



FIFTEENTH REPORT

OF THE

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS
AND STATUTES REVISION**

**OVERVIEW OF PETITIONS
March 1995 - March 1996**

Presented by the Hon M D Nixon (Chairman)

**15
September 1996**

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS
AND STATUTES REVISION**

Date first appointed:

21 December 1989

Terms of Reference:

The functions of the Committee are to consider and report on -

- (a) what written laws of the State and spent or obsolete Acts of Parliament might be repealed from time to time;
- (b) what amendments of a technical or drafting nature might be made to the Statute book;
- (c) the form and availability of written laws and their publication;
- (d) any petition;
- (e) any matter of a constitutional or legal nature referred to it by the House.

A petition stands referred to the Committee after presentation.

Members as at the date of this report:

Hon M D Nixon MLC (Chairman)
Hon A J G MacTiernan MLC
Hon B M Scott MLC

Staff as at the date of this report:

Mr Chris Richards, Advisory/Research Officer
Ms Kelly Campbell, Committee Clerk

Previous reports:

See Appendix I

Address:

Parliament House, Perth WA 6000, Telephone (09) 222 7222

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OVERVIEW OF PETITIONS

March 1995 - March 1996

1. INTRODUCTION

This Report provides an overview of the petitions considered by the Legislative Council Standing Committee on Constitutional Affairs and Statutes Revision ("Committee") during the Third Session of the Thirty-Fourth Parliament of Western Australia from March 1995 to December 1995.

The Report includes a summary of each petition, a description of the action taken and notes any action outstanding at the date of the Report or any recommendations arising from the Committee's deliberations.

During this session, the Committee was referred a total of sixty-seven (67) petitions ranging over thirty-six (36) different topics. The Committee was again encouraged by the fact that the petitions were representative of a very wide spectrum of concerns in the community. These ranged from urban planning and environmental concerns to issues of great social and historical importance to Western Australia.

The Committee continues to believe that it is essential for the Parliament to provide a mechanism for members of the community to seek redress or explanation of their concerns, particularly those which relate to the administrative actions of government. The presentation of petitions constitutes a mechanism by which members of the public may directly address Parliament. The Committee therefore is able to perform a limited role in reviewing the actions of the executive.

The Committee's object in reviewing these petitions is to foster public discussion on matters of community interest. It allows interested people or groups to express their views and have them considered in a bipartisan forum. Furthermore, Western Australia is the only Australian state with a Parliamentary Committee dedicated to the review of petitions.

The Committee notes, however, that the Parliamentary forum must be regarded as the avenue of last resort for the resolution of such concerns. To this effect, Standing Order 133(c)(vii) of the Legislative Council states

A petition shall not seek relief or a declaration in circumstances where the matter is justiciable and legal remedies available to the petitioner have not been exhausted.

The Committee notes that at least two (2) of the petitions tabled during the session were in breach of Standing Order 133(c)(vii) and cautions Members to be mindful of the Standing Orders when tabling petitions.

There has been a marked increase in the number of petitions over the last two years from

eleven (11) in 1993 and twenty-six (26) in 1994 to sixty-seven (67) in the current session. While the Committee considers this increase a testament to the high public regard for the petition process, it has also forced the Committee to re-assess the method by which petitions are investigated. As a result, it is intended that, in future, the Committee will report more regularly and, where appropriate, with less detailed reports. It is hoped that this method will allow the Committee to deal with a greater number of petitions during each session

2. OVERVIEW OF PETITIONS

2.1 KARRATHA SENIOR HIGH SCHOOL

A petition (#*TP215*) was tabled by Hon Norman Moore MLC on 28 March 1995 requesting the Legislative Council effect a resolution of the dispute between the Teacher's Union and the State Government in the interests of the students of Karratha Senior High School, particularly in relation to their extra-curricular activities.

The Committee sought written submissions on the petition from:

- i.) the principal petitioner; and
- ii.) the Minister for Education.

The Committee resolved not to proceed with consideration of the petition on the basis that:

1. the matter was still being negotiated between the Teacher's Union and the State Government;
2. deliberations in the Industrial Relations Commission (WA) were still continuing; and
3. the Committee was not convinced that they could make a significant contribution to the resolution of the very complex issues raised in the petition.

The Committee has therefore resolved to take no further action in relation to this petition and has written to the principal petitioner to this effect.

2.2 SEAGRASS MEADOWS

A petition (#*TP216*) was tabled by Hon Barbara Scott MLC on 28 March 1995 opposing any further loss of seagrass meadows in the Cockburn Sound/ Owen Anchorage area of the metropolitan waters and imploring the State Government to fulfil its obligations to environmental protection by prohibiting any further activities which cause the loss of seagrass meadows.

The Committee notes that this petition was first referred to the Committee on 1 December 1994 during the Second Session of the current Parliament. At that time, the Committee requested submissions from:

- i.) the principal petitioner;

- ii.) the Minister for the Environment ; and
- iii.) Hon Barbara Scott MLC.

Subsequent to the petition being re-tabled in Parliament, the Committee gave further consideration to the petition and resolved to determine the availability of funding to engage a research consultant to undertake an expert analysis of the claims made in the petition.

However, during this process, the Committee became aware that a number of specialist government agencies were already undertaking specific research into this matter. Accordingly, given the number of other petitions demanding the Committee's attention, it was resolved that no further action would be taken in relation to this petition.

2.3 STATE SCHOOL TEACHERS - INDUSTRIAL DISPUTE

A total of seven (7) petitions (#*TP's 23, 228, 249, 296, 399, 438 and 536*) were tabled by Hon John Halden MLC on 23 and 30 March, 6 April, 2 May, 13 and 27 June and 23 August 1995 calling on the Minister for Education to resolve the industrial dispute with the State School Teachers Union.

The Committee requested submissions from:

- i.) the principal petitioner;
- ii.) the Minister for Education; and
- iii.) Hon John Halden MLC.

Upon receipt of advice from the Education Minister that formal discussions on enterprise bargaining with the State School Teachers' Union and other related unions were to begin in March 1995, the Committee resolved not to proceed with consideration of the petition for the time being so as not to prejudice the ongoing negotiations between the Union and the State Government.

