



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 9 April 1998

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 10.00 am, and read prayers.

GUILDERTON REGIONAL PARK

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing 243 signatures -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned respectfully request that the Government establish a Regional Park immediately to the south of Guilderton in order to protect the mouth and lower reaches of the Moore River and the significant dunes and coastal heathland south of the mouth of the Moore River.

We request that the Government take urgent action to acquire this land before it is further rezoned or developed,

and your petitioners, as in duty bound, will ever pray.

[See petition No 183.]

BREAST SCREENING UNIT - SOUTHERN SUBURBS

Petition

Mrs Holmes presented the following petition bearing 1 307 signatures -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, call for urgent interim arrangements to be made for a Breast Screening Unit to be provided in the Southern Suburbs until a permanent unit is re-established. Women of the Southern Suburbs should not be subject to undue stress by having to travel long distances to access important health services.

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

[See petition No 184.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Report on the Rottnest Island Amendment Regulations 1997

MR WIESE (Wagin) [10.07 am]: I present for tabling the Joint Standing Committee on Delegated Legislation report on the Rottnest Island Amendment Regulations 1997. I move -

That the report be printed.

I provide a brief rundown of what brought this report before Parliament. The Rottnest Island amendment regulations were gazetted on 4 July 1997, tabled in this House on 19 August 1997 and went before the Joint Standing Committee on Delegated Legislation on 2 October 1997. The committee's concerns were identified at that meeting of the committee and were drawn to the attention of the Rottnest Island Authority on 7 October of last year. Subsequently, further discussions took place which led to a notice of motion for disallowance being moved in the Legislative Council on 16 October. That notice of motion is a device used from time to time by the committee to provide adequate time to work through issues with relevant agencies.

Subsequent to giving notice of a motion for disallowance on 16 October, considerable correspondence was entered into over the next month or so between the committee and the Rottnest Island Authority. Representatives from the committee met with the Chief Executive Officer of the Rottnest Island Authority and a representative of the ministry. Subsequent to that meeting, the motion for disallowance was withdrawn by the committee in the other place. However, the committee continued to monitor this issue regarding undertakings the authority gave to the committee to take certain actions and to consult affected parties.

That monitoring included a further meeting with representatives of the Rottnest Island Authority and another with

the Rottnest Island Mooring Licensees Association. Following the meeting with the mooring licensees association in February this year, the committee came to the conclusion that its role in this matter had been completed, and resolved to report to Parliament, which is what I am doing this morning.

This report is a substantial one, and if members are interested in the Rottnest Island mooring regulations and the discussions that took place, I encourage them to read it. The issues covered in the report will give members an idea of how the committee conducts its deliberations, because it contains a detailed overview of the issues dealt with by the committee, and suggestions made by it regarding how certain matters should be dealt with. In most cases, that is how the committee dealt with those matters.

One important issue covered by the report is sullage. Under the new regulations sullage cannot be disposed of within the limits of the Rottnest Island Authority; that is, basically within a three mile radius of the island. On the face of it, no-one could have any objection to or complaint about that regulation. However, the committee was concerned, firstly, that no facilities exist on the island for the disposal of sullage. I think only one facility is available in the metropolitan area, which is used by commercial rather than pleasure craft operators. Pump-out facilities are not available on the island, even if the required tanks are installed on the craft. The regulations were in force on the day they were gazetted which meant effectively that the authority was not fulfilling its duties and obligations, and certainly it was an enormous imposition on the boat owners who use the moorings at Rottnest Island.

The situation becomes worse because the cost of installing holding tanks was substantial and the effect of that cost would be felt by the majority of boat owners using the island. Apparently it can cost several thousand dollars to install the tanks - if it were practical or possible to do so. It was brought to our notice that many owners of small craft, such as yachts, find it virtually impossible to install tanks to meet the requirements of the regulation due to space limitations. Even if it were possible to install those tanks on craft which frequent the island, not enough boat builders or facilities were available to enable that to occur within 12 months. Therefore, it was impractical for boat owners to comply with the regulations. That fact was the cause of our concern. Therefore, we hope that our recommendations will be followed up by the Rottnest Island Authority. There should be an adequate lead time before regulations are enforced, and there should be substantial consultation with boat owners who will be affected.

Another issue of great importance to the mooring owners association, and other boat owners who frequent the island, is the requirement in the new regulations that owners take out insurance policies, basically for public liability to cover the owners and the boats, and anyone who may be affected by anything that happens as a result of the operation and mooring of boats. On the face of it, that was a practical suggestion. Our concern was the requirement in the regulations that an insurance policy not only cover the operation of craft and everything to do with boats and moorings, which is an owner's responsibility, but also that it should insure the owner and the user of the boat against any action by employees of the Rottnest Island Authority, even though the boat owner or the user could have no ability to control or affect the operations and workings of those employees of the authority. Again, the committee thought that was a very onerous imposition. Worse still, no insurance policy was available which would enable a boat owner to take out the required insurance. Hence, it was impractical for boat owners to meet that requirement under the RIA regulations.

As a result of discussions between the committee and the authority, and I must hasten to add that many discussions had also taken place between the mooring owners association, the authority and the insurers - it has been possible to set up an insurance policy which allows boat owners to take out the type of insurance required by the authority. However, that policy is available only to boat owners who are members of the Rottnest Island Mooring Licensees Association; that is, 300 or more of the 800 owners of boats who use moorings at the island. An insurance policy is now available which was not available when the regulations were set up. The committee is pleased about that outcome.

I hope that this information gives the House an idea of how the committee operates, and how it performs its task on behalf of the Parliament in this very important area of legislation. That does not come into being through the Parliament by way of Bills or Acts but by way of regulations, bylaws, and other subsidiary legislative mechanisms that do not receive parliamentary scrutiny.

Question put and passed.

[See paper No 1324.]

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Report

MR THOMAS (Cockburn) [10.18 am]: I present for tabling the Joint Standing Committee on Anti-Corruption Commission discussion paper entitled "Secrecy under the ACC Act - Its Purpose and Effectiveness". I move -

That the report be printed.

This is the second report of the Joint Standing Committee on Anti-Corruption Commission, and it comes at a time when the subject matter - the secrecy and confidentiality provisions of the Anti-Corruption Commission Act - is very topical. Previously the ACC committee presented a report to Parliament on accountability. The committee has very important duties within the functions of this Parliament and the Anti-Corruption Commission in overseeing the Anti-Corruption Commission. Those duties are twofold: First, the committee must ensure that the ACC works effectively. Secondly, it must protect citizens of this State from the ACC, because it possesses considerable powers and has scope to inflict damage or cause wrongs to people. As a Parliament, we need to exercise our duties to protect the citizens of the State from what could be the wrongful exercise of the considerable powers of the Anti-Corruption Commission.

I said in my opening remarks that this report comes at a very topical time. A number of issues have entered the public domain since the first report of the committee was presented at the end of last year. Six officers of the drug squad, apparently the subject of a report by the Anti-Corruption Commission, claimed they had been subject to injustices. A mass meeting of police officers was called and considerable anger was expressed about what had happened to them at the hands of the Anti-Corruption Commission. The subject of those complaints and events impact directly on the secrecy provisions of the Anti-Corruption Commission Act. On the one hand the officers concerned claimed that the secrecy provisions of the Act prevented them from defending and explaining themselves. On the other hand a Supreme Court injunction was taken out restraining the ACC from publishing its report, as a result of which the public has no direct knowledge of the subject of that report. Indeed, the committee has not seen a copy of that report, therefore we can only largely speculate on what has happened in that situation.

Recently charges were laid against Sergeant Ferguson, and the private home of Commander Ibbotson was raided by ACC investigators. Those officers claimed to have been wronged by the ACC. In some sense the confidentiality provisions of the ACC Act impact on their complaints.

The Parliament must understand the implications of enacting the Anti-Corruption Commission Act and establishing the ACC. We have established a small police force with some 30 investigators which has greater powers than the Western Australia Police Service. It has a limited scope in that it is dedicated to detecting and prosecuting criminal activity in the broadest sense and serious misconduct in the public sector.

We should consider why we established this body with the extraordinary powers that are not possessed by the Western Australia Police Service. It was argued that corruption or misconduct of politicians is an important matter and extraordinary powers should be available to prevent that occurring because of the important nature of the duties of politicians and the need for them to be accountable to the public. The other common reason cited, apart from corruption in high office, is misconduct of police and the scope they have for doing wrong because of their powers, which are not possessed by the public at large.

Many people do not realise what has been established. A significant section of the population is subject to this second police service. We must ask ourselves whether it is necessary or desirable. In particular, should the extra powers apply in every case? For example, if an employee at St John of God Hospital had his finger in the till and was stealing he would be guilty of the criminal offence of stealing as a servant. The ordinary police would investigate that and use their powers. If on the other hand that person were a thief working at Royal Perth Hospital that matter would fall within the scope of the Anti-Corruption Commission Act. He could be the subject of an investigation by the Anti-Corruption Commission.

What is the difference between a person stealing as a servant at St John of God Hospital or any other private hospital compared with someone stealing from Royal Perth Hospital? What could happen to the person stealing at a public institution compared to one stealing at a private institution? He could be called before a special investigator and compelled to give evidence. That is the very important distinction between what can happen to someone being investigated by the Police Force for an ordinary crime and a person being investigated by the Anti-Corruption Commission for serious improper conduct or corruption.

Under the traditional legal system of justice in Australia it is a citizen's fundamental right that he does not have to incriminate himself. If a policeman asks us questions we are required to provide only our name and address and we may choose not to discuss anything else. That has always been a fundamental and important right. Similarly, if someone is brought to trial he cannot be compelled to give evidence against himself.

That right is amended under the ACC Act because a person called before a special investigator must answer questions. That evidence in itself cannot be used in subsequent criminal proceedings but it can be used to prepare a brief. As a result a person is more likely to be facing a criminal trial. Therefore, all citizens who work in the public sector, including politicians and all members of the Police Force, are subject to matters such as having their homes raided and, in accordance with other legislation, having their telephones tapped and homes bugged.

We must be very careful about what we are doing. We have established a small police service with extraordinary powers dedicated specifically to the public sector. Safeguards are built into the legislation, one of which is that the Police Service answer, not to a Minister, but to this Parliament. The Parliament has created a committee, of which I am deputy chairman, to oversee its operations. That is a very important function. We must make sure it is effective in carrying out its duties. We must also protect the citizens of Western Australia from what could be undue infringements on their rights under the legislation.

The only two instances seen in the public domain in the nine months since the Act has been in operation have involved complaints from people who have been investigated. In each instance police officers were involved, and they complained that, in part, the confidentiality provisions of the Anti-Corruption Commission inhibited their capacity to protect themselves.

We should ask ourselves why we established this body. What made it necessary to create such an organisation? When this House first examined the creation of an official corruption commission two select committees were formed on which I had the honour to serve. We specifically eschewed any intention to set up an inquisitorial body. One of our reasons for that was that we saw no evidence to justify the establishment of such a body. We did not accept that there was widespread corruption in the public sector, and I do not think that is the perception that exists in the community. I have worked in the public sector in one capacity or another for almost 20 years. I have never been offered a bribe, I have never seen anyone being offered a bribe, and I do not know anyone who has been offered a bribe. The notion of widespread corruption in the public sector which requires an inquisitorial tribunal to prevent it is not one that I accept.

Similarly, when a select committee of this House looked at the issue of police corruption it was assured by the then Commissioner of Police that there was no significant corruption in the WA Police Force, certainly not on a scale that would justify the creation of a body in addition to the Official Corruption Commission and the Ombudsman which already existed. Essentially, the committee accepted that advice. I must point out that the issue of police corruption was not central to the duties of that committee.

Since then the report of the Royal Commission into Commercial Activities of Government and Other Matters made a specific recommendation to appoint an inquisitorial tribunal into the public sector in this State. The Select Committee into the WA Police Service tabled its report in the other place, drawing attention to a number of matters which were in the public domain. In effect, it collated those issues and pointed out the need for a body to consider those specific matters and other similar matters relating to police.

I supported the legislation to create the ACC when it came before the House, notwithstanding that I have great reluctance to diminish the rights of citizens and to set up bodies that are effectively KGBs that have the potential to interfere with and diminish the rights of citizens. I support the ACC because it appears that such a body is necessary in some areas. I commend the Government because that legislation was drafted to include certain safeguards. Some of those safeguards are the subject matter of this report. One is that the proceedings of a special investigator will be conducted in private. That is for two reasons: Firstly, to protect the integrity of the investigation, so that it does not alert other people who might be subject to further investigation. Secondly, to protect the rights of the witnesses. One of the ways in which inquisitorial tribunals can diminish the rights of citizens is by requiring them to answer questions in the public domain.

We need only consider the McCarthy era in the United States, when people were called before the McCarthy tribunal. The fact that they were called ruined reputations, careers and lives. For the most part the facts that were alleged were baseless. Even if they were true the activities that were alleged were not those that should bring a person into disrepute. For the most part people held political views which were then unpopular. Ideas can be fashionable, and dragging people into public inquisitorial tribunals and exposing something which need be nothing more than belief in unfashionable ideas can diminish their rights. Effectively, the proceedings of the special investigator, which are inquisitorial by nature, should be conducted in private. I was pleased that the Government included those provisions in its legislation.

The Government also made provision for the appointment a royal commission. One question that abounds is whether there should be a royal commission into the police force. This legislation provides for the Anti-Corruption Commission to recommend a royal commission if it feels one is warranted. Under the Royal Commissions Act that inquiry could be conducted in public. The Government has done a fairly good job with this legislation. It has included checks and balances that provide for natural justice. The proceedings will be conducted in private, but when the Anti-Corruption Commission makes a report it is a requirement that the person who may be subject of an adverse comment or finding have the option to appear and to state his or her case and be accorded some form of natural justice. Once the report is in the public domain the person will be able to respond to it. That is a good attempt to establish a series of checks and balances to protect the rights of citizens.

This discussion paper addresses the very important issue of confidentiality or secrecy provisions of this legislation. I commend this report to the interested parties - the Anti-Corruption Commission, police officers and the Police Union, which has a very strong opinion. I also commend it to other unions in the public sector. So far the only aspects of the work of the ACC that have entered the public domain have related to police. In the same way that the rights of police are seriously affected by the ACC Act so too are the rights of every public servant in this State and every member of this House. One has only to look at the charges that have laid under the ACC Act at the present time.

The charges against Sergeant Ferguson all relate to giving false evidence. It is a bit like a person being arrested for resisting arrest! One must ask what they were attempting to arrest him for in the first place in order to justify the act of arrest. The subject matter of the complaints against Sergeant Ferguson relate in part to his sex life. The nature of the charges is in the public domain. Sergeant Ferguson was asked questions about his private life and it is alleged that he did not tell the truth. Those charges appear to relate to matters that are within the scope of this legislation. I cite the subject matter without canvassing the case, in order to say they are the sorts of questions that people can be called before the Anti-Corruption Commission to answer. It could have happened to any one of us. It has never before been the case in this State. Previously when a person was asked questions about such matters or any other matter by a police officer he or she could decline to answer. We have established a powerful body in this State. At the time we created the body it appeared that the circumstances warranted it.

However, I draw the attention of the House to the fact that in the early 1930s the Gestapo was established by the democratically elected Government in Germany to cope with what was seen to be an unprecedented situation of unlawfulness in Germany during the Depression. Safeguards were put in place in order to protect the rights of citizens against the extraordinary powers given to the Gestapo. We all know they did not work, and despite the fact that most German citizens probably thought it was justified at the time, it turned out that their rights against the Gestapo did not work. I do not want to suggest that sort of situation exists in Western Australia. I simply use that as an illustration to show that sometimes when a body is established to include well intended safeguards, it does not necessarily work. To make those safeguards work, we must ensure they are observed and serve the purposes for which they are intended. For that reason, I commend this document. It is a very thorough discussion of the pros and cons of the various aspects of the secrecy and confidentiality provisions of the legislation.

I suggest that after the next election, by which time the ACC will have been in existence for five years, it will be necessary to have a complete review of whether such a body is necessary. We will be able to see its track record in detecting and prosecuting official corruption or serious improper conduct in the public sector of Western Australia, and to make a judgment about whether that could have been undertaken without the extraordinary powers given to it in this area. I believe it will always be necessary to have a separate body to oversee the Police Force. The days of police investigating police have gone forever; however, we should look at whether those extraordinary powers must be retained or given to another body when we have a track record against which to assess the Anti-Corruption Commission.

MR BLOFFWITCH (Geraldton) [10.41 am]: I will not take the full time allotted to me in this debate because the member for Cockburn gave an extremely good explanation of this report. I have some concerns with the powers given to the Anti-Corruption Commission, although not so much with regard to the Police Force. We give special powers and authorities to the police and we need a special type of investigator to investigate the police. I wonder whether that is appropriate for those in the rest of the civil service. Is a clerk in the Public Service not entitled to the same courtesies in the law as is someone who is working for me? The member asked that we look at these sorts of questions after the next election.

An interesting situation has occurred. The main subject discussed in this report is the secrecy provisions of section 54 of the legislation. I was on the committees relating to the initial two corruption commissions, and we felt that provision was absolutely essential. When someone was being investigated by the commission, we did not want another person to report it in the newspaper, saying that this person was a bit suss and was being investigated by the commission. That may not seem important to many people. However, I put to members this scenario: If a person was standing for election to a local council, a school board, Parliament or any other public position, and that sort of thing was splattered across the newspaper, it could have a very serious effect on the chances of that person gaining the office he is seeking. In many cases it may have been nothing more than a malicious complaint.

