Legislative Council

Thursday, 7 December 1995

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

PETITION - HOSPITALS, ROEBOURNE AND WICKHAM, PRIVATISATION

Hon Tom Stephens presented the following petition bearing the signatures of 464 persons -

To: The Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia call upon the Government to stop the privatisation of services to the Roebourne and Wickham Hospitals and further call upon the Government to re-establish equipment that will allow -

(1) emergency processes to be administered;

(2) women to give birth in Wickham and Roebourne;

(3) resuscitation of patients;

(4) x-ray facilities in both Wickham and Roebourne;

(5) drug dispensary services to both hospitals;

(6) re-equipping of operating theatre in Wickham.

We finally call upon the Government to fully consult with the community prior to any decision to close either hospital.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1022.]

MOTION - JOINT SELECT COMMITTEE ON WOMEN IN PARLIAMENT, APPOINTMENT

Resumed from 28 September.

HON DERRICK TOMLINSON (East Metropolitan) [2.38 pm]: When last I spoke I was commending Hon Cheryl Davenport on her cogent summary of the evidence and explanations of women who are reluctant to enter Parliament, or even those who might be interested in entering Parliament, who have considerable social, personal and conventional impediments standing in their way. It was an excellent summary. It drew up reports from committees elsewhere in Australia and internationally. I cannot recall, because the interruption was a day or two ago, whether the honourable member referred to the excellent report by the Commonwealth Parliamentary Association. She nods in affirmation. I found that report most interesting. It surveyed Parliaments throughout the Commonwealth and presented a set of excellent explanations as to why women were impeded in standing for Parliament. Having presented such a cogent explanation, I am left wondering why Hon Cheryl Davenport wants a select committee to examine the extent of and reasons for existing impediments to women standing for Parliament. Although it has become the custom in this House to ask only those questions to which one knows the answer, it is not appropriate to appoint a select committee to investigate something for which the mover of the motion has produced a cogent explanation through a summary of work carried out elsewhere.

Paragraph (b) of the motion states that the select committee should examine whether and how parliamentary procedures and practice can hinder women's aspirations to enter Parliament and their participation in its functions. There is no doubt whatsoever that the

process of legislating in this Parliament is considerably inefficient. That is the most charitable description I can give it. I was a member of a group of backbenchers from this side of the House who met for several hours over several weeks at the beginning of the year, much to the derision of the Opposition members. They asked what a committee of backbenchers was doing by taking unto itself the authority to decide how this House should be run.

The committee came up with a set of recommendations, after consulting with very notable people and getting very good advice about how this could be a much more efficient and compatible place in which to do the job efficiently and effectively. Having achieved that, I was extremely disappointed that the matter was referred to a small group on this side of the House to consult with a small group on the other side of the House to get some working arrangement. That happened in March this year and the very thing Hon Cheryl Davenport has asked a select committee to do - examine whether and how parliamentary procedures and practice can hinder etc - was addressed by a committee of this House but went nowhere. The Commission on Government's second report contains some interesting suggestions on how the business of this House could be made more efficient. What shall we do? Shall we say the Commission on Government should be ignored and set up our own committee?

Hon Cheryl Davenport: With respect, that report came out after the motion was presented.

Hon DERRICK TOMLINSON: In fact, the terms of reference of the Commission on Government, which were hotly debated in this House and elsewhere, were set well and truly before the motion was presented to the House. The report has now been presented and it would be appropriate to consider it intelligently. I am not suggesting the House is compelled or obliged to adopt those recommendations, but the House and its members are obliged to consider them intelligently and to give a rational explanation for not accepting them or a rational set of alternatives which we find preferable for good reason. For that reason I do not support the select committee doing work which has already been done by others at another time.

The third function of the select committee would be to develop strategies for increasing the number of women and the effectiveness of women in parliamentary, political and electoral processes. I am not quite sure how I would make women more effective in the parliamentary process; I am at a loss to know how to make men more effective in the parliamentary process. Members have watched the performance in this place over the last few nights and have listened to hours of interminable talk about nothing, with no intelligent debate but just talk coming from both genders.

Hon Cheryl Davenport: Have we not seen that for the past six years?

Hon DERRICK TOMLINSON: Of course and I suggest it has happened all the time the President has been a member of this House. No doubt he has seen it time and time again. If Hon Cheryl Davenport and I are returned to this place for another term, no doubt it will happen again and in 12 years' time I will be saying I am at a loss to know how to make men and women more effective in the parliamentary process.

The suggestion that we develop strategies for increasing the number of women in the parliamentary process is worthy of detailed thought. This would be a better place if there were a closer gender balance. I am one of those old-fashioned people who believe women have a different world view from men because of their nurturing. They are nurtured to view the world differently. I do not know whether their physiology causes them to see or respond to the world differently; all I know is that women respond differently in different situations from men. I am grateful for that. For that reason, if the Parliament is to properly represent the society over which it presides, it must have that gender balance. Again, I ask whether this is our responsibility. I suggest that the Liberal Party would be well served to consider this. I know the Labor Party has passed resolutions to the effect that 30 per cent of its endorsed candidates for state seats by 2000 will be women.

Hon Cheryl Davenport: It is 35 per cent.

Hon DERRICK TOMLINSON: The Labor Party is getting there.

Hon N.D. Griffiths: Has the Premier not promised 50 per cent on your side?

Hon DERRICK TOMLINSON: It is a fascinating point because in the East Metropolitan Region not only does the Liberal Party aspire to that figure, but 60 per cent of its members are female. That leaves the Labor Party well and truly behind. Members opposite should get into the twentieth century, like the rest of us in the East Metropolitan Region! This is a matter political parliamentary organisations should consider. I am not embarrassed to admit that the Liberal Party is a chauvinistic organisation, and in the minds of some members women's place in the organisation is producing the tea and sticky cakes. They are regarded as effective fundraisers but they are not trusted with important jobs.

Hon Kim Chance: I am sure the Attorney General will be delighted to hear that.

Hon DERRICK TOMLINSON: Who knows? Certainly she had to fight against male prejudice to get where she is. She fought tooth and nail and has done a very good job. Many women have not succeeded in spite of the battle they have put up. I am willing to admit that about my party, and I am sure Hon Cheryl Davenport would admit that about her party. If something is to be done about strategies for increasing the number of women who enter Parliament, it is not this House that should have the responsibility for that. For as long as we have party organisations that endorse, cultivate and nurture people to become members of Parliament, it is up to the parties themselves to do that; it is not the function of this Legislative Council. I hope members agree with me that we have no place telling extra-parliamentary organisations how to run their affairs. The Labor Party is told by its extra-parliamentary organisation how to run its affairs; however, the Liberal Party does not tell its party how to run its affairs.

I have a great deal of sympathy with part (1)(d) of the motion -

> develop policy to meet the needs of all members and Parliament House staff who have family responsibilities.

I sat here last night and watched the Hansard reporters, who do 10 minute shifts in this place and then do the transcription. I wondered how many of them had children. I assume some of the female reporters have husbands. I was fortunate; I left this place at 3 o'clock this morning. The Whip allowed me to go home. That meant that I got home at 4 o'clock and spent one hour in bed with my wife. It was delightful. She accepts that we spend a lot of time apart because that was the choice of my vocation - a choice that she endorsed and continues to support. However, the Hansard staff - to give an example - are compelled to sit here for as long as we do, and even longer. We then put them up there in those dog boxes, which would be condemned under occupational health and safety regulations in any other workplace, and expect them to produce an effective and accurate record of our -

Hon Peter Foss: Meanderings.

Hon DERRICK TOMLINSON: - debates. That is merely one example. Members can go down to the dining room or the bar and see exactly the same thing. As the guardians of this place - we as members of the Parliament are responsible for it - we should be embarrassed about the conditions we impose upon the staff and about the time we demand from staff members who have family responsibilities. However, we do not need a select committee to deal with that. All we must do is sit down as compassionate and intelligent people and through the Joint House Committee do it - and stop talking about it. As much as I have sympathy for the need for more and effective women in this place, I cannot support this motion.

HON B.M. SCOTT (South Metropolitan) [2.53 pm]: Like Hon Cheryl Davenport, I feel that this issue is of great importance for this place to consider. I believe there needs to be a change in the representation in Parliament. I cannot go quite along the path of the suggestion made by Hon Kim Chance that if we argue that there needs to be more

women, we would also need to have men who were left-handed and women who were right-handed and representation from all quarters. I suppose the point he made, with which I agree, is that this is not just a House for men. We must look at a broader representation from the community. It would be a long way down the path before we ensured that we had left-handed men and right-handed men.

Hon N.D. Griffiths: Some of us are both.

Hon B.M. SCOTT: Some are ambidextrous. Perhaps that falls into another category.

Like Hon Cheryl Davenport, I look at the barriers that prevent women coming into this place, although perhaps from a different perspective than she does. I see that there are a number of reasons for those barriers. Hon Derrick Tomlinson mentioned the detailed report on women in Parliament, in Australia and New Zealand. That report thoroughly examines all the reasons women are not represented as much in the Parliament as they are in the community, and the barriers to that representation. That is one of the critical issues we must consider.

Fifty-two per cent of women make up our community. They have many different views, and always have had. We should have as broad a spectrum of the community as possible represented in the Parliament. We have moved from the situation when lawyers strolled up St George's Terrace and came in here after their work, resulting in a Parliament made up essentially of old men who studied the law. We have seen a gradual change in this place as we have seen in the community.

The examination and discussion paper that has been put forward looks at a number of those barriers and the reasons fewer women than men seek election. Especially in the Liberal Party, that many conservative women have chosen to raise their own families has created a barrier because they have done that rather than continuing a professional career. One of the critical elements of belonging to the Liberal Party is that the party has always supported choice for women and suggested that those choices be supported by government. I speak of women who make the choice to either raise their own children or return to the work force. They must be supported in their choice. I would be the first to support the need for out of school care or child care for women who have made a choice to return to work. I say "women" because they are still the main child raisers in our community. It is in that area that the Government can support women to further their choices. The Liberal Party believes that we should support the choice of women. Obviously child bearing and raising is one of the barriers to women entering Parliament. However, it is a choice made by women.

Hon Derrick Tomlinson and Hon Cheryl Davenport talked about the physical arrangements in this place that create a barrier to women. I would be one of the first to agree that there should be a family room here so that members with small children and their families can feel comfortable when they visit them. The formalities of the parliamentary dining room does not lend itself to being comfortable for small children: They are not necessarily used to being surrounded by adults in a formal dining situation. Changes could be made to that. When I walk through the billiard room and see two very large billiard tables with usually one or two staff members enjoying them - I do not deny them that enjoyment - I think that room could be made available as an informal family dining room.

Hon Graham Edwards: It is upstairs.

Hon B.M. SCOTT: Children are adept at running upstairs; that would not be a problem. We should never discount the fact that women should be allowed to make choices. That initial barrier has reduced the number of women in Parliament. I agree with Hon Derrick Tomlinson, who believes that women bring a different viewpoint. I have always upheld that theory, and for that reason I have been a strong proponent of coeducation. When there is a mixture of young men and women in a classroom there is much richer debate, especially in literature and history classes, when personal opinions can affect the level of debate and study. As with older women and men, young women and men see things from a different point of view.

I do not know whether it is tied up with our culture or our mores, but it is common to all nationalities that women, because of their nurturing abilities or innate abilities, often see things from a wider perspective. A friend of mine who is a doctor of education theorises that it is all to do with the hemispheres of the brain that men can be directly interested and much more precise about something whereas women tend to be able to think of a number of things at once. I am not sure whether that is cultural or physiological, but women are better able to think about whether there is bread for breakfast and for sandwiches and whether the sheets must be changed today or on Saturday, whereas men tend to steer a course and concentrate on one thing. That is a very good thing. There is a range of reasons why women and men think differently. However, let us begin with raising the number of women in Parliament without being too specific along the lines that Hon Kim Chance mentioned and say that for every right-handed man there must be a left-handed woman and that for every blue eyed man there must be a blue eyed woman.

The Liberal Party has long supported women and their roles and choices. When the Liberal Party was founded 50 years ago, a group of women supported Sir Robert Menzies. For a long time women have played an important role in the Liberal Party. However, Hon Derrick Tomlinson's comments would lead one to believe that their role has been to make the tea and biscuits. The Liberal Party's structure has allowed women to influence policy for a long time. Unlike any other political party, the Liberal Party has a special women's division, which I have always supported.

Hon Cheryl Davenport: The Labor Party does too. Every women in the party is eligible to be a member of its national women's organisation.

Hon B.M. SCOTT: Perhaps its profile is lower than the Liberal Party's group. Women's divisions have gained support because they can discuss issues that are of interest to them without being fettered by an often domineering male presence. Many women in boardrooms have made a suggestion which later comes out of a man's mouth, and everybody applauds and says, "What a wonderful idea." That is a common occurrence, and it is one reason I have long supported our women's division.

In 1992 I held a fairly senior position in the state women's division, and we organised a women and politics seminar - it was not women in politics, but women and politics. Some parliamentarians were amazed when I said that our report was based on four Es that women were most concerned about: The economy, employment, education and the environment. I do not mean to put down our male colleagues, but I believe that they thought that we would say that we had a narrow focus. Our main concern is our families, and I do not shy from that, but we in the Liberal Party have supported the choices that women have made. Once a woman decides to have a family, it is her responsibility to follow that choice through. If she chooses a career, she has a responsibility to follow it through. Women should not walk away from their responsibilities.

It was an interesting exercise. As I have said, women focused on those main themes. They were concerned about the future of their children and the economy. Some 32 000 women run small businesses in Western Australia, so they are very involved in small business. For similar reasons for their not entering Parliament, they have not entered large corporations. The modus operandi of large corporations is not conducive to some women's dual roles of running a business and a family. That is a realistic approach. We must face up to reality. No matter what the reasons for social change have been, there is often an economic need for a dual income. Many single women are raising children, and they need to juggle their lives.

The discussion paper on women and Parliaments in Australia and New Zealand considered gaining selection as a candidate. Hon Cheryl Davenport briefly alluded to the fact that it was often difficult for women who are already juggling dual roles to become involved in voluntary organisations such as in their own political structure. It was not so much that women were not noticed or were denied the ability to rise in their political structure, it was more that because of their dual roles there are fewer women in Parliament. Party meetings are often held at night, and many women need to stay at home with their children. That is a commendable section of the report.

The report also dealt with being a candidate in a winnable seat. When we compare the coalition's record with that of the Labor Party, we see that the Liberal Party has a much better record of putting forward women of credibility and giving them opportunities.

Hon Graham Edwards: Setting yourself aside, you have lost one of the best Liberal Party members, namely Dr Constable.

Hon B.M. SCOTT: I advise Hon Graham Edwards that the Labor Party professes that it will attain 35 per cent in a short time. It had an opportune moment to do so with the seat of Brand, when one of its women, Wendy Fatin, resigned. What did it do? It pulled over Kim Beazley from Swan and put him into Brand. That was a classic example of saying one thing and doing another.

Hon Graham Edwards: If it is good enough for you to criticise the Labor Party for that, it is good enough for me to level criticism at the Liberal Party for what it did.

Hon B.M. SCOTT: I am referring to the Liberal Party's very good record of giving women a place in Parliament. In the Federal Parliament several women hold shadow portfolios. The Liberal Party has a commendable record of giving women a place in politics. I might add there are not as many women politicians as I would like. The coalition parties have given women of intellect and ability a fair go in Parliament. I do not believe they have been unfairly treated. Many men who sit in this Parliament are considered by their male colleagues to have not been given a fair go. It is not always a test of ability and intellect that gets a person through the door into Cabinet. That criticism can be levelled at both men and women.

The next heading of the discussion paper is, "Expanding the pool". I refer again to the comment Hon Kim Chance made, and he will probably never forgive me for raising it. He suggested in mirth that if we have women in Parliament we should also have women who are left-handed and men who are left-handed - he went through every category of person. While it would be wonderful to have a broad range of representation in the Parliament, I would be satisfied if we moved towards a higher representation of women because they do represent 52 per cent of the community.

Consideration must be given to how the pool of candidates which can be drawn on can be expanded. Political parties need to examine this and to encourage women to enter politics. Parliamentarians also need to look at it in a broader way because there are some wonderful opportunities. I have close association with the Women's Sports Foundation of WA (Inc) and recently I attended a Quit breakfast which was promoted by Healthway. I listened to an outstanding, elite sportswoman give an address. She admitted later that one of her downfalls was public speaking. Although she had spent many hours on the training field she was not at all experienced in public speaking. We promote women to study sciences and technology and we should also promote for young women, as much as we can, the opportunities which are available to young men.

Earlier I alluded to my conviction to the merits of co-education because it brings about a much wider level of debate and input into discussions, especially in the humanities areas. There is a level of agreement in the community that in some classrooms the boys dominate the use of computers and the teacher's time. There is an argument that we should revert to experimenting with single sex schools for girls as well as for boys.

Hon Cheryl Davenport and Hon Derrick Tomlinson referred to what it is like for women in Parliament and to a day in the life of a female member of Parliament. I think the Clerk was quite upset that Hon Derrick Tomlinson revealed the fact that he and I share a bathroom, independently and separately of course. It was a real experience for me, as a quiet farm raised girl who went to a boarding school where we responded to bells, there were many formalities and everyone knew exactly what to do. When I came into this place it conjured up memories of my earlier days because everybody seemed to know where they were going and who I was even though I did not know anybody. Whenever I needed to use a bathroom I was confronted with the sign "Gentlemen". It took me some weeks to find a bathroom which could be used by both men and women.

I will outline what it is like for a woman member of Parliament. When I came into this

place I had four children and a husband at home. Two of my children were at school and two were at university and it was a very busy time for all of us. It was a matter of reorganising our lives. Most successful people are very well organised or they do not get where they want to in the end. One's children also have to be well organised which does not do them any harm. It is a life which many of my friends and women in the community could not endure. They cannot understand that one has to fit so much into a day and the weekend as well as do one's normal duties such as shopping. I am the first to acknowledge that some men also have dual roles.

Hon M.J. Criddle: I did my ironing this morning.

Hon B.M. SCOTT: For what reason? We will be here till 4.00 am and the member's suit will be creased again!

There are huge disadvantages for both men and women politicians, but particularly women who have other commitments. It is very difficult to do the job as well as to look after one's husband and children. I would be the first to support any committee which looked at reorganising the work times of members of Parliament. My husband, who runs a very large business, and a number of corporate executives I know do not need to work to 4.00 or 5.00 in the morning, even though a couple of them run some of the biggest budgets in this State. They still have their weekends free to spend time with their families, take holidays and live normal lives. I do not believe this Parliament is geared to normality for men or women. The tradition has been that there be more men than women in this place because their wives have supported them. If we are to work towards more women politicians these things will need to be changed.

Next year this State will be celebrating the seventy-fifth anniversary of the first woman who entered Federal Parliament, Edith Cowan. A number of celebrations are being organised in a bipartisan way. I will take part in organising those celebrations and it will be quite exciting for women to be part of the celebration.

The report on women in Parliament in Australia and New Zealand was launched at the commonwealth and state Ministers' Conference on the Status of Women held in October 1994. The report was the result of a decision made at the 1993 conference. At that conference it was agreed to undertake a research project to investigate women in government in Australia and New Zealand. The study examined the best options to encourage women to participate equally in the political process. A discussion paper was produced by Coopers & Lybrand. The state Minister for Women's Interests requested the Office of Women's Interests to coordinate the Western Australian response to the women in Parliament report. The report was tabled at the 1995 conference which was held in October.

In preparing the discussion paper, the response had been circulated to a wide range of groups. The issues contained in that discussion paper are supported by a report on the status of women commissioned by commonwealth Ministers. As I have said, plans for the Edith Cowan celebration are well under way. I look forward to those celebrations and hope that they raise the level of awareness in the community of the important role and contribution that women make to public life, and how we need to accommodate women in order to have them in this place, which is the ultimate lawmaking place of the country. A large number of women are working in high profile positions in volunteer groups throughout communities and agencies. They are very industrious and involved in all facets, but we do not see them coming through here. We need to change that, because their contribution is very important.

Hon Cheryl Davenport: It is also very valid in a place like this.

Hon B.M. SCOTT: Indeed. Hon Derrick Tomlinson said earlier that he would like changes for men. Until we get more women here, nothing much will change, because that is the nature of the place. I believe that women have much to contribute. They need to have access -

The PRESIDENT: Order! The honourable member cannot stand in front of me when the member is addressing the Chair.

Hon P.R. Lightfoot: I apologise, Mr President.

Hon B.M. SCOTT: One of the suggestions in the motion put up by Hon Cheryl Davenport is a joint select committee. One of my fears is that this is too important a motion on which a joint committee will be required to report in the time frame given. There would not be sufficient time to do justice to the importance of the issue. I regret that so much time has elapsed since we began debating this motion. I regret also that with the Parliament about to rise for the Christmas recess and the suggestion that we bring down a report by 12 March, time has got away from us.

Although I support the notion that we should be looking at a larger number of women in the Parliament, I also support the fact that we have already in place a very good discussion paper. A lot of work has been done on the concerns raised by members in this House. We should look forward to that report being brought before the Parliament, and hopefully in the year of celebrating Edith Cowan's seventy-fifth anniversary of being the first woman elected to Parliament, we can do something more concrete. It is worth putting on record that Edith Cowan spent only a short time in Parliament - I think it was only four years - in which time she made an enormous contribution. That cuts through the argument that one needs to speak for long hours or be a member of this place for a long time to make a worthwhile contribution. A bigger turnover of women would be an interesting perspective to be considered. I cannot support the motion, but I support its sentiments.

HON MURIEL PATTERSON (South West) [3.24 pm]: I have listened with a great deal of interest to this debate on the motion by Hon Cheryl Davenport that a joint select committee be appointed on women in Parliament. I take a slightly different view from her. The fact that this subject is under discussion shows that perhaps there is a problem with the community attitude rather than here in this Parliament.

Throughout history we have seen the truth of these words "in adversity is opportunity", and they have been the measure of distance between winners and losers, of women with careers and those without. It is a phrase and sentiment that we in Australia are particularly well placed to appreciate and apply. No other modern industrial nation has had such an unpromising start or achieved so much in such a short time. Only a short time ago Sydney was surrounded by one of the world's most isolated convict camps. This is not a matter of shame, or evasion, but rather a matter of fact. We Australian men and women are remarkable achievers, and nothing can ever break our spirit for long. There is an indomitable streak in our national character attributable to those early days of settlement, because of that very hardship the early Australians endured. We have learnt to accept certain attitudes and roles, but we also have the strength to change them.

If is true that history is a mirror in which the present views the past to see the future, then we can spend a few minutes profitably examining some of our less well known facts of history. Coming from a rural background and education, I was well aware at a very young age of the important part that John Macarthur played in our national history. He was heralded as the father of the Australian wool industry, but the lesser known fact is that John Macarthur's wife Elizabeth played an enormous part in our early history. Perhaps only in recent years are we starting to hear of this. At one stage John Macarthur spent nine years back in England and left the industry to be carried on by his wife. She not only did it but also she continued to advance and develop the industry. She increased the buildings on properties and was a pioneer in the use of the Mullborough plough.

Another great Australian is the first Australian woman entrepreneur. Her face is familiar to us. In case members are not aware, she has the rather familiar plump face on our $20 notes. This woman has a delightful story, and one which I have enjoyed for some time, although I have found it very hard to find much written about her. Her name was Mary Riebey. She was an orphaned lass from Lancashire. Mary was convicted of horse stealing at the age of 13 and transported to Botany Bay. Two years later at the end of a sea voyage halfway round the globe, the young Miss Haddock, as she was still called, came ashore to start making the best of a bad job among the squalid bark huts of Britain's most remote outpost of the Empire. Few people in any country's history began their

climb on the pathway of success from a less advantaged position in society - she was a convicted woman in an Australian prison camp. We do not know how, but it was not long before she was assigned to be nursemaid in the lieutenant governor's household. Clearly a woman with an eye on the main chance, Mary Haddock soon caught the eye of Thomas Riebey, a young Irish officer in the service of the East Indian Company. Mary's energy and ambition plus Thomas' experiences as an Indian trader promised well for the growing number of Reibey children, of which there were eventually seven, born and raised on the banks of the Hawkesbury River where dad's growing fleet of barges and little boats carried grain and produce. The years passed and Mary Reibey continued to prosper. Then disaster struck when Thomas died after returning home from one of his trading voyages. Many another women would have appointed a manager or even sold the family firm, but that would never have been Mary Reibey's style.

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

SUPREME COURT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Minister for the Environment), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Minister for the Environment) [3.31 pm]: I move -

That the Bill be now read a second time.

The amendments contained in this Bill underline the Government's commitment to ensure that administrative and legislative reform is ongoing in the justice system to keep abreast of the times and community demands. The Bill incorporates reforms which are aimed at providing greater flexibility in the management of the Supreme Court Act. Provision has been made for acting judges and the interchange of judges between superior courts in Australia. Other amendments contained in the Bill include updating the dollar value of goods seized under writ of summons, removing inequities for the entitlement of interest for judgment creditors, reducing delays and assisting in the mediation process by granting power to make rules in relation to pre-action and third party discovery of documents and removing impediments to making suitable rules for the taking of evidence by telephone or video link.

The Supreme Court Act currently allows the Western Australian Supreme Court to consist of a Chief Justice and no more than 16 other justices. The purpose of the proposed amendments is to remove the maximum number of Supreme Court judges that may be appointed to the Western Australian branch. The proposed amendments will allow for greater flexibility in exchanging Supreme Court judges between Australian States and Territories. Chief Justices from around Australia have jointly agreed to promote the exchange of judicial officers, at no additional cost to the respective State. Their intention is to broaden judicial experiences, encourage uniformity in approach and expose the judges to various practical innovations which have been introduced in other States. These amendments will also allow for the appointment of a current or retired justice from any Australian State or Territory in the absence of a Western Australian justice. In addition, the amendments will accommodate any person who is qualified to be appointed as a judge.

The second part of the Bill amends dollar values of goods that may be seized by the sheriff. Section 118 dealing with the execution of writs of fieri-facias contains the provision that certain goods of the defendant shall be protected from seizure. That includes wearing apparel to the value of $150 each for a defendant and spouse, and $75 for each member of the family. Additionally, domestic furniture to the value of $750 and implements of trade to the value of $150 are protected. As these dollar values are unrealistic in today's terms the amendment deletes those amounts and instead makes provision for prescribed values to be fixed by way of proclamation in the *Government*

Gazette. The proposed values include not less than $1 000 for the defendant or the spouse, $2 000 for domestic items and $1 000 for tools of trade.

Section 124 of the Supreme Court Act, which relates to the sale of goods seized by the sheriff, is to be amended. The sheriff is currently required to auction seized goods where the value is $40 or more. This amount is unreasonable in the light of current auction costs. It is proposed at first to increase the minimum value to $500 in accordance with current contemporary trends and further amendments are to be proclaimed by the *Government Gazette*.

An anomaly which presently exists regarding the entitlement of a judgment creditor obtaining interest on money awarded under a judgment is to be removed by amendment to section 142 of the Supreme Court Act. Present legislation prejudices creditors who obtain judgment from the court after a trial or by consent order compared with creditors who obtain a default judgment. If a matter goes to trial or consent judgments are applied for, the successful party is prejudiced with their entitlement to interest. Currently in these matters, interest can be determined only from the date judgment has been lodged at the court by the creditor and not the date the judgment was given. The creditor, under the proposed provisions, will be able to receive interest immediately from the date of judgment.

An amendment to section 167 of the Supreme Court Act will provide the authority to conduct pre-action discovery of documents in the possession of a person not a party to an action. There is currently no provision which allows parties to inspect documents in the possession of parties not directly involved in the action before a trial. In addition, pre-action discovery will also allow a potential plaintiff to obtain from a third party, identification of the appropriate defendant where the defendant's identity is not known to the plaintiff. This will assist plaintiffs who might otherwise be unable to begin proceedings, or who might begin proceedings against the wrong party. The amended procedures, as described in the regulations, will have the potential to remove an element of surprise from a trial, will assist in identifying matters at issue and could in some cases result in reducing delays and costs. In addition, specific provision has been made for the rules of court not to affect any ground of privilege.

Section 171 of the Supreme Court Act, which concerns the process of giving evidence by witnesses, is to be repealed as recommended by the court's rules review committee. This section restricted judicial powers to make suitable rules for the taking of evidence by telephone or video link. Section 171 is therefore redundant and no longer serves a useful purpose. Section 167 of the Supreme Court Act will allow for more flexible judicial rules of court when taking evidence. The Supreme Court Amendment Bill 1995 addresses a number of practical problems which have existed for some time and also includes initiatives which are in keeping with the need for a more responsive and flexible justice system. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

STRATA TITLES AMENDMENT BILL

Returned

Bill returned from the Assembly with amendments.