2.4 PHYSIOTHERAPIST'S BILL 1994

A petition (#*TP 250*) was tabled by Hon John Cowdell MLC on 6 April 1995 requesting that amendments be made to the *Physiotherapists Bill 1994* in relation to the position and status of masseurs and legality of massage under the proposed legislation.

The Committee requested submissions from:

- i.) the principal petitioner;
- ii.) the Minister for Health; and
- iii.) Hon John Cowdell MLC.

In response to the petitioners' claims that the *Physiotherapists Bill 1994* ("Bill") would outlaw therapeutic massage unless it was performed by a physiotherapist, the Acting Minister for Health replied that the Bill was one of nine health registration Bills being currently

amended. The primary purpose of these amendments is to provide for uniform internal administration of health registration professionals and to update disciplinary provisions.

The Committee has written to the current Minister for Health seeking clarification of his intentions with regard to this Bill and is continuing its investigations in regard to this petition.

2.5 SWAN VALLEY AND WHITEMAN PARK

A petition (#*TP251*) was tabled by Hon Reg Davies on 6 April 1995 opposing the urbanisation of the Swan Valley and Whiteman Park and requesting the Legislative Council ensure that the boundaries of the proposed Swan Valley legislated area be extended westwards to include Whiteman Park and Bennet Brook and also include the Caversham Air Base in the core of the Swan Valley Policy area B.

The Committee notes that this petition was first referred to the Committee on 29 November 1994 during the Second Session of the current Parliament. At that time, the Committee requested submissions from:

- i.) the principal petitioner;
- ii.) the Ministers for Environment and Planning;
- iii.) Hon Reg Davies MLC.

Subsequent to the petition being re-tabled in Parliament, the Committee gave further consideration to the petition, including taking oral submissions from:

- a. Mr Rob Henderson, the principal petitioner;
- b. Mr Bill Slater, a local resident and equestrian trainer;
- c. Mr Lex Barnett, Property Consultant;
- d. Mr Richard Elliott, a representative of Homeswest;
- e. Mr Paul Trichilo, a representative of Main Roads (Western Australia);
- f. Mr Marco Peter Martinovich, a representative of the Department of Transport; and
- g. Messrs Brett Hughes and Tim Auret of the Ministry for Planning.

The Committee also received a number of written submissions from local residents and lobby groups from the Swan Valley and surrounding areas. Lastly, the Committee undertook an extensive personal study of the areas the subject of the petition.

The Committee's findings were outlined in the Twelfth Report.

2.6 METROPOLITAN REGION SCHEME 950/33

A petition (#*TP 252*) was tabled by Hon Reg Davies on 6 April 1995 opposing the MRS 950/33 "due to the unacceptable risks to the natural environment and Perth's groundwater supply and the negative impacts on important heritage areas and existing communities" and requesting that the Legislative Council disallow the major amendment to the Metropolitan Regional Scheme 950/33.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Ministers for Environment and Planning;
- iii.) Hon Reg Davies MLC.

MRS Amendment 950/33 was assented to on 14 December 1994 and incorporated an extension of Lord street north of, and connecting with, the Reid Highway. This extension, referred to as the Perth-Darwin Highway, will be situated slightly within the eastern boundary of Whiteman Park south of Park Street and, in order to accommodate a bridge crossing Gngangara Road, will veer a further three hundred metres into Whiteman park north of Park Street.

Given that the subject matter of this petition was so similar to the Swan Valley and Whiteman Park petition (see section 2.5 above) and that both petitions share the same principal petitioner, the Committee resolved to consider MRS Amendment 950/33 as part of the Swan Valley petition.

Accordingly, the Committee's findings were outlined in the Twelfth Report.

2.7 COMPULSORY CONNECTION TO THE SEWERAGE SYSTEM

A petition (*#TP 259*) was tabled by Hon John Halden on 11 April 1995 requesting the Legislative Council to ensure that connection to the sewerage system not be made compulsory and that an annual fee not be payable if one is not so connected. The principal petitioner also raised the following concerns:

- a. compulsory connection is an infringement of individual rights unless it can be shown that the continued use of septic tanks is harmful to the welfare of other citizens;
- b. the Water Authority has not presented scientific evidence that septic tanks are a serious cause of pollution to Perth's groundwater and to the Swan-Canning river system.

The Committee notes that this petition was first referred to the Committee on 1 December 1994 during the Second Session of the current Parliament. At that time, the Committee requested submissions from:

- i.) the principal petitioner;
- ii.) the Ministers for Works and Services and the Minister for Water Resources;
- iii.) Hon John Halden MLC.

A submission from the Hon John Halden MLC notes that the option of self-composting toilets is not sanctioned by the Government, and that the location of the petitioners' dwellings high above the water table reduces the likelihood of pollution.

The response from the Minister for Water Resources, indicating his support for the scheme, has been forwarded to the principal petitioner, who has subsequently responded, challenging

the benefits cited by the Minister.

The Committee also engaged the services of a team of expert research consultants to undertake an expert analysis of the claims made in the petition, particularly in relation to the use of alternative systems other than reticulated sewerage and septic tanks.

Subsequent to the petition being re-tabled in Parliament, the Committee gave further consideration to the petition and its findings were outlined in the Thirteenth Report.

2.8 YAKAMIA PRIMARY SCHOOL

Two petitions (*#TP's 269 and 612*) were tabled by Hon Bob Thomas MLC on 20 June 1995 regarding the overcrowding of Yakamia Primary School and requesting the provision of further capital works at the school to cater for its increasing student population.

Submissions were requested and received from

- i.) the principal petitioner;
- ii.) the Minister for Education; and
- iii.) Hon Bob Thomas MLC.

The Education Minister advised the Committee that, while he was aware of the problems at Yakamia Primary School, the need to upgrade the facilities had been rated a medium to high priority. The Minister further advised that the school's requirements will receive due consideration in relation to the needs of other schools when the future Education Budget is prepared.

Due to the need to prioritise its deliberations, the Committee resolved not to proceed with consideration of the petition. The Committee was also of the opinion that it was extremely difficult to make an isolated determination in relation to the allocation of education resources without considering the competing demands for additional resources at other schools.