There are very good reasons for section 54 being in the Act, one of which is to protect the innocence of those who can be maligned. One advantage is that, instead of the information coming forward as earth shattering news, it gives the investigator a chance in a closed session to follow up the allegations and obtain information from people which they would be reluctant to give in an open forum. When I travelled to the eastern States I talked to people in various corruption commissions. Those who have visited similar operations overseas all believe it is better for these commissions to operate in closed sessions, rather than in open forums. They believe much more is gained.

I will reflect on the result of the Miller inquiry in which Mr Geoffery Miller QC looked into the activities of the several police officers. In passing on information to other departments, such as the Commissioner of Police, the Director of Public Prosecutions and the Ombudsman, the commission has the right to disclose that data. There are exemptions under section 54. Under one of those exemptions the Commissioner of Police was spoken to. Under the Police Act, the Commissioner of Police also has some very special powers. Under section 8, if he believes someone should not be in the force, he has the right to dismiss that person. Armed with this information, the Commissioner of Police decided to stand down some officers. They felt this was totally unfair as none of the documentation had been made public, although I am led to believe they were given the details of the allegations against them at some stage. The officers then did a very strange thing: They said that it should be out in the open and should be discussed publicly and then sought an injunction to prevent the information from being released. If their complaint was the matter was not being aired publicly, I wondered why they sought to take out the injunction to suppress that information. As these matters unfold, many twists arise that keep us puzzled.

The powers that exist will always be criticised by police officers who feel they go too far. However, unless bodies, such as our corruption commission, are given the powers to investigate these matters, they will never get to the bottom of anything and will never have a chance to uncover organised corruption, not only throughout the Police Force, but also throughout government. These investigating officers need these powers and, in giving them, we must realise the enormous responsibility involved. As a committee it is our job to oversee the organisation, to ensure these powers are not abused and the guidelines are followed. Although there is a power to tap telephones, we have set a high standard in that regard. Permission must be sought from a Supreme Court judge or a justice of the peace to obtain things, such as search warrants. The checks and balances are in place. I am confident they are working and that we will see some results from the commission. We set it up originally to try to get a handle on the police, in particular, who were heavily criticised for investigating themselves. I do not think anybody in the community believes that is a proper process. Now many bodies are investigating the police. They are being looked at by their internal affairs department, as well as the corruption commission and the Ombudsman who also has a team of investigators with special powers. The police have probably never been under more scrutiny, and this will enable us to learn more of what was occurs.

Many rumours have circulated in the past about the disappearance of drug money and such things. It gives members an opportunity to look at this in a positive manner, investigate the matter, get some feedback, and satisfy the public's concern about whether these matters are looked into. I believe they are now. I believe the system is working effectively and I am pleased to be in a position to monitor it.

I urge all members to read this report because it puts some very interesting propositions of which members of Parliament should be aware. All members should be aware of the enormous powers given to the Anti-Corruption Commission and the checks and balances that are in place. When members hear complaints they will be able to consider the ways in which they can be dealt with. I urge members to read and understand the report.

MRS ROBERTS (Midland) [10.51 am]: I shall take issue briefly with some of the points made by the member for Geraldton. There has been much talk about the need for the secrecy provisions to allow the Anti-Corruption Commission to operate effectively. I have noted that the ACC appears to be hamstrung by its own secrecy provisions, to the extent that since its inception, it has breached many of its own provisions. One of the earliest breaches was the publication of information that the ACC was investigating Hon Nick Griffiths, and the ACC subsequently again breached its secrecy provisions by announcing that he had been totally cleared after some investigation. Other people have made statements and breached those secrecy provisions. That includes the Commissioner of Police and the Premier of this State.

Another breach of the secrecy provisions occurred with the release, only two days ago, of the partial transcript of Mrs Ibbotson's evidence at an appearance before the ACC. The ACC does not seem to be playing fair, when it picks and chooses which parts of the transcript will be released. We do not know whether Mrs Ibbotson was called before the ACC as a witness or whether she is under investigation. There is some speculation that her husband Commander Bob Ibbotson is under investigation, but he said on a radio program yesterday morning that he has not been told he is under investigation. Releasing part of that transcript of evidence, from someone we can only suppose is a witness to the ACC, is a clear breach of the ACC's secrecy provisions. Concerns have also been raised with me that other police officers' wives -

Mr Bloffwitch: Section 54 says that the ACC can release evidence provided it is not to do with the case. Where it is giving evidence of a witness, under section 54 it has the right to release that evidence.

Mrs ROBERTS: It may well be that many people who appear before the ACC do not have relevant evidence. That brings the procedures of the ACC even more into question if it is merely going on fishing expeditions, rounding up the wives of police officers and asking them a range of questions. Under the secrecy provisions, no information should be given about the questions being asked. It is probably one of the oldest police techniques in the book to

ask questions of this type, because if the ACC were not concerned that the person might feel unfairly treated, why bother to ask those questions? It smacks of unfairness when only the ACC holds the transcript. Mrs Ibbotson and other witnesses have not been given copies of the transcript and they cannot release any information about it.

The ACC also breached its own legislation by sending to the Commissioner of Police material relating to the six detectives suspended under section 8 provisions last year. That material was sent to the Commissioner of Police well ahead of any charges being laid. That matter has gone quiet, but the response by the Director of Public Prosecutions at the time was that the ACC had not sent him any evidence regarding the six detectives. Subsequently, the DPP received some information and, from recollection, he was reported in the media as saying that nothing sent to him constituted any evidence on which he could base charges against those officers. Sending that material to the Commissioner of Police was again probably a breach of the ACC's secrecy provisions.

This morning the member for Geraldton took the opportunity to criticise the Police Union and those six detectives.

Mr Bloffwitch: No, I just asked the question because from what I know of the case, I cannot see how anything could be achieved by suppressing the report. I did not criticise them.

Mrs ROBERTS: I take that point. I understand the complaint of those detectives and the union is that they do not feel that due or proper process has been followed or that those officers are in a position to get natural justice. It is not my intention to dwell on that further because I understand it will be the subject of a matter before the Supreme Court on 22 April. However, I point out that whatever the result, whether or not those six detectives and the union are successful, it will have significant implications for the operation of the ACC in this State.

I do not believe a commission such as this, operating in secret, is the way to solve the corruption allegations against the police in this State. The only way to properly clear the air and to restore the confidence of the public is to hold a royal commission. The public's confidence in this State's very many honest police officers has been severely diminished. I believe the vast majority of police officers in this State are honest, hard working and undeserving of the many allegations put about. Many of their problems are of the Government's making because it will not clear the air by establishing a royal commission, once and for all, to protect the good names of those police officers.

Question put and passed.

[See paper No 1325.]

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Report

MR MINSON (Greenough) [10.59 am]: I present for tabling the twenty-first report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, entitled "Uniform Legislation". I move -

That the report be printed.

When I took on the position of Chairman of the Uniform Legislation and Intergovernmental Agreements Committee, I looked at the lofty title and was interested to research what the committee actually does. It is interesting to look at the conflict that has occurred in Australia over the past 15 years, and certainly longer than that, but particularly since the Tasmanian dam decision, and at the interference by the Federal Government and its use of the offshore treaty provisions of the Constitution. How States relate to the Commonwealth Government and vice versa, and how States relate to States, has been an issue in Australia and I suspect will continue to be an issue.

Bearing that in mind, and considering that at various times a considerable amount of dissatisfaction is expressed about the Federal Government, I suspect that a republic is just around the corner. Some people believe a republic is symbolic. I believe it is inevitable; and whether it is by 2000 or 2001 is irrelevant to me as an Australian. Given that that will necessitate a new Constitution, or dramatic changes to the Constitution, and given that people have been talking seriously about secession in the past few years in Western Australia, this report could not be more pertinent.

This report examines what is taking place in various parts of the world to harmonise legislation and to make it uniform. It examines also how federations of States are formed, what drives them to get together, what keeps them together, how they relate to each other, and how they relate to their national Government. This report, by examining those issues, gives this and other Parliaments, if they take the trouble to read what we have written, the opportunity to learn from what other people have done and perhaps gain a deeper understanding of what makes federations of States federate in the first place.

The committee examined the situation that has developed in Australia. It also went to Belgium, which is also a

federation of States, and while we were in Belgium, we looked at the European Economic Community, or what is now often called the European Union.

Mr Osborne: It has been said that Belgium was an invention of the British to annoy the French.

Mr MINSON: I do not care about its history; the fact is that it is a federation of States.

The committee also went to Germany, which is interesting in itself, because the former West Germany was a federation of States, and when it was reunified with East Germany, some complications were created that tested that federation of States. The committee then went to Canada, which is also a federation of States and has the added factor of what it calls the Quebec problem, which is the problem of a different language group within that federation of States. The committee went finally to the United States of America, which is a classic and hugely successful federation of States in the continuum of history.

If we want to look at an ideal system, it does not exist yet. In looking at what changes need to be made if Australia remains as it is or becomes a republic, it is instructive to look at why we became a federation in the first place and to go back to basics, and to perhaps see whether that basic building block is still relevant - I suspect it is - and then build a new Constitution or modify it with that base in mind.

Historically the United States had many small States, and it was very much economics which drove those States to federate to create the United States of America. The United States of America has become a trading bloc of a quarter of a billion people, and it is that fact which led to the creation of the European Union. The Germans made no bones about telling us that they had to form an economic union of roughly the same size so that they could co-exist and compete with the United States of America. It is interesting to see in that economic union that people who traditionally have hated each other, not just in the past 30 or 40 years but over centuries - the English, the French and the Germans -

Mr Riebeling: They still do not like the Russians very much.

Mr MINSON: They certainly do not. Those three countries that traditionally have not been very friendly have bound together to cooperate as an economic entity. The formation of all those federations of States was driven by some basic necessity, which was nearly always economic. It became rather obvious when we went to the European Community and talked to people from Belgium and Germany in particular that while it is still called an economic community, they realise that it is also a political union and that as time goes by, probably not in my lifetime, it may well also become a social union. The economic ties are now so strong and the economies are so interwoven and interdependent that it would be unthinkable for them to dismantle that union. Even though past prejudices will always come to light, I suspect that when the crunch comes, the economic argument will win out and that political union will survive.

The situation in England now is that the owners of many factories and companies that manufacture cars in particular are German or French. Those cross-ownerships are evident right across the economic spectrum, and they would be virtually impossible to dismantle. In fact, to dismantle such a union and cooperative would be cataclysmic to the economies of not only those countries but also those companies. A lot of useful instruction can be gained from observing those federations of States. The German system has much to offer the Australians.

The problem in Australia is the fact that the States created the Federal Government but are now, to all intents and purposes, ignored. The constitutional and sovereign responsibilities of the States are often very difficult to fulfil simply because the Federal Government goes its own way. We have always believed that we can safeguard the interests of the States by having a Senate, but something happens to senators when they get on a plane, and often the best interests of Western Australia fade into the background.

In Germany the State Governments form part of the Federal Government in that they form part of the Bundesrat, which is the German upper House.

The ACTING SPEAKER (Ms McHale): Order! There is too much noise in the Chamber.

Mr MINSON: Federal Governments therefore have members of State Governments as part of the upper House. The integrity of the Federal Government in Germany is preserved by the fact that the State Government cannot instruct in a constitutional sense its member to take any particular action on the federal scene but nevertheless members of the State Parliaments, or the Lander, are also members of the upper House of the German Federal Parliament. That system seems to hold some attractions for State Governments in Australia. In looking at our Constitution we need to look at some of the overseas examples.

From the section headed "Conclusions" in the report, I will read what is said on a federal State because it is instructive. It reads -

A federal state is one that brings together a number of different political communities with a common government for common purposes and separate "State" or "Provincial" governments for the particular purposes of each community. Australia, the United States of America, Canada, Germany and Belgium are all federal countries. Federalism combines unity with diversity. However, governmental structures in federal countries are very different. These structures have directly impacted on the measures and methods of intergovernmental relations between the National Government and the States.

That encapsulates what federalism is all about. We need to go back to basics in Australia with any changes to our Constitution, particularly if we form a republic but want to retain the integrity of the States.

Finally, although I am not the first, it is the first time that I will do it: I want to quote myself.

Mr Riebeling: Nobody else will!

Mr MINSON: I am afraid of that. If members are interested they might dial up on the database Ian Thompson's departing speech. He described a member of some time ago who gave quite a long speech and was quoting at length. Someone asked him from whom he was quoting. It turned out that he was quoting from *Hansard* of some years before a speech that he thought was pretty good, and he was quoting himself! I will not quote myself at great length but I want to read a couple of paragraphs. I wrote in the introduction to the report -

There is no doubt that we live in a time when the general population becomes frustrated at artificial barriers to the free flow of goods, services and information across our State boundaries. Therefore, the message to legislators is to constantly update legislation and indeed their own attitudes, to see that our laws reflect the desire for good, pragmatic government and the removal of unnecessary barriers.

To that end, this report contains information gained from a number of federations of states in various stages of evolution from Europe and North America and will be of considerable assistance to the Members of the Western Australian Parliament in making relevant changes to our legislation to provide harmony and uniformity without compromising the sovereignty of the State and its ability to safeguard the interest of its citizens.

That is the first and very likely the last time I have quoted myself. As the member for Burrup pointed out, it is probably the last time I will be quoted in this place.

Mr Riebeling: It was a very good quote.

Mr MINSON: Does the member want more?

Mr Riebeling: No!

Mr MINSON: I commend the report to members.

MR RIEBELING (Burrup) [11.14 am]: As the deputy chairman, I wish to contribute to this debate on the twenty-first report of the committee. As the only surviving member of the previous committee, I have been fortunate to be involved in all 21 of the committee's reports. The committee toured through Europe, Canada and the United States in order to inform committee members of current trends on how uniform legislation was dealt with in various federations in the world. The Canadian federation appears not to be functioning overly well in comparison to the Australian federation. Its problems with Quebec are such that perhaps that federation will not last. There appears to be a great propensity for partners other than Quebec to blame Quebec for many of the shortcomings in Canada. The United States federation system has gone to the other extreme. Its over-reliance on market forces has reached the stage where the benefit of individual companies and States is forgotten in the overall drive for market forces.

An interesting parliamentary system for us to look at is the European Union structure. It involves a number of sovereign States that are fiercely parochial and that still fiercely guard their sovereign rights to legislate and look after their own affairs. Western Australia in the main reflects that desire. We are isolated from the rest of Australia by distance. That has highlighted Western Australia's development in its not necessarily trusting everything that happens on the east coast of Australia. When looking at the European model, I was very pleased when we stumbled across the Amsterdam Treaty in Brussels. The Amsterdam Treaty is an endeavour by the member States of the European Union to ensure that their national Parliaments are kept informed of what the European Union is contemplating and what types of Bills are being enacted through that system.

Mr Court: You have been travelling around a bit, have you not?

Mr RIEBELING: I had to keep an eye on the Premier's colleagues.

Chapter 19 of the Amsterdam Treaty specifically interested me. If members read the report they will find that on

page 26, chapter 19 sets up a process whereby basically five steps must be taken before a piece of legislation can be enacted through the European Union Parliament. The proposal reads -

All Commission consultation documents (green and white papers and communications) shall be forwarded to National Parliaments of the Member States.

Commission proposals for legislation be made available in good time so that the government of each Member State may ensure that its own National Parliament receives them.

No rush job is done on uniform legislation with the Union. It continues -

A six-week period is to elapse between a legislative proposal and the date when it is placed on the Council agenda for decision.

That will set in place a clear time frame so that member States have sufficient time to respond to the proposal prior to it going before the equivalent of our Ministerial Council.

The fourth point is that the Conference of European Affairs Committee may examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct bearing on the rights and freedoms of individuals. Therefore, a protection mechanism is provided in the process, by which - if the rights of individuals are being threatened by legislation - a committee can be set up to safeguard the situation. That committee may address the European Parliament Council and Commission on legislative activities of the union. The watchdog can also address member State Parliaments to keep people informed of the process.

The European model is one that this Parliament should consider closely, because it is a federation which is trying to take the best processes from each of the world examples and implement a system in which the member States have a real voice in what happens on a uniform basis. In particular, Western Australia would be interested in the Amsterdam treaty. I urge the Government to look closely at what is happening in Europe. The prime objective of all uniform legislation should be to the benefit of Western Australians in the long run. That is parochial. This House should ensure that legislation is parochial and benefits Western Australians.

The report contains a number of recommendations which begin at page 17. I will not go through the nine recommendations. However, I hope that members read the report, because it has cost the State a considerable amount of money, and many resources and much time has gone into its preparation. If nothing else, I hope that members read the recommendations and try to imagine how they can be implemented in Western Australia.

I take this opportunity to thank the chairman of the committee, the member for Greenough. This is the first time I have worked with him and with the other members of the committee. I thank the members for Girrawheen and Southern River, who also accompanied the committee on its tour. The member for Mitchell did not travel with the committee. It was a very enjoyable and informative trip. I note Peter Frampton sitting in the Public Gallery. I thank him for his efforts since taking over from Keith Kendrick. The breakfasts are a little tacky these days but the rest of it is okay! I thank also our research officer, Melina Newnan, who has done an outstanding job. When we attended various meetings she made sure that we had relevant information about the expertise of various people to whom we spoke. She also assisted with the questions we might ask. That helped me, and I am sure other members of the committee, to ensure that our questions were as precise as possible and relevant to the expertise of the person to whom we spoke.

I thank also Patricia Roach who takes on most of the clerical work for the committee. Pat is always very pleasant. I thank all those staff members for their tremendous effort in supporting the committee.

