under the Interpretation Act seems to be the same. The Leader of the House seemed to indicate that that raises a problem. He may be better advised than I am. However, it seems to me that daily penalties exist in other legislation. I am wary about accepting at this stage of the night a proposition that we let it go. It may well be that he is right, and it may well be that we agree.

Hon N.F. Moore: I suggest that we put it on the table and postpone this clause, and I will obtain some legal advice between now and tomorrow.

Hon KIM CHANCE: It seems there is an agreement that the clause should be postponed and that we consider this overnight. Therefore, I move that consideration of the clause be postponed until after the consideration of clause 13.

Further consideration of the clause postponed until after consideration of clause 13, on motion by Hon Kim Chance.

Clauses 10 to 12 put and passed.

Clause 13: Powers of authorized person -

Hon KIM CHANCE: I move -

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

This amendment deals with the appointment of an authorised person who has significant powers under the proposed Act in his or her performance of the role of a school attendance officer. I referred to this issue, albeit briefly, in my contribution to the second reading debate. Under the provisions of the Bill, a school attendance officer is required to show his or her certificate of authority when asked to do so. The members of the Standing Committee on Public Administration are concerned about this provision. I raised the issue in the second reading debate because the authorised person is empowered with what I described as sweeping powers, but a more accurate descriptive term would be "sensitive powers", over young people. It gives the legal right to the authorised officer to approach young people in circumstances where those young people are not supervised. The officer can require young people to answer questions on their name, age, address and so on. In those circumstances, although the Bill in its unamended form provides greater security for the child than the current Act does, we need to go further. We need to pass this amendment for the protection not only of the child but also of the authorised officer. The authorised officer should be provided with a readily recognisable symbol of authority in the form of a card. When we discussed this, Mr Booth suggested a Federal Bureau of Investigation type of card, which is exactly what people do not want to be seen wearing.

Hon N.F. Moore: Something tattooed on their foreheads.

Hon KIM CHANCE: A tattoo may be a little extreme. It is important that the child being approached, perhaps in the street while on his own, should have the benefit of the assurance that the person approaching him is, or appears to be, vested with

authority by the possession of this document, just as it is important for the protection of the authorised person. It is necessary that another person who may be with that child - an older brother perhaps - should have the benefit of being able to recognise that person's symbol of authority. I raise the issue of the protection also of the authorised person because if the older brother, who may not be very old but old enough to create a degree of friction, were to take offence at a stranger possibly inappropriately approaching his younger brother or sister, it might become an ugly situation. The members of the committee believe that the bearing of a visible symbol of authority, in the form of a plastic-coated card which may be clipped to the person's pocket or lapel, would assist in the ready identification of that person. It is not the committee's intention that that person be required to wear the card at all times. However, that person should wear that card at all times when he or she is exercising the authority referred to in the Act.

Progress reported, pursuant to standing orders.

SOIL AND LAND CONSERVATION AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendment No 2 made by the Council, and agreed to amendment No 1 subject to an amendment.

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Report in relation to the National Conferences of Public Works and Environment Committees

Hon Christine Sharp presented the third report of the Standing Committee on Ecologically Sustainable Development in relation to the National Conferences of Public Works and Environment Committees: Sydney, 27, 28 and 29 July 1998, and on her motion it was resolved -

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

[See paper No 455.]

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.57 pm]: I move -

That the House do now adjourn.

I remind members that we have agreed to sit until 6.00 pm on Thursday. Members may wish to make arrangements accordingly.

Question put and passed.

House adjourned at 9.58 pm

QUESTIONS ON NOTICE

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

PASTORAL LANDS BOARD - MEMBERSHIP

543. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

(1) Who are the current members of the Pastoral Lands Board?

(2) When were they appointed?

(3) For what term was each appointed?

(4) What is the background, qualifications or experience of each of these board members that led to their appointment?