Thus, the Committee resolved to take no further action in relation to this petition and has written to the principal petitioner to this effect.

2.9 HESTER STATE FOREST

A petition (*#TP 321*) was tabled by Hon Jim Scott on 9 May 1995 regarding logging of the Hester State Forest.

Submissions were requested and received from

- i.) Bridgetown-Greenbushes Friends of the Forest, the principal petitioner;
- ii.) the Minister for the Environment;
- iii.) Hon Jim Scott MLC; and
- iv.) Jean Wheatley and Rosamund Courtauld, both residents of Bridgetown.

The Committee also reviewed a number of documents relevant to the current Conservation and Land Management Forest Management Plan and has met the principal petitioner and with representatives from CALM.

Detailed submissions from Hon Jim Scott and the Bridgetown Greenbushes Friends of the Forest raised the following concerns:

- a. Hester State Forest is a small forest encompassing 4000ha to the north and east of Bridgetown and forms part of its "green belt";
- b. increasing salinity in the Hester catchment;
- c. two blocks of the forest have been proposed as Conservation Parks: 780ha to the east and 1080ha to the west;
- d. a general lack of local community consultation;
- e. in 1992, an appeals committee report appointed by the then Minister for the Environment, Hon Jim McGinty, recommended that Hester State Forest become a Conservation Park or be logged on a 300 year rotation;
- f. Hester will be logged by "heavy selection cut method" commencing in 1995.

A submission from the Minister for the Environment has advised that the decision-making process regarding logging in Hester State Forest has been consistent with statutory requirements. This included public consultation and examination of appeals to the draft management plan by an appeals committee. The current Forest Management Plan has subsequently included the further reservation of the eastern block of the forest as a Conservation Park in recognition of points raised by the Bridgetown community.

The Committee had intended to conduct a public forum in Bridgetown in April 1995 to discuss the issues raised in the petition. In fact, the Committee had engaged the services of a professional facilitator to ensure that this forum was a meaningful process. However, shortly before the forum was due to commence, the representatives of the forest industries and the Department of Conservation and Land Management ("CALM") withdrew from the proceedings, forcing the Committee to cancel the public forum. In its place, the Committee then conducted a number of private hearings in Bridgetown early in April 1995 to discuss the issues raised in the petition.

Logging of Hester 0703 commenced on 23 November 1994 and the principal petitioner obtained an interim injunction to stop this operation. CALM gave an undertaking not to log in that area until the case had been heard in the Supreme Court.

This matter is still presently before the Supreme Court and therefore, pursuant to Standing Order 133(c)(vii), the Committee is unable to proceed with any investigation of this petition.

2.10 PORT KENNEDY DEVELOPMENT

A petition (#TP302) tabled by Hon Jim Scott on 3 May 1995 requesting that no housing be allowed on the land within the Port Kennedy Development area.

The Committee notes that this petition was first referred to the Committee on 12 May 1994 during the Second Session of the current Parliament. At that time, the Committee requested

submissions from:

- i.) the principal petitioner;
- ii.) the Minister for Planning;
- iii.) Hon Jim Scott MLC.

Subsequent to the petition being re-tabled in Parliament, the Committee gave further consideration to the petition, including taking oral submissions from:

- a. the principal petitioner;
- b. representatives from Fleuris Pty Ltd; and
- c. an independent environmental scientist.

The Committee also visited the Port Kennedy development site.

The Committee's findings were outlined in the Tenth Report.

2.11 HAWKE, SHARPE, ROCKY AND GIBLETT BLOCKS

A petition (*#TP303*) was tabled by Hon Jim Scott on 3 May 1995 calling for a halt to logging and prescribed burning in the Hawke, Sharpe, Rocky and Giblett blocks and for further action for the protection of native forests in the south-west of Western Australia.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for the Environment;
- iii.) Hon Jim Scott MLC.

Due to its similarity to the Hester State Forest petition and considerable difficulties faced in making a determination on these matters, the Committee has resolved not to take any action with regard to this petition.

2.12 JANE STATE FOREST

Two petitions (*#TP's 304 and 650*) were tabled by Hon Jim Scott on 3 May 1995 and 28 September 1995 respectively requesting the protection of Jane State Forest from any further logging and roading activities.

Submissions were requested and received from

- i.) the principal petitioner;
- ii.) the Minister for the Environment; and
- iii.) Hon Jim Scott MLC.

Due to its similarity to the Hester State Forest petition and considerable difficulties faced in

making a determination on these matters, the Committee has resolved not to take any action with regard to this petition.

2.13 COMMONWEALTH GOVERNMENT'S WOODCHIP MORATORIUM

A petition (*#TP305*) was tabled by Hon Jim Scott on 3 May 1995 requesting the prohibition of all road construction and logging in forests which are the subject of the Commonwealth Government's woodchip Moratorium.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for the Environment;
- iii.) Hon Jim Scott MLC.

Due to its similarity to the Hester State Forest petition and considerable difficulties faced in making a determination on these matters, the Committee has resolved not to take any action with regard to this petition.

2.14 PORT KENNEDY LAND CONSERVATION DISTRICT COMMITTEE

A petition (*#TP 319*) was tabled by Hon Jim Scott on 9 May 1995 requesting that the Legislative Council reaffirm the assurances given in the Council indicating that the Port Kennedy Land Conservation District Committee would be able to use its existing premises until new premises were provided as part of the development, and that the equipment seized under the Port Kennedy Development Act be returned or compensation made.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Planning;
- iii.) Hon Jim Scott MLC.

The Minister for Planning has advised the Committee that the Port Kennedy Management Board is unaware of any arrangement between Fleuris and the LCDC regarding permanent on-site accommodation. The Minister's letter has been forwarded to the petitioner for comment.

The Committee is continuing its investigations into this matter.

2.15 NORANDA PRIMARY SCHOOL

A petition (*#TP320*) was tabled by Hon Derrick Tomlinson MLC on 9 May 1995 requesting the replacement of the asbestos roofs and the repair of other related maintenance problems at Noranda Primary School.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Education;
- iii.) Hon Derrick Tomlinson MLC.