MRS HOLMES (Southern River) [11.24 am]: I wish to speak as a member of the committee. Before doing so, I thank the chairman of the committee, the member for Greenough; the vice chairman, the member for Burrup; and the member for Girrawheen for their excellent input to this report. I also thank them for their company during our tour. I take this opportunity also to thank Melina Newnan, our research officer, for her excellent work on behalf of the committee. I also thank Keith Kendrick for the assistance he provided on our tour.

The committee first travelled to Europe and had a good look at the European Parliament. I concur with the statement made by the member for Burrup that we should look more towards Europe to discover how we can ensure the best outcome for Western Australia.

I hope that members will read the report and the recommendations in it. The report begins by talking about Australia, and outlining how we are moving increasingly towards national legislation. We were looking at legislation which is harmonised between States. The report outlines how the laws in Western Australia have changed, and states that Ministerial Councils have a great role to play in achieving national uniform legislation.

The Belgian model includes a cooperation and agreements convention between entities in the Belgian Federation. That model does not work on the same principle as the Ministerial Councils. Germany has a federal system which more directly allows for the harmonisation of laws. German federalism differs from other federal systems in that the Governments of the German States participate directly in the decisions of Germany as a whole. The States are represented by State Governments which sit in the federal upper House - the Bundesrat. That system seems to work very well in Germany. It has an excellent system of harmonisation of laws, which we should consider very seriously, at both the federal and state levels.

Canada has problems with the Province of Quebec. This was also pointed out to the Public Accounts and Expenditure Review Committee when it was in Canada. Canada has difficulties, and it could be a hard situation for that country to handle. We do not know what the outcome will be. On a general basis, the Canadian States and Governments are trying to work out a more uniform approach. That country appears to be ahead of us in that regard, because it appears that Canadian States are listened to more than our Federal Government has listened to our States over the years. Canada has introduced the harmonisation principle which has been institutionalised in the Uniform Law Conference of Canada. That conference is a body whose primary objective is to promote uniformity of legislation throughout Canada and its Provinces and Territories. We do not have a uniform law conference in this country; however, our Government should consider that body because it could play a substantial role, bearing in mind that Canadian laws are more harmonised than are ours.

The American system of federalism involves the sharing of governing powers between the national Government and the 50 State Governments. Intergovernmental relations have evolved throughout the history of the nation. That country has its problems. However, the overall picture of the different countries we visited, indicates that Canada - excluding Quebec - has far more harmonisation of laws and better systems than we have currently.

I turn to the recommendations in the report, three of which are particularly important. Recommendation Two reads -

That proposals for legislation by Ministerial Councils should be made available within six weeks by the relevant Minister of the Western Australian Parliament to ensure that both Houses have the opportunity to consider the proposal.

This is a system that we saw on tour. It allows the Ministerial Councils and the States to get together and make decisions regarding the harmonisation of legislation, the recommendation is that States must be told within six weeks about any decision so that State Parliaments can make an input to the harmonisation of the laws.

At the moment, decisions are made and the Parliament finds out when it is all over. Recommendation eight states -

That the Western Australian Government approach the Commonwealth Government with a view to forming a permanent Treaty Council in which each State Parliament has a representative.

This recommendation is also extremely important to our State, because it would mean the State Government would have a direct input into treaties which have a great effect on our lives. Most of the time Western Australians are unaware of these treaties until after they are signed. Recommendation nine states -

That the Western Australian Parliament through the Standing Committee on Uniform Legislation and Intergovernmental Agreements or another specifically created committee look at preferred options for changes to the Australian Constitution from a Western Australian perspective.

That recommendation is extremely important to Western Australia particularly as we move towards a republic. We need to look at the Constitution from the Western Australian point of view. That might sound parochial; however, as the member for Burrup stated in his speech, we are an isolated and a proud State. We are an important part of our nation.

This has provided the information contained in this report to the Parliament, which I am sure the other members would concur, is extremely interesting and informative. I urge all members to read the report, or at least the recommendations, because it contains a great deal of information which has been paid for by the Western Australian taxpayers and I would like them to get the major benefit from the knowledge we gained on our tour.

MR CUNNINGHAM (Girrawheen) [11.31 am]: I endorse the remarks made by the members for Southern River, Burrup and Greenough. The committee members worked extremely well together. Over the past 10 years I have been on many committees and this was one of the most enjoyable. I pay tribute, as others have done, to the officers of the committee who have done so much work for it. Melina Newnan is an expert in the field of uniform legislation. She was ably assisted on the committee's tour by Keith Kendrick. For members who do not know Keith, he is a quiet, shy, retiring type. We enjoyed Keith's company on many occasions - especially on taxi rides through Washington, although that is another story.

Paragraph 7.5 titled "Different Federal States" is an extremely important part of the report. It reads -

Although the countries considered in this report are federations there are important operational differences.

Another fundamental difference is that unlike Australia, the United States and Germany which are countries of one basic language and culture, Canada and Belgium have more than one basic language.

Intergovernment relations are influenced by the different systems of government. Australia and Canada with a parliamentary-cabinet style of government and a Westminster tradition have developed a system of Ministerial Councils to deal with a variety of federal/state issues. This development has concentrated executive powers to the exclusion of legislatures. The United States with a presidential-congressional government and its separation of powers has developed a system which relies on direct lobbying of Congressmen -

That is completely different from the Australian system. The report continues -

- and more input by a variety of groups including the States into the legislative progress. In Germany the States have a direct input into the federal legislation as the Upper Federal Chamber is constituted by State Government members.

We were fascinated with the German system. To continue -

In Germany the majority of legislation is federal while the execution and administration of legislative measures are the responsibility of the States.

I learnt a lot as a member of this committee, and I endorse the remarks made by the previous speakers. I have still to finish reading this report; it contains so much. I commend the committee and the great work done by Melina Newnan and Keith Kendrick. It was a delight to be part of this committee under the chairmanship of Kevin Minson, the member for Greenough.

Point of Order

Mr MINSON: I seek your guidance, Madam Acting Speaker (Ms McHale). I omitted to thank a number of people, particularly the member for Burrup - my deputy chairman; the members for Southern River and Girrawheen; and Keith Kendrick the committee's clerk whose sense of humour, while outrageous, was welcome on the trip. I also want to express my thanks and admiration for Melina Newnan who has produced a first class report. I suspect Melina has a future in this area, if that is what she wishes.

The ACTING SPEAKER (Ms McHale) There is no point of order because there is no right of reply.

Debate Resumed

Question put and passed.

[See paper No 1326.]

SCHOOL STARTING DATES REVIEW

Statement by Minister for Education

MR BARNETT (Cottesloe - Minister for Education) [11.37 am]: Earlier this year I announced a review of school starting dates in response to concerns that school commences at one of the hottest times of the year. I now wish to table an issues paper prepared by the cross-sectoral committee established to recommend term dates for the period 2001-2005. The dates for the years up to 2000 were set in 1995. The paper details a number of issues which were considered important by the education, tourism and business groups consulted to date, including -

the impact of the hot weather in the first two months of the year;

whether it is preferable to commence school after the national Australia Day holiday in January;

the timing of the tertiary entrance examinations;

whether the four-day Easter break should always be included in the term one holidays;

the effect on state tourism of any changes to holiday periods;

whether school holidays in WA need to coincide with those in the eastern States;

the impact of possible changes on child care arrangements, especially vacation care;

public holidays and events, including ANZAC Day and the Perth Royal Show; and

ensuring there is sufficient time between the end of the school year and Christmas to allow students at boarding schools and teachers at remote schools to travel home for Christmas.

I have been advised that the preliminary consultation indicates that some people in the community believe school should finish closer to Christmas and that all of January should be included in the summer holidays, allowing school to start in February.

It appears many parents believe that school finishes too early in December. Similarly, the tourism industry has indicated that there is very little tourist activity immediately prior to Christmas and that it would not be affected by a later end to the school year.

I concur with these views and would prefer to see students finishing the school year later in December and beginning a week or so into February. There was also some desire for school dates and holidays to coincide between the government and non-government education sectors. Currently, government schools tend to start earlier than non-government schools, while some independent schools tend to start later than others.

We also need to consider the potential impact of the new outcomes-based curriculum framework which will be phased in from next year. The current unit curriculum favours four terms of equal length but the curriculum framework allows teachers a lot more flexibility in their teaching programs and, therefore, does not depend on equal 10 week terms. It may be that two semesters of roughly equal time can be retained, with mid-semester breaks and a between-semester break, which does not necessarily divide the year into terms of equal length. This would allow for Easter to be always included in a school holiday period, even in those years when the four day Easter break falls early. As changes to school starting dates have the potential to affect almost all members of the community, it is important that the consultation process is as wide as possible.

I encourage all those interested to read the issues paper and consider submitting comment. Copies of the paper are available from the Department of Education Services and public comment is open until 15 May. I expect a final report from the committee by mid 1998.

[See paper No 1327.]

WESTERN AUSTRALIAN TREASURY CORPORATION AMENDMENT BILL

Second Reading

MR COURT (Nedlands - Treasurer) [11.40 am]: I move -

That the Bill be now read a second time.

This Bill seeks to modernise the legislative basis to the operations of the State's central borrowing authority, the Western Australian Treasury Corporation. The corporation was established in 1986 to carry out the State's central borrowing function which commenced in 1981 under the Borrowings for Authorities Act. Under its Act, the corporation borrows moneys from Australian and international capital markets and lends those moneys to state government agencies and local authorities in Western Australia. Since its formation, the corporation has established itself as a major participant in these capital markets enabling it to raise funds at the lowest possible interest rates with the savings being passed on to its client authorities.

The corporation currently manages approximately \$10b in gross debt that has been raised to provide essential infrastructure throughout the State. It also invests funds held in the public bank account and by the corporation itself. In recent times, financial markets have experienced unprecedented deregulation, which has resulted in significant changes in the way that Governments in Australia have approached their respective debt management tasks. These developments have highlighted the need for amendments to the Corporations (Western Australia) Act to ensure that the corporation has the flexibility to carry out its main objective of raising funds for the State and its authorities at the cheapest possible cost.

These amendments follow changes that were made to the Act in 1991 to enable the corporation to manage its financial rights and obligations more effectively, to generate greater liquidity in its securities and give it better access to overseas markets. All these led to cheaper funding for its client authorities. It is appropriate to review briefly the background to some of the more recent changes that sit behind the proposed amendments.

For some time following its establishment as a separate corporate entity in 1986, the corporation operated as an administrative division of Treasury. However, as markets and the requirements of the State and its authorities developed and became more sophisticated, it has been necessary for the funding activities of the corporation to be

seen by the market to be independent of the policy making and budgetary functions of Treasury. In 1994, the corporation relocated its offices and began to operate independently, on a day to day basis, of Treasury. Close policy links however remain with Treasury on issues such as the corporation's borrowing and lending activities, its responsibility for investing the public bank account and for providing specialist financial market advice to other public sector agencies. Many of these advisory functions are specifically in the corporation's charter under the Act.

In addition, with the commercialisation of many semi-government authorities such as Western Power, AlintaGas, the Water Corporation, Westrail and others, the corporation has been called upon to assist these agencies in structuring their debt management activities consistent with their more commercial charter. These arrangements have in turn placed greater responsibility on the corporation.

The Bill clarifies the legislative basis for these advisory activities and will enable the corporation to effectively meet the requirements of the State and its agencies in the coming years.

The corporation is currently established as a corporate sole consisting of the under treasurer. However, since its incorporation, successive under treasurers have appointed boards of management to advise them on matters of policy. Members of the corporation's board of management have assisted the under treasurer on a voluntary basis without any statutory obligations or responsibilities. Although this arrangement has worked well for the corporation, it is considered appropriate that the role of the board be formalised so that it is responsible and accountable for the operations of the corporation. Accordingly, the Bill repeals the provision establishing the corporation as the person "for the time being holding or acting in the office of Under Treasurer" and establishes a board of directors with commensurate functions, responsibilities and accountabilities. Specifically, the Bill proposes that the corporation's board of directors will comprise:

- (a) The under treasurer as chairperson;
- (b) An officer of the Treasury nominated by the under treasurer as deputy chairperson;
- (c) The chief executive officer of the corporation; and
- (d) Up to three other persons appointed as non-executive directors by the Treasurer.

In view of the significant financial role of the corporation, it is considered appropriate that the Treasury continue to have a leading role on the board.

The Bill also expands the corporation's functions to provide statutory support to many of the roles corporation officers have been fulfilling for the State and its agencies. These functions are similar to those of other state central borrowing authorities and have evolved in response to growing sophistication in financial markets, and the demands this has made on the management of public sector assets and liabilities. The amendments will enable the corporation to -

- (i) Advise on financial matters including debt management, asset management and project and structured financing;
- (ii) manage investments for the Treasury and other government agencies;
- (ii) assist authorities with managing their financial exposures; and
- (iv) assist the State with the management of any debt raised prior to the establishment of the corporation.

Under the current Act, the term "authorities" is restricted to those with borrowing powers. However, many government departments and other public sector bodies are also involved in financial transactions such as leasing, and have sought the corporation's assistance. Accordingly, the Bill proposes to expand the definition of "authorities" to cover these bodies.

The corporation's daily involvement in financial markets through its borrowing and investment activities brings greater efficiencies to the management of the State's assets and liabilities. The corporation's role therefore, is that of the State's in-house corporate Treasury, not unlike the role carried out by any other large company for its subsidiaries. The proposed changes in the corporation's functions are intended to enable it to fulfil this role more completely by assisting agencies, where necessary, to manage their assets and liabilities more effectively.

On the assets side, the corporation's officers currently manage the investment of the public bank account under delegation authorised by the Financial Administration and Audit Act. While this arrangement ensures that the facilities and expertise of the corporation's officers are used to ensure that the funds in the public bank account are invested to achieve the highest return possible in accordance with Treasury's investment policy, the current arrangements are administratively cumbersome. The proposed consequential amendment to the Financial

Administration and Audit Act, will bring greater efficiency to the management of the investment of the public bank account, while ensuring that the same level of prudential control is maintained by Treasury.

It should be noted that the corporation has implemented very strict credit and risk management controls as well as comprehensive performance measures on its asset and liability management. It is extremely important from the State's point of view that similar controls and performance measures are in place with any government agency using derivatives, if the losses experienced overseas by Baring Brothers in the UK, Orange County in the USA and others are to be avoided.

These changes in the corporation's functions will enable it to use its experience and expertise in financial markets for the benefit of all public sector agencies, which will be able to approach the corporation as required. Under the Act, the corporation currently has a two stage borrowing approval process which requires it to obtain the Governor's approval to the amount of any borrowing - section 10(3) - and the Treasurer's approval to the terms and conditions of any borrowing - section 10(2).

With the establishment of a board of directors, it is appropriate for the board to have responsibility for all operational and strategic matters, including approval of the terms and conditions of any borrowing it may undertake. However, in view of the role that the corporation plays in state finance, the Bill includes a clause subjecting the corporation to appropriate borrowing limits which the Treasurer shall approve from time to time. Consistent with the amended structure of the corporation and the functions vested in the board, the Bill amends the corporation's investment powers to place this responsibility with the board.

The Bill also proposes to amend the guarantee fee provisions to place the liability for the payment of a guarantee fee on the beneficiaries of the corporation's activities; that is, the authorities to whom funds are lent rather than on the corporation as the Act now stands.

An integral part of these changes is to ensure that the corporation continues to be fully accountable for its operations. The Bill therefore introduces provisions requiring the corporation to prepare corporate planning documents, including a strategic development plan and statement of corporate intent, and make quarterly reports to the Treasurer. These provisions are similar to those of other corporatised statutory authorities. The statement of corporate intent must be tabled in Parliament annually.

In accordance with competitive neutrality principles, the Bill repeals section 7 of the principal Act exempting the corporation from all state taxes and duties. Nevertheless, it was deemed prudent to give the Treasurer the discretion to exempt the corporation from certain taxes or duties, to ensure that the corporation and the securities it issues are subject to the same taxation regime as other Australian government securities. In order to ensure that any exemptions are consistent with competitive neutrality principles, this clause includes the proviso that an exemption will be granted only if the Treasurer considers it to be in the public interest.

The Bill also proposes certain other administrative amendments to the financial provisions of the Act, including enabling the corporation to pay a dividend to the consolidated fund out of any surplus it may have at the end of the financial year.

As members can see, while the amendments propose a number of structural changes to the corporation, these changes will enable the corporation to build on the benefits it has brought to the management of debt in this State. The Bill will also provide the corporation with the necessary statutory powers to enable it to make a fuller contribution as the State's in-house corporate Treasury as well as central borrowing authority. The proposed amendments to the Act are of major importance to the State in ensuring the continuing efficient management of public sector assets and liabilities, and I commend the Bill to the House.

I table for the information of members some explanatory notes covering the clauses of this legislation.

[See paper No 1328.]

Debate adjourned, on motion by Ms Warnock.

TRANSPORT CO-ORDINATION AMENDMENT BILL

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.50 am]: I move -

That the Bill be now read a second time.

Members will be aware of the considerable benefits derived to Western Australians through the implementation of the Government's transport reform program. As part of those reforms the Transperth bus fleet was purchased by the

Department of Transport in June 1996 with the operations of the bus services being progressively outsourced through competitive tendering.

Rather than establishing a new structure to manage the bus fleet, the Department of Transport examined the option for private sector management through competitive tendering. Industry advice to the department indicated that a significant reduction of capital debt costs could be achieved through the sale and lease-back of the Transperth bus fleet. The outsourcing program will result in the delivery of savings to the Government. In line with principles of good financial management, if the fleet were to be sold, the proceeds of the sale of the bus fleet would be used to repay existing debt on the fleet. Any offer to purchase the bus fleet from Department of Transport would require the purchaser to provide finance for -

- the purchase of the existing bus fleet comprising 870 vehicles;
- funding for the provision of 133 new buses by 1999, within the context of replacing the existing bus fleet by the year 2015; and
- the provision of further new vehicles to increase the bus fleet to a total 1 070 vehicles by the year 2015.