LOAN BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [3.37 pm]: On behalf of the Minister for Finance, I move -

That the Bill be now read a second time.

This Bill seeks the necessary authority for the raising of loans to enable the State to assume responsibility for the debt raised on its behalf by the Commonwealth under the 1927 financial agreement between the Commonwealth and the States. Authority to borrow for the purpose of redeeming maturing financial agreement debt has been provided for in the Loan Acts of the past four years and will continue for a number of years until the State assumes full responsibility for this particular category of debt. Redemption of maturing financial agreement debt is in accordance with the agreement between the States and the Commonwealth, that the States would assume responsibility for this debt on a phased basis over the period 1990-91 to 2005-06. The Commonwealth compensates the States and Territories for the additional borrowing costs of this change based on interest margins between commonwealth and state debt applying at, and prior to, the change. In addition, the Commonwealth provides compensation for its reduced sinking fund contributions due to the accelerated decline in outstanding debt on which those contributions are based.

The borrowing authority being sought this year for the raising of loans of up to $90m is for the purpose of the redemption of maturing financial agreement debt only and no authority is being sought for borrowings for public purposes generally. This is the second successive year that no authority has been sought for borrowings for public purposes and reflects the success of the Government's management of the State's finances in eliminating the deficit on the consolidated fund and a reliance on borrowings.

The level of borrowing authorisation for the redemption of maturing financial agreement debt has been determined after taking into account the unexpired balance of previous authorisations at 30 June 1995. It is also necessary to have sufficient borrowing authority to cover the maturing financial agreement debt for a period of up to six months after the close of the financial year pending the passing of a similar measure in 1996. The balance of the authorisation at 30 June 1996 for redemption of maturing financial agreement debt is estimated to be $90.5m, which should be sufficient to cover the maturing financial agreement debt of $101.7m in the second half of 1996 after taking into account available sinking fund balances.

The machinery nature of this Bill is consistent with the corresponding provisions in the Loans Acts of the past four years, which have also contained the authority to borrow for the purpose of redeeming maturing financial agreement debt. In accordance with clause 4 of the Bill, the proceeds of all loans raised under this authority for redeeming maturing financial agreement debt must be credited to an account called the "Redemption of Financial Agreement Debt Account", which is to be part of the trust fund under the Financial Administration and Audit Act 1985, and that moneys in the account are to be used only for the purpose of redeeming maturing financial agreement debt. In addition to seeking the authority for loan raisings, the Bill also permanently appropriates moneys from the consolidated fund to meet principal repayments, interest and other expenses of borrowings under this authority. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

GUARDIANSHIP AND ADMINISTRATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Minister for the Environment), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Minister for the Environment) [3.40 pm]: I move -

That the Bill be now read a second time.

The Guardianship and Administration Act of 1990 represented an important turning point in the lives of the estimated 20 000 Western Australians who may lack the capacity to

make decisions for themselves. The Act, which was proclaimed in October 1992, significantly altered the arrangement for substitute decision making on behalf of such persons and effectively deregulated the management of estates and made the application by family members to be appointed either a guardian or an administrator more accessible, less financially burdensome, and more likely to be successful.

Since 1992, 2 306 applications have been made concerning 1 580 people with a decision making disability. The majority of applications are initiated by family members, although we are beginning to see an increase in the trend of applications from professionals. The vast majority of applications relate to administration; that is, the financial and estate management of a person's affairs, with only 22.68 per cent relating to the more personal life decisions of guardianship. The general intention of the legislation is working. Since 1992, 1 441 administrators have been appointed, with the majority being family members and friends. Appointments of guardians are comparatively few, and they are usually appointed where either conflict exists which cannot be resolved in any other way, there is abuse, or people have no-one in their life to assume an informal role. It is not surprising then that of the 87 appointments, 59 per cent have been to the Public Guardian in her capacity as guardian of last resort.

It is the purpose of this Bill simply to remedy some of the technical problems which have been experienced in the first two and a half years of operation of the Guardianship and Administration Act, to increase the capacity of the board to attend to the demand for hearings, and to broaden the pool of possible persons who can be appointed the Chairperson of the Guardianship and Administration Board.

Of particular note, the Bill contains amendments to allow recognition of guardianship and administration orders made in other jurisdictions, and strengthens the principles of the Guardianship and Administration Act and the role of the Public Guardian to be consistent with counterparts across Australia. These and other minor technical amendments will greatly improve the efficiency and responsiveness of the Act. Because these amendments are largely technical in nature, the consultation process has been appropriately proscribed. I am pleased to inform members that the proposed changes have been prepared by and have the full endorsement of the Chief Justice, the former Chairperson and the current Chairperson of the guardianship board, and the Public Guardian. This is not a contentious piece of legislation, but rather an opportunity to finetune an otherwise sound piece of Western Australian legislation, one which received bipartisan support during its passage in 1990, and I would commend it to a similar process in 1995.

In closing I inform the House that the Public Guardian will be preparing a broad community consultation process on recommendations for change which are not technical in nature. I mention this because some members may already be aware of the Public Guardian's intention in this regard, and I am anxious to reassure them that the Bill now before the House is a separate consideration.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

[Questions without notice taken.]

MOTION - STATE FORESTS Nos 20, 22, 65, PARTIAL REVOCATION BE CARRIED OUT

Debate resumed from 5 September.

HON J.A. COWDELL (South West) [4.35 pm]: On the information provided, the Opposition will neither support nor oppose the proposed excisions. The information provided by the Minister for the Environment about these three areas appears initially to be quite attractive, which is not surprising. The first area is portion of State Forest No 20, which is some 19.4 hectares adjoining the northern boundary of the Greenbushes townsite. This is presented as a swap, because Gwalia Consolidated Ltd, which has been leasing that area for some time, will in exchange offer for inclusion into the forest estate

Nelson locations 289 and 290, which have a combined area of 24.3 hectares. The portion of State Forest No 20 will then vest in that company. It can be seen from the map that it would be quite useful for the State to acquire those locations. I note that those locations are referred to in the second reading speech by the useful euphemism of the time as mined areas that are being progressively rehabilitated. That probably means they are in some state! I note that comments are made about activities taking place in those locations. There is supposedly a marron farm, but there is not one; there is supposedly a plant nursery, but there is not one; there are supposedly buildings, but they have all been removed; and there may be something loosely approximating a few avocado trees. I trust that the Minister will give us assurances that the permanent vesting of this area will not impact upon the town of Greenbushes.

Hon Peter Foss: What do you mean by "impact"?

Hon J.A. COWDELL: The company's activities to the south of the townsite in blasting and so on have had a deleterious impact on the town, and we would not want to see any activity on the northern boundary of the townsite which would also have a deleterious impact upon the citizens there. There is obviously some concern that the company may have in mind the utilisation of the whole of the townsite area for mining purposes, as we have seen on the goldfields, and that this transfer may facilitate that. I seek assurances about that matter. Of course, the Minister has assured us that all of the interested parties were consulted, but it seems that not many of the residents of the town, including the ward councillor, were aware of this change. We can only express our concerns on the basis of the information which we have been given, but there may well be other factors, and, as I have pointed out, not all of this information is of the accuracy that we had expected.

With respect to area No 2, which is part of State Forest No 22, apropos Jarrahdale and the Shire of Serpentine-Jarrahdale, I note that we are talking about vesting in the shire an area of 7 ha. According to the Minister's comments that area has no outstanding conservation or production values and it has already been treated. It is an extension of the adjoining shire recreation reserve in that it has been used for parking by those who make use of the recreation facilities. On the face of it, an allocation of the balance of reserve 990 - an area of 30 ha - into the state forest would mean an adequate swap as it is vested back from the town. That seems to have some greater merit in terms of the conservation estate. I accept the Minister's assurance that there are no camping facilities in this area. As I said, once again we have the assurance that there are no objections from government agencies. This seems to be a reasonable request in terms of the Shire of Serpentine-Jarrahdale.

Area 3 is part of State Forest No 65. As the Minister has indicated, we are looking at a revocation of about 78.7 ha to be combined with private land and, by the look of the map, previous allocations from state forests to effect the Ellenbrook development, and to provide, as the Minister states, an affordable residential land supply for 12 000 homes accommodating 35 000 people. Of course, this is to be combined with the private development. The comment was made that as a result of the rezoning process of the Ellenbrook land and parallel environmental assessment, an area in excess of 270 ha has been earmarked to become a nature reserve. I do not know the location of that land. However, the Opposition does not oppose this revocation. When the Labor Party was in government certain assurances were given in respect of the development of the Ellenbrook estate. I note that the area being revoked from the state forest, although it appears to be pine plantation, is at the edge of the water mound. I understand that for the private developer to get the previous part of the state forest - and presumably this part of the state forest - an area of wetlands in the hands of the private developer was to be vested in the State to be used as a reserve. It is also my understanding that there was to be a cash payment from the developer in consideration of vesting of state forest land and that those funds were to be used to purchase some of the freehold land that was more centrally located above the water mound in question. I seek the Minister's assurance in respect of this revocation that the other parts of the arrangement with the private developer are in place for vesting of the wetland area and the monetary payment, and that

the department is moving swiftly to utilise any monetary payment for purchasing freehold land that is more centrally located above the water mound.

They are the Opposition's concerns. We seek assurances about those issues. I said, it is very difficult to come to a judgment at a distance on the basis of a departmental map and a brief description by the Minister. However, we do the best we can on the basis of that and local information. I look forward to the Minister's assurances with regard to my concerns.

HON J.A. SCOTT (South Metropolitan) [4.46 pm]: Like Hon John Cowdell, I found there was not very much of value in the information provided about these revocations. I decided to investigate the matter a little further by contacting people for whom I had asked questions and who lived in Greenbushes. I contacted Mr Peter Lalor of the Sons of Gwalia about the swap in relation to locations 289 and 290 in Nelson location No 20. I ended up fairly concerned about what was happening. Quite a lot of the information contained in the second reading speech appears to be inaccurate. I will quote from some notes of a telephone call that I made as follows -

> Whereas it said that during the last decade there has been substantially developed major land uses including horticulture, marron farming and a plant nursery, there are several buildings on the site plus a number of waterholes from which water is drawn for the aquaculture project and an experimental avocado orchard.

I was told that there are no buildings; the buildings have been auctioned, as were the marron. The plant nursery has gone and the aquaculture -

Hon Peter Foss interjected.

Hon J.A. SCOTT: It says that it has been substantially developed. We are given to understand from the second reading speech that the Sons of Gwalia want to move to that location and to have control over it because of the property in the area. The draft speech notes state -

> It is considered that the proposed exchange offers advantages to both parties. On the one hand, it will enable the applicant to gain greater security of tenure over its existing capital investment, while simultaneously resulting in a significant improvement to the forest estate boundary.

That is the raison d'etre for moving, but it no longer exists. That is a little worrying. From my previous encounters with the people of that town I know that there has been some friction. The mine owners have compensated people and tried to work in with the town, but there is a lot of concern about mining activities right up to the edge of the town boundary, with a large sound bund on the southern side of the town. There is a great deal of concern about that water supply. I do not know whether the Minister can remember the concern last summer about the Greenbushes' water supply.

Hon Peter Foss: The Health Department said that there was no problem with the lithium.

Hon J.A. SCOTT: I am referring to the water supply itself. This block is in the catchment area and there is a deal of concern about that aspect. Mr Lalor said that although he was not handling the matter personally - I was not able to speak to his brother who is handling it - they were divesting themselves of their landholding and properties and would stick to mining. It is a very strange situation, bearing in mind that in Diorite Street, which is the closest street on the west side, many of the company owned houses have been sold and will be removed from the site. That part of town is disappearing. I am concerned that we are not being told the full story. Mr Lalor said he understood that representations were made from the town and that was part of the reason for the swap. However, the people I contacted said they knew nothing about it and they were flabbergasted. Even those people living on the boundary knew nothing about it. We should have more information before this revocation is agreed to. It may be fine. I know Mr Lalor personally and have always found him to be a reasonable person, so I do not suspect anything terrible. However, I want to know what will happen to that land and the water supply. There is already a mine at one end of the town. What will be the effect of another open-cut mine at the other end of the town? We know that blasting in mines

must be arranged in accordance with the wind direction, so if a town is surrounded by mines it will be hard to avoid dust pollution in the air. I ask the Minister to investigate this matter further and to check what the land will be used for.

Hon Peter Foss: I will do that.

Hon J.A. SCOTT: The proposed revocation of an area in the Shire of Serpentine-Jarrahdale is perfectly reasonable and I support it, with the knowledge I have. With regard to the Ellenbrook proposal, I was, and still am, opposed to any development on water mounds. However, I see little purpose in opposing it at this point because the debate has been held and lost for now.

Debate adjourned, on motion by Hon Peter Foss (Minister for the Environment).

GOVERNMENT EMPLOYEES SUPERANNUATION AMENDMENT BILL (No 2)

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1 put and passed.

Clause 2 postponed, on motion by Hon Max Evans (Minister for Finance).

Clause 3 put and passed.

Clause 4: Section 17A inserted -

Hon MAX EVANS: I move -

Page 4, after line 8 - To insert the following subclause -

> (6) The Board is allowed to accept a person's election to become a member of the 1987 scheme if the Board is satisfied that the person was not, and could not reasonably be expected to have been, aware of this section before the closure day because the person has been away from the person's usual place of employment.

Hon MARK NEVILL: The Opposition has no objection to the amendment.

Hon MAX EVANS: The legislation provides a certain discretion for the Treasurer and takes it from the advisers. When the 1990 scheme was closed down some members of the scheme were out of the country on long service leave and unaware of the situation. This is a specific provision.

As an aside, and this relates to pressure, my wife went outside this morning to move one of the cars and she saw a man across the road sitting in his car. She asked him what he was doing and he said that he was waiting to see the Minister before he went to work. If he had come any earlier he would have seen me coming home. He wanted to talk about superannuation. He wanted some changes made. I said that I was the Minister for Finance, not the Treasurer, and that I could not make any changes. These are the pressures placed on the Treasurer. This amendment will take such pressure from the Treasurer. Some 10 000 new members have joined the scheme in the past few months. I think there was some movement by the Civil Service Association. People can decide whether to be in the scheme for the long haul. That is their decision.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 to 58 put and passed.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Max Evans (Minister for Finance).

[Continued on p.12665.]

SENTENCING BILL
SENTENCING (CONSEQUENTIAL PROVISIONS) BILL
SENTENCE ADMINISTRATION BILL

Committee

Resumed from 29 November. The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Minister for the Environment) in charge of the Bill.

Sentencing Bill

Progress was reported after clause 98 had been agreed to.

Clauses 99 to 101 put and passed.

Postponed clause 41: If statutory penalty is imprisonment only: sentencing options -

Hon N.D. GRIFFITHS: I have a number of amendments on the Notice Paper. The issue covered by the first amendment has already been dealt with by the Committee. That is the question of indefinite imprisonment. I do not propose to canvass that again. I move -

Page 26, lines 1 and 2 - To delete subclause (5).

Page 26, line 3 - To delete the words "is a court of petty sessions and".

Page 26, line 4 - To delete the words ", the maximum fine".

Page 26, line 4 - To add the words "a fine" after the word "impose".

Page 26, line 4 - To delete the word "is".

With regard to the first amendment, it is appropriate for Parliament to stipulate a maximum fine rather than have it open-ended. With respect to the other amendments, my wish with regard to the just mentioned amendment would be carried through. The effect would be to delete the provisions that if the court is a superior court and decides to fine an offender, it may impose a fine of any amount, and insert a provision that courts may fine offenders in accord with the formula set out in subclause (6). Whether that formula is appropriate is a matter of judgment. There is a degree of arbitrariness about this. I am not asking that the formula be justified. I am happy for it to be in those terms for the moment. I look forward to seeing how it works over time.

Hon PETER FOSS: The Government does not agree to these amendments which remove the distinction between the superior court and a Court of Petty Sessions on the fine that may be imposed if a term of imprisonment is suggested. So far as the superior courts are concerned it reflects the current law. Section 19(3) of the Criminal Code gives the authority for this to occur.

These amendments would introduce a new limit on the discretion of superior courts in imposing penalties. Members should bear in mind that this is an alternative to imprisonment. If we were to limit the maximum fine which could be imposed there would be adverse consequences. Bearing in mind that the case is before a superior court on indictment and, therefore, is regarded as a serious offence, the alternative to a fine worked out in accordance with subclause (6) would be to make the fine an inadequate alternative remedy. It may then force the court back into imposing imprisonment because it would not regard the fine as an adequate alternative. It would be unfortunate to limit the discretion of superior courts. It is appropriate in a Court of Petty Sessions because obviously the case would not be before it if it was not regarded as an offence capable of being dealt with by that court. This is a new policy and it may have an adverse response.

Hon N.D. GRIFFITHS: I understand the Minister's point of view and I note the provision in the Criminal Code. Notwithstanding that, it is appropriate for this Parliament, not the court, to set the maximum penalties. I do not agree with the Minister about the continued wide expanse of judicial discretion. He and I have been consistent in our approaches and we will be consistent in our differing points of view.

Amendments put and negatived.

Postponed clause put and passed.

Postponed clause 42: If statutory penalty is imprisonment and fine: sentencing options -

Hon N.D. GRIFFITHS: I have an amendment on the Notice Paper which raises the question of indefinite imprisonment. I will not move the amendment because the Committee dealt with this issue when it debated clause 101.

Postponed clause put and passed.

Postponed clause 43: If statutory penalty is imprisonment or fine: sentencing options -

Hon N.D. GRIFFITHS: The comments I made on the previous clause apply also to this clause.

Postponed clause put and passed.

Clauses 102 to 104 put and passed.

Clause 105: Driver's licence: disqualification -

Hon N.D. GRIFFITHS: This clause provides for an offender to be disqualified from holding or obtaining a driver's licence in certain circumstances. There is a connection between the disqualification and a motor vehicle. The clause defines "motor vehicle offence" and I would like the Minister to keep that in mind when the Committee debates the next amendment I have on the Notice Paper.

Clause put and passed.

Clause 106: Firearms licence etc.: disqualification -

Hon N.D. GRIFFITHS: This clause has a connection between firearms and the disqualification and definition of "firearms offence". I ask the Minister to keep this in mind when the Committee debates clause 108.

Hon PETER FOSS: I note that connection as well as the similar connections in clauses 105 and 107. Clause 108 does not include that connection and I am happy to deal with the issue when we debate that clause.

Clause put and passed.

Clause 107 put and passed.

Clause 108: Passport: surrender etc. -

Hon N.D. GRIFFITHS: I move -

> Page 82, line 20 - To add after the word "offender" the words "for a passport offence or to facilitate a sentence".

This clause does not provide for a connection between the taking away, non-use, surrender and use of a passport. Subclause (1) gives the court a rather wide discretion.

Unlike the disqualification orders in clauses 105, 106 and 107, which deal with respectively motor vehicles, firearms and marine disqualifications, there is no connection as such in this clause with why people use passports. There is no connection with respect to travel to or from Australia. In many circumstances the orders of the kind that the clause seeks to provide are appropriate, but in legislating in this area I believe there should be a consistency of approach between clauses 105 to 108 and there should also be relevance. I do not want to take the Committee through the relevant wording in clauses 105, 106 and 107. I have referred the Committee to it, and the Minister has noted it. The wording I have proposed in my amendment on the Notice Paper deals with the matter appropriately. It gives rise to concepts which collectively should satisfy the policy concerns. I am more than happy to entertain an alternative form of words. The two concepts are a passport offence and the concept to facilitate a sentence. There are two amendments. I think it appropriate that we deal with both amendments together, save of course that they can be voted on separately. The Minister may suggest an alternative

form of words to the first amendment. I do not think it is warranted. The issue of passport offence mirrors the approach in clauses 105, 106 and 107; that is, it relates to the loss of or use of a passport and to the use of or purposes of a passport with respect to an offence. The other aspect arises from time to time; namely, it is appropriate that a person be deprived of the use of a passport in order to facilitate an imposed sentence, otherwise they may run away. That point need not be laboured. The wording of the amendment is practically self-explanatory. So that the Committee is in no doubt as to my intention, the amendment would cause the clause to read -

> A court sentencing an offender for a passport offence or to facilitate a sentence may order that, for a term set by the court . . .

Hon PETER FOSS: The amendment proposed by Hon Nick Griffiths goes beyond the intention of the Government in proposing the Sentencing Bill. It was only intended to facilitate a sentence and not intended to be a punishment in its own right. The amendment proposed does not violate that intention, insofar as it says it is there to facilitate a sentence. I do not have any strong feelings one way or another about whether we should have passport offences. It certainly has the punishment fits the crime type of attitude to it. There is a lot to be said for punishments fitting crimes. The idea used to be followed in historical times, and it is one we seem to have lost. I certainly cannot object to it..

Amendment put and passed.

Hon N.D. GRIFFITHS: I move -

> Page 83, after line 16 - To add new subclause (6) as follows -
>
> "**Passport offence**" means an offence where -
>
> (a) a passport is used in the commission of the offence;
>
> (b) the commission of the offence is aided or facilitated by the use of a passport;
>
> (c) a passport is used after the commission of the offence to provide, or to attempt to provide, a means for the offender to leave the place of the commission of the offence;
>
> (d) a passport is used by the offender after the commission of the offence to avoid, or to attempt to avoid, apprehension.

I thank the Government for its support. This is essentially a bipartisan Bill. What I have put on the Notice Paper is put there to improve the Bill. Further amendments on the Notice Paper I do not intend to move, consistent with that approach.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 109 put and passed.

Clause 110: Principles -

Hon N.D. GRIFFITHS: I do not propose to move the amendment I have placed on the Notice Paper to delete subclauses (2) and (3). It was placed on the Notice Paper because in one sense there is a contradiction and in another sense there is not. I wanted to flag my concern about the wording of the clause. This is supposed to be a user friendly Bill. When the layperson picks it up he or she will not find this clause particularly friendly.

Clause put and passed.

Clause 111 put and passed.

Clause 112: Facts relevant to making an order -

Hon N.D. GRIFFITHS: Subclause 1(b) refers to section 100(1)(d), (e) or (f) of the Justices Act. Given a number of interesting cases which have come before the criminal justice system over the past decade or so, this clause is cause for considerable disquiet

when one considers what is evidence and some of the matters referred in section 100 of the Justice Act. My disquiet is substantially removed by what will follow in clause 114. However, for the record, section 100(1)(d) of the Justices Act refers to the prosecution providing a statement of the material facts relevant to the charge.

Section 100(1)(e) deals with any statements signed by the defendant, any record of interview with the defendant, signed or unsigned by the defendant, or the substance of any consent by the defendant to a member of the Police Force that is material to the charge. Many argue that the criminal justice system needs a substantial overhaul, but that is something we may discuss down the track. Section 100(1)(f) refers to notice of any tape or video tape recording of conversations between the defendant and a person in authority in the possession of the prosecution. If it were not for what the Committee is about to consider in clause 114 I would be concerned. I make those comments so the Committee can be aware that this is an area which causes a great deal of concern. There is potential for substantial injustice.

Clause put and passed.

Clauses 113 to 118 put and passed.

Clause 119: Enforcement of compensation order -

Hon PETER FOSS: I move -

> Page 89, lines 2 to 4 - To delete subclause (1) and substitute the following subclause -
>
> > (1) If the amount payable under a compensation order is not paid within 28 days after the date of the order, it may be recovered as a judgment debt in a court of competent jurisdiction, unless an order is made under subsection (2).

This fixes a time limit so a debt can be recovered as a judgment. The amendments standing in Hon Nick Griffith's name on the Notice Paper have since been overtaken by events.

Hon N.D. GRIFFITHS: I agree with what the Minister has said. I know some members in this Chamber think it is filibustering to note for the record that Government and Opposition tend to agree more often than not. When they do agree, it is appropriate that it be recorded.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 120 and 121 put and passed.

Clause 122: Non-compliance with restitution order is an offence -

Hon PETER FOSS: I move -

> Page 91, lines 10 and 11 - To delete paragraph (b) and substitute the following paragraph -
>
> > (b) after summary conviction by the court that imposed the order, a fine of $10 000 or imprisonment for 12 months.

The clause is amended to clarify that summary conviction may be imposed by the Children's Court, the Court of Petty Sessions or the District Court of Western Australia.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 123 to 125 put and passed.

Clause 126: Application to amend or cancel -

Hon N.D. GRIFFITHS: Have the regulations been drafted?

Hon Peter Foss: I do not have my advisers with me at the moment. I will take an

opportunity later in the debate, when they arrive, to let the member know whether they have been drafted.

Hon N.D. GRIFFITHS: With respect, I suggest to the Minister that, as a matter of practice, where regulations have been drafted, they should be provided so that one can, if appropriate, have a greater understanding of what the Government is getting at in a clause such as this. I have no difficulty with this, but as a matter of practice, that would facilitate good legislation.

Clause put and passed.

Clause 127: Court may confirm, amend or cancel -

Hon N.D. GRIFFITHS: I move -

Page 94, lines 21 to 23 - To delete paragraph (a).

I move the amendment because, to the extent desirable, the aspect of sentencing referred to in this clause has already been dealt with in clause 37. If the Committee were to turn its mind to clause 37, the re-visitation provided there is wide enough. To take it further would be undesirable.

Hon PETER FOSS: This provision reflects the current provision of section 20K(1) of the Offenders Community Corrections Act.

Hon N.D. Griffiths: Doesn't clause 37 get it right and cover the matters to the extent that I think they should be covered? The provision reflects something that already exists.

Hon PETER FOSS: I do not think it does that. Clause 37 is not as broad. For example, it refers to a court sentencing an offender in a manner "that is not in accordance with this Act or the written law." That does not apply. It also refers to "a clerical mistake or an error arising from an accidental slip or omission". That does not apply either.

Hon N.D. Griffiths: I accept that it goes beyond that. I am suggesting that it goes too far. It does not add to the proper administration of justice.

Hon PETER FOSS: If a sentence was made where the circumstances were wrongly or inaccurately presented to the court, it should be appropriate for the court to have that capacity. The provision would limit the ability to deal with the liberty of a defendant. That would be unfortunate.

Hon N.D. Griffiths: It could cut either way. The circumstances to revisit should not be as broad as the clause states. That is my view and I suppose that we have a difference of opinion.

Amendment put and negatived.

Hon PETER FOSS: I move -

Page 95, lines 14 to 16 - To delete subclause (3).

These provisions are now found in new clause 136.

Hon N.D. Griffiths: In my continued spirit of cooperation, I agree with what the Minister says. I note what is proposed in due course in new clause 136.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 128: Re-offender may be dealt with or committed -

Hon PETER FOSS: I move -

Page 96, lines 21 and 22 - To delete the words "committed an offence" and substitute "been convicted of an offence committed".

A similar amendment has already been made. The conviction of the offence should be proved rather than the person who actually committed the offence.

Hon N.D. GRIFFITHS: I agree with the amendment. It is better wording and just goes to show that the more one looks at legislation like this, the more it can be refined.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 129: Complaint alleging re-offending -

Hon N.D. GRIFFITHS: I move -

Page 97, line 8 - To delete "2 years" and substitute "1 year".

In moving this amendment I note the significance of conditional release orders. Subclause (4) states that the complaint must be made in writing before a justice who may issue a summons or - this is where I have a real concern - if the complaint is on oath, a warrant to have the person arrested. Given the scheme of things, two years is too long. I suggest that one year gets it about right.

Hon PETER FOSS: Part of this takes into account the fact that the person may have been convicted elsewhere in this State to ensure adequate time for that prosecution to take place. The Government is not aware of any evidence to suggest that that will make a huge difference. If Hon Nick Griffiths wishes to persist with this amendment, the Government will agree to it. When the clause is put into operation we will find out whether one or two years is an adequate period.

Hon N.D. GRIFFITHS: Many of these matters will need to be revisited in a short time - perhaps early in the life of the next Government.

Hon Peter Foss: That is an awfully long time to wait.

Hon N.D. GRIFFITHS: The next Government will be formed probably in February 1997. I am assured by Hon Bob Thomas, who is a great reader of the polls, that it will be of a different political complexion. In the spirit of bipartisanship I take the Minister's invitation. I persist with the amendment and I thank him for his support.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 130: How re-offender may be dealt with -

Hon PETER FOSS: I move -

Page 98, lines 22 to 24 - To delete subclause (2).

This amendment is also in anticipation of new clause 136.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 131: Breach of requirement: offence -

Hon N.D. GRIFFITHS: I move -

Page 99, line 14 - To delete "2 years" and substitute "1 year".