The Committee was advised by the principal petitioner that the related maintenance problems at the school consisted of drainpipes which were not directly connected to the stormwater outlet, run-off water from the asbestos roof being discharged directly onto playgrounds and walkways, a leak in the staffroom and ineffective roof ventilators due to surface rust and sediment build-up.

An initial response from the Education Minister undertook that:

1. the roofs at Noranda Primary School were not classified as priority candidates for the asbestos-cement roof replacement program;
2. the District Education Office had undertaken to connect all drainpipes at the School premises directly to the stormwater outlet during the 1995/96 Christmas holiday period;
3. the roof ventilators at the School were inspected on 25 October 1994 and assessed as functioning adequately, with replacement not due until the 1996/1997 financial year;
4. the Education Department offered to have a scientific measurement of the levels of fibres in and around the classrooms undertaken by an independent private laboratory and that this offer was refused by the Noranda Primary School Parents & Citizens Association ("the petitioners"); and
5. that the leak in the staff room was fixed early in 1995.

A subsequent submission from the Noranda Primary School Parents and Citizens Association ("P&C") noted that some of the maintenance foreshadowed by the previous Minister in his letter of 23 November 1995 has not been completed. Specifically, it has been alleged that:

- a. not all drainpipes have been connected to the stormwater outlet and that five (5) drainpipes from asbestos roofs remain open to the playground and represent a health hazard;
- b. the leak in the staffroom roof has not been fixed; and
- c. that the offer of an independent test was not refused by the petitioners as such, but that they required the testing be performed on visual assessment according to the standards set down by the Environmental Services Branch of the Building Management Authority as opposed to purely an air-monitoring basis.

The petitioners have also brought the Committee's attention to the existence of two small verandahs at either end of the Middle and Senior classroom blocks which have asbestos

sheeting and no guttering or downpipes. The water run-off from these areas is discharged onto concrete walkways and gardens. Both are heavy traffic areas used by students and staff. The petitioners claim that these areas have never been included in the asbestos assessments performed on the School and constitute a serious hazard to the health of students and staff.

The Committee asked the Minister for Education to re-examine the claims made by the P&C and have been advised that a number of the repairs previously requested by the Committee were carried out. These repairs included connection of all remaining drainpipes to the stormwater outlet and the removal of asbestos verandahs at either end of the Middle and Senior classrooms. The faulty rotating roof ventilators, which are often affected by the seasonal intrusion of twigs, leaves and rain, are scheduled for replacement in the 1996/96 financial year.

While the Committee acknowledges that the presence of asbestos fibres has not conclusively been proven to present a health risk, the Committee does recognise that the members of the school community do appear genuinely concerned.

However, the Committee is satisfied that their intercession has resulted in the repair of almost all of the maintenance concerns at the school. The remaining issue of the replacement of the asbestos roof is a complex issue involving the consideration of competing priorities for school resources.

The Committee has therefore resolved not to proceed with any further consideration of this petition.

2.16 AFFIRMATIVE ACTION IN ALL LOCAL GOVERNMENTS

A petition (#TP375) was tabled by Hon Jim Scott MLC on 24 May 1995 requesting that affirmative action be effected in all local governments in Western Australia, in order that women are represented as councillors and citizens in each Council ward.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Local Government; and
- iii.) Hon Jim Scott MLC.

The Committee believes that the number of women achieving positions in local government has been steadily increasing in recent years. In particular, the Committee has noted with great pleasure the substantial rise in the number of women taking on the roles of mayor and shire president and believes that, under these circumstances, the need to establish quotas was unnecessary.

The Committee has therefore resolved not to proceed with any consideration of this petition

2.17 BALLAJURA COMMUNITY COLLEGE

A petition (#*TP400*) was tabled by Hon John Halden MLC on 13 June 1995 opposing the imposition of an amenity fee at Ballajura Community College, which is set at \$215 for Year 7 students, when the Education Regulations state that school amenity fees should be \$9.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Education; and
- iii.) Hon John Halden MLC.

The Committee was advised by the Minister that under the discretionary power of Regulation 56 of the Education Act Regulations 1960, the principal of a school may, with the approval of the Director-General of Education, establish the setting of school amenity fees. In the context of Ballajura Community College, Year 7 fees have been established at the same level as Year 8, given that Year 7 students will be taught a curriculum that differs from the Year 7 curriculum taught at primary school. The Minister also confirmed that parents of Year 7 students at Ballajura Community College will have access to the Secondary Assistance Scheme under the same conditions as other secondary students.

The Committee has resolved to take no further action regarding the petition and has advised the petitioner to this effect.

2.18 PARROT REDUCTION PROGRAM

A petition (#*TP411*) was tabled by Hon Bill Stretch MLC on 15 June 1995 requesting that a parrot reduction program be immediately instigated to protect the native Blackboy (*Xanthorrhoea Preissi*).

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for the Environment; and
- iii.) Hon Bill Stretch MLC.

The Minister for the Environment advised the Committee that, while Port Lincoln Ring-necked parrots can have an adverse impact on individual Blackboys *Xanthorrhoea preissi*, particularly in bush remnants, there was no justification for the adoption of a broad-based parrot reduction program by poisoning. The Minister also noted that such a program could have a disastrous affect on non-target bird species and would not necessarily have any long-term impact on populations of target species.

The Minister also dismissed the threat of extinction for the Blackboys, given that they are broadly distributed from Geraldton to the south coast of Western Australia and the parrots generally have little impact in larger forest areas and the most western areas of the Blackboy's range.

The Committee was also advised that practical alternatives, such as the use of protective

mesh capping over vulnerable trees is being trialed under research programs, are to be trialed in the Boyup Brook and Kojonup areas. The Department of Conservation and Land Management is also currently preparing a leaflet for general distribution outlining the problems related to Blackboys and the options currently available to landholders.

The Committee has resolved to take no further action regarding the petition and has advised the petitioner to this effect.

2.19 AGRICULTURAL PRACTICES

A petition (#*TP413*) was tabled by Hon Bob Thomas MLC on 20 June 1995 requesting a review of the laws relating to agricultural practices in order to ensure that modern farming practices are adequately monitored and do not have a detrimental affect on neighbouring properties and roadways.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Primary Industries;
- iii.) Hon Bob Thomas MLC.