Hon MAX EVANS replied:

(1)-(4)

Members	Date Appointed	Term of Appointment	Background
Mr Max Cameron	1/5/98	2 years	Farmer/Former President of Pastoralists & Graziers Association.
Mr Joe De Pledge	1/5/98	2 years	Industry Member
Mr David Fitzgerald	1/5/98	2 years	Industry Member
Mr David Halleen	1/5/98	2 years	Industry Member
Dr Graeme Robertson	1/5/98	2 years	Statutory Appointment - Director General of Agriculture
Mr Kevin Walley	1/5/98	2 years	Aboriginal person with pastoral experience
Mr David Wilcox	1/5/98	2 years	Agriculture WA - experience in land conservation management
Mr Denis Millan	1/5/98	2 years	Statutory Appointment - Appointee of the Chief Executive of DOLA

Section 97 of the Land Administration Act 1997 defines the constitution of the Pastoral Lands Board as -

The Board consists of a Chairperson appointed by the Minister and 7 other members of whom -

(a) three (in this section called "industry members") are to be appointed by the Minister from among persons who hold, or have held, an interest in a pastoral lease, or are, or have been, shareholders in a company with a beneficial interest in a pastoral lease;

(b) one is to be the Director General of Agriculture referred to in the Agriculture Act 1988, or his or her appointee from time to time;

(c) one is chief executive officer of the Department, or his or her appointee from time to time;

(d) one is to be appointed by the Minister from among persons with expertise in the flora, fauna or land conservation management; and

(e) one is to be appointed by the Minister from among Aboriginal persons with experience in pastoral leases.

QUESTIONS WITHOUT NOTICE

GOODS AND SERVICES TAX, COMPENSATION PACKAGE

519. Hon TOM STEPHENS to the Minister for Finance:

I refer to the negotiations between the Commonwealth and the States about the proposed goods and services tax. Given that the Commonwealth has now agreed to an increase of $300m in its compensation package to the States after a review of gambling tax revenue forgone and that it has set back the time for abolition of the business stamp duty, is it not the case that the Opposition was right when it said the tax package agreed to by the Premier in August 1998 would result in serious budgetary problems for Western Australia? Given these proposals, are there not serious budgetary problems facing this State?

The PRESIDENT: That question clearly seeks an opinion and I cannot allow it. If the Leader of the Opposition wants to rephrase it, he should.

Hon TOM STEPHENS: Is the State faced with serious budgetary problems as a result of the impact of the renegotiation of the GST package?

Hon MAX EVANS replied:

The Leader of the Opposition is referring to gambling taxes. Nothing that the Labor Party has said about the calculations has anything to do with it. This proposal does not affect this State. We get about $35m from the Totalisator Agency Board, $70m from the casino and nothing from the lotteries. The calculations have been worked out. The TAB is subject to a turnover tax. Lotteries revenue in the other States goes to the Government, but we give it to community services. The casinos all have different rates of taxes on gross profit or on what people lose.

I have not been able to find out which figures were wrong, but apparently the shortfall in gambling could be much more. It has nothing to do with anything else. The difference could be $300m, but the impact on this State is very small. The other States get huge amounts of revenue from gambling on slot machines, and the State Government gets only 3 per cent. It has not worked out how it will get the 10 per cent GST. That is not our problem. We get 16 per cent from the casino. If the Commonwealth takes 10 per cent, which was the proposal in the original schedule, there is still 6 per cent left for us; that is, about $35m of the $48m would be taken out in the GST. There will be no real impact on this State. No-one could tell me how they got the figures wrong.

MINISTRY OF SPORT AND RECREATION, SUPPORT FOR *HAVE A GO NEWS*

520. Hon TOM STEPHENS to the Minister for Sport and Recreation:

Some notice of this question has been given. The 1997-98 Ministry of Sport and Recreation's annual report lists as significant during that year the "continued support to *Have a Go News*".

(1) Did the ministry ever directly or through the seniors recreation council provide -

(a) any money; or

(b) any resources

to the proprietors of this newspaper?

(2) If so, what money or resources were provided?

(3) When was the use of the ministry logo and name approved?

(4) Why was it approved?

(5) Why was the logo removed in October this year while the name of the ministry remained in a prominent position?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) (a) No.

(b) No direct resources, only editorial copy and generic releases sent to all media outlets.

(2) Not applicable.

(3)-(4) *Have a Go News* was originally - approximately 10 years ago - a broadsheet of the Ministry of Sport and Recreation promoting active, healthy lifestyles for mature age persons. The ministry discontinued its publication and an independent publisher then commenced production of *Have a Go News*. While the publication promoted active,

healthy lifestyles for mature age persons, the ministry allowed inclusion of the logo and acknowledged support for the publication.

(5) As there is now a second publication - *Senior Post* - targeting mature age persons, the ministry requested the removal of its logo to ensure there was no confusion in the marketplace regarding both publications competing on commercial terms.

BANDYUP WOMEN'S PRISON, POPULATION

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

(1) With reference to the current conditions at Bandyup Women's Prison, can the minister confirm -

(a) that the muster is now approximately 143;
(b) that every cell in the prison is doubled up; and
(c) that mattresses are placed on the floor of the gym and the utilities room?