If this amendment is carried, subclause (3) will read that a complaint may be made at any time up until one year, rather than the period of two years as it currently states. I note what the Committee agreed to on clause 129. I thank the Minister for his words of acceptance. I note that the standard period under the Justices Act is 12 months.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 132: Breach of requirement: procedure and penalty -

Hon PETER FOSS: I move -

Page 101, line 4 - To delete the word "committed" and substitute the words "been convicted of".

This amendment is similar to the amendments I have moved before.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 133 put and passed.

Clause 134 put and negatived.

Clause 135: Facilitation of proof -

Hon PETER FOSS: I move -

Page 102, lines 20 to 25 - To delete subclause (5) and substitute the following subclauses -

(5) In proceedings for an offence under section 131(1) in relation to an alleged breach of a community order, evidence of the alleged breach may be given by tendering a certificate signed by the CEO stating the particulars of the alleged breach.

(6) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the CEO was signed by a person who at the time was the CEO.

Hon N.D. GRIFFITHS: The Opposition agrees with this amendment. It is tidier than what was first proposed.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 136: Resentencing by a court -

Hon PETER FOSS: I suggest that the Committee defeat clause 136 and insert new clauses 136 and 137. New clause 137 will take over the effect of current clause 136, and the new clause 136 will pick up the various subclauses we have deleted prior to now and put out in entirety compliance with CROs.

Hon N.D. GRIFFITHS: I agree with what the Minister proposes.

Clause put and negatived.

Sitting suspended from 6.00 to 7.30 pm

New clauses 136 and 137 -

Hon PETER FOSS: I move -

Page 103, lines 1 to 13 - To delete the clause and substitute the following new clauses to stand as new clauses 136 and 137 -

Compliance with CRO or community order to be taken into account

136. (1) This section applies if a court is dealing with a person under -

(a) section 127 (2);

(b) section 130 (1); or

(c) section 133 (1).

(2) In dealing with the person the court must take into account -

(a) the extent to which the person has complied with the CRO or community order and with any other order made under this Act or another written law in respect of the offence for which the CRO or community order was imposed; and

(b) how long the person has been subject to the CRO or community order or to any other order made under this Act or another written law in respect of the offence for which the CRO or community order was imposed.

Re-sentencing: court's powers

137. (1) For the purposes of subsection (2) a court re-sentences a person for an offence when it deals with the person under -

(a) section 127 (2) (b);

(b) section 130 (1) (a) (iii) or (b); or

(c) section 133 (1) (a) (iii) or (b),

for the offence for which the CRO or community order was imposed.

(2) When re-sentencing the person the court may -

(a) cancel any order forming part of the sentence imposed previously in respect of the offence, whether the order was made under this Act or another written law, other than an order that it was mandatory to make; and

(b) subject to section 136, make any order under this Act or another written law that it could if it had just convicted the person of the offence.

(3) If a superior court deals with a person under section 130 or 133 and the CRO or community order concerned was previously imposed for an offence for which the person had not been convicted on indictment, any order of the superior court under those sections is to be taken, for the purpose of an appeal against sentence, as being an order made following a conviction on indictment.

New clauses put and passed.

[Quorum formed.]

Clauses 137 to 139 put and passed.

Clause 140: Petition may be referred to CCA -

Hon N.D. GRIFFITHS: This is a more readable rewording of the current law, therefore I have no hesitation in supporting it.

Clause put and passed.

Clauses 141 to 149 put and passed.

Schedule 1 -

Hon PETER FOSS: I ask my colleague Hon Nick Griffiths whether he will accept my moving all the amendments together. The amendments take account of the other Bills that are passing through the Chamber relating to changes in the water organisation. The Water Authority of Western Australia will be variously replaced by the Water Corporation and the Water and Rivers Commission. The Waterways Commission will be replaced by the Water and Rivers Commission.

Hon N.D. GRIFFITHS: I agree with the proposition that the amendments be moved as a whole to expedite the passage of this bipartisan Bill. In stating my agreement, I do not agree in any shape or form with what the Minister is proposing in respect of other legislation. The Minister foreshadowed this amendment earlier in respect of a gesture involving a glass of water. I will not go into that matter.

I note that the Committee has already made a decision with regard to clause 2, so there can be no suggestion that we have compromised our position on the water Bills - either the four which are on the Notice Paper or the fifth which has been foreshadowed. I shall speak to the schedule in due course.

Hon PETER FOSS: In that case, I move -

Page 109, lines 5 and 6 - To delete the words "Water Authority of Western Australia" and substitute "Water Corporation".

Page 109, lines 11 and 12 - To delete the words "Water Authority of Western Australia" and substitute "Water Corporation".

Page 109, lines 13 and 14 - To delete the words "Water Authority of Western Australia" and substitute "Water Corporation or the Water and Rivers Commission, as the case may require".

Page 110, line 1 - To delete the words "Waterways Commission" and substitute "Water and Rivers Commission".

Amendments put and passed.

Hon N.D. GRIFFITHS: I note Curtin University is referred to in the schedule, as is Edith Cowan University. That is welcome, because as the Committee will know Edith Cowan University currently is not included within the jurisdiction of the Parliamentary Commissioner for Administrative Investigations. The Minister for Education said that he had taken this matter on board and proposed to address it in the not too distant future. At this stage it is appropriate that the rationale for the listings should be spelled out so that, if oversights occur, the matters can be brought to the Government's attention and the schedule can be properly amended. I trust the rationale is that the cost of prosecutions is such that the bodies that bring them, as listed in the schedule, need the money so that they will not be unduly penalised by being obliged to carry out the law.

Hon PETER FOSS: Edith Cowan University is currently exempt under the fines and penalties legislation. Generally speaking, the bodies that are included have a separate entity to that of the Crown.

Schedule, as amended, put and passed.

Title put and passed.

Sentence Administration Bill

Committee

Clause 1: Short title -

Hon N.D. GRIFFITHS: I will not cover the observations made in the speeches during the second reading stage. However, the Minister and I have been conferring about an aspect of paramountcy. I propose to move for the inclusion of new clause 18 to the effect that in deciding whether or not to release on parole a person eligible for parole the person exercising the power shall give paramount consideration to the protection and interests of the community. It is not on the Notice Paper and I mention it now so that consideration will be given to it in due course.

The matter arises from the report of the Joint Select Committee on Parole presented in August 1991. I do not intend to make as many observations on this Bill as I did on the last Bill we dealt with. To a considerable extent the clauses in the Bill repeat the provisions of the Offenders Community Corrections Act 1963 and this Bill is complementary to the Bill we dealt with previously in reasonable detail. Apart from the amendment I have foreshadowed, I do not propose to move any other amendments; however I do propose to make comments on a number of clauses. I know the Minister has a number of amendments on the Notice Paper and there may be some debate on those clauses. I propose to canvass, but not at length, clauses 4, 9, 17, 19, 31, 61, 62, 75 and 114. I note the unspoken degree of pleasure shown by members when I skipped from clause 75 to clause 114.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Interpretation and abbreviations -

Hon N.D. GRIFFITHS: A few moments ago I referred to the report of the Joint Select Committee on Parole presented in August 1991. Many of the matters contained in that report have been legislated. Some of them are the subject of the Sentencing Bill, which we have just passed. However, there are some aspects which have not yet been covered.

Two of those are relevant to clause 4. I speak at this stage merely to point that out. As I mentioned in dealing with the short title, I am not proposing to move any amendments other than to insert a new clause 18.

I refer to the definition "Board", which means the parole board and the definition of "parole order". This is a matter of labelling and form rather than substance. In its report at page 80, the select committee said that parole should be renamed "supervised community service" to convey to the general public and to the prisoner more accurately the meaning and effect of strictly conditional release. Before arriving at that recommendation the committee noted its awareness that the concept of parole is widely misunderstood by the general public, the media and prisoners themselves. The committee attests that parole as a term has become tainted and discredited in the eyes of the community and that to address those misconceptions new terminology should be used to reflect more accurately that parole is a part of a sentence served and supervised in the community and that acceptance of and compliance with the conditions are integral parts of that sentence. The select committee, consistent with that, recommended that the Parole Board should be renamed the community sentence board.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Effect of escaping from custody -

Hon N.D. GRIFFITHS: This clause changes the law. It is not a representative case of the current regime of the Prisons Act as I read it. It provides for a mandatory period in line with a formula rather than a reliance on discretion. It is an example of where the Minister and I have a different view concerning the exercise of discretion. The Government as a whole seems to like discretion when it diminishes liberty, whereas I seek to advance discretion where it tends to enhance liberty. We are not entirely consistent. That is a general thrust.

Section 30 of the Prisons Act by way of contrast to clause 9 provides -

> A prisoner who escapes from lawful custody while undergoing a finite term of imprisonment is liable, unless the Governor otherwise directs, upon recapture to undergo imprisonment which he was undergoing at the time of his escape for a term equal to that during which he has been absent from prison after his escape and before the expiration of the term of his original sentence whether at the time of recapture the term of that sentence has or has not expired and such a prisoner is not entitled to remission under section 29 in respect of -
>
> (a) the term of imprison required to be served by him in accordance with the sections and
>
> (b) any term of imprisonment imposed on him in respect of his escape from lawful custody.

The formula in clause 9 is set out under subclause (2)(a). I raise that now because I think that is something we must revisit when we consider the criminal justice system as a whole. I am not comfortable with the Prisons Act as it is now; neither am I comfortable with what we are doing with this clause.

Hon PETER FOSS: I do not agree with the member. The Act abolishes the remission, which is one-third, and this Bill adds it. The net result is about the same.

Clause put and passed.

Clauses 10 to 18 put and passed.

Clause 19: Periodic reports to Minister about prisoner on life term -

Hon N.D. GRIFFITHS: I refer to the thirty-sixth report of the Standing Committee on Legislation in relation to the Sentencing Bill. In recommendation No 14 at page 13 of that report the committee says that indefinite sentences should be reviewed at the end of the first year by the sentencing court and annually thereafter by the Parole Board. I make

that point now because in the table to clause 19 the relevant words are: " Type of custody - indefinite imprisonment"; "When A Report Is Due - One year after the day on which the sentence began"; and "When subsequent reports are due - Every 3 years after that".

It is also appropriate at this stage to note the Government's response to recommendation No 14 of the Legislation Committee. The issue has been debated, as far as I am concerned, in the previous Bill, but it is also relevant to this Bill, so it is appropriate that I put it on record. The Government accepted that recommendation, and, in doing so, relied to a great extent on the view of the Director of Public Prosecutions. I believe that what the Legislation Committee proposed is preferable to what the Government is proposing, but the issue has already been debated. When the matter is revisited, it will be necessary to look at both this Bill and the previous Bill so that an appropriate regime to deal with the issue, at least in accord with what the Legislation Committee suggested, but hopefully more in accord with what I am suggesting, will be adopted.

Clause put and passed.

Clauses 20 to 30 put and passed.

Clause 31: Parole order: additional requirements -

Hon N.D. GRIFFITHS: This clause deals with the requirements for parole orders. What resources will be provided in respect of the requirement in paragraph (b) that the prisoner wear any device for monitoring purposes, the requirement in paragraph (c) that the prisoner permit the installation of any device or equipment at the place where the prisoner resides for monitoring purposes, and the requirements in paragraph (e) to facilitate the prisoner's rehabilitation? What is proposed in paragraph (e)? I love the word "rehabilitation"; it is pleasing to see. What are the prescribed requirements that are referred to in paragraph (f)? I seek from the Minister an assurance that the resources necessary to give effect to the policy of this clause are ready to be put in place. If they are not ready, when will they be ready?

Hon PETER FOSS: It is estimated that the sentencing package will require an additional 7.5 FTEs. Some of these measures will reduce the need for resources. For example, a person who is being monitored by wearing some sort of electronic monitoring device as opposed to being supervised personally will consume fewer resources. There will be a freeing up of resources in some areas and a need for additional resources in other areas. Paragraph (e) refers to the requirement that a prisoner reside at a rehabilitation centre, which will probably be a non-government organisation, and undergo those rehabilitation services. Paragraph (f) refers to the management of prisoners while they are being monitored by the use of electronic monitoring devices. The Ministry of Justice will also be utilising its current resources.

Hon N.D. GRIFFITHS: I wish to explore the use of electronic monitoring devices. Can the Minister assure us that effective mechanisms will be in place to ensure that the policy of this clause will be carried out? Will sufficient resources be applied to ensure that there is 24 hour monitoring, if required? How will the Ministry of Justice deal with its FTEs working on Saturdays and Sundays, or on Saturday or Sunday nights? Do they do that now? How will the ministry check on a prisoner who takes off the monitoring device? Will it be merely a matter of telephoning a prisoner at a particular time and speaking to a voice on the telephone? I am not sure that the number of FTEs provided will be sufficient for the task. I trust it will be, but I seek an assurance that it will be, because people who are on parole are still serving a sentence, and they may be, notwithstanding the new clause that I have foreshadowed moving, a danger to the public. We need an assurance that these mechanisms will be effective.

Hon PETER FOSS: To reassure the member I can point out that we already have people on parole. This will be a far more effective method than the current method of supervising people. Furthermore, it will also be far less resource intensive. This change will produce a win-win situation because it will mean we need fewer resources. It will be far more effective because the supervision will be 24 hours a day, which cannot be

provided with a parole officer doing the monitoring. We expect to make very substantial savings in resources and to improve the quality of supervision.

The system itself provides constant electronic supervision. If there is an apparent breach there is an instant electronic alert. The first reaction normally is that an employee from a security firm is sent to check. Such firms are used because they normally have people out and about. That person checks to see whether the alert was triggered by an electronic fault. There are officers on stand-by 24 hours a day and if it is verified that there has been a breach then the officer on stand-by is called in. The initial response by the security firm is physically to check to ensure that the response is not a false alarm.

The member asked a question about regulations. Drafting of the regulations has not been completed. However, they will be dealt with in much the same way that they are dealt with in the current legislation. There is nothing spectacularly new.

Hon N.D. GRIFFITHS: The more the Minister answers my concerns about clause 31 the more he raises questions. I take it that the security companies are private companies.

Hon Peter Foss: We are already using them and it is working very well.

Hon N.D. GRIFFITHS: Which private companies are used? What happens when the person from the private security company discovers that something is amiss? Is it a matter of making a telephone call to one of the 7.5 officers on stand-by? What happens if the employee of the private security company comes across a prisoner who appears to have breached his or her parole? What procedures are in place and what protocols exist in respect of the interaction between the private company and the Ministry of Justice? This is an important area of public policy because people on parole are not people at large able to do what they wish; they are still prisoners.

Hon PETER FOSS: The current security company is MSA Guards and Patrols. The obligation of the person from that company is purely to check that there has not been an electronic fault. They have nothing to do with the person on parole; their job is to call the officer on stand-by and that officer will then take up the matter.

Hon DOUG WENN: The Minister has just said that private security companies have been undertaking these duties for some time. What is the estimated cost of that service?

Hon Peter Foss: The cost is the same as it was.

Hon DOUG WENN: But what is that cost?

Hon Peter Foss: I do not know the cost, but it has not changed.

Hon DOUG WENN: Will the Minister tell me how much it is costing?

Hon Peter Foss: It will be no more because the firm is doing the same as it has always been doing.

Hon DOUG WENN: What is that cost?

Hon PETER FOSS: It is the same as it was when the Labor Party was in government. These procedures were instituted during that time and they have been working very satisfactorily. We are not proposing any change. I do not know the cost of using the security company.

Hon DOUG WENN: To save time, perhaps the Minister can advise me or Hon Nick Griffiths of that cost at a later time.

Hon PETER FOSS: I will ask the officers to prepare a letter to the honourable member.

Clause put and passed.

Clauses 32 to 49 put and passed.

Clause 50: WRO: standard obligations -

Hon PETER FOSS: I move -

> Page 34, lines 12 to 15 - To delete paragraphs (b) and (c) and substitute the following paragraph -

(b) must -

(i) seek or engage in gainful employment or in vocational training; or

(ii) engage in gratuitous work for an organization approved by the CEO;

The current wording of this clause makes paragraphs (b) and (c) cumulative whereas they should be alternative. This amendment gives effect to that.

Hon N.D. GRIFFITHS: The Opposition agrees with what is proposed. It is a substantial improvement.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 51 to 61 put and passed.

Clause 62: Powers of CCO in relation to home detention -

Hon N.D. GRIFFITHS: I speak to this clause so that I can voice my concerns as to the appropriateness of the wide powers being given, particularly in respect of their effect on the people other than prisoners who are the subject of this clause. In doing so, I draw the attention of the Committee to the wording of the clause. My comments will be purely by way of observation. The clause is not being opposed, as such. The Minister may comment if he wishes; that is entirely a matter for him.

When the criminal justice system is seriously overhauled this issue will need to be addressed. My speaking this evening is a matter of putting my concerns on the record. It will be part of a check list for the overhaul that will occur in due course. Clause 62(1) states that -

> A CCO may give such reasonable directions to a prisoner subject to an HDO as are necessary for the proper administration of the order including, without limiting the generality of the foregoing, directions -

A number of directions are set out in paragraphs (a) to (e). Subclause (2) states, among other things, -

> To ascertain whether or not a prisoner is complying with an HDO, a CCO may, at any time -
>
> (a) enter or telephone the place where the prisoner is required by order to remain;
>
> (b) enter or telephone the prisoner's place of employment or any other place where the prisoner is permitted or required to attend.

I ask the Committee to note the words "where the prisoner is permitted or required to attend". It could be a shop or anywhere. Paragraph (c) provides that a CCO may at any time question any person at any place referred to in paragraph (a) or (b). Subclause (3) states that a person must not hinder a person exercising powers under subsection (2). It is not necessary to do much to hinder someone. Subclause (3)(b) states that a person must not fail to answer a question put pursuant to subsection (2)(c). These measures go a little too far with respect to their capacity to infringe on the rights of people who are not prisoners. I will not move an amendment but I raise this so that the matter can be considered. I hope that a substantial overhaul of the criminal justice system is conducted in the near future.

Hon PETER FOSS: I note the member's concerns and I share some of them. He knows this is not a new law; it was added in 1990. This is not necessarily an argument against what he is saying, but nobody has been charged under this provision.

Clause put and passed.

Clauses 63 to 67 put and passed.

Clause 68: Effect of suspension -

Hon PETER FOSS: I move -

Page 45, lines 14 to 21 - To delete subclauses (1) and (2) and substitute the following subclauses -

(1) If an early release order in respect of a prisoner serving a fixed term is suspended, the prisoner is then liable to resume serving the fixed term in custody and, unless the suspension ceases or the early release order is cancelled, is to be released in accordance with section 95 of the *Sentencing Act 1995*.

(2) If an early release order in respect of a prisoner serving a life term is suspended, the prisoner is then liable to resume serving the life term in custody.

This amendment is intended for clarification rather than for any other purpose.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 69 put and passed.

Clause 70: Effect of cancellation -

Hon PETER FOSS: I move -

Page 46, line 26 - To insert after the words "early release order" the following -

, other than a WRO,

Page 46, line 28 - To delete the words "serve the rest of" and substitute "resume serving".

Page 47, after line 2 - To insert the following new subclause -

(2) If a WRO in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, the prisoner is then liable to resume serving the fixed term in custody and is to be released in accordance with section 95 of the *Sentencing Act 1995*.

These amendments, together with new subclause (2) and clause 72 are to allow current sanctions for loss of half clean street time to apply to those offenders on work release and to allow for subsequent release into the community.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 71 put and passed.

Clause 72: Clean street time counts as time served -

Hon PETER FOSS: I move -

Page 48, lines 11 and 12 - To delete the lines and substitute the following -

72. (1) Subject to subsections (2) and (3), if an early release order in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order -

Page 48, lines 21 to 23 - To delete the lines and substitute the following -

(2) Subject to subsection (3), if an early release order in respect of a prisoner serving a fixed term is suspended and, without the suspension ceasing, is subsequently cancelled, then -

Page 49, after line 2 - To insert the following new subclause -

(3) If a WRO in respect of a prisoner serving a fixed term is cancelled after the prisoner is released under the order, subsections (1) and (2) apply

as if "the period" in paragraph (a) of each of them were deleted and "half the period" were substituted.

This is consequential to the previous amendment and gives full effect to the intention.

Hon N.D. GRIFFITHS: It is appropriate to point out that this is substantially a result of the work of the joint select committee. When select committees carry out work and improve the state of affairs, it should be acknowledged.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 73 and 74 put and passed.

Clause 75: Offenders' obligations -

Hon N.D. GRIFFITHS: I ask the Minister to advise what resources will be allocated so that the policy of this clause can be effected. I also point out to the Committee the wording of clause 75(2)(c)(iv). It is a form of words I find a little distasteful. It is a hangover from the convict days. The subparagraph states that a person -

must not commit any act or omission of insubordination or misconduct that is subversive of the good order and management of a centre or of the conduct of anything required to be done under a community corrections order.

I would like, in the not too distant future, either the Law Reform Commission or the Legislation Committee, or a combination of both, to examine this legislation and other legislation, perhaps in line with the Commission on Government's recommendation. We need an appropriate form of wording consistent with how our society now sees itself and, more to the point, how we wish our society to see itself and behave.

Hon PETER FOSS: This clause does not add any extra requirements for resources to the current law. On a whole of program basis we believe that an extra 7.5 FTEs will be required for the package. In some areas there will be a considerable drop in the resources required. Two questions arise: First, do we believe that sort of conduct should be permitted? That is, should a person who is subject to that clause not be able to disrupt?

Hon N.D. Griffiths: Insubordination!

Hon PETER FOSS: The first question is whether that conduct should not be permitted. The second are they words that we do not like to hear used. They are used in the context which might make people not like them. Sometimes the old-fashioned words are the most precise and concise way to describe a particular conduct one wants to refer to.

Hon N.D. Griffiths: That is why I do not like change unless there is good reason for it.

Hon PETER FOSS: The fact is that they have been used in a context where people may have had an overweening power to do things, but that does not mean the wording is wrong. It means that the people given that power sometimes misuse it.

Hon N.D. Griffiths: I want it to be looked at in due course.

Hon PETER FOSS: They are not new words. These words are already in the legislation.

Hon N.D. Griffiths: It is a restatement of what exists.

Hon PETER FOSS: Yes. The two questions are: Should the conduct be forbidden? Secondly, should the wording to forbid this type of conduct be that wording? If we are to forbid the conduct the wording is not too bad because it is well known. It might have bad connotations but for accuracy and the use of the English language it is not too bad.

Clause put and passed.

Clauses 76 to 93 put and passed.

Clause 94: Delegation -

Hon PETER FOSS: I move -

Page 65, after line 28 - To insert the following new subclause -

(2) Unless the contrary is proved, it is to be presumed that a document purporting to have been signed by a person as a delegate of the CEO was signed by a person in the performance of a function that at the time was delegated to the person by the CEO.

The amendment is self-evident. It is one of those evidentiary clauses that stops people wasting a lot of time dealing with what is often trivia. If it turns out to be an important matter it could be challenged. Proving signatures and things of that nature can be a waste of the time of the court, which does not serve much purpose.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 95 to 102 put and passed.

Clause 103: Secretary -

Hon PETER FOSS: I move -

Page 69, lines 20 to 22 - To delete the clause and substitute the following clause -

Secretary

103. Under Part 3 of the *Public Sector Management Act 1994* a person is to be appointed to be the secretary of the Board.

This amendment allows any public servant to be appointed as secretary of the board rather than a departmental officer.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 104 to 113 put and passed.

Clause 114: Exclusion of rules of natural justice -

Hon N.D. GRIFFITHS: I want the Committee to note my concern regarding the wording of this clause. It does not do anything new. I note what is said in the Offenders Community Corrections Act under sections 50, 50H and 50ZH. I find it distasteful to read words such as "the rules known as the rules of natural justice including any duty of procedural fairness do not apply". I know what these matters deal with. I know we are dealing with prisoners but we are still dealing with human beings. I would like to have this reassessed when these matters are looked at again.

Clause put and passed.

Clauses 115 to 119 put and passed.

New clause 18 -

Hon N.D. GRIFFITHS: I move -

Page 12, line 9 - To insert as subclause (1) -

(1) In deciding whether or not to release a person eligible for parole, on parole, the person exercizing the power shall give paramount consideration to the protection and interests of the community.

(2) .

I move this new clause as a result of the recommendation of the report of the Joint Select Committee on Parole. It is consistent with the policy of the Bill. It will enhance public understanding of where we see parole with respect to the treatment of sentenced prisoners. If I understood the Minister correctly, he foreshadowed his support for this new clause.

New clause put and passed.

Schedule put and passed.

Title put and passed.

Sentencing (Consequential Provisions) Bill

Committee

Clause 1: Short title -

Hon N.D. GRIFFITHS: This is the type of Bill which lends itself to recommendation 120 of the second report of the Commission on Government. That report suggested that all Bills introduced into the Legislative Council should be directed to the Standing Committee on Legislation. A lot of work is required to give a tick to every clause of a Bill and members of Parliament are not adequately resourced to do that. Perhaps the Legislation Committee is not adequately resourced to do that either.

Hon Derrick Tomlinson: Don't you believe it.

Hon N.D. GRIFFITHS: I said "perhaps".

I refer the Committee to the recommendation on page 20 of the second report of the Commission on Government. The recommendation has merit when dealing with Bills like this. This Bill reminds me of the Statutes (Repeals and Minor Amendments) Bill which I had the duty to speak on last year. I do not propose to say anything more during the Committee stage of this Bill unless the Minister says something absolutely unexpected.

Clause put and passed.

Clauses 2 to 11 put and passed.

Clause 12: Consequential amendments -

Hon PETER FOSS: I move -

Page 13, line 12 - To delete the line and substitute the following lines -

s. 19(9) Repeal the subsection and substitute the following subsection -

" (9) Where a child is before the Supreme Court or the District Court, that court has all the powers of the Children's Court of Western Australia in all respects as if the child had been before that Court. ".

This is a redrafting of the clause because as originally drafted it unintentionally diminished the powers of the Supreme and District Courts.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 42 put and passed.

Clause 43: Sections 56, 57 and 58 repealed and sections substituted -

Hon PETER FOSS: I move -

Page 42, line 6 - To delete the words "If this Part applies in" and substitute the word "In".

Page 42, line 20 - To delete the word "then".

Page 42, line 25 - To delete the words "If this Part applies in" and substitute the word "In".

Page 43, line 8 - To delete the word "then".

These alterations are purely for the sake of greater clarity.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 44: Other amendments -

Hon PETER FOSS: I move -

Page 44, line 15 - To delete the word "is" and substitute the words "that under section 56 of that Act is ordered".

Page 44, lines 17 to 27 - To delete the lines and substitute the following lines -

s. 39(2) Repeal the subsection and substitute the following subsection -

" (2) In subsection (1) **"prosecuting authority"** means -

(a) if the fine was imposed under an Act of the State - the person that is to be paid the fine, or that administers the fund that is to be credited with the fine, under section 60 (2) or (3) of the *Sentencing Act 1995;*

(b) if the fine was imposed under a law of the Commonwealth - a person that administers proceedings in relation to offences under that law.

The first of these amendments is to make sure that the provision correctly refers to section 56 of the Sentencing Act and makes provision for a sum to be paid to the person who is assaulted. The second amendment is because certain fines are now imposed under commonwealth laws generally, including regulations, in addition to the Act referred to. These amendments give greater clarification.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 45 and 46 put and passed.

Clause 47: Section 232 amended -

Hon PETER FOSS: I move -

Page 47, line 7 - To delete the word "subsection" and substitute the word "section".

The terminology in the Bill is incorrect and this amendment simply corrects it.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 48 to 60 put and passed.

Clause 61: Other amendments -

Hon PETER FOSS: I move -

Page 62, line 7 - To insert after "subsection (5)" the words "and section 101B of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*".

The words are inserted to ensure that an offender is still liable to fulfil his or her obligations to pay a fine, even though the enforcement action may be suspended when an appeal may have been lodged.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 62 to 141 put and passed.

Clause 142: Section 118 repealed and sections substituted -

Hon PETER FOSS: I move -

Page 124, lines 17 and 18 - To delete "an offender for the offence decides that a custodial sentence is appropriate," and substitute "the offender decides to impose a custodial sentence,".

Page 125, lines 20 and 21 - To delete "the court under the *Sentencing Act 1995"* and substitute "a court".

Page 126, lines 2 and 3 - To delete the words "the court under the *Sentencing Act 1995*" and substitute "a court".

The section currently refers to "appropriateness". Of course, that appropriateness is decided under section 120 of the Young Offenders Act, so this section does not actually arise until such time as that decision has been made. This redrafting recognises that. This is amended to remove reference to the Sentencing Act because a court may imprison a young person under the provisions of the Young Offenders Act as well as under the Sentencing Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 143 to 145 put and passed.