Awarding a contract for purchase, lease and fleet management of the Transperth bus fleet will -

- remove the bus procurement process from the capital works program;
- reduce the average age of the bus fleet; and
- provide the Department of Transport with enhanced overall management control of the fleet.

A successful tenderer will be responsible for ensuring that replacement buses meet Australian design rules and encapsulate the requirement of providing more efficient, safe and better bus services for West Australians.

Particular emphasis will also be placed on the provisions of the Disabilities Services Act which will ensure that Western Australians with mobility impairment will be catered for through the introduction of new accessible buses that will provide easy access. Management of the bus fleet may also be outsourced to the private sector. However, to prevent any conflict of interest, tenders will not be accepted from companies which have an interest in the provisions of route services under existing contracts.

Fleet managers appointed under the provisions of the contract will be responsible for -

- management of the existing bus fleet;
- deployment of the fleet;
- accident management; and
- insurance of the fleet.

The Department of Transport will also conduct performance reviews on an annual basis. The department will monitor key indicators such as -

- average age of the fleet;
- customer satisfaction with the implementation of the bus acquisition program;
- costs, including maintenance and fuel; and
- optimum bus age prior to its replacement.

This innovative approach to the management of the Transperth bus fleet reflects this Government's commitment to provide a more efficient, cost effective and competitive public transport system for the benefit of all Western Australians.

In addition the Bill will provide a regulatory regime, for the setting of fares, the conduct of passengers and the issue of infringement notices for nonpayment of fares on contract bus services. It also provides for the introduction of standards for the bus and coach industry in Western Australia. This industry comprises market segments such as public transport services, charter, safari and tour operations and school bus services.

The aim is to enhance safety and efficiency in the transport system by setting minimum standards which will be to the benefit of passengers and customers. The omnibus industry has recognised the need for improving the overall level of service to promote growth in the industry and to enhance Western Australia's tourism capabilities. That was strongly evident from the level of support demonstrated by the industry at a series of workshops and seminars

conducted towards the end of 1997 and the continued ongoing involvement of industry representatives in the development of the standards.

The introduction of a standards scheme which embodies safety for passengers and the general public and reduces restrictive economic regulation, is consistent with National Competition Policy reforms. The public will further benefit from increased competition in service delivery which incorporates a range of innovative transport products. The emphasis of these standards will be on -

ensuring appropriate levels of service are provided in terms of vehicle safety, comfort, presentation, management expertise and customer service;

ensuring compliance with approved maintenance procedures as well as the incorporation of good work practices such as fatigue management;

encouraging and maintaining industry participation in determining standards and compliance systems;

assisting the industry to improve its image and the quality of services delivered to the public; and

ensuring the provision of appropriate education and training for operators and personnel.

These proposed standards will apply to both new and established operators. However, there will be a transitionary or phase-in period for existing operators.

The Bill will expand the regulation making powers to include standards applicable to the operator, the driver and the vehicle and provide for appropriate penalties for noncompliance. The approach is based on providing guidance to the industry rather than a prescriptive regime, thereby enabling systems to be put in place which recognise the diverse nature and varied needs of the industry.

The success of the scheme will be achieved through a partnership involving both industry self-regulation and compliance monitoring by government. It will bring Western Australia in line with standards adopted nationwide, thereby providing the bus and coach industry with the capability of having reciprocal accreditation with other States. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ACTS AMENDMENT (ABORTION) BILL

Committee

The Deputy Chairman of Committees (Ms McHale) in the Chair; Ms Warnock in charge of the Bill.

Mr PENDAL: Madam Deputy Chair, can you clarify whether all of the amendments are on the Notice Paper?

The DEPUTY CHAIRMAN (Ms McHale): The amendments that we will be considering are those on the Notice Paper at pages 9, 10, 11, 12 and 13. They are in the names of the members for Perth and South Perth. An additional amendment in the name of the Minister for Health has been circulated on a single piece of paper.

Ms WARNOCK: I seek leave to invite into the Chamber parliamentary counsel Mr Greg Calcutt, when he arrives.

The DEPUTY CHAIRMAN: Permission is granted when he arrives.

Mr PENDAL: Madam Deputy Chair, I am pleased to hear that ruling, because this is a private member's Bill. Three weeks ago, when I sought the facility to have someone to advise me, you were in the Chair -

The DEPUTY CHAIRMAN: Is the member for South Perth taking a point of order?

Mr PENDAL: I am speaking in the Committee stage. I am trying to get some fairness.

The DEPUTY CHAIRMAN: There is no question before the Chair; therefore, I have not given the member the call.

Mr PENDAL: As soon as there is, I will make my point.

Clause 1: Short title -

Mr BARNETT: I take this opportunity to make a couple of general comments. I guess in some sense we have almost a classic Mexican standoff. I will not repeat all of what I said last night but will simply restate that a piece of legislation went through this Chamber that was government sponsored - the so-called Foss Bill. The upper House, through the ruling of its President, has effectively declined to debate that Bill. That is where we are at. We now have

before us another piece of legislation - the Davenport Bill - which on a spectrum of pro-life to pro-choice is a more extreme pro-choice position. Several members of this Chamber who voted on the Foss Bill for a pro-choice position may find it difficult to take the extra step of voting to the extent of pro-choice as detailed within the Davenport Bill. That presents a quandary.

Last night, the member for Greenough, the Minister for Labour Relations, and others, expressed a great sense of frustration that the upper House had declined to examine a piece of legislation that had been properly passed by this House. As a result, a series of ideas and strategies were talked about. Some of them were quite bizarre, extremely unusual and probably without precedent. One proposal, on which the member for Roleystone, and others, may wish to comment, is that we could, if we desired, amend this Bill to effectively delete all of the Davenport provisions with which many members of this House do not feel comfortable, replace it with a schedule which essentially reinstates the Foss Bill, and return it to the upper House. It is my understanding that that would force the upper House to consider the legislation that was properly and carefully passed by this House. This is the only House to have considered the two pieces of legislation. That in itself must command some moral stature.

Another alternative is to simply reject this legislation, or take out some critical clause - perhaps not allow the repeal of the Criminal Code provisions. The third alternative is to carry on and patch it up, which is perhaps the position that the Deputy Premier and others think we should pursue.

We all want to see a resolution. From where I sit, this is not a good piece of legislation. The Foss Bill was far from perfect, but this Bill is dreadful. I said last night, and I will stick to it, that if I have no choice at the end of the day, I will vote for the Davenport Bill; but I will do it most reluctantly, and I will feel denied my right to express my view in a proper situation. It is incumbent upon the House of Review, if it wishes to be that, to review the legislation passed by this House. We have a disgraceful situation on our hands.

Mrs ROBERTS: I echo the sentiments expressed by the Leader of the House, which were the same sentiments as he has continually held and as he expressed also last evening. The Leader of the House is right in suggesting that this is a classic Mexican standoff. We are in the extraordinary situation where the President has declined to debate legislation passed in this Chamber. This is the people's House, the House where government is formed, and where we are far more accountable to our immediate constituencies than are members of the other place. As the member for Riverton said last evening, this is the House where policy should be formed. I do not think this House should be held to ransom by the upper House.

The Leader of the House was absolutely correct when he suggested that the Foss Bill was far from perfect and that this Bill is absolutely dreadful. This is a disgraceful piece of legislation. It is been hastily cobbled together. We have sheafs of amendments. We have before us a Bill which calls for the repeal of the Criminal Code, which is a matter which has not been supported in this House. I say in the strongest possible terms that some different course of action must be taken.

The Leader of the House outlined three alternatives. One alternative was to replace this Bill with a schedule so that we would essentially end up with the Foss Bill. To have someone of the stature of the Leader of the House suggest that course of action to us should send a message to everyone in this place that what we have before us is an absolute farce. This is arguably the most serious issue and the most serious legislation that will be put before this Chamber in decades. What we have before us is rubbish. It is a disgrace that we have ended up in this situation, and I understand from the remarks made by the Leader of the House that he concurs with my view.

Another option is to remove a critical clause and thus essentially gut the Davenport Bill. We will then end up with even more of a shambles. We can try to patch up this Bill a bit. Either way, we will end up with rubbish legislation. I will not be supporting this rubbish legislation.

The DEPUTY CHAIRMAN (Mr Sweetman): Before I give the Deputy Premier the call, I call on the member for Perth to introduce her adviser.

Ms WARNOCK: I sought and was granted permission earlier, but the adviser was not here at the time. I introduce Greg Calcutt, the parliamentary counsel.

Points of Order

Mr PENDAL: The parliamentary counsel at the Table, whom I have known for many years, will certainly not take this personally, but I object to a parliamentary counsel, a senior government officer, being given this facility in respect of a private member's Bill. I do it on good authority - no better authority than the person who occupied the Chair three or four weeks ago. What is good for the goose should be good for the gander. A principle was established by one of your colleagues, Mr Deputy Chairman, when she said that private counsel should not be on the floor of the Chamber to advise a person who is in charge of a raft of amendments. I had no option but to accept that.

When I asked whether I had the opportunity of moving a motion in dissent, I was told that was not possible because the Chair was exercising a discretion.

I suggest that the Chair should exercise discretion in a second way; that is, by ruling that it is grossly improper for parliamentary counsel to be on the floor of the Chamber to assist with the passage of a private member's Bill. A question of equity is involved here - not professionalism, because no-one is questioning Mr Calcutt's professionalism; indeed, the argument is not even about Mr Calcutt. It is an affront to me and to the people with whom I worked for five or six weeks that we should be denied a facility that is now being given to a person handling not a government Bill but a private member's Bill. Mr Deputy Chairman, I ask that you rule that equity be applied and that the member for Perth be afforded the same facility that was afforded to me five weeks ago.

Mr PRINCE: I was the person who handled the so-called Foss Bill, with the assistance of parliamentary counsel. It was not a government Bill. It was a Bill which had been brought into this Chamber to facilitate debate. I made the point then, when parliamentary counsel came into the Chamber at my request and sat with me at the Table, that he was there to provide his professional skills and expertise to all members. He provided that advice not only to me, but also to many members of this Chamber from all sides of this debate as they sought to produce amendments and forms of words to put into legal intent what they wanted to express. I know that parliamentary counsel has since last week done the same thing for many members, again from all sides of this debate.

There is a fundamental difference between doing that and having a private legal adviser on the floor of the Chamber, because parliamentary counsel is paid by the taxpayer and provides service not just to the Government but to all members of this Parliament. A member of parliamentary counsel's staff is even available to provide services to private members when they wish to draft a Bill, and that person is used constantly by private members. There is no difference at all in parliamentary counsel being here now, sitting at that Table and providing service to all members. However, to have a private legal practitioner at the Table, no matter how eminent, would be a complete departure from anything that even looked like normal practice, granted that this debate has gone a long way from normal practice.

Mr Pandal: The other House has done that.

Mr PRINCE: This is not the other House. The reasoning of the member for South Perth in taking this objection is completely false, is not valid and has no logic. Parliamentary counsel is here again today at my request, to sit here and advise the members of this Chamber, whoever they are and whatever amendment they wish to bring.

Ms McHALE: I was the Deputy Chair who allowed the parliamentary counsel onto the floor of the Chamber. I wish to correct the member for South Perth's recollection of what I did with regard to his request. I declined his request for an adviser because he was moving a series of amendments. The fundamental difference between this case and his request is that the member for Perth is moving the Bill, not a series of amendments.

Mr Pandal: She is a private member. I hope we do not have you as a Deputy Chair for too much longer.

Mr BAKER: I also want to comment on what I regard as a perversion of justice on this occasion. Fundamentally the same issue arose two weeks ago, and the member who was then in the Chair, the member for Thornlie, ruled very quickly indeed. The Deputy Chairman did not seek to suspend the proceedings to consider the matter and weigh up the principles of fairness, justice and equity and what is reasonable or proper. It was a snap decision, and the answer was no. None of the rationale or reasoning that was given earlier was referred to.

The point is that the member for Perth is promoting a private member's Bill. The adviser, who was introduced as the member's adviser, not the adviser to members of the Chamber, is a taxpayer funded public servant.

Mr Prince: That adviser is available to everybody.

Mr BAKER: The adviser the member for South Perth attempted to introduce at the Table to provide legal advice was a private member of the community, not a public servant. Surely it is a matter of choice to determine which person should be at the Table providing that advice.

Mr Pandal: You would think they would be in favour of choice.

Mr BAKER: One would have thought so. Also, the amendments proposed by the member for South Perth last week were far more comprehensive and complex than the Davenport Bill and its proposed amendments. The situation is grossly unfair. Consistency is needed in this Chamber on this point. I ask you, Mr Deputy Chairman, to uphold the precedent and give some consistency and credibility to the rulings of the Deputy Chairmen.

Mr BARNETT: I will not prolong this debate as we need to move to the important point. Your ruling, Mr Deputy Chairman, and the previous ruling by the member for Thornlie were absolutely correct. The Minister for Health

handled a government sponsored Bill, and parliamentary counsel was present. The member for South Perth sought at the time to have additional legal advice available to him or the group he represents.

Mr BAKER: On a point of order.

Mr BARNETT: The member cannot do so.

Mr Cowan: Sit down.

Mr BARNETT: The Bill was government sponsored with parliamentary counsel present. A private member who wishes to pursue a private member's Bill, with his or her name attached to it, can have advisers present during Committee. The member for South Perth at that time was not the member with the carriage of the Bill - nor is he now. The private member is the member for Perth. The member's request last week was not practical in any sense. It was not a matter of us all having our advisers in the Chamber. A private member handling a private member's Bill can have advice, whether it be by parliamentary counsel or some independent source, available at the discretion of the Chairman. What the member for South Perth sought at the time was improper and inappropriate. The rulings are correct.

Mr McNEE: It seems that however this dreadful piece of legislation is covered up, since day one it has involved one piece of trickery after another. Anyone stupid enough to think that the Foss Bill was not considered to be a government Bill, should start writing to Father Christmas. It is like me planting wheat and calling it barley. There is no consistency. We asked for plain and simple advice with no strings attached. The advice was free and legitimate. I am now told that private members have access to parliamentary counsel. The problem from the outset is the lack of consistency. I am asked to make decisions on this filthy Bill which is worse than the previous one. The amendments we moved on the previous Bill were complicated and needed to be explained carefully. People said they did not understand them. Heaven above - if members cannot understand the simple things we are trying to do here, I do not know where we are going. The Chamber has not issued the same courtesies to both sides of the debate.

Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (Mr Sweetman): The member for Perth has stewardship of this private member's Bill before the Chamber. An adviser has been duly allowed to enter the Chamber and advice may be given through her to all members. The member for South Perth answered his own point of order; that is, he made a clear distinction between a Bill and amendments. I will be consistent as Deputy Chairman and rule, as other Chairmen have ruled, not to allow advisers for members who do not have stewardship of the Bill, no matter how copious are the amendments to be delivered in the Chamber. I turn down the point of order.

Point of Order

Mr PENDAL: In the ruling made some weeks ago against me, the then Deputy Chairman (Ms McHale) said on page 933 of *Hansard* -

... I will not accede to the request by the member for South Perth to bring forward an adviser on the basis -

Mr McGinty: Are you canvassing the Deputy Chairman's ruling now?

Mr PENDAL: No. I am about to ask a question. I am sure that even someone with such a lamentable record in rights as the member for Fremantle might be a little interested in protecting the rights of other members of the Chamber!

Mr Cowan: Get on with it!

Mr PENDAL: I do not need to be bullied by the Deputy Premier. If it was setting a precedent three weeks ago - on 19 March - to allow me and my colleagues to have legal advice on the floor of the Chamber, when was the precedent set and when was the last occasion on which a private member sponsoring a Bill through this House was allowed to have on the floor of the Chamber a publicly paid parliamentary counsel?

The DEPUTY CHAIRMAN: On the spur of the moment I cannot respond to the intricacies of that question. However, I uphold my previous ruling that counsel has been allowed to enter the Chamber to assist the member who has stewardship of a Bill before the Chamber.

Mr Pendal: Can you get that advice?

Committee Resumed

Mr COWAN: There is no doubt that the Committee can determine the course of action for dealing with this Bill. However, I reiterate what I said last night and will continue to reiterate it throughout this debate: This Chamber has

a responsibility to deal with this Bill properly. It cannot take any short cuts. It cannot decide that this will be a contest between the two Chambers to see who wins. It has to decide to deal with the abortion laws of this State. It is not a competition between the two Chambers. It is a matter of determining who is in the majority in this Committee, about what laws we want to change and about the extent to which they will be changed. That is how people will vote. I do not have any difficulty with that. I have great difficulty with this Committee deciding that this is a competition between Chambers and we will act accordingly by seeing if we can raise the bar. That would be the most inappropriate course of action for this Committee to follow.

The Acts Amendment (Abortion) Bill was different from the Bill that was considered in this place until changes were made to it by way of amendment in the other place. It then became similar in many respects, particularly in respect of the procedures that medical practitioners must follow when they perform abortions. There is a similarity in this Bill with what we discussed because of that requirement.

The other reason we need to consider this carefully is that the amendments on the Notice Paper take us much closer to the position we occupied when we sent the Foss Bill to another place; in reality there is very little difference. For that reason we should get on with the job and consider these amendments. I will support all of the amendments. For the edification of the member for South Perth who will dive into his law books, I will also support his amendment. Nevertheless, we should consider all these clauses and insert the appropriate ones, because the amendments take us to the common ground and we can achieve a result. That is what the Committee should do.