(2) What strategies is the minister putting in place now to relieve this situation?

Hon PETER FOSS replied:

(1)-(4) The Bandyup prison is well over muster. Whether every cell is doubled up and mattresses are in certain places I do not know. However, I accept that it is heavily over muster. The ministry hopes in the immediate future to make a decision on a minimum security prison. That will make some differences with regard to numbers. Double bunking is not necessarily considered a bad thing. In fact, in some places overseas, prisoners are accommodated in dormitories. In those circumstances, double bunking is considered to be luxurious.

Hon Ken Travers: So it is a deliberate policy.

Hon PETER FOSS: No. Before members get too uptight about this I would like them to see things with some degree of relativity. The difficulty with double bunking at Bandyup is the size of the cells, which are smaller than those in other prisons. The idea of double bunking is not a problem, but the size of the cells at Bandyup makes it difficult. I received a submission this afternoon about the minimum security prison and I will deal with that quickly. It will accommodate about 50 persons, and that would be a very significant number in that area.

We have also looked at placing prisoners in other places in the State. With the opening of some of the extra male facilities, which will be happening soon, we will reclaim some areas and decide whether we have female or male prisoners. In some regional prisons the muster is such that we have been using them for men rather than women. In the immediate future we have a number of ways in which to deal with that muster problem.

FRIENDLY SOCIETIES, TRANSFER OF RESPONSIBILITY TO THE COMMONWEALTH

522. Hon HELEN HODGSON to the Attorney General:

Some notice of this question has been given.

(1) Is the minister aware of a Federal Government decision to adopt the recommendations of the financial services inquiry to transfer the legislative responsibility for friendly societies from the States to the Commonwealth?

(2) Will the Western Australian Government facilitate this federal government decision by referring its relevant powers to the Commonwealth?

(3) If yes, will this be done by legislation or by ministerial agreement?

(4) If yes, when will this occur?

(5) Will the federal decision have any impact on the proposed changes to the state regime intended to take effect from 1 January 1999?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) I am aware of the recommendations of the financial services inquiry, which, among other things, recommended that regulations of friendly societies should be transferred to the Commonwealth. The inquiry generally proposed that there should be one prudential regulator for the financial system in Australia.

(2) Cabinet has not decided whether the recommendation of the inquiry will be agreed. In the circumstances, it is not proposed to refer powers to the Commonwealth under the Constitution; however, there may be a transfer of responsibility.

(3) Whether there will be any transfers has not been decided. Accordingly, it is not possible to say how any transfer will occur, if at all.

(4) The timing of any transfer of responsibility is not settled; however, it is understood that the Commonwealth is looking to 1 July 1999.

(5) It is not known how any transfer will affect the proposed friendly societies code. Arguably the Commonwealth will be required to adopt the prudential standards for friendly societies proposed to be put in place if the code is enacted.

FITZROY RIVER DAM

523. Hon GIZ WATSON to the Leader of the House representing the Premier:

I refer to an article in *The West Australian* of 10 November 1998 which reported that Western Agricultural Industries had dropped its plans to dam the Fitzroy River.

(1) Has the Government been advised of such a commitment?

(2) Will Western Agricultural Industries still have to complete a study into the sustainable surface water yield assessment?

(3) If not, will the memorandum of understanding have to be modified in relation to paragraph 2.1, which states that the studies will include, but not be limited to, sustainable surface water yield assessment as mentioned in dot point 7; and in relation to paragraph 2.3.2(b) concerning the Fitzroy River surface water?

(4) Are the commitments and requirements contained within the memorandum of understanding between Western Agricultural Industries and the State of Western Australia in any way binding?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(4) A memorandum of understanding exists between Western Agricultural Industries and the Government of Western Australia, which was finalised on 30 April 1998. The Government has had no discussions with the company regarding changes to the memorandum of understanding.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, ALBANY

524. Hon MURIEL PATTERSON to the minister representing the Minister for the Environment:

(1) How many officers of the Department of Conservation and Land Management are stationed in and around the City of Albany?

(2) How many of these officers are available to fight bushfires over the summer fire season?

(3) Who is responsible for coordination of these resources?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) In the City of Albany there are two national park rangers, one nature reserve assistant, and one mobile national park ranger who covers the field stations. In the main CALM office in Albany, which combines regional, district and south coast sharefarms staff, there are approximately 20 salaried staff members, seven wages personnel, between six and eight administration staff members, and three or four short-term contract staff members. In the surrounding shires there are a further six national park rangers and one mobile national park ranger who are based in the field stations. The total number of staff members is approximately 50.