Clause 146: Various Acts amended -

Hon PETER FOSS: I move -

Page 141, lines 25 to 31 - To delete the lines and substitute the following -

Road Traffic 1974	s. 20 (3)	At the foot of the subsection, delete "or Act imprisonment not exceeding 30 days".
	s. 44 (2)	At the foot of the subsection, delete "or imprisonment for 3 months".
	s. 49 (1)	At the foot of the subsection, delete "or imprisonment for 3 months".
	s. 53 (1)	At the foot of the subsection, delete "or imprisonment for one month".
	s. 56 (1)	At the foot of the subsection, delete "3 months" and substitute the following -
		" 12 months ".
	s. 60 (3) (a)	Delete "3 months" and substitute the following -
		" 6 months ".
	s. 61 (3) (b)	Delete "3 months" and substitute the following -
		" 6 months ".
	s. 79 (4)	Delete "or imprisonment for 3 months".
	s. 80 (4)	Delete "or imprisonment for 3 months".
	s. 83 (5)	At the foot of the subsection, delete "or imprisonment for 30 days".
	s. 90	At the foot of the section, delete "or imprisonment for 3 months".

This recognises the fact that sentences for less than three months will no longer be imposed.

Amendment put and passed.

Clause, as amended, put and passed.

New part 55 -

Hon PETER FOSS: I move -

After page 74 - To insert the following new part -

PART 55 - *OCCUPATIONAL SAFETY AND HEALTH ACT 1984*

Section 54AA inserted

76. The *Occupational Safety and Health Act 1984** is amended by inserting after section 54 the following section -

Penalties for bodies corporate

54AA. Despite section 40 (5) of the *Sentencing Act 1995*, the penalty for a body corporate convicted of an offence under this Act is the penalty provided by this Act.

[**Reprinted as at 23 January 1989.*

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 150 and Act No. 30 of 1995.]

This part is inserted to preclude the Occupational Safety and Health Act 1984 from the effect of section 45 of the Sentencing Act which provides that the penalty for a corporate body be up to five times that which can be imposed on a person. The Occupational Safety and Health Act has recently been amended to provide a range of penalties appropriate to both a body corporate and a natural person by the Sentencing Act in this case to make the corporate body to be liable to sanctions of up to $1m.

New part put and passed.

Title put and passed.

Report

Bills reported, with amendments, and the report adopted.

Third Reading

Bills read a third time, on motion by Hon Peter Foss (Minister for the Environment), and returned to the Assembly with amendments.

STRATA TITLES AMENDMENT BILL

Assembly's Amendments

Amendments made by the Assembly now considered.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon George Cash (Minister for Lands) in charge of the Bill.

The amendments made by the Assembly were as follows -

No 1

Clause 8

Page 13, after line 14 - To insert the following subsection -

(1c) Except as otherwise allowed by the regulations, a lot can only be created in a survey-strata scheme as a cubic space lot (limited in height and depth) if the balance of the land above and below the lot is common property.

No 2

Clause 10

Page 15, lines 10 to 17 - To delete the lines.

No 3

Clause 14

Page 28, lines 9 to 11 - To delete the lines and substitute the following -

(II) the plan either complies with any bylaws of the kind described in item 8 in Schedule 2A or sufficiently complies

with those bylaws in a way that is allowed by the regulations;

No 4

Clause 14

Page 28, after line 30 - To insert the following paragraph -

(e) where paragraph (a)(ii)(II) applies, be accompanied by a certificate in the prescribed form given by a licensed surveyor;

No 5

Clause 89

Page 121, line 2 - To delete "survey-strata".

No 6

Clause 89

Page 121, line 4 - To insert after "and (c)" the following -

and any other prescribed requirements

Hon GEORGE CASH: I move -

That the amendments made by the Assembly be agreed to.

By way of explanation, during the debate on this Bill in the other place it was suggested that a number of minor amendments be made for the sake of better clarification of two or three issues.

Amendment No 1 relates to clause 8 and defines the difference between a survey strata lot and a strata lot in a building. The information provided to me indicates that as the subsection is currently drafted it could be argued that airspace survey strata lots are permitted. The operative words are "are permitted". This amendment seeks to define that survey strata lots cannot be on top of one another. The amendment seeks to differentiate between a lot in a building; that is, a three dimensional lot defined by floors, walls and ceilings, and a survey strata lot which technically is two dimensional, notwithstanding that it can be defined as cubic space relative to limits in height or depth.

Amendment No 2 relates to clause 10 and will clarify the wording that had been previously inserted. The new wording will clarify the intent so that we do not have any duplication. Amendment Nos 3 and 4 relate to clause 14 and delete certain lines and substitute certain words. The original wording was believed to be too prescriptive and it was recommended that it be relaxed somewhat by including the words "or sufficiently complies" to assist in the interpretation of those particular lines. Again, that was to clarify which certificate was required.

Amendment No 5 relates to clause 89. The amendment on page 121, line 2 was moved by Hon Richard Lewis to pick up something that was pointed out by the member for Nollamara that under the Bill only survey strata schemes had the ability to have management plans. It was a technical amendment. Amendment No 6, on page 121, line 4, was also at the recommendation of the member for Nollamara, who believed that greater clarification would result if those words were added. The Government supports those amendments.

Hon N.D. GRIFFITHS: I concur with these amendments. This is an example of cooperation between Opposition and Government, which often occurs in the Parliament. It has occurred in the other place, and here. It is something that is rarely reported. Those who report on what we do dwell on where we differ, and fail to report that we are capable of cooperating for the benefit of Western Australia consistently.

Hon George Cash: Hear, hear!

Question put and passed; the Assembly's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

GOVERNMENT EMPLOYEES SUPERANNUATION AMENDMENT BILL (No 2)

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon Barry House) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Progress was reported after clause 58 had been agreed to.

Postponed clause 2: Commencement -

Hon MAX EVANS: As I explained before dinner, it seems that we should amend the proclamation date of 1 December. The Bill is constructed for the contributory scheme to close on the day of proclamation. This day was intended to be 1 December, but this date has now lapsed. Allowing for the passage of the Bill through the Assembly on 19 December, it is envisaged that the day of proclamation will be 12 January. The reason why the Bill cannot prescribe the closure date is that the Treasurer is to issue a determination under clause 27 - new section 4(4)(c) - between the day of assent and the day of proclamation. The Treasurer's determination will exclude some of the non-cash components of employees' remuneration from the definition of salary for benefit purposes in the contributory scheme. Otherwise, public servants will receive a windfall gain. For example, motor vehicles are currently not included in the definition of salary and it is envisaged that the Treasurer's determination will exempt the value of motor vehicles from the calculation of benefits which are to be based on a total remuneration concept.

As the Bill also includes an anti-detriment clause in which the Treasurer cannot use the power of the determination to take away a component of remuneration recognised for benefit purposes when the Bill is proclaimed, the Treasurer's determination needs to be effective before the date of proclamation.

Postponed clause put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and returned to the Assembly with an amendment.

LOCAL GOVERNMENT BILL

Committee

Resumed from 6 December. The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

Progress was reported after clause 2.45 had been agreed to.

Clause 3.1: General function -

Hon A.J.G. MacTIERNAN: I wish to consider clause 3.1 -

[Quorum formed.]

Hon A.J.G. MacTIERNAN: This clause sets out the general functions of local government. It is the basis of the general competency approach which has to be taken towards the powers and functions of local government. There was a fair debate in the Assembly on the clause. However, several members seemed to be confused about the purpose of the clause. Many of the concerns expressed about this clause perhaps more

properly belong elsewhere. I have a couple of concerns about the clause, not so much about the intended content of the provision, but about the drafting. I believe that there may have been an error in the drafting. There has also been clumsy drafting in another respect. According to clause 3.1(2) -

> The scope of the general function of local government is to be construed in the context of its other functions under this Act or any other written law . . .

That is confining the scope of local government in a way that seems to contradict the stated intention of the legislation. As I think we all know by the numerous repetition of this in the second reading and Committee stages, the scheme of this legislation is to provide to local government a plenary power that is to be limited only by those matters that are specifically referred to. My concern is that the way subclause (2) is constructed is empathetical to the overall scheme of the legislation. It states that the scope of the general function is to be construed in the context of other functions under this Bill or any other written law. It seems to be suggesting in an around about way that we must look at those specific functions that might be found under this Bill or any other legislation, and then when we interpret the general function, see whether they are in some way associated with these specific functions. That seems to run counter to this notion of plenary power that I understood underpins the direction of this legislative scheme.

Hon E.J. CHARLTON: I acknowledge the member's comments that this is not consistent with other parts of the introductory statement in the clause. Subclause (2) gets down to the ability of local governments to do things in the performance of their general function. They will not be without limitation. Local governments will be required to have regard for any constraints in this Bill or any other written law. It is in the pursuit of the operations of the Local Government Bill that we must be cognisant of what goes on in other Acts. Subclause (3) states that despite having that restriction, it is not intended that the general functions of local government should be unduly restricted. It is made clear that a liberal approach can be taken within the administration, operation and function of local government. However, as it is affected by other laws, obviously they must be adhered to.

Hon A.J.G. MacTIERNAN: It was interesting that the Minister referred to any constraints imposed by this Bill or any other written law on the performance of its functions. That is not the part of this provision that causes me difficulty. Obviously the plenary power will be subject to specific constraints. That was always part of the scheme. What is added into this provision by the phrase "to be construed in the context of its other functions under this Act or any other written law"? The plenary power is contained by specific constraints in the Bill or elsewhere. Something in between seems to say that perhaps this is not a plenary power after all. When we try to work out what that power is, we must look at other specific things in the legislation. It is a nonsense. This is one of the areas about which there will be some dispute and litigation. It is needlessly confusing, complex and complicated.

Hon E.J. CHARLTON: It covers the fact that local government must abide by other Acts such as the Health Act, the planning Act and numerous other Acts. It says that the scope of the general function of local government is to be construed in the context of its other functions under the Bill, or any other written law, and by any constraints imposed by this Bill or any other written law on the performance of its functions.

Hon A.J.G. MacTIERNAN: I take the Minister's point. I do not know whether the way this is expressed captures that aspect of it well. The more positive parts of it are the functions and duties - not so much the constraints - that it may have under those other legislative packages. At least we have on record what it is supposed to achieve. Perhaps if there is the confusion that I imagine there is, the Minister's comments may be of some assistance.

What is the reason for the use of the terminology "a liberal approach is to be taken to the construction of the scope of the general function of a local government"? My concern about the use of the term "liberal approach" does not relate to the name of the political party of the Minister in the other place! I have never seen that terminology used in a

Statute before. Although there is always a first time, there is something to be said for using terminology that has been tested. There is always a risk that when new terminology is used to mean something entirely the same as has been achieved with other terminology, it might be a disadvantage. It may be said that because new terminology was used, the legislation means something different. It is a small point. However, I was surprised that it was used when there are far more standard ways of making the point that there is to be a broad reading of powers and functions under the legislation.

Hon E.J. CHARLTON: It is a wording that has been inserted by Parliamentary Counsel to ensure that local government is not constrained.

Hon A.J.G. MacTiernan: Why that unusual terminology?

Hon E.J. CHARLTON: It is trying to demonstrate that that is an approach. I suppose other words could have been used. However, the Government is told by Parliamentary Counsel that when developing this clause he had to be assured that he could get the best. That is his responsibility. I suppose like all things in government, unless there is a blatant reason to think he is wrong - we pay good money for him to do it - it remains.

Clause put and passed.

Clause 3.2: Relationship to State government -

Hon A.J.G. MacTIERNAN: This might be a convenient time to draw attention to and query comments in the second reading speech about the relationship between the three tiers of government. A couple of members have said that over time we might see local government expand and State Governments contract. Hon Mark Nevill even put the view that there will eventually be greater direct funding of local government from the Federal Government. I wonder how the Minister can explain his hostility to the notion of expanding local government. He has said that he is hostile to any expansion of Federal Government power, that Canberra is removed and remote from the people of rural Australia, and that therefore it is less likely that such communities will get a fair deal. Surely the beneficiaries of any increased power for local government would be people in rural and remote communities.

The Minister, who lives in Perth, might feel that Canberra is remote. He must be aware that many people in the outer reaches of Western Australia feel that Perth is remote and say all the dreadful things about Perth and politicians in Perth that he says ad nauseam about Canberra and politicians based in Canberra. Given that the clause deals with the relationship between those tiers of government, how does the Minister square his hostility to the notion of an expanding local government receiving direct financial assistance from the Federal Government?

Hon E.J. CHARLTON: It is probably not appropriate to debate that matter under this clause, or even under this Bill. As for the constitutional exercises and responsibilities of the nation, I happen to believe that, unless the Constitution of Australia is changed, Australia is a confederation of States. That is what the Constitution says it is. For instance, the Hilmer law is being implemented across the nation. The Federal Government is saying, "If you don't do this, we won't give you any money."

[Quorum formed.]

Hon E.J. CHARLTON: It is always unacceptable when a Federal Government dictates how it will deliver funds to the States as a consequence of the taxation system - that is a matter of opinion only.

Hon A.J.G. MacTiernan: How did the Federal Government get the right to levy income tax?

Hon E.J. CHARLTON: I am aware of that, but as a consequence of having that power -

Hon A.J.G. MacTiernan: That was given to it by the States.

Hon E.J. CHARLTON: Yes. If I had my way it would be taken back. The wellbeing of the nation is now affected as a consequence. That is why ours is the most urbanised nation in the world.

Hon A.J.G. MacTiernan: Does the Minister not think that more power to local government would give more power to rural communities?

Hon E.J. CHARLTON: Local government would, if it had the opportunity. The Federal Government dictates who will get money and how. The fringe benefits tax is probably the greatest example of that. Everyone in remote Australia is destroyed because of that tax regime. Why are there so many federal government departments? Successive Federal Governments have increased the size of government at the same time as telling State Governments to reduce and restrict their operations. There is no point in pursuing the issue any further. The member has her point of view; that is fair enough, but I do not agree with it.

Clause put and passed.

Clauses 3.3 and 3.4 put and passed.

Clause 3.5: Legislative power of local governments -

Hon A.J.G. MacTIERNAN: This clause relates to the legislative power of local governments - the power to make local laws. That provision has caused great controversy, certainly within Parliament. It is not possible, of course, to grant broad general powers to local government without giving it power to make laws. I suspect that some of the reaction to the provision is a result of the change in terminology. The people who were quite relaxed about local government making by-laws now have a great problem with local governments making laws that are called local laws.

I understand the concern that because of the new focus - the plenary power rather than the specified power that we are supposedly giving local government - we will see local governments making a broader range of decisions. Frankly, that is the purpose of the legislation, and it is certainly worth trying. I put on record that I am not opposed to that in principle. Unlike Martyn Webb, who seems to believe it is the end of democracy, there are so many caveats and limitations on this power that I wonder what capacity local authorities have to make decisions. I suppose my critique is coming from a slightly different direction from that of many of my colleagues in the Legislative Assembly. It appears there are some pretty broad powers for local government in one clause. However, with so many exceptions and so many caveats, I wonder how much power will be left. Of course, we will not start to have any idea of that until we see the regulations. The regulation under subclause (4) will set out in some detail those matters that local authorities will be directly prohibited from making rules about. There is always the capacity for Parliament to disallow and, as we will discuss later, to alter or repeal those laws. In theory, it is a very broad power; in practice, it may well be a very limited and prescribed power.

Although I support the principle, my concern arises out of this less than representative nature of local government. I raised this in the second reading debate. The fundamental problem is not devolving that power to local authorities - that devolution is good. However, we do not have a properly representative local government, unfortunately. That is because we have not been prepared to bite the bullet and provide for compulsory voting in local government. It cannot be argued that local government is as properly representative of the local communities as are State and Federal Governments. In the debate on the last clause we heard the Minister talk about the dictators in Canberra. Our representatives in Canberra are the most democratically elected in the entire country. They are more democratically elected than the representatives in this State and more broadly representative of the people than are local government representatives.

As I say, my concern is not the devolution, but devolution in the context of a less than satisfactory local government. That is not a criticism of local government authorities, but of the statutory framework provided for local government to operate under. We consistently see very low turnouts at local government elections, and the second reading speech provided some figures. For the old City of Perth it was about 15 per cent. In Wanneroo, where understandably the disillusionment is even greater, the figure is down to about 6 per cent. I understand the postal voting experience has improved that figure.

It took it up in the area in which I live to about 35 per cent; however, that is still a small percentage. My concern for the devolution arises out of the fact that a small number of people are making the decision to vote, yet those people have the power to affect minority rights in a way they never had before. Let us be quite frank about this: A lot of the concern relates to the sorts of provisions that might be imposed that affect groups such as Aboriginal people. Certain laws could be made - I imagine in areas such as mine - that prohibit certain activities in parks. The people who would be the target of that - although not overtly stipulated in the legislation - would be Aboriginal people, who could get moved on from those areas. It is always important in a democracy that minority rights be protected. It is important to be aware of that limitation on local government that will remain until such time as we bite the bullet and introduce compulsory voting.

Having said that, I recognise that at every turn - this is something that has eluded Professor Martyn Webb in the reading of the legislation - the State wields enormous power over these local government decisions. There is adequate scope for reviewing those decisions, be it by way of disallowance or subsequently by repeal or amendment. I support the provision generally.

Hon E.J. CHARLTON: As I stated in reply to the second reading debate, when compulsory voting was tried in a small area of local government, it turned into a farce.

Hon A.J.G. MacTiernan: Where was that?

Hon E.J. CHARLTON: As I understand it, in New South Wales.

Hon A.J.G. MacTiernan: It is compulsory in Victoria.

Hon E.J. CHARLTON: If the member wants to carry this through to the nth degree and have everybody vote, she will find that a substantial requirement will be to issue penalties for people not voting. That is one side of the coin. The other side, which I think is most important, is that most nations around the world do not have compulsory voting. Let us take the member's argument that without compulsory voting in local government a minority of people who are not democratically elected could make local laws that affect people in a specific area. In line with that argument, larger places like England, other European countries and the United States that have strong economies should not make any laws and push them onto the people of those nations.

Hon A.J.G. MacTiernan: That is why there are such problems with minorities in those countries.

Hon E.J. CHARLTON: I do not agree with that either. There is not a more democratic society than that in the United States.

Hon A.J.G. MacTiernan: I think that is wrong. Why do you say that?

Hon E.J. CHARLTON: I believe it.

Hon A.J.G. MacTiernan: What is the basis for saying that?

Hon E.J. CHARLTON: The member is saying that local government does not have the power to make local laws because its members are not elected under a compulsory voting system.

Hon A.J.G. MacTiernan: I did not say that; I said that it would always be something that causes concern.

Hon E.J. CHARLTON: That is right. The member said that she agreed with clause 3.5, but that she had some concerns about it. I am responding and giving a reason for the way this operates and presenting another point of view.

Hon A.J.G. MacTIERNAN: My basic principle is that I support devolution generally. I am very concerned about a broad devolution, given the less than satisfactory representativeness of local government; however, my concerns about that are addressed by the fact that the State Government has retained very considerable powers to override, amend and repeal any such laws. I am not saying it should not happen. Valid concerns

have been expressed. Until we get a better system of local government it is appropriate that the State Government provide some sort of supervisory role. Given that role, I am happy to support the making of local laws.

Clause put and passed.

Clause 3.6: Places outside the district -

Hon A.J.G. MacTIERNAN: I understand the principle attempted here. The idea is to allow a local authority to make laws that affect an area outside its jurisdiction. I gather, although it does not say, they would need to be contiguous with the jurisdiction. I am surprised at the examples. I have read the concerns raised in the Legislative Assembly. The Minister referred to how the City of Perth, for example, and I suppose the City of Subiaco which abound Kings Park, might have powers to make laws in relation to Kings Park. I was a bit surprised about that. I understand that where the province of a local authority may end at the low watermark that authority may want to have some powers over the operation of jet skis, for example, off that waterfront. What areas was the Minister for Local Government getting at when he referred to Kings Park?

Hon E.J. CHARLTON: I did not get the real thrust of the member's concern. Obviously a number of areas are not part of any local government, including coastal areas along rivers or oceans where laws can overlap. However, outside of that, as is stated in this clause the Governor may revoke any approval given under subsection (1). It is self-explanatory.

Hon A.J.G. MacTIERNAN: I am not sure that is quite the case. The way the legislation is drawn prevents a local authority making a local law that applies to part of any other local government authority. What is not clear is just what is the limit of this power. The Minister said, for example, that a number of areas do not come within any boundary of local government. One example obviously is Kings Park. Another is areas by the river and the seafronts. I am not aware of any other patches of land that are not within any local authority.

Hon E.J. Charlton: A few islands offshore.

Hon A.J.G. MacTIERNAN: I am surprised there were not a few more limitation examples in this that would make it clear that the Cities of Perth or Subiaco could not make general rules about conduct, for example, in Kings Park. It seems to me that this provision will allow, for example, the Cities of Perth or Subiaco, or any other local authority to take it upon itself to make rules about what happens in Kings Park.

Hon E.J. CHARLTON: It is more the other way around. If the Kings Park Board wanted Perth City Council or Subiaco City Council to control parking in its area, and the Kings Park Board or the Government wanted consistency with the adjoining cities' systems, this clause would allow a local law to be made. Again it would have to have consent of the Governor for the law to be implemented.

Hon A.J.G. MacTIERNAN: This provision may have been improved had it contained some notion that the area outside the jurisdiction to which the law would apply needed to be contiguous with the local authority.

Clause put and passed.

Clause 3.7: Inconsistency with written laws -

Hon A.J.G. MacTIERNAN: Concern has been raised by local government about this clause. I do not see the problem myself. Presumably the Minister has had some dialogue with the local authorities to see why they have this degree of hostility to this provision. It deals with the question of inconsistency and provides quite properly that a local law is inoperative to the extent that it is inconsistent with anything else within this legislation or any other law. I understand a written law covers Statute or judge-made law. One hundred per cent of the responding local authorities expressed concern about the use of the term, "any other written law". As a result they do not support this provision. What endeavours have been made to explain to the local authorities that "any other written law" is a fairly standard term and covers a range of matters?

Hon E.J. CHARLTON: As Hon Alannah MacTiernan has said, the words must be included in the Bill here in that form because a local government law must be consistent and come within the boundaries of this Bill or any other written law. In the discussions I have had with local government, it has not brought up this issue. Hon Alannah MacTiernan correctly said some authorities have. The Western Australia Municipal Association has not expressed a problem with it. People perceive that words such as "any other written law" could stop them from making a local law or a bylaw as they were made in the past. It is consistent with what was done in the past and must be included in the legislation.

Hon A.J.G. MacTIERNAN: I am not opposing the provision. However, I am concerned about the level of concern by local government over this. The Minister says the WA Municipal Association does not have a concern. A WAMA document was given to me this morning which indicates that 100 per cent of its constituent members responded - I understood they numbered about 80. There are probably only three or four provisions throughout this Bill on which 100 per cent concern was expressed at the use of this term, "other written law". What attempts have been made to explain to local governments what "other written law" means and put them at ease about this terminology?

Hon E.J. CHARLTON: When people who are not lawyers or who are not involved in the drafting of legislation or conversant with the structure of the laws of the State are told that they will be restricted in how they make these laws, they say that is no good; and that is what happened. They all saw this as an impediment to their capacity to perform. It is not an impediment. The reason for this clause is to ensure that local laws are not inconsistent with other written laws, otherwise local governments might be taken to task for attempting to impose a law which they cannot legally enforce. There was consultation. WAMA was advised of the requirement for this clause and it accepted that requirement. Like all these things, it will take time for this to be worked through. I had a situation where WAMA put forward a proposal about a new road funding regime for local government because that was something that WAMA wanted. That was implemented, but now some local governments are saying to me it is not operating properly and they have a problem with it. It is not that they want to do away with it, but they have a problem with some of the consequences of it. Once this Bill is passed, there will be a full consultation period to enable local government authorities to become conversant with these clauses.

Clause put and passed.

Clause 3.8: Local laws may adopt codes etc. -

Hon A.J.G. MacTIERNAN: This clause provides that a local authority may adopt the text of a model local law either whole or in part. Clause 3.9 provides that the Governor may cause to be prepared and published model local laws. Therefore, in one way, clause 3.9 should come before clause 3.8. It would be useful for local government to have a set of model local laws from which it could choose whichever laws it believed were appropriate. That would be a cost and time saving measure, particularly for smaller local governments. It would certainly save a lot of repetitious work. Some concern has been expressed about model local laws and about the role of the Governor - it is clearly the Government - in preparing a set of model local laws. Where did that concern come from?

Hon E.J. CHARLTON: The Act has about 30 model local laws under which a local government can operate. However, they will either be obsolete or inconsistent with current needs, so immediately following the passage of this legislation, a new set of model local laws will be prepared for local government - that will be a significant task - to bring the model local laws up to date with the current requirements of local government.

Hon A.J.G. MacTIERNAN: I understand what the Minister is saying. I am not sure that it addresses the point I made.

Clause put and passed.

Clause 3.9 put and passed.

Clause 3.10: Creating offences and prescribing penalties -

Hon A.J.G. MacTIERNAN: My view is somewhat opposite to that of my colleagues in the Legislative Assembly, who expressed concern about the level of these penalties. I believe it is appropriate that we have a reasonable regime of penalties in local government. One of the reasons that local government has been pretty ineffective in a range of areas, as we have seen in its dealings with people like Len Buckeridge, is that the regime of penalties has been so modest. It is important that we upgrade the penalties to levels that may provide a reasonable deterrent to non-compliance. I am particularly pleased to see that we have included a daily penalty. Local government has expressed some concern about the power of local government to impose a penalty. I am not sure why local government is concerned about that. Is it because there is no such provision in the Act, or because local governments cannot backdate that until the date of the offence?

Hon E.J. CHARLTON: I am not aware that local governments have expressed concern about this. This clause will give local governments greater power; therefore, local governments have, in the main, accepted it.

Clause 3.11: Subdivision applies to local laws made under any Act -

Hon A.J.G. MacTIERNAN: We support this provision.

Clause put and passed.

Clause 3.12: Procedure for making local laws -

Hon A.J.G. MacTIERNAN: I move -

Page 46, line 19 - To delete "special" and substitute "absolute".

This provision sets out the steps to be undertaken by local authorities in making local laws. Generally it is a very positive approach and allows for proper public input and participation in the lawmaking process. However my concern, and the reason I have moved this amendment, is that a small majority of councillors will be able to prevent local authorities from setting in place by-laws that reflect the wishes of the broader community - the general community that the council represents.

There may be a proposal for some form of environmental restriction operating in a particular area. The proposal is made to legislate in relation to an environmental matter. The matter is advertised, submissions are made by the local populace and, presuming there is a very broad and general support for this, the matter then goes up to local government and local government decides that it wishes to make a law about it. Under this authority, two or three people who are opposed to any provision that could restrict, for example, development or the use of the land - they come from a very different ideological perspective from the bulk of the community - could prevent that council from developing a progressive policy and putting it into effect. That is fundamentally anti-democratic and there can be no justification for allowing a small group to lock the local authority out of that action. This is every bit as wrong as allowing a minority to enact laws against the will of the majority. The fact that they are simply preventing the legislation's being made and action being taken is in many respects as bad as that same small group having the power to assert itself by making laws over the will of the majority. We are wrong to believe that simply because it is the power of veto that it is any less pernicious and democratic.

Hon E.J. CHARLTON: We debated this issue last night in the context of the requirement for a special majority. This is safeguarding the local community from a simple majority of people making changes that are not widely supported. While the honourable member is quite right in saying that a small group of people could stop a change, the other view - which has been accepted by the Government in consultation with local government - is that there needs to be safeguards for the community. We do not want draconian by-laws or major effects on the community because a council has a majority.

Hon A.J.G. MacTIERNAN: I note that in the original Bill an absolute majority was

required. Subsequently that was changed by an amendment from the Minister for Local Government. There has been no debate, discussion or explanation from the Minister about why he made the change. This seems to go back to the fact that local laws are the very instrument by which local government can act and operate. Without the capacity to make local laws, the role of local government is severely limited. It is clear from the original scheme of the legislation that that was understood and it was seen as appropriate that a majority of councillors be the ones who made the decision about setting out the way in which the council could act. The Minister referred to protection. That is not how this will work. A small number of councillors will have an inordinate power to stop progressive measures being adopted by a council.

Hon E.J. CHARLTON: The absolute majority was in the original Bill. However, when the Bill was first put forward a major request was made for this change. The Government did not simply dream this up itself. This was done following consultation with the community and local government. There was a concern about local laws that had the capacity to influence a community significantly. It was felt that this change was required. This was not a government decision; it came as a result of consultation with members of the Government who were asked to initiate this change.

Hon A.J.G. MacTIERNAN: From where did the request come? I presume it would not have been from local government itself. I would be surprised if it did.

Hon E.J. Charlton: It was put forward in submissions made to a committee.