Dr HAMES: I will make comments that I was saving for when we get to the third reading of this Bill, when they would have been more appropriate. We should deal with the proposed amendments to see what we do and do not agree with. I have told the member for South Perth already that I will support his amendment that provides for counselling to be given by someone other than the person doing the procedure. I gather the Minister for Health also has amendments that satisfy his view on whether that should be regarded in general terms as a criminal act. I am happy to consider those.

It is interesting to note that, with one exception - the Leader of the House, and I will refer to his comments in a minute - every member who has spoken strongly against the upper House dictating to this Chamber that the Foss Bill should be preferred and that we should chuck out the Davenport Bill, has voted against the Foss Bill and will vote against the Davenport Bill. Why did those speakers - especially those who spoke last night - speak so strongly in favour of a Bill being promoted that they voted against? They did that because they do not want either of them to go forward. That is not the case for every one of them.

I agree with the Leader of the House's concerns about who should have dominance and that we should not be dictated to by the other Chamber. However, at the end of the day, the proposed amendments to this Bill will bring it closer to that which we approved to go to the other Chamber to allow us to support it. One feature that has been obvious in this Chamber is that those members who voted in favour of the Foss Bill, and who generally support the Davenport Bill, the pro-choice group, have not been the ones who have been speaking on this matter. Last night was an indication of that, when almost every speaker spoke against the Davenport Bill. We know what we want; we want pro-choice. The supporters of pro-choice have sat quietly and have ducked their heads and hunched their shoulders at the vindictive comments thrown at them. We are determined to have that outcome. We should make sure that we do the same again today; that is, that we duck our heads and hunch our shoulders and try to get back as much as we can to that which we supported in the first instance with the Foss Bill. We support giving women the choice and we should stick to that.

Mr McNee: What about giving babies a choice?

Dr HAMES: That does not mean that the views of the member for Moore are wrong or that he does not have the right to express them. I know how strongly he feels about this. However, I want people who disagree with his point of view to realise that it is important for them to hold fast on issues like this and not get tied up with the confusion of which Chamber has the right to decide on this matter.

Mr GRILL: There is an easy way and a hard way through this morass. The easy way would allow us to deal with this legislation in both Chambers and complete it today. However, it will require goodwill and commonsense. I am pleased to be able say that some people are starting to see that the application of goodwill and commonsense is probably the way to go.

The Leader of the House has already outlined in general terms the procedure that could be adopted, whereby in the preamble to this Bill we would incorporate the Foss Bill and the Foss Bill with some slight amendment could then be sent back to the other Chamber. The other Chamber could then consider it. A meeting of managers could then sort out the difference between the two Houses. We could then come back and rubber stamp the Bill this afternoon. That is a truncated version of what could happen. However, it is both possible and practical. The alternative to that

is the situation in which we now find ourselves of having an interminable debate on this subject during which a range of extraneous issues will be brought up and debated ad nauseam. A filibuster will take up the rest of today and no doubt weeks to come. Effective termination of pregnancy laws will not be in place in this State for a considerable period.

I agree with some of the speakers who said there should not be an argument between the two Chambers. However, a certain person in another place took some fairly high-handed action yesterday. That high-handed action deserves some response. Unfortunately, that sort of activity does not happen in this place. This Chamber, which is a much more representative Chamber than the other place, has a responsibility to come to some sort of settlement on this matter.

I spoke to various sides on this issue and there appears to be a view that we can work cooperatively to bring about a settlement of the issue. The Leader of the House spelt that out privately to some degree last night and he enlarged on it publicly in the House today. There are supporters of that model. The pro-life people were prepared to consider it at a meeting at lunchtime. The people in the other place are prepared to seek legal advice on that proposition.

When I first spoke in this debate, I said I would support the Foss Bill in its entirety. I have done that and I continue to do that. I want to see a workable piece of legislation come from this House. Many people in this place, the other place and in the wider community feel belittled, neglected, battered and bruised because their point of view is not being heeded.

The pro-choice people have had a very significant victory in this Chamber and the other Chamber. Hon Cheryl Davenport and the member for Perth, who is handling the Bill in this place, have much to be proud of. Will we undo that with an unseemly squabble between the two Chambers or can we take the initiative suggested by the Leader of the House and endeavour to bring about rapprochement between the two Chambers, incorporate the Foss Bill within the Davenport Bill and have it the subject of a meeting of managers? That would be the sensible path.

It was always my view that this matter should be decided by a meeting of managers. Why not try it now rather than in, say, five weeks? Maybe we will get the legislation up. What have we lost if we are not successful? We would have lost only a couple of hours of debate. People at both ends of the spectrum will not like the concept of a settlement. However, the sensible people in the middle would rather see a workable piece of legislation in place next week rather than in seven weeks or longer.

Mr KOBELKE: I would like to answer, in part, the question raised by the member for Yokine. I voted against the Foss Bill and will vote against this Bill. At the recent Constitutional Convention many people against the republic took no part in the vote on what would be the form of a republic. Likewise, I will take no part in allowing abortion on demand. However, I will not abrogate my right to ensure that principles are within the law, which will at least save one life. I would like to have some influence on ensuring that whatever legislation is passed, it at least has a scintilla of protection for unborn children. The Foss Bill was a better basis for that. I am therefore most concerned about the stand-off that has developed and which has restricted our ability to pass a Bill that has a better element of protection for the unborn than appears to be the case.

I therefore take up the matter raised by the Leader of the House on the issue between the two Chambers. One of the key constitutional bases is section 46 of the Constitutions Act Amendment Act 1899. It is headed "Powers of the 2 Houses in respect of legislation". Subsection (5) reads -

Except as provided in this section, the Legislative Council shall have equal power with the Legislative Assembly in respect of all Bills.

The section relates to money Bills and the expenditure of money. In other respects, both Chambers are expected to have equal rights with legislation. That has been usurped by a decision made in the other place. The other place has used Standing Order No 170 to suggest it cannot deal with the Foss Bill, which this House passed and sent to it. The elements of Standing Order No 170 which are crucial to the issue read exactly the same as Standing Order No 178 for this Chamber and on which the Speaker made a ruling indicating there is not a problem with our debating the Davenport Bill having also dealt with the Foss Bill. I read into the record Standing Order No 178 -

No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

Standing Order No 170 in the Legislative Council and the relevant part to this issue, down to the two commas, are exactly the same and all the words are exactly the same.

Mr Wiese: Are you canvassing the Speaker's ruling?

Mr KOBELKE: No, I am supporting it. The issue between the two Chambers has made a joke of this Parliament.

The President of the other House ruled out that Chamber's ability to deal with the Foss Bill by using a standing order which, down to the commas, is exactly the same as the standing order used by the Speaker to allow this Chamber to deal with the Davenport Bill and I agree with the Speaker's ruling. That has led to the stand-off between the two Chambers, the effect of which limits our ability to arrive at the best possible legislation.

Mr Wiese interjected.

Mr KOBELKE: I take encouragement from the member for Wagin. When we were in government and the member for Wagin was an opposition member, he hit his straps at about 1.00 to 3.00 am and would hold forth with eloquence for hour after hour. If he suggests I need practice to come up to his standard, I am happy to take lessons to reach the heights to which he aspired in taking up the time of the House. That is not my intention. It should be put clearly on the record that the functioning of this Parliament is being pulled into disrepute with the decision made according to standing orders and the two Bills before us. I hope we do not bypass that issue because we must ensure that Parliament passes the best possible Bill.

Mr TUBBY: It is not news to this House that I am not in favour of the Foss Bill or the Davenport Bill. However, I agree with much of the sentiment expressed by many members last night. I did not speak during the second reading debate. Many members expressed the view that they considered the Davenport Bill to be second to the Foss Bill. The Foss Bill is the lesser of the two evils. I therefore support what the member for Eyre and the Leader of the House suggested. We could sit here for the next week and move amendment after amendment to the Davenport Bill to try to make it as much like the Foss Bill that passed through this Chamber last week, as we possibly can.

From my perspective, that is a waste of the Committee's time. We have spent two weeks debating the Foss Bill. Although I did not agree with it and I voted against it, it was supported by the majority of members in this place. I see no reason that we cannot simply delete the major clauses in this legislation and replace them with a schedule which will incorporate the provisions of the Foss Bill that was approved in this place last week. I do not wish to get into a fight between this Chamber and the other place, or into canvassing the rulings of either the Speaker or the President. However, in essence, we will be sending back to the upper House the Davenport Bill with amendments. The upper House would be honour bound at least to consider those amendments in its operations. When we get to clause 3, I will seek to move the amendment.

One other alternative is available to members: We could simply throw out this Bill in the same way as the upper House dealt with the Foss legislation and have a committee of managers, such as that suggested by the member for Eyre, over the next few weeks - not today - draft a completely new Bill to take in all of the suggestions that were put forward in the Foss Bill and any of those which people still wish to pursue in the Davenport Bill.

I do not support that initiative because it will only drag on this issue for another two or three months. Members of the general public, despite what I may think, expect Parliament to make a decision on this issue, and to do it as soon as possible. I foreshadow that when we get to clause 3, I will move to amend the legislation as I have suggested.

Ms McHALE: Mr Deputy Chairman, I seek your guidance on the proposal that is being put forward; that is, how can we seek to substitute the Foss Bill as the Davenport Bill, when we have already dealt with the substantive provisions that are known as the Foss Bill, without breaching the same question that was dealt with in the Speaker's ruling yesterday on standing order No 178?

The DEPUTY CHAIRMAN (Mr Sweetman): To put it in its simplest terms, it is a specific ruling, an individual ruling that the Speaker will make on legislation. It is difficult comprehensively to answer the member's query on that issue at the moment. The Parliament will draft or amend legislation as it deems fit, passing, in the majority, various aspects of it through to the third reading stage. It is then the Speaker's prerogative to make a ruling under standing orders as he applies them.

Ms McHALE: Members who are attracted to the idea of substituting the Davenport Bill with the Foss Bill should be aware that it may well be ruled out of order at the third reading stage.

Ms WARNOCK: I am in favour of both of these Bills, as I have made clear in my speeches in the second reading stage of each. These Bills do the same thing. Members of the public of Western Australia have made it perfectly clear to all of us in here what our responsibility is and we have voted on that indication from the public twice, in both Houses. It is obvious what we must do here. We have a responsibility to make a decision to find a workable piece of legislation, as my colleague the member for Eyre has said. My only interest in this matter is to protect women and their doctors from prosecution in the event that women find themselves with an unwanted pregnancy, which they are unable to sustain; and the woman and her doctor need clarity and freedom from the fear of prosecution.

Obviously I will support this Bill in its entirety. The member for South Perth may be surprised to learn that I will even support all of the amendments that I have seen of other members. I am keen to get a workable piece of

legislation. I support this Bill. I very much want to get on with discussing the clauses of the Bill. I simply feel it is time for us to begin to discuss the substance of the Bill.

Mr BAKER: I seek some guidance on a couple of the points that have been raised. If we proceed with the suggestion from the Leader of the House and the foreshadowed amendment of the member for Roleystone, will we simply be substituting one Bill for another, as was stated by the member for Thornlie a few moments ago; or will we simply be amending the Davenport Bill?

The DEPUTY CHAIRMAN: The Committee is at liberty to make whatever changes it sees fit to the Bill.

Mr BAKER: I accept that; there is no issue there. I am seeking guidance on this question: If we do as the member for Roleystone said we should consider doing, will we be substituting the Davenport Bill for the Foss Bill, or will we simply be amending the Davenport Bill? I think the member for Thornlie suggested that what is being proposed is a total substitution. My understanding is that that is not the case because if the provisions of the Foss Bill are factored into the Davenport Bill, after clause 3 we will, in law, be amending the Davenport Bill. I wonder whether I could have some confirmation on that point.

Mr BARNETT: The consequence of what the member for Roleystone proposes to do - I will support it - will be to amend the Davenport Bill by adding a schedule which proposes to include the Foss Bill as it was. An issue was raised by the member for Thornlie about whether it would be ruled out of order. That will be up to the Presiding Officer in this Chamber. If it is ruled out of order by the Presiding Officer in the upper House, he will certainly be in the unique position of having ruled both Bills out of order, and it will be up to his very capable talents to explain that to the community.

Mr BAKER: In other words, it will not be as the member for Thornlie said; it will not be a substitution, it will be an amendment.

The DEPUTY CHAIRMAN: Yes. It will be an amendment to the Davenport Bill.

Mr PENDAL: Late this morning the proposition was put to the people with whom I am associated that there was the prospect of striking out everything in the Davenport Bill, and attaching the contents of the Foss Bill as a schedule to the Davenport Bill. On the face of it, it had, and still has, some superficial attraction. Our group is meeting at 1.15 this afternoon. It will be of some assistance to me in understanding what will happen. In any case, my recollection is that in a few minutes the Committee will revert to a House so that private members' statements can be taken.

My position is that of the member for Roleystone, which he outlined very succinctly. Other members who have doubts might have those fears allayed. If we went down that path and deleted the Davenport proposals and reinserted the Foss Bill as a schedule, we would be doing that in Committee. The Committee would then report to the House and the contents of the Bill at that stage would be the contents of the schedule; namely, the Foss Bill. It would then be open to all members who had difficulty supporting any of the Bills to vote against the third reading. That is what I will be doing. As the member for Roleystone has said, the outcome would be, at least, to express the majority opinion - that is, the restoration of the Foss Bill and its return to the upper House - but it would in no way impinge upon the capacity of other members to vote no at the third reading stage.

Progress reported.

[Continued on page 1860.]

CHOCOLATE BILBYS

Statement by Member for Vasse

MR MASTERS (Vasse) [12.50 pm]: I wish to encourage members of State Parliament and the public in general to eat more chocolate this Easter, provided that it is in the form of chocolate bilbys and not chocolate rabbits. Contrary to what many people believe, chocolate may be good for us. For example, it contains high levels of polyphenols, a chemical found in red wine that provides protection against heart disease. Chocolate also contains anti-oxidants, which are anti-cancer chemicals, as well as iron, calcium and protein.

However, it is important that chocolate be in a form that is more representative of Australia than is a rabbit or an egg. Easter is a pagan festival of fertility that was adopted by the Christian religions to celebrate the death and resurrection of Jesus Christ. It is totally anachronistic and irrelevant to Australia that the rabbit, a symbol of fertility, is used to represent Christian beliefs at Easter. The bilby, an attractive and endangered native Australian marsupial, is no more nor less symbolic of Christian beliefs than is the rabbit, but at least the bilby will be spreading an Australian, pro-environment message to the millions of children who will be eating chocolate this Easter.

I am pleased to invite all members to join me at afternoon tea today to sample some chocolate bilbys from two

manufacturers, one of which is Haigh's chocolates, and I will lay this chocolate bilby on the Table of the House for the remainder of this day's sitting.

CENTRAL AREA TRANSIT BUS SERVICE, EAST PERTH

Statement by Member for Perth

MS WARNOCK (Perth) [12.52 pm]: I am perfectly happy to eat either a chocolate bilby or a chocolate rabbit at afternoon tea! I thank the member. More seriously, I have a petition here which is not a proper petition, so I shall not be presenting it, but it is signed by residents, business people, tourists, backpackers and employees servicing the inner city of Perth. It is an important petition. Therefore, I will deliver its contents in this brief speech today.

These East Perth people require a satisfactory bus service, preferably the red Central Area Transit bus, which, even though it has proved to be highly successful in the East Perth community, does not operate on weekends, leaving residents, tourists, business people and employees in limbo to either find a taxi or wait for a Metropolitan Transit Trust bus, on an inadequate timetable. The bus service for people in general from this area is pretty bad. It is about time the residents were more openly informed by the departments responsible to them.

These residents of the East Perth area want to let the Parliament know, by way of this petition, that they require the same weekend CAT bus service that is provided to residents in Northbridge and other inner city areas.

After a recent survey of the number of people using both the red and blue CAT bus services, it was revealed that a larger number of passengers commute to the Perth city centre from the East Perth area.

I am happy to represent their interests in Parliament. Inner city living is proving to be a great success and needs more assistance.

JOONDALUP NIGHT MARKETS

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.54 pm]: I bring to members' attention an innovative weekly community event under way in Central Walk in the Joondalup central business district. I refer to the new Joondalup night markets. This is a joint community initiative of LandCorp and the Commissioners of the City of Wanneroo.

The night markets will operate every Friday between 6.00 and 9.30 pm from 13 March to 15 May. They will consist of some 60 stalls, featuring arts and craft, bric-a-brac, new and used clothes and books. The second market was held last Friday night and over 3 000 people attended the Joondalup CBD. The markets will have a strong Joondalup identity with more than 30 local artists and crafts people already applying for stalls. The open air market concept will have a broad appeal to all Western Australians, and it is anticipated that the markets will be accepted as part of our wonderful lifestyle, particularly for those living in the northern suburbs.

The markets will also provide live entertainment which will make the venue a complete and enjoyable event for the entire family. The markets will also enliven the CBD of Joondalup by creating a vibrant Friday night atmosphere. I commend LandCorp, the City of Wanneroo, the North West Metropolitan Business Association, local business interests and the night markets licensee, Brian Lawrence, for the initiative and community spirit which has created this important community event.

FREMANTLE ROCKINGHAM INDUSTRIAL AREA REGIONAL STRATEGY

Statement by Member for Cockburn

MR THOMAS (Cockburn) [12.56 pm]: The suburbs of Wattleup and Hope Valley are in my electorate, although part of Hope Valley is in the electorate of my colleague the member for Peel. Both those suburbs come within the area of the Fremantle Rockingham Industrial Area Regional Strategy, known as FRIARS.