While the Committee has great sympathy with the concerns of the petitioners, the petition itself is cast in such wide terms that a vast array of legislation administered by the Department of Conservation and Land Management, Environmental Protection Agency, Department of Agriculture and the Water Authority of Western Australia would need to be reviewed. To review these statutes would, in the Committee's opinion, be beyond the resources of a Parliamentary Committee.

Accordingly, the Committee has resolved to take no further action in relation to this petition.

2.20 SENIOR CITIZENS CENTRE OF MEALS ON WHEELS

A petition (#*TP414*) was tabled by Hon Bob Thomas MLC on 20 June 1995 protesting against the State Government's decision to charge the Senior Citizens Centre of Meals on Wheels Albany Inc. a sum of one hundred thousand (\$100,000) for the current WA Dental Clinic premises in Grey Street West, Albany.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Seniors;
- iii.) the Minister for Health; and
- iv.) Hon Bob Thomas MLC.

However, prior to the Committee commencing substantive deliberations on the issues raised in the petition, the matter was amicably resolved to the mutual satisfaction of all parties

concerned.

The Committee therefore took no further action on this petition.

2.21 PROPOSED DEVELOPMENT ON 17/19 COPE STREET, MIDVALE

A petition (#*TP415*) was tabled by Hon Nick Griffiths MLC opposing the proposed Homeswest development at Cope Street, Midvale.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Housing;
- iii.) Hon Nick Griffiths MLC.

The Committee was advised by the Minister that, contrary to some perceptions, the complex would not be a "hostel type" property. The proposal was to construct five, two bedroom units and is comparable to other private and public residential developments in the area. Also, Minister advised that Swan Shire Council was yet to approve the development.

Given that the planning procedure has not been fully completed, the Committee resolved to take no further action in relation to this petition.

2.22 DAWESVILLE CHANNEL

A petition (#*TP458*) was tabled by Hon John Cowdell MLC on 29 June 1995 regarding the Dawesville Channel Project. The petitioners claimed that local residents had been repeatedly assured that no inconvenience would be occasioned by the dewatering of the Project. However, since the inception of the Project local residents faced a widespread inability to obtain potable water. The petitioners claim that compensation must be paid and continue to be paid until such time as potable water is obtainable. The petitioners also claim recompense for pumping equipment affected by inactivity and/or salinity.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Environment
- iii.) the Minister for Transport; and
- iii.) Hon John Cowdell MLC.

The Minister for Transport advised the Committee that during construction of the Dawesville Channel, dewatering to facilitate dry excavation of the channel basin resulted in a lowering of the local water-table. It also had a significant effect on the quantity and quality of the 'fresh' groundwater lenses in the surrounding residential areas of Falcon, Wannannup and Dawesville. Many residents with bores in these areas who used groundwater for washing or garden reticulation either lost their supply completely or alternatively found that the borewater was salty and unsuitable for use.

While the Minister advised that a resident with a bore does not have a right to groundwater, residents affected by either a loss of water in their bore or water of a quality unsuitable for reticulation purposes have received reimbursement for any reasonable "excess" water charges incurred as a result of the dewatering operations. It was intended that such payments would cease in October 1995.

However, given the dissatisfaction of the local residents and the continuing high salinity in the local groundwater, the Minister for Transport has suggested that, as a gesture of goodwill, the Government was prepared to continue the refund program for one more year.

Claims by residents for malfunction of pumping equipment and/or borehole apparatus have not been accepted since it is difficult to establish a basis for genuine claims.

The Committee has resolved to take no further action in relation to this petition.

2.23 WARDS OF THE STATE

A petition (#*TP459*) was tabled by Hon Alannah MacTiernan MLC on 29 June 1995 requesting that a Parliamentary inquiry be established to examine whether the State of Western Australia adequately discharged its obligation to those Wards of the State who were placed in the various residential institutions between 1930 and 1970 and who have alleged that they were subjected to physical, psychological and sexual abuse by those persons involved in the management of those institutions."

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Community Development; and
- iii.) Hon Alannah MacTiernan MLC.

The widespread use of child migration from the United Kingdom to the less populated areas of the Empire (and later the Commonwealth) was a feature of British social policy since the early seventeenth century. It involved sending the child migrants, who were usually illegitimate, poor or abandoned, from the orphanages of the United Kingdom to institutions or work placement in the colonies and Dominions of the Commonwealth. It was in 1618 that the first group of orphaned and destitute children arrived in Richmond, Virginia and only as recently as 1967 that the last group of ninety children left Southampton for Australia.

Assisted migration, suspended during World War II, was resumed in 1947 with great vigour. Encouraged by Australia's vigorous migration policy, several voluntary societies, most of whom were already providing residential care for Australian children, interested themselves in the reception of unaccompanied children from the United Kingdom. In particular, the Roman Catholic teaching Order of Christian Brothers adapted their residential establishments in Western Australia to receive boys from Roman Catholic institutions in the United Kingdom.

The Committee's object in inquiring into this petition was not to judge the performance of

these agencies, but to investigate whether the State Government adequately performed its obligations to these children under the *Commonwealth Immigration (Guardianship of Children) Act 1946*, the *Empire Settlement Act 1922 (U.K.)* and the *Child Welfare Act 1947*.

Under this legislative umbrella, the Commonwealth Minister of Immigration became the guardian to every child migrant who arrived in Australia unaccompanied by a parent or relative. The Commonwealth Minister delegated his powers and functions to an officer of the appropriate department in each State. In Western Australia, the appropriate officer was the Director of the Child Welfare Department. In addition to having the usual powers of a guardian, the officer so designated is responsible for seeing that the arrangements made for a child's accommodation and for his placing in employment, and subsequent welfare up to age twenty-one, are satisfactory.