Hon A.J.G. MacTIERNAN: I assume that they were not local government groups making these submissions.

Hon E.J. Charlton: They were not local authorities but people in the local community.

Hon A.J.G. MacTIERNAN: Was it Martyn Webb?

Hon E.J. Charlton: No.

Hon A.J.G. MacTIERNAN: It is very unfortunate that this change was made. Without the capacity to make the law, any creativity or power and authority that effects change in the community is very limited. It is very disappointing that there could be an old guard on a council or a particular lobby group that might stop progressive change.

Hon E.J. Charlton: You must acknowledge that you would not want local laws made if half the people on the council opposed it.

Hon A.J.G. MacTIERNAN: I am not opposed to the concept of an absolute majority, it is very important.

Hon E.J. Charlton: It should be an absolute majority most times in council if all the people are there.

Hon A.J.G. MacTIERNAN: The Minister must be well aware that whether or not everyone is present, it makes no difference to the numbers required for an absolute majority or a special majority. The numbers required are set on the basis of the number of people eligible to vote, not those ready, willing and able to vote. Quite clearly, 25 per cent of representatives must decide whether a local authority is making a decision.

Hon E.J. Charlton: They cannot decide but they can stop it.

Hon A.J.G. MacTIERNAN: That is right. The Minister sees the veto as a much lesser power than the power to enact. I am not sure that is the case. I seek clarification about the special majority. Does it apply to 75 per cent of the number of positions, and not 75 per cent of those eligible to vote? If people were disentitled because of pecuniary interest, would it still be 75 per cent of the maximum number of the positions?

Hon E.J. Charlton: Yes. It applies only to councils with 12 or more councillors.

Amendment put and negatived.

Hon A.J.G. MacTIERNAN: Some concern has been raised by local government on two matters in the Bill which lack clarity. The first is the requirement that when a proposed local law is advertised, with it is advertised a statement of the intended purpose and effect

of the legislation. Local authorities are concerned that further clarification is needed. I am not sure I necessarily agree with that because it is fairly self-evident.

Of more concern is the provision in subclause (4) and the words "significantly different". When a proposed law is advertised submissions are taken. At the end of the submission period the local authority, having considered the submissions, can make the local law as originally proposed or make the law in a way that is not significantly different from that which was originally proposed and put out for public comment. What yardstick will be used to measure "significantly different"? This is a matter of considerable concern. I am particularly surprised that the Government is prepared to put into place a special majority to allow a small group to hold up a local law when, potentially, it could undermine the whole advertising procedure by allowing local laws to be changed after the period of advertisement and submission. This provision is somewhat dangerous. If the authority decided to make some change and it was only a minor change, there should be minimal readvertising of that change. I am not suggesting it need necessarily be as extensive a process as that followed in the original proposal, but there is some concern about the matter. It is often in the detail of a law that the injustice or prejudice occurs. A person may not comment on a particular provision because in the detail it will not affect that person. A small change, which may not in some eyes be considered significant, may expand the operation of the law to affect people who previously thought they were unaffected by the law and who would have made submissions if they had been aware that the scope of the law would change. Given the degree to which the Minister has been prepared to go to provide protection to people in relation to these local laws, I am surprised that any change to the law is not required to be advertised prior to proclamation, to give people some capacity to make further submissions on the basis of that change.

Hon E.J. CHARLTON: The opportunity is provided to vary the proposal to a minor degree. If local government had to readvertise every time a change were made, it would never make a decision. If that process were repeated over and over again, local authorities would not be able to implement their decisions. It should be noted that there will be guidelines to assist local government when making those minor changes whereby the law is different from the initial proposal.

Clause put and passed.

Clause 3.13: Procedure where significant change in proposal -

Hon A.J.G. MacTIERNAN: This relates to the matters raised on the last clause. This clause provides that if there is a significant difference the procedure must be recommenced. Local authorities are concerned about how will it be determined that something is significantly different.

Hon E.J. Charlton: In the same way I mentioned before. Guidelines will be available to local government to help them determine whether it is a minor change. If it is a major change, they must go back and start again.

Hon A.J.G. MacTIERNAN: It is a subjective concept and sometimes that is unavoidable, but I stand by the position I took on the last clause. If a change is made, people should have the opportunity to comment on the local law again. Will the guidelines be in the form of regulations?

Hon E.J. Charlton: They will be developed by the department to be consistent with the operations of local government.

Hon Bob Thomas: Will it be like a manual?

Hon E.J. Charlton: Yes.

Hon A.J.G. MacTIERNAN: What is the time frame for the promulgation of such material? Will it be ready for proclamation on 1 July?

Hon E.J. CHARLTON: The guidelines will be with local government authorities by the time the regulations are developed and the legislation is proclaimed on 1 July.

Hon BOB THOMAS: What other issues will be covered in those guidelines?

Hon E.J. CHARLTON: They will cover all aspects of the administration of this new legislation where there is a capacity to not have specific definitions. The explanations will be to do with finance, elections or the making of bylaws. The guidelines may be added to because they will not be part of the regulations or the Act. They will be developed and upgraded as part of consultative and advisory assistance for local government.

Hon BOB THOMAS: What process will take place to amend the guidelines? Will the guidelines be legal?

Hon E.J. CHARLTON: The department will consult with local government authorities through the various organisations, including the WA Municipal Association.

Hon BOB THOMAS: Where in this Bill is reference made to the guidelines?

Hon E.J. CHARLTON: Guidelines are guidelines. They have nothing to do with the legislation. They will be a tool for local government to use in the implementation of the Act.

Hon BOB THOMAS: If a local government authority is deemed to be in breach of the guidelines what power at law will have an effect?

Hon E.J. CHARLTON: Guidelines are guidelines. They will be provided to assist local government authorities. The guidelines will not be a legal document. It is the same as when a person buys a new reticulation system. The instructions assist in the installation. If a person does not follow the guidelines he will be in contravention of the Act, not the guidelines.

Hon A.J.G. MacTIERNAN: If one believed that a local authority had erred and there had been a significant change in a local law which had been gazetted, what remedies would one have? Obviously a person could go to the Supreme Court and seek a prerogative writ but that is an expensive procedure. Is a decision by a council to proceed with an amended provision the sort of matter that can be appealed by a person to the Minister?

Hon E.J. CHARLTON: It is no different from the current Act, a bylaw or a local law. If someone believes that a bylaw is incorrect, the Governor has power to revoke that local law.

Hon A.J.G. MacTIERNAN: I raise these points because these are the very real issues which will arise from the operation of the legislation. How does an aggrieved individual access the Governor to convince him to revoke any local law? Is there a legal remedy or only a political remedy of going to the Minister?

Hon E.J. Charlton: Yes. It goes to the Minister.

Hon A.J.G. MacTIERNAN: Will it be an exercise in lobbying, or is this a matter on which an individual can formally appeal to the Minister under the Act?

Hon E.J. Charlton: It is informal.

Hon A.J.G. MacTIERNAN: So it is a political rather than a legal approach.

Hon E.J. Charlton: Yes. The Minister should be approached because he is the person responsible for the administration of the Act.

Hon A.J.G. MacTIERNAN: Am I correct in assuming that a more legal remedy is available by taking the matter to the Supreme Court?

Hon E.J. Charlton: Yes.

Clause put and passed.

Clauses 3.14 and 3.15 put and passed.

Clause 3.16: Periodic review of local laws -

Hon A.J.G. MacTIERNAN: This provision ensures that local laws are periodically reviewed. We are aware that from time to time local authorities, just like State

Governments, have outdated Statutes on their books. Perhaps there is some usefulness in revising those. That is one of the jobs of the Standing Committee on Constitutional Affairs and Statutes Revision, although I am not sure we have done very much in that regard. I will not go into that. I am not opposed to the principle of the review of legislation. I wonder if we are not placing too much demand on local government with a review of these local laws. Is it correct that the original review period was five years?

Hon E.J. Charlton: Yes.

Hon A.J.G. MacTIERNAN: That has been extended to eight years or a two year electoral cycle. I am looking at the processes that are required. It seems that it could be a pretty lengthy and voluminous process.

Hon E.J. Charlton: It is a review, not a change.

Hon A.J.G. MacTIERNAN: The process is that local government must advertise each of the laws proposed. That is, the local government is to, on at least two days, give statewide public notice stating that the local government proposes to review the local law; a copy of the local law may be inspected. It must also explore the details of the submissions. I suppose that this can be done en bloc. Is that the intention? What is the status of model laws? Under earlier provisions of this Bill the Government will produce a set of model by-laws which local authorities will be able to adopt, either in part or in whole. Will every local authority be required to put all those model laws up for review?

Hon E.J. CHARLTON: They will be advertised en bloc and the procedure to do that is outlined in the legislation. The template for those laws is not tied to the change. As the member explained, the local authority will implement its local laws through that process. Any changes that take place must be advertised and the local authority is responsible for doing that.

Hon A.J.G. MacTIERNAN: If, for example, the model laws include extensive provisions for the issuing of building and demolition licences, which are an important part of the everyday activity of a local authority, and every local authority in the State adopted them within the first month of this new legislation coming into effect, will each local authority have to advertise the same block of laws statewide and call for submissions? It is quite wasteful and perhaps model laws can be dealt with centrally.

Hon E.J. CHARLTON: The member used the example of building by-laws. Currently, all local authorities must abide by those by-laws. When this legislation is enacted, those by-laws will not be thrown away; they will be reviewed by each local authority and if changes are required they can be made. At the end of an eight year period those by-laws, together with the other local laws, will be up for review. Each will have the opportunity to determine whether the laws are consistent with what they want.

Hon A.J.G. MacTIERNAN: I am not saying that local authorities should not make the decision. Throughout local government there will be standardised laws and that could apply to building by-laws. If the laws were up for review the builders and subcontractors would have to make submissions to each local authority.

This legislation provides the power to make model laws and given the cost of not only producing the advertisement, but also the submissions which will be prepared by local people as well as by subcontractors and builders who do not live in the area but work in the area, surely there could be some centralised mechanism for reviewing model laws. They will cease to be model laws if they are not kept up to date. In wanting to preserve its model law regime, the State Government will have to provide some sort of centralised method of review. Perhaps we should include a provision in this Bill which puts the responsibility on the Department of Local Government to review these laws.

Hon E.J. CHARLTON: The member is quite right about the local laws and obviously they must be reviewed periodically. One of the criticisms in the community is either the lack of control or too much control which stifles the ability of people to do what they want to do. Every day people complain to me about the problems they experience in trying to get approval to do something. It appears they have to get so many approvals before they can actually implement what they want to do. It takes so long that in some

cases the financier loses interest and either local or state government is blamed for frustrating people. A lot of the existing laws are no longer relevant to this century. This Bill will not mean that everything will be perfect. Every time a change is made there is a reaction to an action. At some time in the future this procedure may need to be reviewed, but it is intended that the models will be reviewed.

Hon A.J.G. MacTiernan: Where does it say that in the Bill?

Hon E.J. CHARLTON: It is not in the Bill because the models are not part of the legislation.

Hon A.J.G. MacTiernan: They are part of it.

Hon E.J. CHARLTON: They are made under the legislation, but there is no requirement for them to be reviewed. The intention is that the models will be reviewed on an ongoing basis. There is a great variation in the requirements of people across this State and we must give them a chance to have their say in what goes on in their local authority. We will have to look at providing some degree of coordination between local authorities in that reviewing process. There will be many affected third parties and a great deal of expense on the part of local authorities, particularly in highly technical areas, such as reviewing local building codes.

Clause put and passed.

Clause 3.17: Governor may amend or repeal local laws -

Hon A.J.G. MacTIERNAN: I move -

> Page 49, after line 3 - To insert the following subclause -
>
> (3) The Minister must provide 45 days notice to a local government of any proposal under this section to amend or repeal any of that local government's laws and must consider any submission made by that local government in respect to the change proposed.

This amendment is so eminently uncontroversial that I find it hard to imagine that anyone would have any difficulty with it. Clause 3.17 provides to the Governor the power to amend or repeal local laws. I am not seeking in any real way to limit that power. It has been generally recognised that at this stage we need to have that degree of supervision and control, although I hope that over time local authority develops some autonomy. The amendment I seek to insert here addresses that concern.

The WA Municipal Association has expressed concern about this provision. This is another of those provisions about which 100 per cent of the respondents to the WAMA survey expressed concern. It is important to understand that no-one is arguing that the Governor, who is the Executive Council, should not have the power to amend or repeal these local laws, but WAMA claims that there should be some consultation prior to such an amendment or repeal. That is perfectly fair, when there is a great deal in this legislation about consultation and participation. Before local government makes a law it is required to go through an extensive period of advertising and public participation and consideration. It is obliged to consider the submissions put before it. Under those circumstances it is perfectly proper that the rights and dignity of local government be recognised and that before the Government makes a decision to impose its will on the local authority it should at least give the local authority the opportunity to be heard on the matter. As the legislation before us stands at the moment there is no obligation on the part of the Government to consult in any way with the local authority. I will be interested in the Minister's response.

Hon E.J. CHARLTON: We must try to take all these issues into a practical situation rather than a theoretical one. Local government may read clause 3.17 and say, "The Government can come in over the top and ride roughshod over the local authority. Where is the justice in that?" In response to local government Hon Alannah MacTiernan is saying, "You will have to give us 45 days' notice." That is a fair and acceptable proposal. However, let me give two scenarios.

Firstly, if it is a local law to be implemented by a local authority that is creating a problem, although it might not be a legal law and does not contravene another superior law, such as a state law, but it involves simply an impediment to continuity and consistency, in practical terms that would be pointed out to the local government authority. One would expect, if that were the case, that it would make the change, because it would see that the law was in conflict. That is why it does not make any sense to insert this imposition, even though one might say that it will not do any harm.

Secondly, if we consider the other angle, where the Government introduces under the Health Act or some other Act a change that has an effect on a local government local law, and a local government does not respond or it jumps in and takes the initiative to change a local law and compounds a problem it sees forthcoming, then there is a requirement for the Government to act quickly in the interests of the community. Requiring the Minister to give 45 days' notice would be an impediment that is not in the best interests of the people this legislation is supposed to protect. Local laws exist for the benefit of the people and not the authority. The Western Australian Municipal Association says this law will enable the Government to ride roughshod over local authorities. That is not the intention of any Government. Governments make laws - whether they be right or wrong - for the good of the community.

The Government does not support the amendment, because it is a theoretical amendment. Like some of the other points of view that have been expressed so far and will be expressed in future it is the Opposition's perception of what will happen; it is not the reality. If a local law is in conflict with a state law there may be a need to act quickly if the local authority does not act to change it. If a local law is not consistent with the provision and implementation of other laws, one would expect that the local government authority having had this pointed out would make that change. That is how things operate now and that is what is intended will happen in the future.

Hon A.J.G. MacTIERNAN: The Minister did not give a terribly good example. He referred to a situation where the Parliament enacted legislation at a broader level that was inconsistent with these local laws, say, under the Health Act, and we would have to move to quash these local laws. That is not the case because the local law would automatically become inoperative to the extent that it was inconsistent with that other written law. The Minister does not need this power in order to address the problem to which the Minister referred.

Hon E.J. CHARLTON: We must try to deal with this in practical terms, rather than on a theoretical level. Hon Alannah MacTiernan is determined to try to safeguard local government from having its rights diminished. I acknowledge that my examples might not be the best or the most practical. However, if the Government decides that it will change a law in one month or three months - members know how long it takes to get legislation through this place - and a local authority sees that something is in the wind that will affect it, the authority may implement a change that will take advantage of the situation before that new Act comes into being through this Parliament. The Government of the day could say that the local government authority was acting outside the best interests of the community and the local law should be changed. If it refused to change the local law, and if, as this amendment would provide, it has 45 days to amend the law, although it might be in the interests of the councillors, it might not be in the best interests of the community. This amendment might do an injustice to the people that the member is so strongly championing.

Hon A.J.G. MacTIERNAN: The Minister's attitude on this provision makes a joke of the whole legislative program. We are supposed to be empowering local government. I have been supportive of this legislation insofar as it has given the State Government the capacity to override on every occasion the decisions of a local authority. However, there must be some due process during that time. The process that the local authority must go through to make a local law is not something it can dream up overnight. A local law must be advertised statewide. There is then a lull when the matter is open for public comment. The local authority must take submissions, and at the same time, it is required to send to the Minister for Local Government details not only of the legislation, but also

every explanatory document that is associated with it. The capacity for monitoring and supervision by the State Government from the outset is high.

Hon E.J. Charlton: Perhaps Hon Alannah MacTiernan could give an example of government coming in over the top of a local authority and interfering with a local authority?

Hon A.J.G. MacTIERNAN: It is done all the time, and it is not necessarily always wrong. This is new legislation, so there are no examples arising out of this. However, I can give the Minister many examples of clashes over ideology between a local authority and the State Government. These are particularly evident in planning decisions. In my own area the local authority refused to give planning approval for a drop-in centre for people living with AIDS. I am aware that this relates to the planning Act. This legislation is not in place, so I am trying to give the Minister some examples by analogy of clashes over ideology, perspective or power base.

Another case was a council refusing approval for a lodging house for elderly Aboriginal people. Both these decisions were overturned by the State Government of the day. It is not difficult to imagine, for example, the Shire of Albany passing a local law banning certain gay guesthouses or activities. I am not saying that I support those laws, but the shire will go through the process and enact those laws. I would have no difficulty with a State Government wanting to change those laws. However, in those circumstances given that the council must go through a protracted period of due process, it is inappropriate and undermines the confidence of local government if at the stroke of a pen those sorts of decisions which took so long to make could be reversed. This is not just a theoretical concern. I will be interested over the next couple of years to monitor this situation, because I predict this is an area, like a couple of the others that have been flagged tonight, in which real conflict will emerge.

I will not want to stand up in here and say, "I told you so." However, I have a very practical knowledge of the politics of local government and of the interaction between the politics of local government and those of state government. This is not a problem that I am simply dreaming up. It is an issue which has not been properly attended to.

Amendment put and negatived.

Clause put and passed.

Clause 3.18: Performing executive functions -

Hon JOHN HALDEN: The reference to "do not duplicate" is vague. How does one assess a duplication and whether it is required? How will the provision be enforced? What remedial action can be taken to prevent duplication?

Hon E.J. CHARLTON: The legislation preserves the integrity of local government. It provides local government with greater flexibility to perform its role. That point is highlighted in the Bill when we consider the number of laws which have been removed from the current Act. Obviously, the matter will be overseen by the State.

Hon JOHN HALDEN: I understand exactly what the Minister said in that it is to be overseen by the State. If there is duplication - and I am simply using this by way of example; I could have referred to clause 3.18(3)(a) or (c) - what powers does the State have to ensure that there is no duplication?

Hon E.J. CHARLTON: Like all legislation, ultimately the Minister is responsible. The Minister will have to ensure that an authority carries out its role in accordance with what has been acknowledged. This is a grey area. It is difficult to decide whether a local government authority is introducing a service which duplicates what is provided in the town by the Commonwealth or the State. If it is duplication, several things might happen. Local people may take action to highlight the issue. However, because local government is a responsibility of the State, ultimately the Minister is responsible and he can intervene. All Ministers have that power in their portfolio responsibilities.

Hon JOHN HALDEN: I suppose that in the first place, the Minister could suggest. He could then coerce and ultimately intervene and dissolve the council. The Minister said

that this is a grey area. The problem is that it is a grey area on both sides. The local government authority may believe that the provision of a service by the State or Federal Government is not adequate for the authority. The authority, under pressure from a group of people, may decide to invest taxpayers' money in that service. Another group of people could claim that that breaches this part of the Bill.

The local government authority would be placed in considerable jeopardy about how it interprets this part of the legislation. It will also place the Minister in as much jeopardy about how he interprets the requirement of the authority. The Minister is absolutely right to say that this is a grey area. Unfortunately, it is a grey area because of the way it is worded in the Bill. The words are not concise, precise or descriptive. I know that we do not want to be too prescriptive about local government. However, as the Minister said, the ultimate penalty is the dissolving of that local government authority by the power of the State. It cannot be good legislation if it is vague or grey area legislation. That is a significant problem with clause 3.18(3). It is too vague to be enforceable or manageable.

Hon E.J. CHARLTON: According to clause 3.18(3) -

> A local government is to satisfy itself that services and facilities . . .

That is a responsibility that lies with local government authorities. If an authority has satisfied itself that it needs to do something, and it has taken the provisions in clause 3.18 into consideration, we believe that the responsibility lies with the local government authority. It may be construed as a grey area. If there is a complaint and a groundswell of opinion that the local government authority is misusing funds and wasting money because of duplication, the Minister must become involved.

We are approaching the issue from the other way. We want to devolve responsibility to local government. We are saying that local government should satisfy itself first before it acts in this way. The provision is not meant to be prescriptive or grey. It provides local government with autonomy and a safeguard which says, "Hang on a tick, before you do these things, you must make sure that all these things are not already being provided."

Hon KIM CHANCE: Perhaps I read subclause clause (3)(b) differently from other people. It seems that the only arbiter in making the distinction on whether the service is duplicated in a sense which is warranted is local government.

Hon E.J. Charlton: That's right.

Hon KIM CHANCE: Where and how is the line drawn on that matter of autonomy?

Hon E.J. Charlton: It is only in the total context of local government. I was going to the extreme in other cases.

Hon KIM CHANCE: The ultimate arbiter is local government itself?

Hon E.J. Charlton: Yes.

Hon KIM CHANCE: Subclause (3)(a) does not seem to pick up one of the things I hoped the Bill would have addressed. It deals with the integration of and coordination with services provided by other jurisdictions. I said during the second reading debate that I felt that a role for local government - a role that could give it a great deal more importance in the future - was to provide those services on behalf of other jurisdictions by arrangement with those jurisdictions. Does the Minister see scope within subclause (3)(a) for a shire council to provide services on behalf of the Commonwealth Employment Service, for example?

Hon E.J. CHARLTON: Yes, I do. There is a great opportunity to have greater efficiency in communities by giving local people the opportunity to coordinate and integrate a number of services. They could be provided to the community much cheaper than by having separate organisations providing the services. I am encouraging multiskilling across country Western Australia with the Water Authority, Main Roads, Westrail, and Agriculture Western Australia. The Government is moving towards having in regional areas people who will provide several services in the one location rather than providing a service to just one agency.

Hon Kim Chance: Even certain maintenance functions.

Hon E.J. CHARLTON: Exactly. Tomorrow I am going to the M40, which runs from Bullfinch to Mukinbudin, where three local government authorities combined to do a road building exercise. I want to see more of that occurring for Main Roads, rather than relocating a Main Roads gang 200 kilometres away. It costs $30 000 to $40 000 just to get them set up. In this case, those people are there. This is not necessarily for things local governments do on their own. I see a great opportunity for that. The savings could be enormous.

Equally, there must be a call on local governments to become more efficient and more focused business-wise to provide the facilities they currently provide in a better way. That is why I would not want to put any limitations on local government authorities to make those decisions. We want to encourage them to provide those services to the community. What they can do is unlimited. Rather than taking the view that local governments should be funded more directly from the Federal Government and getting money to do with it what they like, we can do it this way as the State does. Age care is another example of a social issue in which local government could become involved. A great opportunity exists for local government to lift its profile in an area. That is why I am not in favour of the amalgamation of small country local government authorities.

Hon Kim Chance: This would be a better option.

Hon E.J. CHARLTON: Yes, it is sharing.

Clause put and passed.

Clause 3.19: Places to be regarded as within the district -

Hon KIM CHANCE: Is the purpose of subclause (1)(a) to facilitate intershire service provisions, such as earthworks agreements between shires?

Hon E.J. CHARLTON: A number of things would be involved. It would be determined by the location of the local government authority or authorities. It could be parking, contracting people in on behalf of another council, waste disposal or the sharing of health surveyors.

Hon Kim Chance: In that respect is it much different from the existing Act?

Hon E.J. CHARLTON: This Bill is broader and gives more general power, whereas the current Act is more specific.

Hon KIM CHANCE: Subclause (4) deals with the Governor's approval for the extension of a local law to be taken beyond the local government district into a part of the State which is not in a district; in other words, not in somebody else's shire but in an area that is not a shire area at all. Would that allow a shire to use its local laws to get around some of the difficulties of accessing material that is not available within its boundaries but might be available without?

Hon E.J. CHARLTON: It is specifically directed at the example I gave earlier. A decision might be made by the Perth City Council or the Subiaco City Council to control parking in Kings Park, for example, or to control rubbish in waterways.

Clause put and passed.

Clause 3.20 put and passed.

Clause 3.21: Duties when performing functions -

Hon JOHN HALDEN: My question revolves around the words "immediately made good" in subclause (b)(iii). I can think of several circumstances in which one cannot immediately make good but when compensation is not an issue and is not even being contemplated. The word "immediately" creates the problem. It creates an expectation and a legislative requirement that something is immediately to be made good. That might not be to the advantage of one party. The word "immediately" could be inappropriate in that context.

Hon E.J. CHARLTON: The clause brings together existing duties in local government.

Several examples come to mind, such as, in a country environment, one might take gravel or road building material out of a paddock, and there is a responsibility immediately to make good. Obviously Hon John Halden will know of other examples that could be more difficult to sustain, such as in a suburban area where an action is taken and it is not possible to make good the physical damage. For example, works could be done by local government in such an area. The provision is in the current Act, and it must be there. If it were not there, the population would be compromised and would be unable to call on the council to respond to something that is of its making.

Hon JOHN HALDEN: I refer to a situation in which a local government authority must remove a brick wall. It actually happened. The local government authority could not find the bricks to match the existing wall. It then conceded to knocking down the entire wall and to replacing it - all fair and reasonable. However, because of the demand for bricklayers, it could not find bricklayers immediately. In fact, it had to wait a considerable period to fix the brick wall.

Hon Kim Chance: "Expeditiously" would be a better word.

Hon JOHN HALDEN: Exactly. The local government authority did everything appropriate to meet the demands of the Act and of its constituent, but it could not do it. The problem to which I refer continued for five to six weeks. The occupier was particularly annoyed, but there was nothing that the local government authority could do to resolve the problem immediately. Perhaps "expeditiously" is a far better word than "immediately".

Hon E.J. CHARLTON: It is a matter of referring to situations that confront people. If we did not have the word "immediately" there would be the risk that people would be disadvantaged because a council had done something. There must be a requirement for the matter to be made good or for people to be compensated. I would worry if we watered that down. Obviously, if a council is the cause of a certain problem, it has responsibility to do something about it. All too often, whether in local, state or federal government, issues tend to be left and people suffer as a consequence rather than local government being victimised by that requirement. I am generalising. We often hear about people being disadvantaged by the actions of a council or of its work force. Also, compensation, which is provided in clause 3.22, is to cover a certain situation. Action can be taken if a problem is not overcome.

Hon A.J.G. MacTIERNAN: I refer to the requirement to make good any damage that has been done by the local authority. Does that apply to damage that is sustained through the activities set out in clause 3.22(5)? The Minister will notice that those provisions need to be read together. Under clause 3.22 there is no necessity for compensation to be paid for certain damage. Local government queries whether, if it does not have an obligation to provide compensation under those provisions, it will have an obligation to make good any damage that occurs from those activities. There should be some consistency. If damage arising from that class of activity is considered to be such that compensation is not payable, on that same logic there should not be an obligation on the council to make good. Will the Minister clarify that? I understood that those matters were originally in one provision but have now been split. Is that correct?

Hon E.J. CHARLTON: Clause 3.21 is plain and specific. It focuses on matters that a council must make good. Specifics are pointed out in clause 3.22, which points out when a council is not liable to pay compensation. That is a different emphasis. The member needs to take the matter in the correct context. The clauses have been put in a certain order to set the scene.

Hon A.J.G. MacTIERNAN: I am not trying to be difficult. I genuinely share the concern of the local authorities and am trying to interpret this provision. I presume the Minister accepts that clause 3.22(5) was not drawn up randomly, that there is a belief that, where damage occurs because of those events listed in clause 3.22(5), it is not considered to be the fault of local government and therefore, compensation is not payable. Does that same logic extend to the council's obligation about making good? I cannot see the logic.

Hon E.J. Charlton: I think it is self-explanatory if you read clause 3.22(5).

Hon A.J.G. MacTIERNAN: I know clause 3.22(5) is self-explanatory, but how does that feed back into clause 3.21(1)(b)(iii)? Let us take this scenario -

Hon E.J. Charlton: I understand what you are talking about; I do not have a problem with that. We obviously just do not agree.

Hon A.J.G. MacTIERNAN: Let me go on just to make sure we are talking about the same thing. The council has no obligation to repair damage, that has been sustained as a result of its draining water onto land to the extent that that water follows a natural watercourse -

The CHAIRMAN: That is a specific matter relating to the next clause that we will debate.