A map contained in that report denotes those suburbs with a dot point as "future to be determined". According to the report, it was questionable whether the suburbs could remain residential. Who would be prepared to tolerate having such a cloud hanging over the future of a suburb? That study was supposed to be wound up late last year. I asked the Minister for Planning earlier this year whether he would give a commitment to wind up the study so the people of Wattleup and Hope Valley would know their future and could get on with their lives.

However, in the most cavalier answer I have heard, I was told that the recommendations of the study would be known by the end of this year. Therefore, 12 months late, we will know the recommendations of the study without necessarily knowing the Government's intention. These suburbs are being subjected to an incredible amount of planning blight and people's futures are uncertain. People are being treated in a most cavalier manner. The Government should quickly wind up the study and allow people to get on with their lives.

MURDOCH UNIVERSITY CAMPUS*Statement by Member for Rockingham*

MR MCGOWAN (Rockingham) [12.57 pm]: I record my pride and thanks for the establishment of the Murdoch University campus in the Rockingham area. It is a defining and great moment in the history of Rockingham, certainly the greatest event in the time that I have lived in the city, and the biggest event in the city since the announcement of the naval two ocean policy of 1987. It is a great opportunity for our city and will lift the aspirations of people in the area and provide equality of educational opportunity for young and mature people alike. It is also a great event for the areas of Kwinana and Mandurah which will also benefit. Some issues still need to be resolved regarding sporting clubs, but a range of people, me included, are working on that matter.

I record my thanks to three people. First, Kim Beazley made commonwealth money available for the establishment of the campus in Rockingham, and he was part of the decision which resulted in campuses being located in outer growing metropolitan areas. Second, Gary Holland, the Chief Executive Officer of the City of Rockingham, has shown a true commitment to the area and has shone in his efforts to obtain the university campus. Third, Professor Roger Lethbridge was a driving force for this initiative at Murdoch University.

FLEUR FREAME*Statement by Member for Hillarys*

MR JOHNSON (Hillarys) [12.58 pm]: On Wednesday, 1 April, the City of Wanneroo paid tribute by naming a pavilion at McDonald Reserve, Padbury, after one of its councillors who unfortunately died last year. I refer to Fleur Freame, who served on the Wanneroo City Council as a dedicated representative of the community. I was delighted to join in the tribute to honour a wonderful woman with whom I had the great pleasure of working over many years. I am sure that Fleur would have been proud to know that her family were present at the tribute. She was fortunate to have such a loving and caring family.

Some people may remember Fleur's passion for youth issues, including child care and child welfare, and some may recall her interest in women's issues, including the role of women in local government and community and cultural arts programs. She believed strongly in the historical value of the City of Wanneroo.

I worked with Fleur Freame before, during and after I was elected to the Wanneroo City Council. Fleur was elected to council in 1987 and by the time I was elected she already had a reputation as one of the city's most dedicated and hard working councillors. I gained much from Fleur's knowledge and experience, and it was a joy to work with her on many local projects.

Personally, I will remember Fleur for her work in the community which extended far above and beyond her council duties. I trust that this pavilion will serve to remind the community about a great woman who gave so much and asked for so little in return.

*Sitting suspended from 1.00 to 2.00 pm***[Questions without notice taken.]****CRIMINAL CODE AMENDMENT BILL***As to President's Ruling*

MR RIPPER (Belmont - Deputy Leader of the Opposition) [2.37 pm]: Mr Speaker, I have read in the newspaper and I have heard it said in this House that the Criminal Code Amendment Bill passed by this House and sometimes known as the Foss Bill has been ruled out of order by the President in the other place. Has this House received any official message to that effect from the Legislative Council?

The SPEAKER: I am advised not.

ACTS AMENDMENT (ABORTION) BILL*Committee*

Resumed from an earlier stage. The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Ms Warnock in charge of the Bill.

Clause 1: Short title -

Progress was reported after the clause had been partly considered.

Mr TUBBY: The amendments to which I alluded prior to the luncheon suspension are in the process of being circulated in the Chamber, and I will move those amendments immediately after clause 2 has been put and passed.

Mr BARNETT: I wish to comment on what the member for Roleystone has indicated he may move, which I will most likely support. That will present a number of clear options to this Chamber. If the Davenport Bill were amended in this way and the Foss Bill were included in the schedule which was then sent to the upper House, we would be exchanging the Davenport Bill, which I will describe for simplicity as a more extreme pro-choice Bill, with a less extreme pro-choice Bill.

We would be taking out the more extreme pro-choice Davenport Bill and replacing it with the less extreme pro-choice Foss Bill and sending that to the other place. For the pro-life people in this Chamber, it would represent the lesser of two evils. I realise they would probably oppose both Bills. They have demonstrated by their vote that it would be a significant compromise on their part to facilitate it. The President in the other place could accept the Davenport Bill as amended and that Chamber could then debate the details of the Foss Bill. However, the President may rule it out of order, in which case the Davenport Bill, as amended, would be returned to this place.

Dr Gallop: How can you make that assumption?

Mr BARNETT: If it is ruled out of order, it is my understanding that the Davenport Bill as amended would be returned to this place. We would then have a clear message that the other Chamber was unwilling to entertain that approach and we would be exactly where we are right now: The Davenport Bill would be before us which we could either reject outright or consider its various proposed amendments. If the member for Roleystone moves that way, that is my understanding of the likely outcome.

Mr GRILL: I support the Leader of the House and the member for Roleystone.

Points of Order

Dr HAMES: At the moment we are debating clause 1. The Leader of the House and the member for Eyre are referring to something to be moved in a short time. That is the time to debate that, rather than doing it now under a clause that bears no relevance to the subjects that are being debated.

Mr BAKER: I understand where the Minister for Housing is coming from, but most speakers who have so far spoken on clause 1 have done just that and foreshadowed various amendments that suggested various compromised proposals. It is unfair to decide now that we will rule that relevance is the order of the day in relation to any further debate on clause 1, the short title. Other people wish to talk to the various proposals that have been suggested.

The DEPUTY CHAIRMAN: We are dealing with clause 1, which is the short title and the point of order raised by the Minister for Housing is valid. I uphold that point of order.

Committee Resumed

Mr PENDAL: If I have not filibustered before I need about two minutes to do it now. I am returning to the amendments foreshadowed by the member for Roleystone.

Mr Grill: That has just been ruled out of order.

Mr PENDAL: Are we back to clause 1?

The DEPUTY CHAIRMAN: We are dealing with clause 1 which is the short title of the Bill.

Mr PENDAL: Can you tell me what advice you gave to the member for Roleystone in respect of his move?

Mr Tubby: I have not moved anything yet. I will do that after clause 2.

Mr BAKER: I find it surprising that when the Bill, commonly known as the Foss Bill, was being debated in this Chamber, there was a great deal of debate about the short title simply because I and others proposed that the word "abortion" be inserted in the short title. The short title to the Foss Bill is the Criminal Code Amendment Bill 1998 and the short title to this Davenport Bill, or the Labor Party Bill as it is commonly known, is the Acts Amendment (Abortion) Bill 1998. The short title to the Davenport Bill is an appropriate title; it uses the word "abortion" within the text of its title. It calls a spade a spade and also it purports to remove from the Criminal Code those provisions which directly or indirectly relate to or impact on the question of abortion. Those provisions in the code contain the word "abortion" in their headings. For example, section 199 is headed "Attempts to procure abortion", not "Attempts to procure an amendment". Section 200 is headed "The like by women with child", the word "like" cross referencing with the word "abortion" in section 199. Section 201 is headed "Supplying drugs or instruments to procure abortion". As I said earlier, while this aspect of the Bill, the short title, is not fundamentally crucial, it is important in enabling members of the public to identify the amendment Bill. The word "abortion" in the short title will assist members of

the public in doing that. It is very important that we get into the habit of calling amendment Bills by, or use in the short title to any amendment Bill, the key word or phrase and the principal Act we are seeking to amend, alter, change, or vary. The short title to the Davenport Bill does just that.

Mr KOBELKE: The only aspect of the Bill for which I have any preference over the Foss Bill is the title; that is, the Foss Bill as an amendment Bill makes no reference to the area being amended, whereas this is an Acts amendment Bill on abortion and that is clearly stated. While that is a minor point, it needs to be clearly made and it reflects the potential effect of this Bill. The Bill is also a repeal Bill in part and that is not mentioned in the title. However, that is in keeping with standard practice because the Bill will do more than repeal, although that is a key component of it.

There is no preamble to this Bill, and Bills which have sought to address these areas have in the past contained preambles. While those who have supported the Bill want abortion to be made available, many of them have put on the record that they do not think that abortion is a good thing and that there are real problems with undermining the life of the unborn. They have also acknowledged that medical problems can flow from abortion operations. Therefore, it is appropriate for a Bill such as this to have a preamble that outlines some of the concerns. I understand standing orders allow us to consider this matter later in the debate. We can recommit the Bill at the end of the Committee stage to include a preamble.

It is appropriate within standing orders to make reference at this point to the fact that there is no preamble in the Bill so that by the time we get to the end of the matter, people will have put their minds to the form of preamble that should be included. An example is the Human Reproductive Technology Act. A preamble before the first section of that Act states -

WHEREAS:

- A. In enacting this legislation Parliament is seeking to give help and encouragement to those eligible couples who are unable to conceive children naturally or whose children may be affected by a genetic disease.
- B. Parliament considers that the primary purpose and only justification for the creation of a human egg in the process of fertilisation or embryo in vitro is to so assist these couples to have children, and this legislation should respect the life created by the process by giving an egg in the process of fertilisation or an embryo all reasonable opportunities for implanting.
- C. Although Parliament recognises that research has enabled the development of current procedures and that certain non harmful research and diagnostic procedures upon an egg in the process of fertilisation or an embryo may be licit, it does not approve the creation of a human egg in the process of fertilisation or an embryo for a purpose other than the implantation in the body of a woman.
- D. Parliament considers the freezing and storage of a human egg in the process of fertilisation or an embryo to be acceptable only: -
 - (i) as a step in the process of implanting; and
 - (ii) only in extraordinary circumstances once the freezing and storage of eggs can be carried out successfully.

Clearly it indicates respect for the very early stages of life, and that should be indicated in the Bill before us. The substance of the Bill is quite the contrary of that and throws out any respect for unborn life. Members can see from this example the established practice that when the Parliament wishes to set down clear guidelines with respect to an act, but does not believe the actual code contained in the legislation does so appropriately, it includes a preamble as a way of signalling to the community that, while certain things may not be outlawed, the legislation itself takes into account the upholding of certain values in the community. The Human Reproductive Technology Act is about upholding values in the same area, and that is what we should be doing with this Bill. We are not doing that. I ask those members who have been voting pro-choice, and who have also said that they think there are far too many abortions, to consider adding a preamble to the Bill at a later stage of the Committee debate that would clearly record the abhorrence of members for abortion and the wish to have educative programs which would reduce it.

The DEPUTY CHAIRMAN (Mr Sweetman): The section of standing orders with which the member for Nollamara is dealing is section 273, and members are able to move a preamble just before the final adoption in Committee of the title. The sequence of events is preamble, vote and then title of the Bill.

Mr PENDAL: I want to outline to the House the results of a meeting that was held at 1.15 pm today and to give some

indication of where we see the debate going. This might assist the Chair and also other members. It seemed that there were three options. The first was to refer the Davenport Bill to a legislation committee. I am not very familiar with that procedure in this Chamber but effectively it is like a select committee which is given a specific job and time frame. The second option was to go down the path suggested by the member for Roleystone and the Leader of the House before the luncheon suspension; namely, to delete all the contents of the Davenport Bill, to reinsert the contents of the Foss Bill as a schedule and then send that to the Upper House. Were those options not open to us, the third option was to return to dealing with the substance of the Davenport Bill in Committee and to seek to include certain amendments, of which notice has been given.

My understanding is that option one effectively is not possible now because the only person who can move that a Bill be referred to a legislation committee is the Leader of the House, and he does not favour that course.

Mr Barnett: I have not commented on that. The suggestion has been made but I think we should deal with this issue now and I am open to suggestions. I have not given any feedback to anyone

Mr PENDAL: That is helpful. Firstly, I am obliged to put these things on the record because I undertook to do that and so that other people know what we feel. It seems that the possibility of the Bill's being referred to a legislation committee has not been entirely ruled out. However, if the Leader of the House will not move that the Bill be referred to a legislation committee, we would favour our second option and that is to "re-Foss" the Davenport Bill. That is where this group is heading. If none of that works, in the final analysis we intend to return to the substance of the Davenport Bill and move the amendments that now stand in our names.

Mr AINSWORTH: I wish to speak again on behalf of the member for Collie, who is without voice, on the same basis as it was allowed by the Speaker last night. The member for Collie wishes to foreshadow an amendment to proposed section 334(7) of the Health Act, as contained in clause 7 of this Bill, at page 6, line 16, by deleting the number "20" and substituting "16". The purpose of this amendment is to redefine the stage of pregnancy as 16 weeks when the special conditions in clause 7 will apply to the justification for an abortion.

Mr CARPENTER: I struggle with having to get up and talk about what is going on in this Chamber. This is utterly pitiful. What sort of lunatic asylum are we running here? This is a joke. It is absolutely farcical. The member for Roleystone hit it on the head, inadvertently perhaps, when he said that last week we had a debate and the people of Western Australia expected us to make a decision. I have news for members: The people think we have made a decision because we did make it in substance last week. Members made the same decision in the upper House as was made in this Chamber, and that is, to liberalise the abortion laws to provide access to abortion to people. This is a farce! Some members are driven by very strong beliefs and that is okay. They have their beliefs and if they want to be prisoners of their religious beliefs let them be; but they should not try to incarcerate the rest of the population with them. Do not take a religion which is supposed to be an instrument of love and turn it into an instrument of hatred and oppression. Members got past all that rubbish last week. What is going on in this Chamber now is a fantastic example of why the proceedings of this place should be televised live.

Several members interjected.

The DEPUTY CHAIRMAN (Mr Sweetman): Order members! We cannot afford to have interjections at the rate they have been coming for the past 30 seconds or so. The Minister for Housing quite rightly pointed out he cannot hear a word. I am battling too and I am sure Hansard is having difficulties as well. If we can be a bit more orderly and deliberate in our proceedings here I think it will help everybody.

Mr CARPENTER: This debate should be televised live to the people of Western Australia so they can see what goes on in this Chamber. If the people knew what was going on in this Chamber, and in the other Chamber, they would demand that half the people here get out of this parliamentary process, because they are just blowhard, bellicose, boofhead time wasters. Members are wasting time. The option that some members are considering is to say, "Let's see what happens if we do this." Some struggle with the President in the upper House. Why get into that? We have the opportunity now of making a law certain, right here, right now! We do not have to make up a law and then go and be involved in some struggle for political reasons with the President of the upper House. We can provide the certainty here today that the people of Western Australia thought we had done. They thought we had made a very wise and courageous decision. They thought we had done the right thing. The 80 per cent of people who support the pro-choice line thought that we had done the right thing. What are we doing now? We are getting involved in some internal struggle in the Liberal Party. Why? Members, do not tack yourself on to them; forget them and all that rubbish. Just think about the principle that we are trying to invoke in the law and let us do it here and now. Let us give some certainty to the people who want it.

Mr Barnett interjected.

Mr CARPENTER: We do not need to go through that process. We are wasting time. We do not have to give

succour to those people. The most vocal opponents of the legislation are not interested in what we are up to. All they want to do is knock off the Bill. They are opposed to it outright. They do not want people to have access to abortion.

Mr Barnett interjected

Mr CARPENTER: Members are giving them encouragement. They are making a mistake for political reasons. Forget all that internal garbage in the Liberal Party and members' struggles with different people in the upper House.

We are here to represent the people who are living life out there in the world, not to play pathetic, stupid games in this Parliament, waste our time and their money and create an immense amount of concern and upset for thousands of women in the community. What will they think at the end of this? The Premier should take a leading role. He should not sit back and rub his chin. As the Premier of the State he should be saying that this is the Parliament of the people of Western Australia and this is the way we should be running things. We made a decision in this Parliament last week. The other place made almost the same decision in principle last week. We are now throwing all that up in the air and giving the opponents of last week's decision an opportunity to frustrate us, knock it all off, work on members, abuse them, and get people to their parliamentary offices to put pressure on them to weaken their resolve. That is what this is all about. The only two people on the front bench opposite who are showing any leadership are the Leader of the National Party and the Minister for Housing. The Premier should go back to his chair and stand up and say that we must sort this out today. He has that capacity and should not turn his back on the people of Western Australia.

Mr McNEE: How dare the member for Willagee speak in that way. He has made a negative contribution. I cannot remember the contribution he made to this debate, yet he has spoken of wasting time.

Mr Carpenter interjected.

Mr McNEE: If the member wants to keep going, I will do better than he. If he wants to talk about wasting time and representing people, I can tell him that I represent unseen people who cannot stand on their feet in this place. I will stand for them until doomsday if I have to. I do not care about the member's comments as to whether or not I am a religious crank - I am not. I said very clearly in this debate that I do not care what members believe in. The member obviously believes in nothing. God bless him for that! The problem with his ilk is that they do not believe in something strong and decent; they think that this is a big problem. I do not have any problem dealing with the abortion Bill. Abortion is anathema to me. I will not hide.

Mr Carpenter interjected.