The Committee noted that two sets of civil proceedings had been commenced in Australian courts:

1. In Victoria, two ex-wards from Western Australia sued the Christian Brothers Order for personal injury as a result of sexual abuse. They did not, however, sue the State of Western Australia or any State Government agency. Those proceedings were subsequently transferred to Western Australia as the most appropriate forum. However, on 1 November 1994 the WA Supreme Court ruled that the *Limitation Act 1935 (WA)* applied with the consequences that the proceedings could not be maintained. The High Court refused leave to appeal.
2. Multiple proceedings were also commenced in New South Wales where approximately two hundred and forty (240) plaintiffs sought leave to sue the Christian Brothers, the Commonwealth of Australia and the State of Western Australia. The plaintiffs subsequently withdrew nearly all actions against Western Australia and the Commonwealth. Of the actions currently proceeding in New South Wales, only five make claims against Western Australia. The Committee has been advised that four of those proceedings do not make any allegations concerning events in Western Australia and there appears to have been a mistake in joining Western Australia as a defendant. The fifth proceeding appears to have mistakenly not been discontinued.

The Committee examined the benefits and disadvantages of holding a judicial inquiry. Certainly, there were many benefits in holding such an inquiry, particularly to ex-wards who were not believed when they reported their abuse as a child or even as an adult. It was felt that a Parliamentary or judicial inquiry may provide vindication and a sense of closure.

In view of the fact that the Legislative Assembly has established a Select Committee on Child Migration Schemes which largely covers the subject matter raised in this petition, the Committee resolved not to proceed with any further consideration of this petition.

2.24 SCHOOL AGE ENTRY

A total of three petitions (#TP's 537, 610, and 696) were tabled by Hon John Halden MLC on 23 August 1995, 19 September 1995 and 17 October 1995 and one petition (#TP 611) was tabled by Hon Bob Thomas MLC on 19 September 1995 opposing the changes to the school

age entry to be implemented by the year 2000 and requesting the Legislative Council to ask the Minister of education to delay the implementation of the proposal until further consultation with the wider community has occurred.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Education;
- iii.) Hon Bob Thomas MLC; and
- iv.) Hon John Halden MLC.

The original Good Start program, launched in June 1995, included a provision to change the age at which children entered the education system. These changes were to have been in place by 1999. However, the Committee was advised that, in response to concerns voiced by the community regarding a perceived lack of consultation, the Government examined the issues surrounding the introduction of the original Good Start program and in particular the provision to implement a change in the school entry age.

On 19 July 1995, a revised Good Start program was announced, deferring any changes to school age entry. The revised program proposes that, starting in the year 2000, progressive changes to the school entry age will be made. The Committee was advised that, at the time, the implementation of these proposals will not affect any child born before 31 October 1996.

The Committee was also advised that these proposed changes will be outlined in the impending Bill revising the *Education Act 1928* which will be scheduled to be introduced into Parliament later this year. Prior to its introduction to Parliament, the draft Bill will also be given general circulation, allowing for a period of public comment.

The Committee has resolved to take no further action regarding this petition pending the public comment on the Education Bill.

2.25 WA EGG MARKETING BOARD

A petition (#TP538) was tabled by Hon Kim Chance MLC on 23 August 1995 opposing the plan by the Western Australian Egg Marketing Board (Golden Egg Farms) to replace the individually operated egg/egg product delivery system with a system controlled by a prime contractor.

At the commencement of its deliberations, the Committee became aware of an identical investigation being performed by the Standing Committee on Government Agencies. Given that the Western Australian Egg Marketing Board is a "government agency" as defined by Standing Order 310(a)(i) of the Legislative Council Standing Orders, the Committee is of the opinion that the Government Agencies Committee is the more appropriate forum for an investigation of the matters raised in this petition.

Accordingly, the Committee has resolved to take no further action in relation to this petition.

2.26 DEPARTMENT OF COMMUNITY RELATIONS

A petition (#TP577) was tabled by Hon Jim Scott MLC on 6 September 1995 raising concern over the administration of the Department of Family and Children's Services, formerly known as the Department of Community Development ("Department"). In particular, the petitioners expressed misgivings over:

1. the interpretation of the Department's powers under the Child Welfare Act 1947 creating a lack of accountability within the Department;
2. an inability by the Department to be constructively criticised and scrutinised when procedures are wrong;
3. inequity in the treatment of families; and
4. mismanagement of the needs of clients leading to detrimental outcomes.

Submissions have been requested from:

- i.) the principal petitioner;
- ii.) the Minister for Family and Children's Services; and
- iii.) Hon Jim Scott MLC

The Committee has also received a number of additional submissions relating to this petition.

The Committee has received a detailed response from the new Minister for Family and Children's Services. During the next session of Parliament, the Committee intends to recommend that consideration of the matters raised in this petition should, in the event of its establishment, be referred to the Standing Committee on Public Administration.

2.27 REMNANT BUSHLAND AT COOLBELLUP

Three petitions (#TP's 621, 846 and 963) were tabled by Hon Jim Scott MLC on 29 September 1995, 15 and 30 November 1996 respectively opposing the use of remnant bushland on the corner of Stock and Sudlow Roads, near Coolbellup, for urban development.

The petitioners argued that such development would deplete the quality of life of residents, devalue an important educational and scientific resource, threaten valuable flora and fauna and remove a buffer zone for local residents.

Submissions were requested from:

- i.) the principal petitioner;
- ii.) the Minister for Planning; and
- iii.) Hon Jim Scott MLC

The Committee was advised by the Minister for Planning that, after public submissions and hearings on this matter, the Western Australian Planning Commission had resolved that the

proposed re-zoning of the land should proceed. In reaching this decision, the Planning Commission received advice from the Perth Environmental Project that the bushland, though not in good condition, is not regionally significant and its reservation under the Metropolitan Region Scheme would not be warranted.

The Minister's letter was forwarded to the petitioners for comment, who strongly disagreed with the premise that the bushland was not regionally significant.

Unfortunately, due to the limits on the Committee's resources and the fact that there was little scope for compromise between the Government and the petitioners, the Committee resolved to take no further action in regard to this petition.

2.28 KARAWARA REDEVELOPMENT

A petition (#*TP638*) was tabled by Hon Cheryl Davenport MLC on 26 September 1995 protesting the proposed Homeswest/City of South Perth "Preliminary Concept Plan - Karawara Redevelopment" on the following grounds:

1. the proposed demolition of the Karawara Community Hall would result in the Karawara Kats Basketball Club having no local venue for their 7 Junior and 7 senior teams to train;
2. Karawara Community project which includes The Fun Factory, Youth Activity Service, Community Development and a Land Care environment program, all services which assist children and families will cease and workers will be made redundant; and
3. as a result of the cessation of these activities the level of crimes could rise, leading to further escalation of insurance premiums.