(2) All of those 50 CALM staff members have the capacity to perform various functions during a fire suppression incident. These vary from support and administration tasks to firefighting at the incident. Of the above staff, 30 are available to be utilised either as direct-attack firefighters or in command and coordination roles.

(3) The rostered duty officer is responsible for coordinating the initial response of the resources of CALM to a fire incident. Once a response has occurred, any accredited CALM officer at the incident will take control. This person is known as the incident controller. The district operations manager is responsible for the preparation and training functions in fire response activities. He is responsible to the regional manager in the south coast region.

WORSLEY TIMBER PTY LTD LAND

525. Hon J.A. COWDELL to the minister representing the Minister for the Environment:

(1) Is the minister aware of the extent of the support coming from the local community and from the shire councils of Collie, Donnybrook and Dardanup for the proposal that the Government should acquire land owned by Worsley Timber Pty Ltd in the Wellington catchment area?

(2) What deadlines apply to the process of land purchase in this instance?

(3) Has the Government obtained a valuation of this land from the Valuer General?

(4) What stage has the investigation by the minister reached into the conservation aspects of the timber and the biodiversity of the land?

(5) When will the Government's priority list for conservation land acquisitions be released?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes. The Government is aware of the extent of support coming from the local community and from the shire councils of Collie, Donnybrook and Dardanup for the proposal that the Government acquire land owned by Worsley Timber in the Wellington catchment area. A meeting with the member for Collie and representatives of the shire councils will be held on 18 November to hear this proposal in detail.

(2) Tenders for the land close at 4.00 pm on Wednesday, 9 December 1998.

(3) The Government has requested the Valuer General's Office to provide a valuation, which is expected soon.

(4) The property is well known to community and government officers. Significant information on the conservation, timber and biodiversity values of the land is available and further onsite inspections may be considered, if necessary, with the approval of the owners.

(5) The priority areas for land acquisitions by CALM are those where ecosystems are not represented, or are poorly represented, in the existing conservation reserve system. These particularly include parts of the Kimberley, the Pilbara, the Gascoyne-Murchison district, Carnarvon, Yalgoo, the Avon area, the wheatbelt and the Swan coastal plain. Although it is aware of ecosystems and likely areas that will be targeted for acquisitions, CALM does not formulate these into a list of prospective purchases, as the market will largely determine what is available and the department must be responsive to changing opportunities. Another constraint of such a list is the need for it to remain confidential to ensure the market is not influenced by any signalled intent of the Government to purchase certain properties.

CASUARINA PRISON, 150 NEW BEDS

526. Hon KIM CHANCE to the Minister for Justice:

In March this year the minister issued a press release in which he stated there would be temporary accommodation for 150 beds built at Casuarina Prison. In October this year the minister told us that that plan had been abandoned and that those beds would be provided throughout the prison system in a more cost-effective way. Can the minister provide details about where these 150 new beds have been located in a cost-effective way?

Hon PETER FOSS replied:

I am not able to do that at the moment. We have some plans for what we will do about that but we are awaiting Treasury approval for the expenditure of money. A fairly wide variety of places is under consideration. I also mention a matter that I believe will crop up later today with regard to Bandyup Women's Prison. Some temporary accommodation is also planned there for about 22 prisoners, in addition to all of the things I mentioned in my response earlier.

ADOPTION ACT, AMENDMENT

527. Hon CHERYL DAVENPORT to the minister representing the Minister for Family and Children's Services:

As it is now almost a year since the Adoption Legislation Review Committee reported to the minister and as responses to that report closed some months ago, when does the minister propose to introduce legislation, firstly, to remove information vetoes for those affected by the Adoption Act; and, secondly, to phase out contact vetoes for those affected by the Adoption Act?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

Currently some final analysis is occurring on the resource implications of some of the recommendations. When this is completed, the minister will be making a statement to Parliament.

BUS OPERATORS, PROVISION OF SERVICES

528. Hon TOM STEPHENS to the Minister for Transport:

What mechanisms are in place to ensure that the private bus operators provide each of the services they claim they provide?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

There are two robust mechanisms for ensuring that the private bus operators provide each of the services they are contracted to provide. The first mechanism is the contract which each bus operator enters into with the Minister for Transport, which provides for the imposition of substantial financial penalties for failing to operate a scheduled service or operating the service either early or more than three minutes late.