Mr McNEE: I have in my flock sheep more intelligent than the member. Make no mistake about that. Some members pretend that they are there to protect women. They do not protect women. I was approached recently by people who said to me, "We think you are wrong because of your stand on abortion." I said, "I will stand and argue with you." What they were really worried about was that their 16 year old daughter might become pregnant. I said, "If you will commit murder because your 16 year old daughter gets pregnant, that is a pretty rough answer." The father backed off very quickly and said, "If my girlfriend got pregnant, I would want to make the decision." His girlfriend said, "Oh no you would not." The member's argument is a nonsense. He has no argument whatsoever. He says he stands for women, but indeed he does not.

It is said that the Foss Bill is a filthy Bill. As I have said, if I were the Attorney General's boss I would have sent him back to rewrite it. To insult my intelligence by bringing that sort of rubbish in front of me is more than I can stomach. Now we have a double filthy Bill, but at least it is a little honest. It is entitled Acts Amendment (Abortion) Bill. Members should have clear in their minds that it is an abortion Bill. It is not a termination Bill. I spoke last week of the softly, softly approach. I remind members of an invasion of their homes; it is breaking and entering - make no mistake about that. We asked members last week where they stood, and some changed their minds.

Mrs van de Klashorst: That is not true.

Mr McNEE: If it is not true, I would like to know how long a piece of string is.

Several members interjected.

Mr McNEE: Let us talk about honesty. It is a fine word. I have had the word chucked at me a lot in the last week. Last week in response to the Pendal amendments this place acted like a killing chamber. It was absolutely enthusiastic in defeating the amendments. If members really want abortion on demand, they should stand up and have the guts to say so. I challenge the member for Willagee to stand up and say it. He has said nothing but a whole lot of hypocritical nonsense. If he wants to believe in abortion on demand, he should go ahead.

Mr COWAN: I would like to remind a few members of this Committee exactly what clause we are debating. We

are debating clause 1. I have been listening for quite some time to the words that have been uttered. I have not heard anything new contributed to this debate; it has all been said before. If members want to deal with this issue, let us get onto clause 3 and debate the particular issue, rather than continue a debate that has been heard repetitiously over the past two and a half weeks. Let us put the question on clauses 1 and 2 and get on to clause 3 and get it over and done with.

Mr MARSHALL: I have the greatest admiration for the Leader of the National Party and support his recommendation but when this debate commenced, whether it was the Foss or Davenport Bill, I firmly believed the access of Western Australian women to safe legal abortion by skilled doctors must be preserved. We have been going for a couple of weeks running away from the hub of the debate. No matter what members here think, women will still have abortions, and women will become infertile and die unless we act. People out there expect us to make a decision. It happens that we are at a time in history when we can do something positive for the young women of Western Australia, but all I have heard today is factional talk. I do not like it.

Last week I told members how they underestimated the intelligence of the young women of Western Australia. I firmly believe that. I coached 3 000 pupils a week for 40 years. When I walk down Hay Street plenty of them come up to me. They ask, "What are you doing about abortion?" Of my 45 schools, 31 were Catholic. Young women with religious beliefs tell me that what we did last week was right. We have many members who say that they have been hit by mail, but I tell them that I am hands on with this. More people would approach me in the street in Perth than would approach any of those members because I am intimately involved with those people and their decisions.

Mr Kobelke interjected.

Mr MARSHALL: The member was a primary school teacher with 40 children a day. He should think of 3 000 children a week and then he might start understanding what people are thinking in the community. What concerns me most - and I feel very strongly about it - is that in the short period of two weeks I have seen networking, lobbying and factions all over what we called a conscience vote. This House has been divided into four groups. The pro-choice and pro-life groups know where they are going and are strong people. I admire and respect both factions. There is a third group of members, whether in the minority or not, who are interested in a political gain over the future of young women in our community. There is a small, fourth faction, who are interested in their own promotional opportunities. If members of that group think they will vote according to their consciences, they have another think coming, because they do not have a conscience! It is high time we started thinking of why we are here.

My father was not a religious person; he did not go to church. His belief was that his life was gauged around a 24 inch ruler: Part of the day spent in prayer to almighty God, part in helping a brother or friend in time of need, and part in labour and refreshment. That is the philosophy by which he lived. He was a good man and there are lots of other people with good philosophies which we must respect. He said to his sons that the day we can look into a mirror and say we are proud of what we see, that is when we are somebody. A lot of people here would crack that mirror if they were to look into it. The Old Testament book of Ecclesiastes which, for the benefit of the member for Victoria Park, is veiled in allegory, says the autumn trees shall blossom - it is about growing old; that is a bit like Bill McNee going grey - and the golden braid be shattered, which is all about a person's brain when they have a stroke. After my father died we found £15 tucked away in the pages of Ecclesiastes to cover his funeral costs. Of course, it cost £200, so he shortchanged us! Such was my father: He was not a churchgoer, but he had a solid philosophy on life. He taught us right from wrong. I will quote from letters received on the issue. The first reads -

I ask Parliamentarians to listen to the voices of the thousands of people who rallied in the defence of unborn life.

... To allow abortion for reasons of convenience is unthinkable in a civilised society.

A letter expressing the opposing point of view reads -

If those people who feel so deeply about abortion felt equally deeply about deaths in custody and the deaths of millions of children under the age of five in Catholic countries that do not encourage any form of birth control then I would be more sympathetic to their concerns.

I urge members to get down to the business of what we are here for: To vote on this Bill.

The DEPUTY CHAIRMAN (Mr Sweetman): We are here to vote on clause 1 of this Bill. Future presentations will not be an extension of the second reading debate. I intend to stop people who deviate from the short title of Bill.

Clause put and passed.

Clause 2: Commencement -

Mr KOBELKE: I move -

Page 2, lines 6 and 7 - To delete all words after "on" where firstly occurring and substitute "such day as is fixed by proclamation".

I do not support the Bill as it stands. However as it is likely it will pass it needs to be workable. Currently, the Act will come into force on the day on which it receives royal assent. If this Bill goes through both Houses of Parliament, it automatically goes to the Governor who through due process gives assent to it and it becomes law. That creates problems because clause 7(8) requires regulations. Regulations must be drafted, put into place and gazetted. That is because "counselling", which is necessary for informed consent, must be set in place by regulations, the definition of whether they be minor controls or major detail. Similarly, the approved facilities for the purpose of proposed new section 334(7)(b) of the Health Act where an unborn child has a severe medical condition is covered by regulation.

Another reason that proclamation is a better method of commencement is that we have seen in both this Bill and the Foss Bill the Government's total inability to manage the affairs of the Parliament in any proper way. That being the case it is not beyond the bounds of reason - in fact, it has been stated publicly by the Attorney General - that two different Bills on the same subject could pass through this Parliament at the same time. As absurd as that sounds, the Attorney General has suggested it could happen. The rulings we have seen on the standing orders which totally escape any logical or rational reasoning leave open the possibility that we could have two Bills. That being the case, the Governor will be left in a difficult situation. However, if the commencement shall be by proclamation, the Government will have some control in preparing advice and suggesting some way out of such an impossible situation should it arise.

Mr BAKER: This Bill removes from the Criminal Code certain key provisions which criminalise abortions and essentially puts them in the Health Act. No-one has touched on the need for a transitional period to cover women who may be pregnant before this Bill becomes law. We have not considered the idea of some general amnesty for doctors, allied health professionals and women. Is the effect of the proposed amendment to introduce a de facto transitional period to assist women who may be pregnant before the Bill becomes law?

Mr KOBELKE: I am not an expert. Whichever way we go, if this is passed and proclaimed there will be a degree of uncertainty. On the other hand, if proclamation were by royal assent, and the regulations were not in place, a key term in any potential prosecution would be "informed consent". That will involve counselling, yet regulations are still to be formed on that. I am happy to take advice from people who are better versed in the law than am I and there are many here. Proclamation will provide less uncertainty.

Mr RIPPER: I admire the chutzpah of my colleague the member for Nollamara. While I congratulate him on a nice try, I do not agree with the amendment which he has moved.

Members should be absolutely clear about this. If the commencement clause provides for proclamation, the Government does not have to proclaim the Bill. Members could go through all this debate in both Houses of Parliament and take a free vote after days and days of consideration, and the Bill could receive royal assent and never be proclaimed.

Mr Cowan: Put your mind at rest. The way this is going, nothing will get through and we will revisit this whole thing in three or four months' time. I agree with you and I will vote against this amendment but you do not need to worry about it too much.

Mr RIPPER: That is a separate and worrying issue. I go back to the question of proclamation. After all this debate, the Government could decide not to proclaim the legislation. The member for Nollamara proposes a situation in which there could be a campaign, after this Parliament has dealt with the legislation, to try to persuade the Government not to proclaim the Bill. That is not a satisfactory situation with a Bill such as this, on which members have had a free vote after many hours of debate. I cannot contemplate a situation in which a decision of the Parliament could be overturned by the Government through its not proclaiming the legislation. I will stick with the current provisions of the Bill because I fear that the will of the Parliament could be overturned by pressure being placed on the Government.

Mr BAKER: We all agree that counselling is a very important feature of both the Foss and Davenport Bills. This Bill could become law before any counselling provisions were in place. One of the centrepieces of the legislation will not exist, but it will be the law. Women must somehow comply with the law but no counselling regulations will be available. How will women who became pregnant before the Bill becomes law be affected during the transitional period? No-one has answered that question. It is usual to include a transitional provision in any legislation - Criminal Code aside. That has not been addressed.

There is also a need to educate the community about the change in the law, and these issues have not been addressed.

Perhaps the member for Belmont will give his views on the matter. Does he consider it nonsense to talk about regulations being put in place for counselling at the same time that the law is enacted?

Mr Ripper: Do you think the Government should be in a position to frustrate the will of the two Houses by not proclaiming a Bill?

Mr BAKER: Not at all.

Mr Ripper: If you take that position, you should not support the amendment.

Mr BAKER: If the Bill is to become law, regulations should be in place on the day upon which it becomes law if they relate to a cornerstone of the legislation; namely, the need for counselling.

Ms WARNOCK: I am advised by parliamentary counsel - I remind members that his advice is available to all - that the amendment is not strictly necessary. No transitional provisions are necessary in this matter. It is true that appointments and approvals will be needed in due course, but it need not delay the beginning of the amendments. It is not normal for the commencement of Statutes removing criminal liability to be delayed. Parliament's decision normally comes into effect with the Governor's assent to the Statute.

Mr PRINCE: When a Bill affects criminality, it should become law on the date of royal assent, with no waiting around or mucking about. When a Bill is of a regulatory nature, some form of subsidiary legislation by way of regulation is required before the Bill becomes law. It is done by proclamation.

Mr Baker: You agree it is a hybrid?

Mr PRINCE: Yes, it is to some extent. The foreshadowed amendments at page 10 of the Notice Paper indicate that there is no regulation making power in any of the amendments. Therefore, it is debatable whether regulations will be required.

Mr Baker: They are already a requirement in new section 334(8).

Mr PRINCE: It is a hybrid, and if the Bill is passed, I know who will wind up with the job of finding the regulations quickly. I do not know that the debate will progress the matter much further. Clearly, whatever the law may be, it should be enacted fairly quickly.

With regard to transitional clauses, when a woman has an abortion, it does not matter when she conceived because this Bill deals with the time at which the abortion is carried out. Whether it is before or after the change in law is a good question. I think, without wishing in any way to exercise any form of implied influence on prosecutorial authorities, that where a change has been made to the law, it would be somewhat unjust to go backwards in time and prosecute a person for that which was unlawful at one time and lawful at another time - separated by the date of assent to a Bill.

Mr KOBELKE: I understand what the Minister for Health is saying about the date on which the law would apply. Informed consent is a requirement before abortion can be justified. Informed consent is defined as consent given by a woman after she has received counselling about the consequences of an abortion. Counselling must still take place to justify the abortion, and it may have taken place before the date on which the law came into effect, but the counselling must be defined according to the regulation. There is a problem.

Mr Prince: If the nature of the counselling that has been obtained is in compliance with the regulations subsequently proclaimed, the requirement has been satisfied.

Mr KOBELKE: The member for Belmont is jumping at shadows if he believes there is a sinister conspiracy to help the Government with regard to this legislation. If this Bill is passed, the Government will suffer so much political damage that it will be in no position to overturn the decision and start the whole process again. The proclamation proposal does not allow for the Government to proclaim some parts of the legislation and not others, as is the case in other Bills. The Government would have no other political alternative than to proclaim the Bill expeditiously once it had taken into account the requisite regulatory and other administrative matters.

Amendment put and negatived.

Clause put and passed.

New clause 3 -

Mr TUBBY: I move -

Page 2, after line 7 - To insert a new clause as follows -

Amendment of laws

3. The written laws mentioned in the Schedule are amended as set out in the Schedule.

I foreshadowed this amendment prior to the luncheon suspension as a way to break the deadlock. I can see this Bill being debated for another two weeks, as amendment after amendment is moved to the Davenport Bill in an effort to turn it into the legislation debated in this Chamber for two weeks and passed last week. Rather than go through that process, if members support this amendment they will put back into the Bill everything that was debated and passed in this Chamber last week. I cannot foreshadow what will happen in the upper House. All I can say is that it will have its Bill back with amendments. Then it will have the option of either accepting or rejecting them and sending the Bill back to us, at which time we would have a conference of managers and come to agreement between the two Houses. If we go through the long, drawn out process of trying to amend the Davenport Bill to make it more acceptable to most members in this House, there is no guarantee that that will be accepted by the upper House. We may still have to go through that same process. At least we have had a protracted debate in this Chamber over two weeks. Although, along with 18 other members, I did not vote for the Bill at the third reading, it was clearly supported by the vast majority in this Chamber.

I suggest that we amend this Bill to reflect what we have already passed and send it to the upper House as an amendment to the Davenport Bill. We could do that this afternoon. We do not need a protracted debate; we have already been through that. Most members during the previous two weeks have made comparisons between the Foss Bill, the Norman Moore amendments and the Davenport Bill. All members are aware of the issues involved, so I will not go through them and I do not think we should revisit them. I do not support either Bill, but the Foss Bill is the lesser of the two evils. It does one thing completely at odds with the Davenport Bill; that is, it retains abortion in the Criminal Code. Many members expressed concern about provisions of the Davenport Bill and said they would prefer the Foss Bill that has been passed.

If this very short amendment was passed, the process would be as follows: We would put clauses 3 to 7 and vote against them. We would then incorporate the schedule. As members will note, the schedule contains the substance of the Foss Bill that was passed by this House last week after two weeks' debate. There are no amendments to that; it is as we passed it. If at a later stage members wish to move further amendments to that schedule, that will be done at the will of the House. We can go very quickly to a vote on this issue, because it is simply a vote for the Foss Bill, which was passed by the House last week, or for the Davenport Bill. We do not know what we will finish up with in respect of that Bill, because there is much debate to be conducted and amendments to be moved before we have something to send to the other place. I urge members to support the amendment.

Mr PENDAL: I support the amendment on the grounds that have been explained by the member for Roleystone. The Foss Bill was passed by this House and, notwithstanding that I voted against it, it was passed by a substantial majority. In fact, if this amendment is passed now and we come out of the Committee and report to the full House and go to a third reading, I will do what I have done before: Oppose the third reading. I will do it on the grounds that I and some of my colleagues announced five weeks ago: The Foss legislation could have been made acceptable if we had stopped after supporting paragraphs (a) and (b) and inserted amendments in the Health Act. However, the hardline people in this Chamber refused to give us even that much. Therefore, I felt comfortable in opposing the third reading.

I will respond to the member for Willagee, who made a late entry into the debate half an hour ago and who felt that the Chamber was making a fool of itself because people thought all the decisions were made last week. Indeed! Is it not strange that the member sat in this Chamber on Tuesday, Wednesday and half of Thursday and there was not a peep out of him until the Davenport Bill looked like it was in trouble? What does that say?

Mr Carpenter: It says you are a nut case.

Mr PENDAL: I have listened to the member's superficial nonsense. He should have stuck to being an ABC anchorman.

Withdrawal of Remark

Mrs ROBERTS: Mr Chairman, I draw your attention to Standing Order No 132, which refers to a reflection on another member of Parliament. I am not sure whether you heard what the member for Willagee said, but I am happy to repeat it.

The CHAIRMAN: I thank the member for bringing that to my attention. While this debate can become heated, I do not like personal attacks on any member.

Several members interjected.

The CHAIRMAN: I did not ask for agreement. I ask members to debate the clause. We are in Committee, not the second reading debate. Let us get on with the business.

Mrs ROBERTS: I request that you ask the member for Willagee to withdraw his comment that the member for South Perth is a nut case.

The CHAIRMAN: I will not order the member to withdraw because many comments have been passed backwards and forwards. I know that the member for South Perth bore the brunt of several at an earlier stage. It would be a good start if the member for Willagee would do that.

Mr CARPENTER: I genuinely do not believe that the member for South Perth is a nut case. I withdraw and apologise.

Committee Resumed

Mr PENDAL: The people want this debate progressed. I do not want to make any progress on the Bill; I have made that clear.

Mr Cowan: We know that.

Mr PENDAL: The Deputy Premier should try to let it sink into his consciousness that this is one of the few possibilities of making progress today. What else is left to people like me who oppose the Bills? We do not have the numbers, but we have the capacity to debate it out.

Mr Wiese interjected.

Mr PENDAL: The member for Wagin should know about that because he spent 10 years on this side of the House driving others around the twist.

Mr Court: Only after midnight.