Submissions were requested from:

- i.) the principal petitioner; and
- ii.) the Minister for Planning.

The Minister for Planning advised the Committee that the preliminary Concept Plan has not yet been formally considered by the City of South Perth as it is being revised by Homeswest following consultation with community/user groups. The Minister also advised that the revised Concept Plan intends to retain and integrate the Karawara Community Hall and The Fun Factory within the proposed development.

Accordingly, the Committee has resolved to defer any consideration of this petition until the Concept Plan has been revised and considered by the City of South Perth.

2.29 HIGH SPEED CHASES

A petition (#*TP651*) was tabled by Hon Jim Scott MLC on 28 September 1995 opposing the use of high speed chases by the Western Australian Police Service.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Police; and
- iii.) Hon Jim Scott MLC.

The Committee has commenced an investigation into the issues raised by this petition and is currently reviewing the policies of other Police Services throughout Australia in relation to high speed chases.

After further consideration of the petition, the Committee intends outlining its findings in a future Report.

2.30 REGIONAL PARK SOUTH OF GUILDERTON

A total of six separate petitions (*#TP's 831, 869, 889, 1006, 1049 and 1050*) were tabled by Hons John Halden on 4 November 1995, Sam Piantadosi on 21 November 1995, Tom Helm on 23 November 1995, Graham Edwards on 6 December 1995, Ross Lightfoot on 13 December 1995 and Murray Nixon MLC on 13 December 1995 requesting the establishment of a regional park south of Guilderton to protect the mouth and lower reaches of the Moore River.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Planning; and
- iii.) the Minister for the Environment;

Shortly after commencing deliberations on this petition, the Committee was informed by the Shire of Gingin that the Concept Plan for the proposed development at Guilderton had not yet been approved. Once approval has been granted, the Concept Plan will be subject to public consultation and comment.

The Committee has therefore resolved to defer any consideration of this petition until the Concept Plan has been approved and released for public comment.

2.31 LARGE-SCALE URBAN DEVELOPMENT

A petition (*#TP844*) was tabled by Hon Jim Scott MLC on 15 November 1995 expressing concerns that no effective regulations are in place to protect the health, property and quality of life of residents from large scale urban developments.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Planning;
- iii.) the Minister for Housing;
- iv.) the Minister for the Environment; and
- v.) Hon Jim Scott MLC.

Specifically, the petitioners suggested that proper regulations and powers should be put in

place to ensure that residents are immunised from the costs of developments and that the regulations should include:

- i. staggered development of projects over 200 housing blocks;
- ii. minimal clearing of natural vegetation cover, including road verges and reserves, and surveys and protection of flora and fauna;
- iii. embargos on surface disturbance during the driest summer months and regular dust monitoring at the developer's expense during the development phase;
- iv. powers for local government authorities and the Environmental Protection Authority to stop development when regulations are being breached;
- v. greater levels of consultation with affected residents; and
- vi. simpler processes to assess damages and compensation.

The Committee has only very recently received a reply from the Minister for the Environment and is continuing its investigations.

2.32 PORT KENNEDY SCIENTIFIC PARK

Petition (*#TP 845*) tabled by Hon Jim Scott on 15 November 1995 requesting that the Legislative Council do all in its power to establish a Scientific Park at Port Kennedy under its own Act of Parliament.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Planning;
- iii.) Hon Jim Scott MLC.

The Minister for Planning has advised the Committee that the Port Kennedy Management Board currently plans to engage consultants to assist in determining the management and financial arrangements for an A Class Reserve on Stage 2 of the Port Kennedy Development. The Committee understands that a reserve with this classification would be known as a scientific park. The Minister's letter has been forwarded to the petitioner for comment.

The Committee is currently awaiting a response from the petitioner.

2.33 SCHOOL CLEANING SERVICES

A total of eight (8) petitions (*#TP's 854, 855, 918, 961, 962, 1040, and 1053*) were tabled by Hon John Halden, on 16 November 1995 (2), 30 November 1995, 12 December 1995 and 13 December 1995 and by Hon Tom Stephens MLC on 30 November 1995 opposing the Government's plans to privatise the services currently provided by school cleaners employed by the Education Department.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Education;
- iii.) Hon John Halden MLC;
- iv.) Hon Tom Stephens MLC.

The petitioners advised the Committee that they believed that an inevitable consequence of privatisation of these services would be a decline in the standards of cleanliness and presentation. In addition, the petitioners noted that employed cleaners who were members of the school staff very often performed additional task within the school's activities and became valued and enthusiastic members of the school community.

The Committee has been advised by the Minister for Education that the contracting-out of cleaning services will result in substantial savings.

While the Committee does not accept the view that cost savings should be the decisive factor in the provision of educational services, it was agreed that there was a need to allow the contract system to be trialed for a period of at least six (6) months before any accurate conclusions could be made.

Accordingly, the Committee has resolved to suspend any consideration of this petition for at least a period of six (6) months.

2.34 X-RATED PORNOGRAPHY

Three petitions (*#TP's 917, 936 and 1052*) were tabled by the President of Legislative Council, Hon Clive Griffiths MLC on 28 November 1995 and by Hon Reg Davies MLC on 29 November 1995 and 13 December 1995 calling upon the State Government to recognise the will of the people of Western Australia who oppose:

- a. the legalisation of X-rated videos, films and computer games for the purpose of screening or playing in private venues, and the legalisation of X-rated pornography and R-rated violence on graphic interface Computer Networks that children can access;
- b. the provision of an outdated (1967) 'artistic merit' over-ride for Refused Classification films, videos, and computer games, which could permit child pornography in award circumstances;
- c. the refusal to grant 'standing' to any citizen to appeal against a classification, - a right recommended by the Law Reform Commission [of] Australia.

Specifically, the petitioners ask that the Legislative Council:

- ensure that X-rated pornography is refused classification;
- ban the possession of Refused Classification material;
- eliminate the artistic merit savings provisions; and

- grant "standing" to a citizen to appeal against a classification.