The second mechanism is the administration of those contracts by Transperth, which has a dedicated service performance team, the sole task of which is to audit, on a continual basis throughout the year, the performance by the private operators of their obligations against their contractual requirements. Transperth's service performance team, in addition to conducting spot checks throughout the metropolitan area, also conducts dawn-to-dusk audits on the whole of the contract area. Audits performed on this basis cover in excess of 90 per cent of all services operated within the contract area, and have proved to be very successful in extending the scope of Transperth's service audits. These audits are valuable because they serve to identify operating problems, which in some cases are outside the control of the contracted operators, such as increased traffic congestion or road modifications. Such valuable information is used to modify Transperth's services to overcome developments of this nature.

NATIVE TITLE ACT, EXPLORATION LICENCES

529. Hon GREG SMITH to the Minister for Mines:

(1) What are the percentage rates for exploration licences submitted under the expedited procedure in the Native Title Act that cleared the process without objection for the years 1996, 1997 and 1998?

(2) What is the average time taken currently to grant a mining lease and what was it before native title became an issue?

(3) How many mining lease grants have been made since 1 July 1997 and how many were made in the year before native title became an issue?

Hon N.F. MOORE replied:

(1) Clearance rates for exploration licences not objected to under the expedited procedure were: 1996, 90 per cent; 1997, 78.5 per cent; 1998, 50 per cent.

(2) The average time is 20.2 months for mining leases granted between 1 July 1997 and May 1998; and six months for mining leases granted in 1993-94.

(3) One hundred and thirty-five mining lease applications have been granted between 1 July 1997 and 31 May 1998; 805 were granted in 1993-94.

CASUARINA PRISON, POSSESSION OF MOBILE PHONE BY PRISONER

530. Hon LJILJANNA RAVLICH to the Minister for Justice:

I refer to an article in this morning's *The West Australian* newspaper regarding a prisoner who was caught with a mobile phone in maximum security at Casuarina Prison last week and ask -

(1) For what period did the prisoner have access to the mobile phone?

(2) How many mobile phones have been found in Western Australian prisons this year?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) I am advised that the requested information, if given in this forum, would likely jeopardise current police

investigations. I am happy, however, to provide the member with a personal briefing on the matter at a suitable time.

CASUARINA PRISON, POSSESSION OF MOBILE PHONE BY PRISONER

531. Hon LJILJANNA RAVLICH to the Minister for Justice:

For what offence was the prisoner serving time?

Hon PETER FOSS replied:

My answer to that is the same as the previous answer.

WATER CORPORATION, SALE OF ASSETS

532. Hon KEN TRAVERS to the minister representing the Minister for Water Resources:

I refer to the Minister for Water Resources' refusal to answer questions regarding the sale of Water Corporation assets because of commercial confidentiality and ask -

(1) Is the minister aware that two other major government corporations, Western Power and AlintaGas, have released details on disposal of their government assets?

(2) Why are Western Power and AlintaGas able to release the information but the Water Corporation cannot?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The minister is unable to explain the reasons for the actions of Western Power and AlintaGas. I repeat his previous answer to the question, which is that the Water Corporation is required to act commercially. The information is accordingly held confidential to the corporation and the purchaser.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, ENVIRONMENTAL MANAGEMENT SYSTEM

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

(1) Is the Department of Conservation and Land Management developing an environmental management system International Standards Organisation 14001 certification for its forest management and logging practices?

(2) What steps are involved in the environmental certification process that CALM is involved in?

(3) How will the public be involved in the process?

(4) Does CALM, either on its own or in conjunction with the timber industry, aim to use the ISO 14001 environmental certification in order to gain new or increased international markets for native forest timber and timber products?

(5) Is CALM also examining the Forest Stewardship Council environmental certification?

(6) If yes, what steps have been taken so far towards the FSC certification?

(7) Is the native forest timber industry paying for any part of CALM's certification work?

Hon MAX EVANS replied:

Question (5) is not exactly as the member read out. I have one answer for all seven questions. I thank the member for some notice of this question.

(1)-(7) The Australian Ministerial Council for Forestry, Fisheries and Aquaculture - MCFFA - has agreed that all government agencies managing forests in Australia should adopt formal environmental management systems to ensure consistent application of procedures in the field and continuous improvement in management practices. CALM is currently working towards the certification of its forest management under the ISO 14000 series environmental management system.