Hon A.J.G. MacTIERNAN: I am asking whether those sorts of provisions also apply any application -

Hon E.J. Charlton: In clause 3.21?

Hon A.J.G. MacTIERNAN: Yes.

Hon E.J. Charlton: No.

Hon A.J.G. MacTIERNAN: The local authority has a perfect entitlement to do what it wants without any obligation for payment of compensation, yet it has an obligation to make good that same damage.

Hon E.J. CHARLTON: No. Under clause 3.21 the council, when it is performing duties and functions within its jurisdiction, must take into account all sorts of things and immediately make good. That is it. This clause is talking about physical and specific things in respect of the council carrying out its responsibilities. Let us take a situation where a council is doing some roadworks and water coming off the road is going down a watercourse. If a person says that the water is running across that person's block and that he or she will seek compensation -

Hon A.J.G. MacTiernan: But he can demand that you make it good.

Hon E.J. CHARLTON: No. That is what I said before. The member is trying to build into clause 3.21 that in the performance of its duties the council must make good. If clause 3.21 were left as it is and there were no clause 3.22, all of those claims could come into a council because of actions it had taken. Clause 3.21 is ensuring that the community is not disadvantaged; that the council cannot dig up, drive off and say that it is stiff bickies, it will cost the property owner $1 000 to get it fixed, and it will be back after Christmas, or maybe not, if it closes down for holidays in January.

Hon George Cash: At the rate you blokes are going we will still be here at Christmas!

Hon E.J. CHARLTON: Exactly. It is quite obvious to me because those things are not within the control of council. They are all to do with demarcation and definition and must be accounted for.

Hon A.J.G. MacTIERNAN: I am not confident that I have managed to communicate the difficulty I am having.

Hon E.J. Charlton: I am not confident that I have communicated to you.

Hon A.J.G. MacTIERNAN: I understand what this provision is aimed at. I understand that for the vast bulk of these examples where a local authority digs up a crossover, it has an obligation to make that good. That sort of thing is not in dispute. This is not something I have manufactured. I am trying to point out that in some circumstances local government authorities in the performance of their duties will be reasonable and practical and so on, but notwithstanding that, there will be physical damage resulting from their conduct and it will be of the type that is listed in clause 3.22(5)(a), (b), (c) and (d). There is nothing in clause 3.21 that gives the local authority any exemption from making good. Does the Minister see what I am saying? The council can make it good, or it can compensate. I do not think this is intended, but I think it is saying -

Hon E.J. Charlton: It is as clear as the bloody nose on your face, woman.

Withdrawal of Remark

The CHAIRMAN: Minister, that is unparliamentary.

Hon E.J. CHARLTON: I withdraw.

Committee Resumed

Hon A.J.G. MacTIERNAN: The Minister should not bother withdrawing because I take no notice of those sorts of comments.

The CHAIRMAN: Let us make some progress.

Hon A.J.G. MacTIERNAN: Not only is it not clear to me -

Hon E.J. Charlton: I am not surprised about that.

Hon A.J.G. MacTIERNAN: - it is also not clear to many people in local government. I ask the Minister to point out where in this clause it says that councils do not have to make good where that damage arises from the sorts of things that are set out in subclause (5). The Minister is saying that the council does not have to make good those sorts of things.

Hon E.J. CHARLTON: The member is trying to put the provisions of two clauses into one. Because she is unhappy with what clause 3.21 says, she wants to include the provisions of clause 3.22 in the first clause. I am done. Let us get on with it.

Clause put and passed.

Clauses 3.22 to 3.33 put and passed.

Clause 3.34: Entry in an emergency -

Hon A.J.G. MacTIERNAN: I am concerned about the range of purposes that might give the opportunity to a local authority to enter private property. There are many provisions like this in this legislation. Will the Minister give us some guidance about the issues that may be provided for in subclause (c) concerning the prescribed purposes we may see further down the track?

Hon E.J. CHARLTON: As the member said, they will be provided for in regulations. As I mentioned last night, the drafting of regulations has begun. However, I am not aware at this stage of any of the specifics of those regulations.

Clause put and passed.

Clauses 3.35 to 3.49 put and passed.

Clause 3.50: Closing certain thoroughfares to vehicles -

Hon A.J.G. MacTIERNAN: Obviously traffic management is very important to many municipalities, particularly in the metropolitan areas where there is a high density of traffic. Local authorities often want to either partially or fully close a road to effect some greater amenities or traffic management in the community. That should be supported. This clause will give local authorities the power to effect those closures where formerly they had to obtain approval from the Minister for Local Government or the Minister for Transport. However, where such a change is made, each 12 months there must be a renewal of that order and full public consultation. A local public notice must be advertised of the proposed order given, including notification of the thoroughfare, etc. More importantly, a written notice must be given to each person who is prescribed for the purposes of this section - we do not know what that will be - or who owns land that is prescribed for the purposes of this section. Reasonable time must be allowed for submissions to be made.

If I understand the operation of the clause correctly, it will be a rather cumbersome process. Many roads within the City of Perth and the Town of Vincent are closed or partially closed for well in excess of a year as a result of traffic treatments. This is the case throughout the metropolitan area. Unless I have it wrong, it strikes me that a process will have to be undertaken each year to allow that to be sustained. I am not quite

clear that subclause (3) will enable the local authority to have the orders running continuously. Given the notice periods, that will probably mean that the local authority must give notices in excess of a month before the one year finishes. What is the purpose of the restriction of an order for one year? Will that generate a lot of work and wasted resources for authorities? It also concerns me that it may keep reopening annually the "schisms" that often occur in a local community about certain traffic treatments. It is my experience that there is always a variety of opinions about the value of a particular set of traffic treatments. If this matter must be redebated each year, that could be debilitating for local government and for the representatives of local government.

Hon E.J. CHARLTON: Only time will tell whether this issue will come to the fore or be an impediment to good local government administration. It is a matter of striking a balance between the controversial issues that arise as a result of these closures being publicised. Whether the period set down is too short remains to be seen. The clause has gone before local government and I am not aware of negative feedback. However, once it has been implemented there may be some feedback. As was said in the second reading debate, when changes are made in legislation such as this to local government administration there will obviously be teething troubles. Therefore some changes will be necessary in the short term to overcome those impediments. This may well be one of them. A range of these provisions will be monitored very closely by the department and the Western Australia Municipal Authority. As I said in the second reading debate, when local governments wanted changes to be implemented quickly, which occurred, some impediments arose in the process. Those provisions will have to be, not thrown out, but adjusted to meet the needs of the people. Hon Alannah MacTiernan's comments are very valid. We must wait and see. We will have to be prepared, not only as a Government but also a Parliament, to make changes to the Act in the short term after some of these processes have been implemented.

Hon Bob Thomas: Do you think this might need some finetuning?

Hon E.J. CHARLTON: No more than anything else, but it could be one of those areas.

Clause put and passed.

Clauses 3.51 and 3.52 put and passed.

Clause 3.53: Control of certain unvested facilities -

Hon A.J.G. MacTIERNAN: This provision has drawn a great deal of hostility from local government and from the Institute of Municipal Management because it imposes upon local government, for the first time, an obligation to be responsible for and take control of land within its boundaries that is unvested. Local governments are concerned that they do not have the resources to take on that additional responsibility. What assessment has been done of the potential burden that this provision will impose on local government? I note that the original recommendation of WAMA was that this clause be removed in its entirety.

Hon E.J. CHARLTON: The only difference is that under the Act, the unvested facilities are not specified, but they are still automatically the responsibility of local government and local government is forced to pick up the cost. That vagueness has now been taken away and those unvested facilities are specified as meaning a thoroughfare, bridge, jetty, drain or watercourse belonging to the Crown.

Hon A.J.G. MacTiernan: How is it specified in the Act?

Hon E.J. CHARLTON: Subclause (1) states that "former section 300" means "section 300 of the Local Government Act 1960 as in force before the commencement of this Act". There is no change. The unvested facilities have now just been specified.

Clause put and passed.

Clauses 3.54 to 3.60 put and passed.

Clause 3.61: Establishing a regional local government -

Hon A.J.G. MacTIERNAN: The Local Government Association of WA Inc has raised

concerns about the membership of these regional councils. It is concerned that the recommendation of WAMA that non-elected members be allowed to represent councils as long as the regional council does not have the power to issue a precept against the member councils is prevented by clause 3.62(1)(b). I gather that the local authorities wanted to be able to send their engineers and clerks to some of these regional councils as their representatives. Will this clause prevent that; and, if so, what is the reason for that?

Hon E.J. CHARLTON: Yes, simply because they need to be elected members of a council.

Clause put and passed.

Clauses 3.62 to 4.8 put and passed.

Clause 4.9: Election day for extraordinary election -

Hon A.J.G. MacTIERNAN: The Institute of Municipal Management questioned why the current provisions were not sufficient whereby the day for the holding of an extraordinary election is the day appointed by the mayor or president prior to the first meeting of the council after the vacancy occurs. It was suggested that, for expediency, perhaps the CEO should nominate the day on which an extraordinary election should be held. If this suggestion were not agreed to by the Department of Local Government, it should be requested to replace the term "one month" with "28 days". I note that some legislation contains reference to "days" rather than this more general and less certain terms of "one month".

Clause put and passed.

Clauses 4.10 to 4.15 put and passed.

Clause 4.16: Postponement of elections to allow consolidation -

Hon E.J. CHARLTON: I move -

Page 92, line 14 - To delete "in the election year in" and substitute "on".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4.17 to 4.19 put and passed.

Clause 4.20: CEO to be returning officer unless other arrangements are made -

Hon A.J.G. MacTIERNAN: This is a very inappropriate proposition. I know that currently the chief executive officer generally fulfils that role in local government elections, but it is not a role that that officer should be performing. It imposes unacceptable pressure. There is a perception among people standing for local government that there is a preference in favour of incumbents as a result of the CEO's occupying that position. I am not saying that CEOs act in a partial manner, but it is understandable how people might get that impression.

One could imagine a local election where a candidate has been a councillor for some years and has a very good relationship with the CEO. The CEO would be supervising the ballot and there is a familiarity with the incumbent that is not shared by the other candidates. I have seen many instances of councillors taking ballot papers to the CEO and applying pressure on the CEO to admit various ballot papers. The possible effect of this can only be heightened by the fact that we now quite properly have CEOs on short term contracts. At the end of a CEO's contract he will be judged by the very councillors over whose elections he has presided. I do not believe that in any way, shape or form that is a good recipe for the transparent and impartial conduct of an election. CEOs very often and very understandably have close relationships with particular councillors. In fact, they have a direct interest in the outcome of an election because it will affect their day-to-day operations and, in the long term, it could affect their prospects of continuity at that authority. When one considers the nature of the relationship between the CEO and councillors, particularly with the heightened powers given to the CEO in this legislation and the fact that the CEO is not appointed on a permanent basis any longer, the

inappropriateness of this arrangement must be self-evident. I am surprised that the Government has allowed this arrangement to remain in the legislation.

Hon E.J. CHARLTON: This now provides flexibility. The opportunity is there for the council to determine whether it wants the CEO to control the election or whether it wants to go to the Electoral Commissioner to arrange the election. I would have thought that the member's concerns are now covered. The member is saying that she would like the Electoral Commissioner to control all local government elections. That would impose a cost on councils that over the years have had no problems whatsoever. The great majority of local government authorities in this State have never had the need to do anything different. To remove that option would be most undemocratic; it would impose an additional financial burden and extra administrative responsibilities. This cannot be forced by a minority that wants a change or to stop the CEO from performing this function. To go the other way and to delete the option would be taking away the right of the council to make its own determination.

Hon A.J.G. MacTIERNAN: I do not want to be rude, but that is a silly response and it does not address the issue raised. Generally speaking, the sitting councillors will not be disadvantaged by the fact that the chief executive officer is the returning officer. I thought I made the point clearly that this favoured incumbents. Like many issues relating to fundamental electoral fairness and electoral structures, it is not for the incumbents at a particular time to make a determination because they obviously will make a determination that suits them. That is why a whole range of electoral procedures are entrenched in constitutions of various tiers of government. It does not make sense to say that local authorities should have the choice, because a local authority is made up of councillors who will have a particular interest in the outcome. There has been no consistency in the Minister's argument and in a range of areas there has been a heavy-handed approach to local government. These basic framework areas need to be taken out of the hands of the day to day running of local government and put into a constitutional framework. The Minister has refrained from doing that. I note his comments; they will be of particular interest if and when we debate the second wave of industrial relations legislation. The arguments he has used apply far more strongly to union elections, as unions are voluntary organisations.

Hon E.J. Charlton: The MUA is not.

The CHAIRMAN: Order! That is straying from the point.

Hon A.J.G. MacTIERNAN: I do not know whether it is, because it is highly relevant to this question of whether a body should conducts its own elections. I make an important analogy: The union movement is no longer able to - again, quite properly - conduct its own elections for office bearers. They must be conducted by the Electoral Commission. The equivalent of this clause would be to allow the office manager of a union to conduct its elections. That would not be acceptable to anyone here, certainly not the Minister. We are talking about something that is even more significant, because one's involvement in a local authority is not voluntary. The State determines that people who live in a certain area will pay rates and obey the local laws of a specific local authority. However, this provision will allow the CEO, who works on a day to day basis with the incumbents, to conduct the poll. I would like the Minister to explain the difference between this structure and the proposition that a union be entitled to run the elections for its office bearers.

Clause put and passed.

Clause 4.21: Deputy returning officers -

Hon A.J.G. MacTIERNAN: I note that the Minister was totally unable to answer the point I raised under the last clause because there is simply no answer to it. The Parliament has decided in relation to unions, which are totally voluntary, that it is inappropriate for an administrator, or any other office bearer, of those unions to conduct those elections. However, in this tier of government we shall adopt a far lower standard and will allow a compromise to exist that would simply not be allowed in any other

organisation. It is extraordinary, and it is no answer to say that it is up to the local government to make the choice. The intention of this is not to look just to the wishes of the current incumbents, but is to provide a fair framework of democracy in which to function.

Clause put and passed.

Clauses 4.22 to 4.28 put and passed.

Clause 4.29: Eligibility of residents to be enrolled -

Hon SAM PIANTADOSI: I have raised previously with the Minister my concern about the special allowances made for permanent residents who originate from the United Kingdom. No such allowance is made for permanent residents who originate from other countries. People from the United Kingdom will be able to move from an electorate and retain their voting rights. Other permanent residents who originally came from other countries will lose their right to vote if they move from the electorate in which they currently reside. This change should not be made because it is a retrograde step. All permanent residents should be able to move around and retain the same rights. We should not apply special conditions to some people, while not allowing others to participate. The whole theme of this legislation is participation, greater accountability, and giving people more say in their day to day affairs. This clause will remove an important right from some people within the community.

Hon E.J. CHARLTON: Hon Sam Piantadosi raised this issue at the second reading stage. The state and federal government electoral requirements are different from those of local government. Everyone is required to enrol for federal and state elections. There is no such requirement for local government elections. I know that the member has had discussions with the Minister and I would be interested to know the outcome. The member does not agree with the local government view that it is in its interests that people become Australian citizens. However, as long as these people are on the roll for local government elections, provided they do not shift from the electoral district they can continue to vote.

Hon SAM PIANTADOSI: This is not what I would call equal opportunity. Those people have the right to vote. This legislation will deny people that right if they decide to move from an area -

Hon E.J. Charlton: The difference is that non-Australian citizens do not have the right to vote at federal or state elections. In this case, non-Australian citizens who are on the roll can vote in local government elections.

Hon SAM PIANTADOSI: I know that, but as long as people own rateable properties they have a right to vote at local government elections. In this case, if people want to retain the right to vote at local government elections they must not move from an area. As an example, if Hon Cheryl Davenport and I were neighbours, and decided to retire, say, to Mandurah and we bought properties there, we would retain our right to vote in, say, South Perth and would have an equal say, but after the move to Mandurah she would maintain her right but I would lose mine.

This legislation will take away a basic right, and that flies in the face of what the Minister is trying to achieve. The Bill is all about participation. Certain localities under certain local authorities - I think I used the example of the Town of Vincent earlier - traditionally are areas where migrants settled. Progressively they moved on and achieved many things. They became Australian citizens. They had the right to participate in matters that affected them and their properties. Under this legislation they will lose that right if they move to another area. The movement of these people has been from Northbridge and North Perth to the outer areas, and these people will be disadvantaged. We should forget about the federal and state legislation. That is not to say that I think these people should not become Australian citizens. I would like to see them all become Australian citizens. My point is that this legislation will favour a group of people who have been given a right but they make no attempt to become Australian citizens. Only by an Act of Parliament do they retain a privilege over and above others who are equally good citizens

and who want to participate, possibly more so because they strive to have a say, depending on which country they came from. Some people in their home country had no chance to participate. They were denied this right. Now they are to be denied that right again, unless they become Australian citizens. Some people make that decision quickly after two years, and others take longer. Why should they be denied the right that they can currently exercise? This is a retrograde step because it will not improve the situation.

I am against what the State and Federal Governments have done. They should have put a time frame on that group of people so that if they want to retain their right they must become Australian citizens within five years. This legislation is discriminatory because it will allow people who have lived in Australia for a long time, and will probably live here for the rest of the lives, to retain their British citizenship. They have not committed themselves to Australia, even though they choose to reside here. They have been given a special privilege with no conditions attached. They are not told that they must become Australian citizens within five years or 10 years. A target should be set. That has not been done and that was a mistake. Why should they change? They have every right that every native born or naturalised Australian has, and there is no way they would want to change. Had we set a time limit for them to make the change - say five years - after which they must become naturalised, that would be fine. Some conditions are imposed because new migrants must wait at least two and a half years before they can become naturalised citizens, while other people can continue without being naturalised. I could accept the Minister's proposal had he set a target for the other group to work towards. It is a mockery to say that everyone should become an Australian citizen. I support that theory, but it is not happening.

Hon E.J. CHARLTON: I agree with the member that British people should not have an automatic right to vote. If I had the spare time we could slip over to Canberra and try to convince the Federal Government to make a change. I thought Hon Sam Piantadosi would have more influence than me over Senator Bolkus. I agree that anybody who comes to live in Australia should, at the first available opportunity, become an Australian citizen. If I decided to live in another country I would become a citizen of that country.

To be consistent this Bill is following the provisions of the commonwealth legislation which denies non-Australian citizens, apart from British subjects, the opportunity to vote. Members opposite could argue that to be consistent we should deny British subjects who do not have Australian citizenship the opportunity to vote. We have not done that and instead we have given them some latitude. We should all be directing our attention towards encouraging those British people to become naturalised Australian citizens. I think there are only 300 British subjects who are taking advantage of this facility. Perhaps it would be more appropriate if the Commonwealth amended its legislation to give all people the opportunity to vote.

Hon SAM PIANTADOSI: We seem to be moving in opposite directions. When I spoke to the Minister for Local Government about this issue he said that through natural attrition we would not have this problem in another 20 years. That is a cop-out. Currently, those people have the right to move from one locality to another without any restrictions, but under this Bill they will no longer have that right because if they do move to another locality they will have the privilege of voting taken from them. Why not retain the situation which applies under the current Act where everyone has an equal opportunity to participate? We could then give consideration to preparing a policy which is fair and will give everyone the same rights.

I disagree with what is taking place at a federal level and I can assure the Minister that I would not have any influence over Senator Bolkus. Several members on this side of the Chamber have disagreed with him on many occasions. Only recently we disagreed with him on an issue and we made our views known to him. Going to Canberra will not resolve anything. The situation could be rectified by ensuring that those people who are not naturalised Australians will have a right to vote at local government elections.

Hon E.J. Charlton: You said that you agreed that they should become Australian citizens at the first opportunity available to them.

Hon SAM PIANTADOSI: This is where the system stinks. The Minister knows very well that within time the problem will resolve itself. Until that occurs, one group should not be favoured over another group. The Government is legislating to deliberately disadvantage a group of people from participating in the local authority if they decide to move from one local authority area to another. The Government talks about democracy and what happens in other countries when people's movements are restricted, but what is it doing in this Bill?

Hon E.J. Charlton: We are not restricting anyone's movements. All we are saying is that if they want to vote they should become Australian citizens.

Hon SAM PIANTADOSI: In what year was the legislation amended to give British subjects this special privilege?

Hon E.J. Charlton: It was 1984 and we did not give them the privilege.

Hon SAM PIANTADOSI: The Federal Government has erred. The Government should set a timetable for these people to retain this privilege. For example, they could be given five years to make up their mind or they lose the privilege to vote. They would then have the option to retain that right, but other nationalities will not be given the same option. The Minister said that the British subjects will retain the right to vote if they change their place of residence. If the Minister believes that these other people are not having their rights taken from them, I would like him to say so.

I would support the Minister's argument, but he is giving rights to some people and removing them from others, which is unjust. Hon Alannah MacTiernan may be able to clarify the position with respect to the Equal Opportunity Act. I do not think the Minister or anybody else would like this imposed on him by someone saying, "Look, if you want to maintain this right, this is what you must do." As we move to the twenty-first century I hope that we have improved a little bit rather than gone backwards.

Hon J.A. COWDELL: I have listened carefully to the Minister's argument about citizens and non-citizens and their entitlement to vote. I sympathise with his argument. He has expressed concern about a fast receding group of British subjects who were on the roll prior to 1984, who retain a right by virtue of that to have a say in local government. I understand his concern, but what I cannot understand is that the Minister is presenting in this Bill a much wider field of exemption with respect to local government than that which applies at the federal or state level of government. The Minister is putting forward an argument that he is concerned about the 300 non-citizens who are entitled to vote at federal and state levels in Western Australia. He seems to imply that that is a matter of concern and that there should be restrictions on non-citizens, and yet the model we have before us encompasses an exemption which can run to tens of thousands of people. Where is the consistency?

Hon E.J. Charlton: Exemption?

Hon J.A. COWDELL: It is an exemption for non-citizens to have a say. They could be British subjects or non-British subjects. I understand and sympathise with the Minister's argument about citizenship requirements. There is an exemption at the commonwealth and state levels but it applies to only 300 people. The Minister is saying that an exemption at state and federal level is terrible, but at the local level, although he does not agree with the rights of those 300 people, he is creating an exemption for perhaps 10 000 people.

Hon E.J. CHARLTON: That is right. The only reason that in this Bill those non-Australian citizens are staying on the roll in their current council area is that they are on the roll.

Hon A.J.G. MacTiernan: Is that not the reason why the Federal Government did the same thing for those 300 people?

Hon E.J. CHARLTON: It has nothing in common with it.

Hon A.J.G. MacTiernan: Why not?

Hon E.J. CHARLTON: I do not know about "why not?", but it has not. We are falling into line with federal and state jurisdictions with the eligibility to vote, but because as an occupier or an elector someone is already on a roll, we are saying that the person can stay on the roll. On both counts time will see the reduction of that anomaly. Members may say that we should not have done it, which may be a fair argument, but the reason we did it is that they are already on the roll. We did not want to take away from people something they already had. The thing about the second part of the equation of not allowing them to transfer that right from one shire to another is that, unlike the federal and state rolls on which people are required to have their names and when they shift house they are required to register in the other district, in the case of local government people are not required to do that. Therefore, local government would have to keep tabs on those people to find out where they had gone.

Hon SAM PIANTADOSI: The Minister is saying that he has not taken away their rights, but there are conditions attached to those rights.

Hon E.J. Charlton: I have given the reason.

Hon SAM PIANTADOSI: Through this Bill that is the only group of people to which the Minister is restricting conditions.

Hon E.J. Charlton: I am giving them a benefit.

Hon SAM PIANTADOSI: Is the Minister doing that?

Hon E.J. Charlton: We have not taken away a right. The Federal Government has never given them a right.

Hon SAM PIANTADOSI: I agree with the Minister with regard to Federal and State Governments. I am saying that two wrongs do not make a right. I acknowledge that Federal and State Governments have erred. I am not pushing an argument at all for the Federal Government. However, the Minister is in the process of erring as well. He should not tell me that he can say to people, "You can retain that right as long as you continue to live in Lake Street or Vincent Street, North Perth, but should you want to move 2 kilometres up the track to the other side of Walcott Street and into the City of Stirling, you will lose that right." That is not natural justice. The Government is putting a gun to a person's head and saying, "You can change that and become an Australian citizen." The same gun is not loaded and pointed at those people who have had that privilege for 11 years, none of whom have made any attempt to become naturalised Australian citizens. The Minister is supporting their continuing in that vein and is saying to the rest of the people, "If you want to move without impediment throughout Western Australia and retain the same right as that other group of people, you must become Australian citizens." Hon John Cowdell maintains that there are thousands of them. The current legislation is much fairer because it allows them freedom of movement, and if they do move they can still retain the same privilege of having a vote and a say in local government. The Minister is now denying them that privilege. I would support what the Minister is saying if he were to say to the House, "We have a five year plan for those 300 people to become Australian citizens." If the Minister set the same goal for all non-citizens, that would be a much fairer system. However, for 11 years they have had no intention to change, so why is the Minister saying to the others that if they want the same conditions they must become Australian citizens? That is not being very fair.

Clause put and passed.

Clause 4.30: Eligibility of non-resident owners and occupiers to be enrolled -

Hon J.A. COWDELL: I merely record my concern that subclause (1)(b) gives an entitlement to owners and occupiers and stacks up the votes on the side of people who are not on the state electoral roll in that area. I am firmly of the opinion that there should not be two votes of property interests. It should provide for one vote of interest, and that is the owner; in fact, if the occupier has some particular concerns, they can be represented through the owner.

Hon A.J.G. MacTIERNAN: Has Hon John Cowdell considered the position of a tenant

in a retail premise that is owned perhaps by a large developer? The tenant may have a legitimate interest in the area and whether he could properly expect that interest to be represented by the owner of a shopping complex who might have somewhat different interests.

Clause put and passed.

Clause 4.31: Rateable property: ownership and occupation -

Hon J.A. COWDELL: Subclause 1(g) gives a special entitlement to corporate owners to specify two people, presumably under the heading of owner or occupier and that is a total of four.

Hon E.J. Charlton: If the owner is different from the occupier, each could nominate two, and therefore it has the potential to be four.

Hon A.J.G. MACTIERNAN: If company X were the owner of the property, it would have a right to nominate two people and company Y leased the premises from company X, company Y would have the right to nominate two people as well.

Hon J.A. COWDELL: I thank the shadow Minister. I have one point of similar objection. Where a property has individual ownership rather than corporate ownership, I have a problem with the fact that the owner and the occupier each receive a vote. Here, as it is in corporate hands, it is even worse. Two owners can vote and two occupiers can vote. I do not see the reason for its being two rather than one. I objected to one vote each, making two in total. The fact that there are two votes for both categories making it four in total is an obscene distortion of the system.

Clause put and passed.

Clauses 4.32 to 4.68 put and passed.

Clause 4.69: How to vote -

Hon J.A. COWDELL: I raise the concern which probably will be raised by Hon Alannah MacTiernan in a later more specific clause which refers to schedule 4.1 and the how to vote list. This clause establishes first past the post voting. I follow the arguments that are put in favour of first past the post voting. However, I cannot agree with those arguments pertaining to either the State system or the local government system. I am concerned about a system of voting which will follow the old Senate style voting where a multimember constituency with three vacancies puts 1, 1 and 1 which is how we get three. This clause establishes a system that is at odds and at variance with the electoral experience at the state and federal level and is likely to create considerable confusion. Certainly if we had any greater turnout in local government and people took any interest we would have a rise in informality at the federal and state level by any sort of promotion of a system that allows 1-1-1 to be a valid way of recording a vote. I object to this clause because it establishes the first past the post system. I record my objection to and grave reservation about this clause as I will to clause 4.74.

Clause put and passed.

Clauses 4.70 to 4.73 put and passed.

Clause 4.74: How votes are counted -

Hon A.J.G. MacTIERNAN: The Opposition strongly opposes this provision. Incorporating schedule 4.1 into the Act effectively sets in place a first past the post system for a single member constituency and multiple member constituencies. Our fundamental objection to this system which eliminates preferential voting is that it is not the fairest way to determine representatives. It does not produce the result which most fairly and accurately reflects the wishes of the community.

I have had long discussions with the Minister's advisers about this matter recently. In the United Kingdom, the centre left vote is split between two parties and the Conservative Party at the other end of the spectrum routinely wins a seat notwithstanding the fact that it receives only 40 per cent of the vote and the other two parties between them receive

60 per cent. It is legitimate to assume that the other two parties would have exchanged preferences under an Australian system. In the United Kingdom, the majority of electors get the person they least want to represent them. That is not the way to ensure that we have a proper system of representation.