The Committee requested submissions from:

- i.) the principal petitioner;
- ii.) the Minister for Justice; and
- iii.) the Minister for Family and Children's Services;

This petition was generated by the commencement of the new censorship scheme throughout Australia and by the introduction of the *Censorship Bill 1995 (WA)* ("Bill") into the Legislative Assembly on 26 October 1995. The Committee notes that the *Censorship Bill 1995* has been tabled and amended in the Legislative Council and has been returned to the Legislative Assembly.

The Bill constitutes Western Australia's enactment of the new national co-operative censorship scheme. It is based on the model set up by the *Commonwealth Classification (Publications, Films and Computer Games) Act 1995*. This model is intended to provide for the uniform classification of films, publications and computer games throughout Australia.

Accordingly, the Bill anticipates the repeal of the *Indecent Publications and Articles Act 1902*, as well as the *Censorship of Films Act 1947* and the *Video Tapes Classification and Control Act 1987*. The goal is to create a single repository for all State classification legislation based on a uniform national model which is intended to provide for the classification of articles and publications, films, computer games and advertisements for films and computer games.

The Committee noted that censorship is an important and, at times, contentious matter because of the widely differing views in the community. Thus, it is not possible to make decisions which will satisfy everyone. The Committee believes that it is the role of government to ensure that a proper balance is maintained between:

- i. the need to protect the community, particularly children, from material which is likely to be harmful or distressing; and
- ii. the need to ensure that, as far as possible, individuals should have the right to determine what they will view.

Clearly, the task of finding the right balance is not an easy one as there will always be conflicting views as community standards change.

However, the Committee concluded that, without prejudicing the rights of moral and artistic expression, the current Bill attempts to institute a system of assessment and criminal sanction that is fair, equitable and, most importantly, vigilant within the framework of available resources.

Furthermore, the Bill has been designed to render the classification procedure even more stringent. This has been achieved by:

- a. expanding the definition of "child pornography" by requiring that material only need be "likely to offend a reasonable adult" as opposed to the current system which requires

that material be “indecent or obscene”;

- b. increasing the criminal sanction for offences relating to child pornography;
- c. making the artistic merit exemption subject to an additional "public good" test. Under this concept, the mere fact that material has recognised literary or artistic merit is not sufficient to establish that there is a public good in the article being published;
- d. extending the grant of standing to appeal a censorship decision to include “a person aggrieved by the decision”; and
- e. providing the Minister with express pro-active powers to require publications to undergo the classification procedure.

In view of these new restrictions, the Committee does not support the call in the petition to oppose the changes to the classification and censorship system as proposed by the *Censorship Bill 1995*.

Accordingly, the Committee has resolved to take no further action in regard to this petition.

2.35 ROEBOURNE AND WICKHAM HOSPITALS

Two petitions (*#TP's 1022 and 1041*) were tabled by Hon Tom Stephens MLC on 7 and 12 December 1995 respectively opposing the privatisation of services to the Roebourne and Wickham Hospitals and calling upon the State Government to fully consult with the community prior to any decision to close either hospital.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Health;
- iii.) Hon Tom Stephens MLC.

The Committee has been advised by the Minister for Health that a commitment has been made to local residents that the Government will fully consult with interested members of the Roebourne and Wickham regions before any decisions regarding the privatisation of medical services is made. The Minister also advised that the specific issues raised in the petition, including the provision of equipment that will allow emergency, obstetric and x-ray services to be provided and the re-equipping of the operating theatre at Wickham Hospital, have either been resolved or were receiving attention.

The Committee has resolved to take no further action regarding this petition pending a response from the petitioners confirming their satisfaction with the action being taken.

2.36 SWAN VALLEY WARD

A petition (#TP 1051) was tabled by Hon Derrick Tomlinson MLC on 13 December 1995 requesting that the number of councillors representing the Swan Valley Ward remain at two (2), notwithstanding the implementation of the *Swan Valley Planning Bill 1995*.

Submissions were requested from

- i.) the principal petitioner;
- ii.) the Minister for Local Government;
- iii.) Hon Derrick Tomlinson MLC.

The Minister for Local Government advised that he had received an application from the Swan Shire Council seeking Gubernatorial approval to reduce the representation in the Swan Valley Ward from two councillors to one. This proposal was designed to:

1. assist with the introduction of biennial elections and four year terms for councillors;
2. ensure more flexibility for ward representation in the future having regard for potential population growth and structural reforms;
3. ensure that the impact on councillors tenure is minimised as well as reducing administrative cost and increasing efficiency in the operation of the Council; and
4. address the one vote one value principle without disregarding community interest factors or the need for the Council to represent diverse areas of population and development issues.

On 16 February 1996, the Governor of Western Australia approved the Council's request and notice has been published in the *Government Gazette*.

The Committee has resolved not to take any further action in relation to this petition.

APPENDIX 1**LIST OF REPORTS**

1. Report regarding a petition seeking legislation on various aspects of substantive law and procedural law relating to sex offences against children.
2. Interim report into links between Government agencies and the failed Western Women Group.
3. Second interim report into links between Government agencies and the failed Western Women Group.
4. Report regarding a petition requesting the Legislative Council to investigate whether the proposed dissolution of the City of Perth contravenes the Constitution Act 1889 or any other Act or Statute.
5. Report in relation to a petition requesting the ban on the use of fishing nets (other than prawn drag nets and throw nets) for recreational fishing in the Pilbara region and the phasing out of certain professional licence endorsements.
6. Report in relation to a petition concerning the export of iron ore through Esperance.
7. Report in relation to a petition concerning the town of Wittenoorn.
8. Overview of Petitions: April 1993 - March 1994.
9. Overview of Petitions: May 1994 - December 1994.
10. Report in relation to a petition regarding the Port Kennedy Development.
11. Report in relation to the Electronic Availability of Statutes.
12. Report in relation to a petition regarding the Swan Valley and Whiteman Park.
13. Report in relation to a petition regarding the Sewerage System.
14. Report in relation to a petition objecting to the Government's decision to restrict the use by pensioners of their free Westrail entitlement during holiday periods.