COMPUTER VIRUSES, DISSEMINATION OF INFORMATION

534. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:

I refer to the statement of the Minister for Commerce and Trade of Friday, 25 September 1998 that computers with the

Windows 95 or 98 operating system would be vulnerable to damage from the W23CIH Spacefiller computer virus on the following day, Saturday, 26 September. What action has the Minister for Commerce and Trade taken to establish a system whereby information gained by state government agencies about computer viruses can be coordinated and disseminated to other agencies and the general public so as to provide the maximum warning time?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

A government agency database has been set up and procedures for urgent contact in specific events are being revised. The use of the Press to disseminate information proved successful in notifying the general public in this instance. Calls are still being received on the call lines set up by the Office of Information and Communications.

NATIVE TITLE CLAIMS, NORTH METROPOLITAN REGION

535. Hon RAY HALLIGAN to the Leader of the House representing the Premier:

(1) How many native title applications currently exist over the North Metropolitan Region?

(2) How many native title claims in this region have been dropped or settled since they were made?

(3) Are there any native title applications over the ocean immediately adjacent to the North Metropolitan Region?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) There are 11 native title claims currently over the state electoral region of North Metropolitan.

(2) In this region there have been two native title claims withdrawn and one rejected since the commencement of the Native Title Act. One claim immediately offshore from this region was also rejected.

(3) There is one native title claim immediately offshore from the region and seven other onshore claims which extend seaward beyond the low watermark.

SCHOOLS PLANNED FOR EATON

536. Hon BOB THOMAS to the Leader of the House representing the Minister for Education:

As the district director of education in the Bunbury area has acknowledged that the Australind High School has a much greater student population than the school is designed for, and as the minister has now told us that 10 temporary classrooms will be necessary for 1999, can the minister indicate when construction will start on the new primary and high schools earmarked for Eaton?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

The consultation phase of the local area education planning for secondary education in the Bunbury education district has commenced and is expected to be completed around the middle of 1999. Any decisions about a new secondary school at Eaton will be based on the outcomes of the LAEP process. The Minister for Education has given a commitment that a new primary school will be built in Eaton to open in 2001.

HOME DETENTION AND WORK RELEASE PROGRAMS

537. Hon HELEN HODGSON to the Attorney General:

(1) Has the Attorney General made any recommendations or directions in respect of access to home detention or work release programs in the past 12 months?

(2) If so, will he table these recommendations or directions?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) I refer the member to the Sentence Administration Bill and the Sentencing Legislation Amendment and Repeal Bill which were recently introduced into the Legislative Assembly. Those Bills seek to effect change to current sentencing legislation and in particular propose changes to the current home detention and work release provisions.

CASUARINA PRISON, SEXUAL ASSAULT ALLEGATION

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

Is the minister aware of an allegation that a female staff member of Casuarina Prison was subjected recently to a sexual assault and has anyone been charged in relation to that matter?

Hon PETER FOSS replied:

I am not aware, but I shall inquire into the matter if the member can provide some information.

TRUCK BYPASS ROUTES

539. Hon MURIEL PATTERSON to the Minister for Transport:

Can the Minister indicate whether Main Roads WA has received any requests from the Shires of Donnybrook, Balingup, Bridgetown or Manjimup to put truck bypass routes around these towns?

Hon M.J. CRIDDLE replied:

Donnybrook - preliminary plans for an outer bypass of Donnybrook have been drawn up by Main Roads in preparation for a possible requirement in the future.

Balingup - no.

Bridgetown - plans for an option for an outer bypass of the town, primarily for heavy vehicles, is currently being examined at the request of the council.

Manjimup - no.

LAND, NORMAN KENNETH GRANT

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

On 18 November 1966, the Registrar of Land Titles issued certificate of title volume 2090, folio 328, in the name of Norman Kenneth Green.

(1) Who owned the land prior to Mr Green?

(2) Will the minister table the document which authorised the transfer or grant of the land to Mr Green?

Hon MAX EVANS replied:

The Department of Land Administration's records show that certificate of title 2090/328 is registered in the name of Norman Kenneth Grant.

(1) Mr Norman Kenneth Grant is the only registered proprietor shown on certificate of title 2090/328. Prior to that, the majority of land was contained in certificate of title volume 75, folio 31A, and the previous registered proprietor for that land was Irene May Grant. The remaining portion of land that has been included in certificate of title volume 2090, folio 328, was formerly a closed road.

(2) Yes. The paper will be tabled when available.