I am not sure how this bizarre situation came about. I thought that there was an attempt to set up proportional representation which is relevant only where there are multiple member vacancies. That proportional system operates in the Senate and in this place. There was some opposition to that proposal from local government largely because of the complexity of counting the vote in a proportional representation process. It was difficult for some local government people to get used to the idea. Perhaps that is one of the problems that emerges from having chief executive officers, and not professional people, operating the balloting.

Proportional representation was to replace the exhaustive preferential system which was previously in place where there was a preference vote which was a fully transferable value after the first person had been elected. For example, theoretically, 51 per cent of the people could vote for all the people on an entire ticket. If three positions were available in an electorate, 51 per cent of those people could vote in all three. While that is fairer than first past the post, it is not as fair as proportional representation where we would see the broadest spread of voting. I understand that there was a backlash from local government which wanted to stick with exhaustive preferential. The Government made a valiant attempt to introduce proportional representation, but it was thwarted. It has now opted for an absurd change of tack and it is embracing first past the post voting.

As Hon John Cowdell has said, it is worrying because the first past the post system is not used in the other two tiers of government. It is likely that confusion will be generated when people are presented with different ballot papers. It will not negatively affect the result at local government level, but it has the potential to feed back into the polls taken at federal and state levels. I agree with Hon John Cowdell and I am concerned that the provision may increase the level of informality of voting. In every other jurisdiction in Australia where there are multiple member vacancies, there is proportional representation. It has been argued, why should we be different and go down the route of proportional representation? As I have said, it is the system used in this place, in the Senate and in the lower Houses of the Australian Capital Territory and Tasmanian Parliaments.

The proposal will have a very negative effect on the formality of people's votes in elections for the other tiers of government. It will not provide us with the fairest result. I have considered the matter in detail with the Minister's advisers. I believe the provision could lead to a greater proliferation of candidates. It certainly will do nothing to stop people running dummy candidates. It will make it even more attractive to run dummy candidates dressed up in the apparel of one's opponent to split one's opponent's vote. There will be very little that we can do about that. I am not optimistic that we are going to get anywhere on this issue. I spoke to local government representatives early today and they are not in favour of the proposal. I was keen to see whether we could achieve a compromise whereby we stayed with the first past the post system for multi-member vacancies so that we did not have to go into elaborate voting procedures involving proportional representation while we could retain preferential voting in single member elections. Being for a single position, preferential voting does not require the counting complexity involved in multiple member vacancies. Unfortunately, that drew a blank.

Hon E.J. CHARLTON: In her second reading speech, and again today, Hon Alannah MacTiernan explained that she does not support the first past the post voting system. The issue was pretty well covered in the second reading debate. I can only give the history of the events as I did when I replied to the second reading debate. I said that the proposal was in a different form in the first draft of the legislation. The Government consulted the community and there was a widespread variation in the options which were canvassed. Ultimately, a decision was made which was by no means unanimous.

There is a great variation in the options. We need only look to the other States where a

proliferation of options is being implemented. We concluded that we wanted consistency in Western Australia between single member constituencies and multi-member seats so that we could have the same voting procedures. Therefore, the first past the post voting system was accepted as the way to go. First past the past voting will ensure quick counts and decisions with a move to four by two elections. Councils will rearrange ward boundaries in most cases with four members to a ward. This will mean that each ward will have two members up every two years. There will be some single member wards, extraordinary elections, and wards of two members with one up every two years. However, it is likely that the bulk of the elections will be multi-member elections. I think everybody agrees with that. Other States have a variable system. It is useful to have a consistent system in local government. It would be more confusing if there were one system for single member wards and a different system for multi-members. That occurs in other States which have a different system for single and multi-member wards. There are arguments for that. The Government acknowledges Hon Alannah MacTiernan's point of view. The Government has made a decision. Nobody has the right to say that this is the best system. However, we will try it and see how it goes.

Hon J.A. COWDELL: Neither the Minister, nor apparently the Government, is willing to give on the question of proportional representation as opposed to first past the post. It is an unfortunate occurrence in a multiple member constituency when the winner can take all, as was the situation in the old Senate counts. That was one of the reasons it was changed. I presume this is a matter for the regulations that follow. I ask the Government to give careful consideration to this: There can be a first past the post system without abandoning a preferential way of filling in the ballot paper. I suggest that the ballot paper be required to be filled in in preferential order, but be counted in a first past the post manner. That means that people would follow the same form of vote as they do at the federal or state level of 1-2-3-4-5. If there is one vacancy, that is fine. Preferences are not counted in the traditional way. The person with the most ones gets there straight, but they fill in their preferences anyway. It comes into its own when there is a multiple vacancy position. If there are three vacancies, 1-2-3, the first three preferences count as ones. If there are four vacancies, 1 to 4 count as ones because they are the first four priorities the elector gets to allocate. The Government, presumably by the regulations, could retain the intent of the first past the post system without leading to a feedback of advocating the 1-1-1 system in direct opposition to that which operates at the federal and state level. I suggest that the ballot paper be filled in in preferential order but be counted in a first past the post manner. That is quite feasible.

Hon E.J. Charlton: Have you looked at schedule 4.1?

Hon J.A. COWDELL: Yes.

Hon E.J. Charlton: Do you think what you are recommending can be done in regulations?

Hon J.A. COWDELL: I see no reason it cannot be. I do not see that it necessarily requires an alteration to this schedule, but it could be affected. It means that it is stated at the top of the ballot paper how it is to be filled in. The Government can keep its counting method but have an alternative form of advice and not advise two options at the top of the ballot paper.

Hon E.J. CHARLTON: I have wondered about this variation in filling in the card. The member is right. I am interested in his comments about the schedule. I have made a note of those and I will recommend to the Minister for Local Government that consideration be given to that in the formulation of the regulations. If an improvement can be made to consistency in how the voting takes place, we should use every opportunity to get it right, even though we will continue to have the first past the post voting system.

Hon A.J.G. MacTIERNAN: It appears that if one were able to do this with the multi-member constituency - that is, to fill out the ballot papers 1 to 4 although the votes would be counted equally - it would not create a great problem to have a system of preferential voting for the single member vacancy, bearing in mind that the Minister is concerned there would be two different systems. However, if he gives people the illusion that they

are having a preference vote and they fill in their papers 1 to 4, there is no reason they could not fill in their papers 1 to 4 in the single member constituency and count it as a proper preference and not just an apparent preference.

Hon E.J. CHARLTON: The Government will stick to first past the post voting, rightly or wrongly, for the reasons I mentioned earlier. Time will tell whether that is the right decision. I take on board Hon John Cowdell's comments. Regulations must be developed to cover this operation. I give the Chamber a commitment that I will take up with the Minister that that option be properly considered in the development of those regulations.

Hon A.J.G. MacTIERNAN: I hope all members understand that there was no dissatisfaction with the system of preferential voting, and that any resistance the Government received was resistance to proportional representation. It is extraordinary that having met resistance to proportional voting the Government has jettisoned not only the proportional voting, but the whole system of preferential voting that nobody in local government had an objection to. In fact, the majority of local authorities want a return to preferential voting. This is something that comes out of the innards of the Liberal Party. It is not something that comes out in any way, shape or form from local governments. They do not want this abandonment of preferential voting that we see here.

Hon E.J. CHARLTON: Not all local governments were happy about all the options because there was a variation as well. It is not right for Hon Alannah MacTiernan to say that, because opposition was expressed to the ticket system. That has been widely criticised.

Everybody in the Government fully debated this matter. As I have said before, it was not a unanimous decision to go down this path. It is not something from the innards of the Liberal Party. It came about as a result of wide canvassing and discussions over several weeks. We considered, reconsidered and tried to do what was best for local government. There is nothing in it from a political point of view, and until now no-one has suggested that there is. This is about trying to give an emphasis to a simple voting system, a simple counting system, and quick decisions.

Hon A.J.G. MacTIERNAN: Although the provision might eliminate ticket voting, as would proportional voting to some extent, it certainly will not eliminate people running in teams. As I have said, a serious candidate will run a series of candidates who are made in the image and likeness of the principal candidate's opponent in order to divide the opponent's vote. That is likely to lead to great deception and unfairness in an election. That cannot happen when there is preferential voting. Although we get rid of what the Minister's regards as an evil - ticket voting - we create a much bigger problem that will lead to far greater unfairness.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon W.N. Stretch): Before the tellers tell, I cast my vote with the ayes.

Division resulted as follows -

Ayes (14)

Hon George Cash	Hon P.R. Lightfoot	Hon B.M. Scott
Hon E.J. Charlton	Hon P.H. Lockyer	Hon W.N. Stretch
Hon M.J. Criddle	Hon I.D. MacLean	Hon Derrick Tomlinson
Hon Peter Foss	Hon Murray Montgomery	Hon Muriel Patterson *(Teller)*
Hon Barry House	Hon M.D. Nixon	

Noes (11)

Hon Kim Chance	Hon N.D. Griffiths	Hon Sam Piantadosi
Hon J.A. Cowdell	Hon John Halden	Hon Doug Wenn
Hon Cheryl Davenport	Hon A.J.G. MacTiernan	Hon Bob Thomas *(Teller)*
Hon Val Ferguson	Hon Mark Nevill	

Pairs

Hon B.K. Donaldson	Hon Tom Helm
Hon N.F. Moore	Hon Tom Stephens
Hon Max Evans	Hon Graham Edwards

Clause thus passed.

Clauses 4.75 to 4.87 put and passed.

Clause 4.88: Misleading, false or defamatory statements -

Hon A.J.G. MacTIERNAN: I am concerned about the breadth of this provision. It states that during an election a person shall not print, publish or distribute deceptive material or cause deceptive material to be printed, published or distributed. It also makes provisions in relation to false or defamatory statements relating to the personal character or conduct of a candidate in an election. I have asked Hon John Cowdell, who has far more intimate knowledge of electoral law than I, to comment on that provision, but my first reaction was that the provision is extraordinarily broad and will see much litigation.

I do not know how we will determine whether material that has been issued is misleading. People might describe themselves as environmentally conscious or interested in heritage. It will be interesting to see what claims might be made against them. On what was the provision modelled? It certainly seems to be broader than anything at federal or state level.

Clause put and passed.

Clauses 4.89 to 5.36 put and passed.

Clause 5.37: Senior employees -

Hon A.J.G. MacTIERNAN: I will set out the basic schema of this provision. It allows a local authority to designate certain employees as belonging to a class of senior employees. Under the broad powers of this clause, the CEO has the right to hire and fire staff of the local authority throughout the municipality. This provision says that in respect of certain designated senior officers, the CEO must inform the council of each decision to employ or dismiss a senior employee and the council may accept or reject the recommendation of the CEO. If the council rejects a recommendation, it must inform the CEO of the reasons for doing so.

I understand that this provision, as it exists, represents a compromise or a moving back from the original position. It now allows some input by the council to the selection of senior employees. I do not believe that is adequate in any way. As I stated in the second reading stage, the primary responsibility for the running of the authority lies with the elected representatives. As a result, they must have the capacity to choose senior staff, in particular, staff who deliver planning services, and who deliver and direct social and recreational policies of a council. In these areas we can see very different philosophies and attitudes. A local authority has a right to ensure that the personnel who are directing important policy areas should share a value system with the council and have the confidence of the council.

The original proposal was to give the CEO total power. This clause effectively gives the council a right of veto. It is very much the wrong emphasis. The responsibility should be recognised as being primarily that of the elected officers. I understand all the arguments being used: That the CEO will now have performance criteria and how he or she can be expected to stand up to that performance when that person does not have control over the staff. In many organisations people have performance criteria set and do not necessarily have control over staff. Although I was happy to compromise my proposed amendment a little, there was not going to be any movement from the Government to achieve some accommodation; therefore, I have just stuck with the original formulation of the amendment. I move -

> Page 156, lines 14 to 18 - To delete the subclause and substitute the following subclause -
>
> (2) The council shall be responsible for the employment and dismissal of

senior staff, but shall ensure that the CEO is able to participate in the selection of senior staff and shall have the opportunity to comment on any proposal to dismiss senior staff.

The terms of this amendment are self-evident. It recognises the primacy of the responsibility of the elected officials. In moving this amendment, I see in the provisions of this clause an attitude that is alarming some local government officers. It is not something I experienced when I was on the council of the City of Perth, but I have seen it in other municipalities where elected officials are considered to be an irritant and are referred to by staff as amateur hour. We should not be running local government in that way. We have put in place a number of measures to try to attract people to stand for local government. We must wonder about the capacity of councils to deliver the sorts of policies that are required when it has input for the appointment of only one member of staff. That is not enough to enable a council to ensure that its policies and priorities are given due recognition. I simply urge support for the provision I have moved. Understandably, it has the support of local government.

Hon E.J. CHARLTON: The member has given both sides of the equation in presenting her amendment. Devolution of authority to the chief executive officer should be consistent with giving responsibility to that person as well. As the member said, that is why this is being done. Currently in clause 5.37(2) the council has the power to reject the recommendation to employ or dismiss. The final responsibility rests with the elected councillors. The CEO is given the opportunity to select people to do the job. If the council does not agree with the choice, it can reject it. If it rejects it, it must provide reasons for doing so. The council cannot merely say something like, "The recommended candidate was not wearing the right tie on the day of the interview" as a reason for rejecting the recommendation. I might say that I have heard that said before.

This is a significant move away from what presently exists. However, right across business, people are given responsibility and with that responsibility comes an opportunity to have some influence on certain decisions. It is pretty difficult for people to be given responsibility without being given the opportunity to influence decisions also. Hon Alannah MacTiernan has made her point admirably about her compromise position in saying that the council will be responsible for the employment of senior staff. With this amendment, she is going about it the opposite way to how we are dealing with it; she is making the council responsible for it. The Government has considered and debated this matter at length. Because that responsibility has been devolved to the CEO, we want to make the provisions in this clause consistent with that devolution.

If we accept the amendments, we will be introducing an inconsistency into the equation and that is not the right way to go. The council will have the ultimate responsibility. The decision making power will be with the council because it can reject a decision to employ or dismiss.

Hon A.J.G. MacTiernan: What does the Minister propose should happen in the event of a deadlock?

Hon E.J. CHARLTON: As happens with all deadlocks, consultation will have to take place. If the chief executive officer refused to find anyone else and caused the council difficulty, a resolution would have to be reached. As I understand it, the chief executive officer's position may come into question. He will be on a contract to do a job and if he is unable to carry out his job the matter will go through a disputes procedure. Whichever way we look at it, the council should resolve the issue. No doubt that happens consistently in private industry, where the chief executive officer is responsible for hiring and firing people.

Hon Kim Chance: Hospital boards are a classic example.

Hon A.J.G. MacTIERNAN: There is not an equivalent situation in local government because the authority of the council prevails. This clause will remove that authority.

Amendment put and negatived.

Clause put and passed.

Clause 5.38 put and passed.

Clause 5.39: Contracts for CEO's and senior employees -

Hon E.J. CHARLTON: I move -

Page 157, lines 4 and 5 - To delete the lines and substitute the following -

(b) in every other case, cannot be for a term exceeding 5 years.

Page 157, after line 17 - To insert the following new subclause -

(6) Nothing in subsection (2) or (3) (a) prevents a contract for a period that is within the limits set out in paragraph (a) or (b) of subsection (2) from being terminated within that period on the happening of an event specified in the contract.

Concern was raised by the Institute of Municipal Management that this clause provided for fixed term contracts. This was not the intention. Parliamentary Counsel has drafted this amendment to clarify the situation.

Hon A.J.G. MacTiernan: What is the intention?

Hon E.J. CHARLTON: The intention is that they be up to five years rather than for a set five years. This amendment clarifies that position.

Hon A.J.G. MacTIERNAN: I am now a bit concerned. The Act provides for not less than one year and not more than five years. How has that been changed?

Hon E.J. CHARLTON: It will give greater flexibility. Someone could enter into a fixed term contract for five years without realising that the legislation had changed. As the clause stands, he would not be able move out of that contract for whatever reason. This amendment will allow flexibility. It provides for a minimum of one year and a maximum of up to five years.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 5.40 to 5.103 put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon E.J. Charlton (Minister for Transport).

ACTS AMENDMENT (BETTING TAX) BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [2.00 am]: I move, on behalf of the Minister for Racing and Gaming -

That the Bill be now read a second time.

Members will be aware that, in January 1992, the Liberal Party released its racing industry policy. An integral part of the policy was a proposed package of taxation relief which included, among other things, a 1 per cent reduction in TAB turnover tax from 6 per cent to 5 per cent; a lowering of the tax imposed on bookmakers' turnover from 2.25 per cent to 2 per cent; and a redirection of oncourse betting taxes and bookmakers' taxes to the relevant clubs. It is now history that the Labor Government copied this policy and, prior to the February 1993 state election, introduced the very same tax cuts by way of a series of rebates. In the past three years, the package of rebates has returned almost $30m to the industry, with a further $11.5m expected to flow to the industry in this financial year.

The purpose of this Bill is to formalise two elements of the taxation relief package in

legislation. The Bill amends the Totalisator Agency Board Betting Tax Act to reduce the rate of tax on TAB turnover from 6 per cent to 5 per cent. This will reduce tax on TAB turnover by more than $6m per year and will increase TAB profits available for distribution to the racing industry. The Bill also amends the Bookmakers Betting Tax Act to reduce the rate of tax payable on bookmakers' turnover from 2.25 per cent to 2 per cent. This will return almost $500 000 to bookmakers in a full year. Members would be aware of the Government's intention to abolish oncourse totalisator duty, and to fix the TAB profit distribution ratio between thoroughbred racing and harness racing at 65:35. The 65:35 outcome is currently being achieved through the rebate of the 1 per cent of TAB tax. These initiatives will be implemented through the Acts Amendment (Racing and Betting Legislation) Bill 1995.

The Government's tax relief package, together with the 35 per cent growth since 1991-92 in TAB annual turnover to $621m, has seen the racing industry in this State return to being a healthy and prosperous industry. When fully implemented, the Government's package of taxation relief will make Western Australia the lowest taxed racing State in Australia. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

REAL ESTATE LEGISLATION AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

GOVERNMENT EMPLOYEES SUPERANNUATION AMENDMENT BILL (No 2)

Assembly's Message

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

House adjourned at 2.05 am (Friday)

QUESTIONS ON NOTICE

JUSTICE, MINISTRY OF - RANGEVIEW REMAND CENTRE
Overcrowding

1159. Hon CHERYL DAVENPORT to the Minister for the Environment representing the Attorney General:

(1) Can the Attorney General explain how and why the present situation of severe overcrowding has developed at the Rangeview juvenile remand centre in Murdoch?

(2) Does the Government regard the practice of transferring certain detainees, that is, juveniles not yet found guilty by the courts, across to Longmore, as an appropriate measure, given that they may be exposed to danger from the more entrenched and serious offenders at Longmore?

(3) Does the Attorney General anticipate the problem of overcrowding to ease in the short term?

(4) If so, why?

(5) If not, why?

(6) Is it correct that juveniles are being detained in cells, without access to toilet facilities and running water?

(7) Will the Attorney General describe a typical cell and its facilities?

(8) In which section of the centre are the extra detainees being accommodated?

(9) Is it correct that young people are being held in cells (some with one wall glass) that are normally used to observe detainees for a very short period, immediately on arrival at the centre?

(10) If so, does this form of detention breach privacy principles given that the detainees may be expected to occupy the cells for a much longer period?

(11) How long would a detainee be expected to remain in such conditions?

(12) Has the Attorney General commissioned any research which would indicate the future viability of Rangeview given that it appears to have already reached capacity?

(13) If so, is the research being conducted by the Justice ministry?

(14) If not, why not?

(15) Is it being carried out by private consultants?

(16) If so, why?

(17) What is the name of the consultant?

(18) Will the Attorney General state whether the current overcrowding is the result of amendments to the Bail Act which came into effect in 1994?

Hon PETER FOSS replied:

(1) The variability of remand numbers is not new and as far back as 1989 under the previous Labor Administration there was an extended period when remand numbers fluctuated between 55 and 65 juveniles. The current situation is not an isolated occurrence.

(2) Detainees have only been transferred as a measure of managing high numbers. This practice is considered preferable to the detainees remaining in police lockups as was the practice under the previous Labor Administration, or to overcrowding the facilities at Rangeview.

(3) Yes.

(4) See (1).

(5) Not applicable.

(6) On rare occasions cells which do not have toilet facilities and running water have been used. These cells have sound monitoring and detainees can request access to these facilities. There is a toilet immediately opposite the holding cells.

(7) A standard cell at Rangeview is 2.9 by 2.5 metres, has a fixed metal bed with foam mattress, inbuilt shower, washbasin and toilet, and has glass viewing windows in the cell door for security purposes. This window is covered with a sliding vanity cover. The short term units have fixed metal double bunk beds. All other cells have single beds. All cells have large windows with external views.

(8) The centre manages normal fluctuations by occasionally using its additional cell capacity consisting of observation cells, holding rooms, hospital wards and additional beds in the long term unit.

(9) See (11).

(10) Privacy is managed by covering the windows with a screen. These cells would not be occupied during the day.

(11) When used for overflow accommodation detainees usually stay in these cells one night and on rare occasions two nights and are there for sleeping only.

(12) No.

(13) Not applicable.

(14) The future needs of Rangeview are constantly monitored by the Ministry of Justice. Original planning, however, included the infrastructure for a future long term unit if required.

(15) No.

(16)-(17) Not applicable.

(18) Only a small part of any overcrowding can be attributed to the 1994 amendments to the Bail Act.

ABORIGINAL EDUCATION AND TRAINING COUNCIL - MECHANISIMS FOR COLLATING INFORMATION ON TRAINING; STATISTICAL DATABASE

1670. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) Has the Aboriginal Education and Training Council negotiated with the Commonwealth Government the establishment of mechanisms for collating information on training as a joint initiative, and required all providers in receipt of government funding to provide statistical information on training to the Aboriginal Affairs Department for inclusion in its database?

(2) If not, why not?

Hon N.F. MOORE replied:

(1) The establishment of mechanisms for collating information on training is being considered by the Aboriginal Education and Training Council strategic planning joint working party. A statistical information database is a key deliberation for inclusion in the strategic plan.

(2) Not applicable.

CONSULTANTS - ENGAGED BY GOVERNMENT REPORT

3705. Hon JOHN HALDEN to the Minister for Education:

With reference to question on notice 60 of 1995 -

(1) Is the Minister aware that the "Report on Consultants Engaged by Government" for the six months between 1 January 1995 and 30 June 1995 has not yet been released, and that information relating to parts (1) and (2) of the question is not contained in this consultants report?

(2) If yes, will the Minister provide the following details -

(a) the amount of money provided for in the 1994-95 and 1995-96 Budget for consultancies; and

(b) the amount of money spent in 1994-95 for consultants?

Hon N.F. MOORE replied:

(1)-(2) The report on consultants engaged by government has now been tabled.

TAFE - MANAGEMENT STRUCTURE, INCREASE IN SIZE AND COST

3910. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) Has there been any increase in the size of the management structure at any TAFE college in the last 12 months?

(2) If yes -

(a) what has been the increase in the size of the management structure each TAFE college; and

(b) what is the reason for such an increase?

(3) Has there been any increase in the cost of the management structure at any TAFE college in the last 12 months?

(4) If yes -

(a) what has been the increase in cost of the management structure at each TAFE college; and

(b) what is the reason for such an increase in cost?

Hon N.F. MOORE replied:

(1) Yes.

(2) (a)

Central Metropolitan College	2
South East Metropolitan College	1
Midland College	2
Geraldton College	2
Great Southern Regional College	2
South West Regional College	2
Kimberley Regional College	1

(b) Fifty full time equivalent staff were devolved to colleges to enable them to undertake functions such as human and financial resource management. In some colleges, it was considered that some of these resources would be most appropriately deployed at the management levels, which had previously been depleted.

(3) Yes.

(4) (a)

Central Metropolitan College	$121 318
South East Metropolitan College	$60 659
Midland College	$107 110
Geraldton College	$107 110
Great Southern Regional College	$107 110

South West Regional College	$107 110
Kimberley Regional College	$50 893

(b) See (2)(b). These costs have been offset by a reduction in size, and consequently cost, of central office administration.

WESTRAIL - BUS CLEANING CONTRACT, ALBANY

4051. Hon BOB THOMAS to the Minister for Transport:

(1) Which firm was awarded the contract to clean the Westrail buses at Albany?

(2) Where is that firm domiciled?

(3) What was the contract price?

Hon E.J. CHARLTON replied:

(1) No contract has been awarded for this work. Westrail has an interim arrangement in place with Delron Cleaning Pty Ltd prior to tenders being called.

(2) Delron Cleaning Pty Ltd is situated at 11 Premier Close, Albany.

(3) I am not prepared to reveal the financial arrangements in place with Delron Cleaning Pty Ltd because of the impending calling of tenders for this work.

WESTRAIL - *AUSTRALIND*
Bunbury-Bridgetown Service, Deferred; Trial Runs

4063. Hon BOB THOMAS to the Minister for Transport:

(1) Was the Australian Railway Historical Society Bulletin Volume 46 number 696 of October 1995 correct when it said "The running of the *Australind* from Bunbury to Bridgetown has been deferred until the level crossings along the route have been upgraded to accept the train at its faster speed"?

(2) Has Westrail conducted any trial runs of the *Australind* from Bunbury to Bridgetown?

(3) When did they occur and were any passengers carried?

Hon E.J. CHARLTON replied:

(1) Yes. However, the operation of a proposed Sunday service will depend on the outcome of patronage and financial evaluations being undertaken by Westrail.

(2) Yes.

(3) A trial was conducted on 30 April 1995 involving Westrail staff only.

WESTRAIL - SCANIA COACHES

4068. Hon BOB THOMAS to the Minister for Transport:

(1) Further to part (5) of question on notice 3361 of 22 August 1995, will the Minister make himself aware of the poor ride characteristics of the Scania coaches in very windy conditions?

(2) If not, will he instruct senior Westrail management to undertake this duty?

Hon E.J. CHARLTON replied:

(1)-(2) I have asked Westrail to provide me with a report on the ride characteristics of the Scania road coaches.

WESTRAIL - BUNBURY TERMINAL, RELOCATION TO CLIFTON STREET

4073. Hon BOB THOMAS to the Minister for Transport:

(1) Further to parts (2) and (3) of question on notice 3308 of 22 August 1995, will the Minister advise what is the expected date of relocating the terminal for the Bunbury rail service to Clifton Street?

(2) At what stage is the planning for this relocation?

(3) What will happen to the Wollaston interchange when this occurs?

Hon E.J. CHARLTON replied:

(1) A date for relocation of the terminal has not been determined. Relocation will take place when tourism has been created by the implementation of the Harbour City development.

(2) A terminal site has been nominated at Clifton Street. The location was included in the Marlston Hill structure plan developed by LandCorp and the South West Development Commission.

(3) No decision has been made on the future of the Wollaston terminal.

WESTRAIL - TENDER FOR CONCRETE SLEEPERS, KELLERBERRIN AREA

4074. Hon BOB THOMAS to the Minister for Transport:

(1) Did Westrail let a tender for 2 670 concrete sleepers in the Kellerberrin area?

(2) Was this contract advertised in *The West Australian* on 15 April 1995?

(3) Why was it headed WAGR rather than Westrail?

Hon E.J. CHARLTON replied:

(1) Westrail awarded a contract for the patching of 2 670 concrete sleepers near Kellerberrin.

(2) Yes.

(3) Advertisements are usually headed with the word "Westrail". The advertisement was headed "Western Australian Government Railways" in error.

HOSPITALS - BUNBURY REDEVELOPMENT
Estimated Capital Cost

4112. Hon DOUG WENN to the Minister for the Environment representing the Minister for Health:

(1) Can the Minister for Health confirm that in answer to question without notice 912 of 14 November 1995, it was stated that the estimated capital cost of the planned public hospital in Bunbury was $39m?

(2) Can the Minister confirm that in a press statement of 4 September 1995 the Minister said that the estimated cost of the new public hospital in Bunbury would be $50m?

(3) If yes to (1) and (2) above, can the Minister explain the $11m discrepancy?

Hon PETER FOSS replied:

(1)-(3) I refer the member to my answer to question without notice 992 of 22 November 1995.

EDUCATION DEPARTMENT - BURROWS, PHILIP

4117. Hon A.J.G. MacTIERNAN to the Minister for Education:

Further to the answer to question on notice 3808, why was Philip Burrows offered

a choice of two teaching positions in the second term of 1995 when material had already been collated by the Education Department which purported to show that Mr Burrows was a threat to students?

Hon N.F. MOORE replied:

Mr Burrows was appointed to a district education office in 1995 pending the resolution of a section 7C inquiry being conducted by the department. There is no record on Mr Burrows' personal file that any offers of employment for the second term of 1995 were made or, indeed, that any alternative to the District Education Office appointment was proposed. The section 7C inquiry remains unresolved at this time.

EDUCATION DEPARTMENT - CLOSURE OF CLOVERDALE, WHITESIDE, BELMONT PRIMARY SCHOOLS DECISION; NEW SCHOOL ON MILES PARK, CONSTRUCTION DECISION

4120. Hon J.A. SCOTT to the Minister for Education:

(1) Has the Minister made any decision regarding the closing of Cloverdale, Whiteside, and Belmont Primary Schools and the building of a new school on Miles Park?

(2) If so, what are the Minister's intentions in this matter?

Hon N.F. MOORE replied:

(1) Belmont Primary School is not under review as part of the school rationalisation process. The decision by parents of Cloverdale and Whiteside Primary Schools to close their schools has been endorsed subject to a new school being built on Miles Park.

(2) The Education Department will negotiate with the Department of Land Administration and Belmont City Council for use of a portion of Miles Park for a school.

HEALTH DEPARTMENT - VISITING MEDICAL PRACTITIONERS AGREEMENT

Hospitals, Total Budget Funding

4125. Hon J.A. SCOTT to the Minister for the Environment representing the Minister for Health:

(1) With reference to the new visiting medical practitioners agreement which has been negotiated between the Australian Medical Association and the Minister for Health's department, will the Minister advise what changes and approvements are in the new VMP agreement?

(2) What best practice and quality assurance initiatives does the new VMP agreement contain?

(3) What improvements in the workplace practices has been implemented by the VMPs?

(4) In each year from 1990 to 1995, what total payments have been made to VMPs?

(5) In each of the years 1990 to 1995, what has been the total budget funding for public hospitals in Western Australia?

Hon PETER FOSS replied:

(1) Changes and improvements in the new VMP agreement include, but are not confined to: Capacity for formation of district clinical appointments committees and district medical advisory committees which will streamline and improve decision making; provision of incentives for medical practitioners to remain in obstetric services; trialling of new payment systems for anaesthetists to address current anomalies and

improve attraction and retention; changes to payments for multiple operations and "in" and "out of hours" attendances to remove anomalies, simplify payments and appropriately reward doctors performing work out of ordinary hours; links the appoint of VMPs to performance; requires VMPs to participate in the management of health services; requires VMPs to participate in best practice initiatives; allows for the introduction of facility charges where VMPs use hospital facilities in certain circumstances; links payment to the completion of discharge summaries; incorporates capacity for fee reductions; provides improved dispute resolution procedures; enables hospitals and doctors to opt out of the agreement and agree mutually acceptable alternative terms focused on particular patient/service needs; explicitly requires all VMPs to have medical indemnity insurance; and requires participation in availability roster for out of hours work.

(2) It is not possible to list all best practice and quality assurance initiatives as there are many and they differ between services. However, the agreement explicitly requires commitment to quality and best practice initiatives and specifically provides for: Formal commitment to a team approach to resolving issues such as waiting lists and budget allocation; enhanced medical record documentation; timely provision of discharge summaries; compliance with new dispute resolution procedures; cooperation with clinical, risk management and resource utilisation reviews; and development of clinical best practice standards for service delivery.

(3) The agreement became operative on 4 September 1995 and is being progressively implemented. The improved workplace practices are dealt with in my response to (1) and (2) and these will be reviewed annually.

(4) VMP payments

	$m
1989-90	25.6
1990-91	28.4
1991-92	30.5
1992-93	36.7
1993-94	38.9
1994-95	41.7

(5) Total actual government assistance payments to public hospitals including government nursing homes -

	$m
1989-90	885.3
1990-91	834.9
1991-92	842.2
1992-93	858.6
1993-94	867.9
1994-95	905.4

Specific hospital budget information is available from hospital annual reports which are public documents.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4135. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the regional office, Fremantle of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4136. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Armadale District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4137. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Belmont District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4138. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Canning District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4139. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Fremantle District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4140. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Joondalup District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4141. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Midland District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4142. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Mirrabooka District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4143. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Perth District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4144. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Rockingham District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4145. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Scarborough District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4146. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Regional Office, Port Hedland, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4147. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the East Kimberley District Office, Kununurra, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4148. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Halls Creek Branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4149. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Wyndham Branch of the

Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4150. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the West Kimberley District Office, Derby, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4151. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Broome branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4152. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Fitzroy Crossing branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4153. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the East Pilbara District Office, South Hedland, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4154. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Marble Bar branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4155. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Newman branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4156. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the West Pilbara District Office, Karratha, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4157. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Onslow branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4158. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Roebourne branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4159. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Tom Price branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4160. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Paraburdoo sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4162. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Carnarvon branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4163. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Meekatharra branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4164. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Mt Magnet sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4165. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Mullewa branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4166. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Wiluna sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4167. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Regional Office, Bunbury, of

the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4168. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Bunbury District Office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4169. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Great Southern District Office, Albany, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4170. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Katanning branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4171. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Peel District Office, Mandurah, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4172. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the South West Rural Office, Collie, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4173. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Busselton branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4174. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Manjimup branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4175. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Narrogin branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4176. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Central District Office, Northam, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4177. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Kellerberrin Branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4178. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Merredin Branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4179. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Moora branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4180. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Quairading sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4181. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Southern Cross sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4182. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Dalwallinu sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4183. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Wongan Hills sub office of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4184. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Goldfields District Office,

Kalgoorlie, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4185. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Esperance branch, of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4186. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Laverton branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4187. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Leonora branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - TEMPORARY STAFF EMPLOYED ON CONTRACTS

4188. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Were any temporary staff employed at the Norseman branch of the Department of Family and Children's Services through contracts with temporary recruiting agencies during 1994-95?

(2) Through which agency were they recruited?

(3) What was the cost of the contract?

(4) From which section of the department's budget was the cost met?

Hon E.J. CHARLTON replied:

Answer provided by the Minister for Family and Children's Services -

(1)-(4) Refer to the answer to question on notice 4100 of 1995.

QUESTIONS WITHOUT NOTICE

MENTAL HEALTH NURSES - ENTERPRISE AGREEMENT

1108. Hon KIM CHANCE to the Minister representing the Minister for Health:

(1) Will the Minister provide details of the enterprise agreement with the Health Services Union of Australia for mental health nurses?

(2) Is the agreement an enterprise flexibility agreement?

(3) Is it a certified agreement?

(4) Is the Australian Nurses Federation to be a party to the agreement?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The agreement is for a 12 per cent pay increase for level 1 and 2 mental health nurses and for a 15 per cent increase for level 3 nurses, for those not rostered permanently over seven days of the week. It is over a period of 18 months commencing on 1 January 1996. The first pay increase will be 5 per cent payable as at 1 January 1996. The second pay increase will be for 5 per cent payable as at 1 July 1996. The final 2 per cent will be payable as at 1 January 1997. A rostering committee will be established with one union representative, one management representative and a chairperson. This committee will review the rostering principles within the mental health area.

(2) No.

(3) It is anticipated that this agreement will be registered as a certified agreement in the Australian Industrial Relations Commission under part VIB, division 2 - certified agreements of the Industrial Relations Act 1988.

(4) As soon as the agreement has been ratified by Cabinet, the exact details of the agreement will be presented to the ANF. It is hoped that the ANF will enter into negotiations with the parties and as a result be party to this agreement.

CRA - MINING LEASES, MT LESUEUR AREA

1109. Hon J.A. SCOTT to the Leader of the House representing the Minister for Resources Development:

With reference to question without notice 1033 of Wednesday, 29 November 1995, what is the status of the CRA mining leases at Mt Lesueur?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. I am advised by the Minister for Resources Development that the leases held by CRA and its Hill River joint venturers in the Mt Lesueur area are still valid.

POLLS - ATTITUDE MONITORING STUDY WESTERN AUSTRALIA BY WEST COAST FIELD SERVICES
Victorian Survey by AMR Quantum

1110. Hon JOHN HALDEN to the Leader of the House representing the Premier:

(1) (a) Has the Premier or any of his staff received a copy of either the Victorian attitude monitoring study survey form or the report conducted and prepared by AMR Quantum on behalf of the Victorian Government?

(b) If so, which was received, when was it received, and was it supplied by AMR Quantum or the Victorian Government?

(c) Was a copy forwarded to West Coast Field Services by AMR Quantum, the Victorian Government or the Western Australian Government?

(2) Is the Premier aware that many of the questions used by West Coast Field Services leading to the attitude monitoring study Western Australia report are taken verbatim from the Victorian attitude monitoring study survey form conducted by AMR Quantum on behalf of the Victorian Government?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. I have discussed the matter with the Premier, and he has advised me in the following terms:

(1) (a) No.

(b)-(c) Not applicable.

(2) No, the Premier is not aware, as he has not seen either the Western Australian or Victorian questionnaires. This is a matter for the polling company.

POLLS - ATTITUDE MONITORING STUDY WESTERN AUSTRALIA BY WEST COAST FIELD SERVICES

1111. Hon JOHN HALDEN to the Leader of the House representing the Premier:

With respect to the three surveys conducted as part of the ongoing attitude monitoring study Western Australia being conducted by West Coast Field Services on behalf of the Government -

(1) How many individuals have taken part in group discussions as part of AMSWA?

(2) (a) How many individuals have been surveyed door to door as part of AMSWA?

(b) Which suburbs contained individuals surveyed door to door and how many individuals were surveyed in each suburb?

(3) (a) How many individuals have been surveyed by telephone as part of AMSWA?

(b) Which suburbs contained individuals surveyed by telephone and how many individuals were surveyed in each suburb?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Premier has advised me in the following terms:

(1)-(3) Details of the methodology are provided in the introduction to the three AMSWA reports which have been tabled in Parliament. The Premier is not aware of the fine detail which is now being sought.

BUILDING MANAGEMENT AUTHORITY - FULL FINANCIAL STATEMENTS FROM BUILDERS FOR CATEGORISATION

1112. Hon MURIEL PATTERSON to the Minister representing the Minister for Works:

(1) Does the Building Management Authority require a full financial statement from the builder for classification?

(2) Can a bank guarantee for the cost of the building be used for classification?

(3) If not, why not?

Hon John Halden: Just read the answer, Muriel; it is just below the question.

Hon MAX EVANS replied:

I thank the member for some notice of this question.

Hon John Halden interjected.

Hon MAX EVANS: The member asked me a question yesterday, and I did not know the answer. She had the question before I knew the answer.

(1) The Western Australian Building Management Authority has a categorisation system for builders undertaking work with a value of more than $200 000. Under this system, a builder must provide full financial statements to achieve categorisation. It is proposed that this system will be extended to cover work of a lower threshold value in 1996.

In areas of work not covered by this system, financial statements are sought where the project risks are high or where a builder's financial capacity cannot be demonstrated through other means.

(2) No.

(3) The categorisation system reflects the ongoing financial and technical capacity of a contractor satisfactorily to undertake specific values of contract. Past performance and financial stability are important categorisation criteria. Financial statements provide essential information for assessment. A bank guarantee is simply an unconditional guarantee by a bank to pay money to order. A guarantee may be secured against a company's or director's assets, and does not necessarily reflect sound performance or financial stability. Bank guarantees are expensive to maintain and it is rare to require them to cover the full cost of the building. Using such a guarantee as the basis for categorisation is impractical, as it would require contractors to maintain a standing guarantee for the full value of the largest contract they wish to tender on. This would be a large and unjustified financial burden on contractors.

PASTORAL LAND TENURE LEGISLATION - PROPOSED CHANGES, DISCUSSIONS WITH PASTORALISTS

1113. Hon P.H. LOCKYER to the Minister for Lands:

My question has not been given to anybody.

Hon John Halden interjected.

Hon P.H. LOCKYER: I am exercising my right to ask a question. I thought I would let Hon John Halden know that, in view of his glittering indifference.

In regard to proposed changes to the pastoral land tenure legislation, which was introduced into Parliament yesterday, will the Minister undertake that prior to the Bill being debated in Parliament he will join me on a visit through pastoral areas - that is, the goldfields, Murchison, Gascoyne, Pilbara and Kimberley - to explain to pastoralists the effects of the Bill, particularly the part pertaining to the Valuer General setting rates, as opposed to the pastoral board in the past?

Hon GEORGE CASH replied:

I am quite happy to give that undertaking to Hon Phil Lockyer, and to accompany him on such a visit.

Hon A.J.G. MacTiernan: I am glad we can organise the travel arrangements of the House.

Hon GEORGE CASH: I am pleased that the member is glad. Notwithstanding whether Hon Alannah MacTiernan is glad, I am still quite happy to join Hon Phil Lockyer on a visit to the places that he nominated to discuss the proposed changes that comprise part of the Land Administration Bill. If Hon Alannah MacTiernan took any interest in the pastoral land sector she would find that considerable changes are intended for that industry. It is important that pastoralists fully understand the proposals within the Bill.

Unlike Hon Alannah MacTiernan, I often go to pastoral areas to talk to pastoralists about their industry. The feedback I receive is that they appreciate those visits and the understanding that is shown by the Government in respect of their industry. The visit will obviously need to be at a time suitable to both of us. I will be happy to do that. I have had some discussions with the Pastoralists and Graziers Association.

Hon A.J.G. MacTiernan: You could make it a date.

Hon GEORGE CASH: The hilarity that exudes from Hon Alannah MacTiernan indicates the contempt with which she and some members of the Opposition have for the pastoral industry -

Hon A.J.G. MacTiernan: It has nothing to do with that.

Hon GEORGE CASH: - an industry that has served this State well for more than 100 years. If a question does not interest Hon Alannah MacTiernan, she reads some strange notion into the reason it has been asked.

HOMESWEST - HOMESTYLE PTY LTD, TENDER WITHDRAWAL

1114. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Housing:

(1) Did Homestyle Pty Ltd last week withdraw from the tender for construction of a group of 12 Homeswest dwellings at lot 16 Iona Court, Cannington?

(2) On what day did it withdraw from the tender?

(3) What reason was given for any withdrawal?

(4) Is it true that Homestyle Pty Ltd tendered at approximately $493 000 and the next lowest tender was approximately $580 000?

(5) Had the tender been awarded to Homestyle Pty Ltd?

(6) Are Homeswest officers or the Minister concerned that the pricing practices of Homestyle Pty Ltd are forcing small contractors out of the field?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) On 28 November 1995.

(3) The tenderer made an error in the bill of quantities.

(4) Yes.

(5) No.

(6) Can the member supply this evidence to the Minister?

POLLUTER PAYS LEGISLATION - SUBMISSIONS FROM LYNDON ROWE OR CHAMBER OF COMMERCE AND INDUSTRY OF WA

1115. Hon J.A. SCOTT to the Minister for the Environment:

(1) Has the Government or the Minister been approached by Lyndon Rowe or any other member of the Chamber of Commerce and Industry of Western Australia and asked to reduce the financial impact on developers of any potential polluter pays legislation in Western Australia?

(2) If so, what exactly did he or the chamber of commerce say to the Government or the Minister?

(3) As a result, has the Government agreed to water down the polluter pays aspect of any future legislation?

(4) If yes, will a pollution levy be imposed on the taxpayers of Western Australia instead of on the polluters?

Hon PETER FOSS replied:

(1)-(4) I have great pleasure in answering this question as I did when I last answered on 28 November 1995. I suggest the member refer to question without notice 1019 on Tuesday, 28 November where he will find the answer.

SMOKING - PROHIBITED FROM FOOD PREMISES DISCUSSIONS
Australian Capital Territory Smoke Free Areas Act

1116. Hon P.R. LIGHTFOOT to the Minister representing the Minister for Health:

(1) Is the Minister aware that as of yesterday in the Australian Capital Territory, under its Smoke Free Areas Act 1994, smoking is banned by law in enclosed public dining areas in restaurants, cafes, clubs, fast food outlets and similar premises in Canberra unless an exemption is granted?

(2) Does the Minister intend to introduce similar legislation into Western Australia?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes. The Australian Capital Territory legislation prohibits smoking in all enclosed public places. In particular, restaurants and other places used primarily for the consumption of food or non-alcoholic drinks purchased on the premises must set aside at least 50 per cent of the dining area as non-smoking. After 5 December 1995, restaurants will become 100 per cent non-smoking, or 75 per cent non-smoking if an exemption is obtained under the Act.

(2) As the previous Minister for Health, I commenced a process of public consultation regarding a proposed amendment to the food hygiene regulations that would result in smoking being prohibited in all food premises where food is served at tables. The present Minister for Health

is considering the results of the public consultation process before deciding whether to amend the food hygiene regulations for this purpose. All relevant organisations will be consulted before a final decision is made.

BEENUP MINERAL SANDS PROJECT - DREDGED POND WATER DISCHARGED INTO RIVER SYSTEM STATEMENTS

1117. Hon GRAHAM EDWARDS to the Leader of the House representing the Minister for Resources Development:

I will refresh the memory of the Minister by reminding him of a matter I raised last week about the Beenup sands mining project and his comments that appear in *Hansard* on page 5800 on 27 June when he said that the company did not intend to pump any water from the dredge pond into the river system. Can the Minister now explain his reassurance to the House that this pumping will not occur, in the light of the comment in *The West Australian* from a spokesman of the Broken Hill Proprietary Co Ltd that dredged pond water would be channelled into the river system?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The environmental review and management program for the Beenup project noted that the mining method would be designed to accommodate the rise in the pond level during the winter months and avoid the need to discharge water from the pond. That comes from Lewis Environmental Consultants in 1990. During the debate on the Mineral Sands (Beenup) Agreement Bill in June this year, BHP Titanium Minerals Pty Ltd, then known as Mineral Deposits Pty Ltd, confirmed to the Department of Resources Development that the company did not intend to discharge excess dredge pond water from the mining area into the local drainage system. My statement to the House on 27 June was correct.

On 28 October 1995 the Environmental Protection Authority advertised a proposal to increase the size of the mining area at Beenup, reflecting the results of further ore body evaluation since the ERMP was released. I am advised that there is greater variability in topography in parts of the extended mining area than the original smaller mining area. BHP has stated in its proposal document that when mining traverses these steeper areas the pond water level may need to be controlled to avoid any overflow from the down slope end of the pond. Any such discharge would be via existing channels to the Scott or Blackwood Rivers.

BHP has committed to ensuring there are no releases of turbid water from the site, and any discharge is limited to that required to prevent uncontrolled dredge pond overflow. During periods of discharge, if any, the released waters will be monitored daily and there will be increased monitoring of the receiving waters - that is, the Scott or Blackwood Rivers - in addition to the routine surface water monitoring program that the company is required to undertake according to its environmental approval. The member should also note that the EPA has yet to publish its report and recommendations on the proposal by BHP to increase the size of the mining area at Beenup.

HOSPITALS - BUNBURY REGIONAL
Capital Works Expenditure

1118. Hon DOUG WENN to the Minister representing the Minister for Health:

Can the Minister provide a breakdown of the $976 449 spent to date on capital works for the Bunbury Regional Hospital?

Hon PETER FOSS replied:

I thank the member for some notice of this question. Essentially, expenditure has been in the following areas: The amount of $335 000 has been for costs incurred for the project director and project coordinator, plus legal and financial services;

$572 000 for forward purchases of theatre equipment and essential repairs on items that can be transferred to the new facility; $80 000 for payments made for salaries relating to the project executive officer and associated staff; and $9 449 for miscellaneous expenditure, for example, surveying and rezoning costs.

INDUSTRY PARTNERSHIP GROUPS - MEMBERS, SELECTION CRITERIA

1119. Hon KIM CHANCE to the Minister representing the Minister for Primary Industry:

(1) Why have the criteria for the selection of members of the new industry partnership groups been drafted in such a manner so as to exclude direct representation from primary industry organisations?

(2) In the absence of some level of direct representation, by what means will the Minister ensure that, firstly, action taken by the producer members of the groups will be both visible and accountable to producers and producer organisations; secondly, appointees will be, and will be seen to be, independent of ministerial and government influence and patronage; and, thirdly, the groups can be seen to be independent and not simply an arm of government policy and implementation, as a former Court Government attempted to do with the rural and allied industries conference during the 1970s?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(2) No-one is excluded from being represented on the industry partnership groups, and the best people will be selected when the process is completed.

FOOTROT - OUTBREAK IN SWAN VALLEY AND MID-WEST REGIONS INQUIRY

1120. Hon KIM CHANCE to the Minister representing the Minister for Primary Industry:

(1) Has the Minister received a report from the CIB fraud squad dated 20 April 1995 dealing with a footrot outbreak on properties in the Swan Valley and mid-west regions?

(2) Does the report indicate that -

(a) persons concerned with the outbreak were aware of the footrot as early as 1989 but failed to report it as required by the law;

(b) the conduct and attitude of several departmental officers gave rise to concerns that the outbreak could have been avoided, its impact contained and offences successfully investigated had departmental staff done their job;

(c) inspection of imported sheep and follow-up treatment visits were not conducted as required;

(d) the cause of infection of sheep and goats on the property of a Serpentine veterinarian were not properly investigated;

(e) no action was taken on a report by stock inspector, Ian Vigar, on 8 October 1990 that he had seen evidence of covert footrot treatment on a mid-west property;

(f) anonymous reports of footrot infection at a Dongara property were not investigated;

(g) further investigation is required into the reasons for the deficient investigation that took place?

(3) If so, will the Minister confirm that -

(i) stock inspector Ian Vigar has been unfairly dealt with as a result of his rigorous and professional conduct in drawing attention to the existence of the outbreak;

(ii) Agriculture Western Australia was deficient in its handling of the outbreak; and

(iii) a case exists for compensation for damages caused to affected farmers as a result of the department's handling of the outbreak?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. It is important to note first that I have been aware of this issue since it was first brought to the attention of the Minister for Primary Industry because I was present at that time when persons came forward with their concerns. I was very supportive of the Minister's initiative in establishing an inquiry into the allegations. As everyone knows, like the apple scab issue, this took place prior to this Government's election. It arose during a previous administration. Members should appreciate that the Minister for Primary Industry and other members of this Government were not aware of the background to the issue. Therefore we were at a disadvantage.

This is a significantly emotional issue for a number of people. The Minister for Primary Industry has always put this issue in the hands of investigators who were qualified to deal with it. He considers the allegations to be serious. Considerable emotional stress is being suffered by a number of individuals. The Minister is trying to deal with a complex issue and does not want to see a tragic outcome as a result of public discussion about the issues that he is attempting to resolve.

The following are the specific answers to the questions -

(1) Yes. Although the report was signed by Detective Sergeant H.J. Lok of the CIB fraud squad, it was prepared as a result of investigations by the CIB stock squad. The report contains a number of errors and misrepresentations that have been drawn to the attention of the Commissioner of Police by the Chief Executive Officer of Agriculture Western Australia.

(2) (a) The police and Agriculture WA carried out extensive investigations to determine whether the persons concerned with the outbreak were aware of footrot prior to its being reported in July 1991. The action by the Director of Public Prosecutions not to proceed with charges indicates that he was unable to prove that persons concerned were aware of the footrot before July 1991.

(b) No.

(c) All procedures were carried out correctly on importation into Western Australia. Follow-up inspections may not have occurred. The department is still investigating this issue.

(d) There are two potential sources of infection. One was investigated. It is not possible to confirm that the other was investigated because the officer concerned was seriously injured in a vehicle accident and is not able to communicate. In fact the person is in a coma.

(e) The police report contains the view of Stock Inspector Vigar. This view is contested by the regional veterinary officer. He requested that Stock Inspector Vigar visit the Grange and carry out an inspection for footrot. Apparently, no physical inspection of sheep was carried out at that time. In the absence of a formal report by Vigar, the regional veterinary officer assumed an inspection had occurred and found no symptoms. The contradictions of this matter are being investigated.

(f) Anonymous reports of footrot were investigated in October 1990 by Stock Inspector Vigar and in March 1991 by Regional Veterinary Officer Collopy. No disease was found on either occasion.

(g) As indicated in (2)(b) Astrik Pty Ltd was subjected to close scrutiny and a number of inspections were undertaken. It is emphasised that under the Stock Diseases (Regulations) Act it is the responsibility of stock owners to report any suspicion of footrot. It is being implied that Agriculture WA is responsible for detecting the disease. In fact, as Hon Kim Chance knows, the onus is on stock owners to report it.

(3) As stated in (2)(b) the general manager and the company veterinary surgeon signed statutory declarations on 2 October 1990 stating that sheep on four properties, Ergton, Mt Horner, Georgina and the Grange had not shown clinical evidence of footrot and no sheep had been vaccinated for footrot at any time. Inspections carried out between September 1989 and July 1991 failed to show the disease and an exhaustive investigation by the police over a number of years failed to find evidence that the DPP was prepared to prosecute the owners for having any knowledge of the disease prior to July 1991.

(i) I am advised by the chief executive officer of Agriculture WA that Ian Vigar has not been unfairly dealt with. He did not identify footrot on Astrik properties.

(ii) Agriculture Western Australia has responded in line with its responsibilities.

(iii) Agriculture Western Australia has responded in line with its responsibilities on this question also. It must be emphasised that under the Stock Diseases (Regulations) Act it is the responsibility of stock owners to report any suspicion of footrot.

HOSPITALS - WANNEROO
Privatisation

1121. Hon GRAHAM EDWARDS to the Minister representing the Minister for Health:

(1) Have the contracts for the privatisation of the Wanneroo Hospital been signed?

(2) If yes; when will Health Care of Australia take over the running of the hospital?

(3) What employment offer will be made to existing staff at the hospital?

(4) What are the terms and conditions of Health Care Australia's management of the hospital?

Hon PETER FOSS replied:

(1)-(4) No contracts have been signed regarding the private sector involvement with Wanneroo Hospital.

WILDLIFE CONSERVATION ACT - REPLACED WITH NEW LEGISLATION

1122. Hon J.A. COWDELL to the Minister for the Environment:

(1) Will the Government be introducing amendments to the Wildlife Conservation Act?

(2) If yes, when will these amendments be introduced?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Government will be considering replacement of the Wildlife Conservation Act 1950 with new legislation.

(2) A time frame for the introduction of new wildlife conservation legislation has not been determined.

TRANSPORT, DEPARTMENT OF - NATIONAL HEAVY HAULAGE VEHICLE LICENCE CHARGES

1123. Hon W.N. STRETCH to the Minister for Transport:

(1) What are the anticipated effects of the national uniform road user charges on -

(a) the registration costs of primary producer's own trucks; and

(b) on the livestock and general contractors carriers' trucks?

(2) What will be the likely impact on freight charges throughout Western Australia on general freight?

Hon E.J. CHARLTON replied:

(1)-(2) The national heavy haulage vehicle licence charges have come as a result of the Prime Minister and all Premiers of Australia signing an agreement as part of the Hilmer competition policy. As a consequence, national vehicle licence charges for vehicles of 4.5 tonnes and above will be implemented across Australia. Western Australia has given a commitment to the other States that those charges will be introduced by 1 July 1996. We are now attempting to introduce those charges in Western Australia in a way which will have the least impact on the transport industry. These licence charges will address the inequality in licence charges between the States, so it is obvious that Western Australia will have to apply those new charges to interstate heavy haulage operations. The effect on heavy haulage licence fees at the top end bracket - that is, triple road trains - will be approximately an additional $8m. There will be no increase for the average size vehicle used by primary producers - that is, single axle and tandem axle vehicles - because it is intended that the concessions that apply currently to primary producers and to stock trailers will remain. We are reviewing how we can reduce the impact at the top end, because obviously it will have a detrimental effect on freight rates for consumers, and we will need to make other changes to the current licence charges in order to try to balance out the overall effect. To ensure that we do not increase the cost of export commodities, we intend to keep licence charges for primary industry and the stock industry about the same as they are currently, or even less.

NATIVE FAUNA - TRAPPING LICENCES, QUALIFICATIONS OR CRITERIA

1124. Hon J.A. COWDELL to the Minister for the Environment:

(1) What qualifications and/or criteria do members of the community need in order to obtain a licence to trap native fauna?

(2) Are any other qualifications and/or criteria needed to trap specifically for endangered species native fauna; and, if so, what are they?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Wildlife Conservation Act 1950 and the Wildlife Conservation Regulations provide controls on the taking of fauna from the wild and

provide for a number of licences for the taking of fauna. The Department of Conservation and Land Management is responsible for the administration of the Act and regulations which have as their objective the conservation of native wildlife. The Act and regulations do not prescribe any qualifications and/or criteria which applicants for such a licence must satisfy prior to licences being issued. However, in considering whether to issue a licence to a particular individual, CALM takes into account the qualifications and experience of the applicant, the justification for the trapping and the potential impact of that trapping on the fauna involved and on other wildlife.

(2) As in the case of (1), no specific qualifications and/or criteria are specified in the legislation. However, in the case of endangered species, such licence applicants must demonstrate to the Department of Conservation and Land Management an appropriate level of qualification and competence and provide more detailed justification for trapping.