Mr PENDAL: There is unanimity on that point at least. The idea of "re-Fossing" this Bill did not come from me and, as far as I am aware, it did not come from the member for Roleystone. It was a facility that other people who do not share my view came up with last night. It was explained at the commencement of the Committee proceedings today as the one opportunity to make progress. The only other opportunity is to refer it to a committee. Making this decision does not preclude the matter being referred to the Standing Committee on Legislation. It is one of two options that would allow some progress to be made and for members to go back to their electorates with a decision having been made. If the member for Willagee passes up that opportunity, he will lengthen debate. I support this amendment.

Mr COURT: I do not support this amendment. I agreed to support the second reading of this Bill so we could move into Committee and debate the wide range of amendments, some of which are on the Notice Paper, and some of which have been foreshadowed. This process will take some time. I know the member for Willagee and I come from different sides of the argument, but he needs patience in this process.

Mr Carpenter: We need a bit of leadership.

Mr COURT: The member cannot have it both ways. Parliament cannot have a free vote, yet expect people to caucus groups on the whim of a political leader. Interestingly, it has taken some weeks for members, out of their normal party positions, to understand and trust each other in negotiations. It is a long process. As a result of the seriousness of the issue, the least we can do is have patience to work through the detail.

The Government has a strong legislative program. Nevertheless, we accept that we can sit longer and extra weeks to make sure our agenda is debated.

It is appropriate that we have the opportunity to debate the many amendments proposed. Some of the proposals presented to me will result in a major change to the legislation. I have a similar position to that of the member for South Perth on whether I will support the Bill at the third reading: It will depend on the final make-up of the legislation. I have a strong preference for legislation with the effect that it will be illegal to have abortions except in certain circumstances, which is the approach of the Foss legislation. The Davenport Bill says that it is legal to have abortions, except in certain circumstances.

Mr Kobelke: Why support the second reading?

Mr COURT: I already said that a large number of people were involved in negotiations and want to be involved in debate on amendments. I do not have a problem with that.

Mr GRILL: I find the Premier's position to be unrealistic. I cannot understand it. One piece of legislation went to the upper House, where something happened to it, and one is before us. However, the substantive provisions indicate little difference between the two Bills. Most people I speak to ask what are we arguing about here. Why this posturing? Why is there so much discussion about what we should and should not do with this legislation?

We are really now talking about symbolism. Both the Foss and Davenport Bills need cleaning up, but that cannot happen properly until we get into a conference of managers, comprising three members from each House, to sort out some practical results. Why should we not endeavour to get to that situation as soon as possible?

The Premier's position is that we have plenty of time and can amble through consideration. He said that we can make more time available.

Mr Court: I said that we must have patience in the process. I would like to see the Government's legislative timetable deal with, but issues of this magnitude cannot be rushed.

Mr GRILL: I beg to differ. Frankly, most of us know what substantive legislation we will end up with, whether it be encompassed in the Davenport or Foss Bill. Some finishing touches might be required, but that cannot be effectively done here.

The Premier canvassed the option that perhaps we will not pass the Davenport legislation in an amended form. He is being totally unrealistic. It is beyond belief that the Premier could propose that, ultimately, we will have no workable termination of pregnancy Bill resulting from the processes in either Chamber.

Mr Court: That will depend on the will of the Parliament.

Mr GRILL: The Premier has lost touch with reality.

Mrs Parker: The Council can reconsider the Foss Bill; it is not lost forever to it.

Mr GRILL: All of that might be theoretically possible, but a convoluted process will be needed to reach that point. We should not waste more time on the amendment before the Chamber. It makes a lot of sense, will cut through a great deal of debate, and will reach a conclusion when the committee of managers considers the measures. Ultimately, we need to go to that conference. I have received consistent advice from the Clerk that the procedure proposed by the member for Roleystone, and supported by the Leader of the House, and also suggested by me today, is feasible under standing orders. It is clear advice. Whether the Clerk's advice is right or wrong - I think he is right - what do we have to lose? Nothing. It may involve an hour or two of debate. The current prospect is that we will debate this legislation eternally.

The difference between the two pieces of legislation is symbolic. In practical terms, the difference is that pro-lifers will support a compromise on one piece of legislation, but not the other. If members want to come to grips with the substantive issues, they should pass the amendment and put the issue to the test. They will only lose a couple of hours, and we could then return to debate.

Dr HAMES: I agree with most of what the member for Eyre said, but his conclusion is totally opposite to mine. I will vote against this amendment of the member for Roleystone. If it happens to pass, and comments indicate that the numbers will be against it, I will support the vote to insert the Foss Bill. As I supported that Bill before, it would be silly to vote against that proposal.

However, this is not a big point. It is true that the Bills are almost identical, and arguments about whether it is contrary to the Health Act or the Criminal Code fail to recognise that they are two sides of the same coin. The Foss version states that provided one has given informed consent, it is not a crime. The Health Act states that if one does not meet certain requirements, it is a crime. It is the same coin. It is pedantic to argue which one is best, when for all practical purposes the outcome is the same in reality in the community.

The pro-choice group is an unlikely team. One would never expect them to be together, but they are a good team. They are not flamboyantly speaking every five minutes but are working together. They are not about to make flashy passes to the wing. They are a solid ruck team, carrying the ball forward. The opposition is throwing every man it can against that solid ruck team in order to split off one or two people along the way. It has done that before. Yesterday it split off one or two people, but the solid ruck remains.

Mr Barnett interjected.

Dr HAMES: The most dangerous thing that can happen is to have Scotty Chisholm running out from the back line, and if he is nailed the opposition can get a goal. That could happen here. We are being too smart by half. The ruck must stick together. We should not have individual splits.

Perhaps we would be better off with the Foss Bill; and even though the other Chamber opposes it, perhaps it will change its mind and put it through. If we accept the Davenport amendments, the amendment by the member for South Perth relating to informed consent, and that by the Minister for Health which addresses about which Bill it is in, and his concerns about the Criminal Code, we will have the best of all worlds. We will have legislation to which the other Chamber has agreed by negotiation. All the members who were part of the team from this Chamber and from the other Chamber have agreed to a position that suits everyone from both sides, including the minor amendments suggested by the Minister for Health. Members may not agree with the minor complexities, but those who support pro-choice should stick together and not take the risk of doing a little sprint down the wing.

Mr McGINTY: I wish to place beyond any doubt the one enduring truth. I urge members to vote against the amendment moved by the member for Roleystone, because the certainty to emerge from that is that we will have two Bills which have gone nowhere after many hours of debate. Members should not think they can resurrect this Bill after the amendment by the member for Roleystone has been carried. We cannot try that strategy, and if it does not work then return to debate the substance of the Bill again.

Mr Grill: That is not the advice from the Clerk.

Mr McGINTY: Last week we debated and carried the Foss Bill. We sent it to the upper House. The President ruled it out of order. It has not returned to this place; it will not and cannot return. We have a message which has not been reported but it will say that the Bill has gone and we will not have a chance to debate it again. We cannot breathe life back into the Foss Bill; and we cannot debate the message from the other place. Members should not think that they have an option of carrying this amendment, and if it does not work they can return to debate the Davenport Bill. It is not an option. This is a strategy to put to an end the abortion debate in this place.

One Bill has gone. If we carry this amendment we will walk away without having done anything about this most pressing issue. Regardless of members' views, whether pro-choice, pro-life or somewhere in between, we must pass a law in this Parliament at the end of the process. We will not do that because if this amendment is carried, the upper House - whether the President or the upper House itself - will set aside this Bill. It will not return to this place in any form to be debated. Let us not fool ourselves about what we are doing here: This vote will end debate on the two abortion Bills before this place. They will be gone forever. If that is what members want they should support the amendment.

I urge members not to support the amendment moved by the member for Roleystone, regardless of their views, because the public were told a week ago that both Houses of Parliament had carried similar laws on abortion, and that would represent a fundamental change in the legal position. If we walk away from this Chamber in two hours, with both Bills having collapsed, we will be the laughing stock of everyone in this country; we will have betrayed the confidence of the people of Western Australia if we make such a mockery of the procedures that we carry the amendment moved by the member for Roleystone.

This is the end of the road. It is not a mechanism to enter further debate on these issues. It is the end of the story. Members cannot in good conscience support the amendment moved by the member for Roleystone.

Dr GALLOP: The member for Fremantle has presented a case against the amendment on the grounds of what may follow its passage from this Parliament. I put forward two arguments for the consideration of the Bill as presented to this Parliament by the member for Perth. The first consideration is that the content of this Bill, including the suggested amendments, was the result of very "good faith negotiations". At the end of proceedings in this place and in the other place a number of weeks ago we had two pieces of legislation: A Bill which had passed through the Legislative Assembly - the Foss Bill - and a Bill which had passed through the Legislative Council - the Davenport Bill. That posed a problem for the two Houses.

The answer to the question by the member for Eyre is that negotiations went on in respect of that legislation. I take this opportunity of congratulating Hon Cheryl Davenport, and other people such as the Deputy Premier who made it possible for those amendments to be added to the Davenport Bill. They entered the spirit of the situation. They said that we had a problem between the two Houses. They tried to take the elements that would bring together the concerns of the two Houses and absorb them in the Bill. If we pass this amendment we will act in bad faith in respect of those people. They tried to solve the problem between the two Houses. Admittedly they did it behind the Chair, outside the formal proceedings of Parliament, but that must be done when we have such a problem. I urge anyone in this Chamber who has considered voting for the amendment by the member for Roleystone, to think of the work put in by the Deputy Premier, Hon Cheryl Davenport and others, to ensure that we can debate this issue.

There is another very important reason that we should not support the amendment: Much has been said about the rights of individuals to express their views in this Parliament. It has been my strong view that in dealing with these issues, as individual members of Parliament, trying to solve a problem that the community believes should be solved,

free from any extra party political type considerations, we have done a pretty good job. However, as individual members, we want to express a point of view. Those who oppose the legislation have had a good opportunity to express their point of view. They will continue to have that opportunity.

If the amendment is passed, what chance is there for members in this Parliament who believe the philosophy behind the Davenport legislation should be given a vote? They cannot vote on the question of whether the Davenport approach to the issue is better than the Foss approach. They should have that right to exercise that vote. That right can be exercised by considering this legislation in the normal way. They are two very important reasons that members of Parliament should take very seriously the proposition that has been put forward by the Deputy Premier, the member for Fremantle, and the Minister for Housing on this issue.

If members support the amendment, they will show a degree of contempt for people who have tried to reach solutions on this problem. They will also deny people in this Parliament, who want to vote for a proposition, the chance to exercise their vote. They believe that we should take this issue out of the Criminal Code. If we support this amendment, that question will not be voted on. Why the other place did what it did and whether it is right or wrong is a totally separate issue. It is part of history. The question we must address is this legislation. I ask all members to deal with the legislation on its own terms. It will be a difficult and long process. We must accept that and do it in good faith. We must do it according to the rules of our Parliament, respect the rights of other people and not use unnecessary filibustering tactics rather than deal with the issue. We can get on with this issue and try to find a solution that the people of Western Australia want. I believe it will fit in with my conception of the rights of people, particularly women, and with my conception of reality.

Mr MacLEAN: There has been a little bit of confusion among some members about the procedure that will take place in the other place. The member for Roleystone's suggestion through his amendment is that we amend the Acts Amendment (Abortion) Bill. That would be the title of the amendment Bill. That is the title of the Bill that has come from the other place. If we agree with the member for Roleystone's amendment, the amended Bill would be returned to the other place. It would be up to members to agree or disagree with the amendments we put forward. If they reject our amendments the question would go to a conference of managers. That is the procedure of these Houses of Parliament. If the question goes to a conference of managers, hopefully we will get some form of legislation which is not the dog's breakfast of these two current Bills. If we delete clause 4 of the Davenport legislation, which repeals sections 199, 200 and 201 of the Criminal Code, according to my learned colleagues we almost have the Foss Bill again. That will happen if we agree to some of the other amendments that have been foreshadowed.

The CHAIRMAN: That is the purpose of the amendment.

Mr MacLEAN: It will then be up to the other place to deal with the Acts Amendment (Abortion) Bill, which is the title even after the amendment by the member for Roleystone. It is the title of the Bill that came out of the other place and it is the title of the Bill that will go back to the other place with amendments which the members of the other place must consider.

Some people in this place are suggesting that if we send the Foss Bill to the other place, it will be rejected and stymied, as has the other Bill. That is blatantly untrue. It will not be the Foss Bill that goes to the other place; it will be the Davenport Bill with amendments. It will be up to the other place to deal with those amendments. If the other place does not want to deal with those amendments because of the procedure between the two Houses, there will be a conference of managers. Whether members agree or disagree with the Bill, the procedures are set in place. It is disappointing that some people who claim to be senior members of this place are so willing to mislead other members, or alternatively are so lacking in their knowledge of the procedures that they are willing to come up with all sorts of stories to try to convince members to vote their way. I have made no secret of the fact that I find the Foss Bill and this Bill detestable. I find discouraging the misinformation that senior members of this place are trying to peddle for their own ends.

Ms MacTIERNAN: I find the amendment moved by the member for Roleystone very appealing. The arguments that he put forward are very strong. There is little difference between the two Bills in any practical sense. It is time we made a decision. The people of Western Australia have been treated appallingly by the power players. I am not saying that everyone who opposes the Foss Bill or the Davenport Bill is involved in this, but quite clearly, as the member for Dawesville said, some members have used this abortion debate in order to further their own political positions within their parties. That is quite disgraceful. The people who have been doing this are not necessarily those who feel strongly about abortion. Many members who talk in strong and somewhat excessive language to support their anti-abortion views quite evidently sincerely believe in those views. The people for whom I have contempt are those who are voting on that side of the equation and who do not have a view on this matter but see it as an opportunity to deal out political power. The people who are suffering as a result are the women in Western Australia today who are placed in a very serious situation. A great deal of uncertainty and trauma is being experienced by many of those women who are uncertain about whether they will be able to get a termination. I

understand that the member for Roleystone, the Leader of the House and the member for Eyre are motivated by very sound reasons; they simply want to get this matter dealt with. They believe, as I do, that the decision made in the other place to reject the Foss Bill was completely indefensible and was politically motivated with the powers and entitlements -

Point of Order

Mr SHAVE: The member is reflecting on the President of the Legislative Council. It is improper for her to do that.

Mr Ripper: He has abused his power.

Mr SHAVE: I make the same point of order with regard to the Deputy Leader of the Opposition.

Ms MacTIERNAN: I withdraw my remark.

The CHAIRMAN: I think the member should. I understand the frustration of the Chamber with what has happened, but we must be very careful not to reflect on the other place or any member in it.

Committee Resumed

Ms MacTIERNAN: I find it odd that we have the member for Alfred Cove as the champion for all that is right and decent.

I want to distance myself from some of the comments made by the member for Fremantle and the Leader of the Opposition in that I do not think the people who are moving this amendment are doing so out of any bad faith. Ideally I would very much like to support them. However, I am persuaded by the arguments, particularly those of the member for Yokine. There are risks involved in this tactic. There is a concern that this may split those of us who want to see an early and proper resolution to this real problem.

Regretfully, I will not support this amendment. However, I understand what is behind it and I support those sentiments. I compliment the members for the strategy they have come up with. Unfortunately, it is not one I can support.

Mr PRINCE: For whatever reason the Legislative Council has worked it so it votes only on one Bill. That is a great shame. On a matter of such importance it should have debated and voted on both Bills. I resent and reject the claims of those members in this place who say we have spent the last six weeks achieving nothing. Normally this place is faced with legislation usually brought in here by the Government and occasionally by the Opposition. That is what the result will be and we debate it. This is an extraordinary debate. There has never been a piece of legislation like this before this Chamber. In the past three weeks we have achieved an enormous amount. By a process of debate the like of which is rarely seen in any Parliament, we have developed a public policy on abortion.

Ms MacTiernan: Which we are now going to unravel.

Mr PRINCE: No. I will summarise what has come out of this debate: Abortion is wrong but it should happen in safety where necessary and when it is a person under the age of 16, a parent will be involved. Those are the statements of policy. It is a remarkable achievement because Parliaments rarely, if ever, develop policy in any public area.

The second part of the process is converting that policy to some form of written law. Whatever the law it should be good law. Whatever one thinks of the subject matter, the form of writing should be good, because we need certainty - far better than we have now - in the form of written law. That is what the people need. If we do not achieve that today - it is unlikely - so be it. It is really upon this Chamber to resolve this and to write what should be good law, because in that sense the Council will not. However long it takes, subject to a reasonable time for debate, let us get on with it. I understand entirely what the member for Roleystone is trying to achieve. I have a great deal of sympathy for his intent and objective. I will not vote for it, because we will endlessly speculate on what the Council may do. Let us deal with what is before us, sensibly, with goodwill and dignity and let us get on with it.

Ms WARNOCK: I find myself in rare agreement with the Premier on this occasion. We are here to debate the Bill before us. We have been attempting to do that for some part of the day. I say, particularly to the member for South Perth, that we have arrived at an amalgam of Bills. With the inclusion of his amendments, which I intend to support, and the amendment of the Minister for Health, which I also intend to support, I believe we have a Bill which even those who are opposed to abortion can support in some way. It represents the will of the majority which is what we voted on last week in two votes, one in the other place and one in this Chamber. At the end of the debate, this Bill will be a workable Bill. It will clarify the laws relating to abortion. We all want to do that. I would appreciate taking a vote on this soon; however, we must allow our colleagues to have their say. I will not support this amendment. The legislation in front of us - far from being the appalling Bill that some people have described it as - is a successful

amalgam of both and achieves the aim that the Foss Bill that we supported in this Chamber last week was setting out to do.

Mr RIPPER: When one of the three members who voted against the Foss Bill on the second reading moves an amendment to reinsert the Foss Bill during debate on the Davenport Bill and send it back to the other Chamber, I am naturally suspicious. When that member is supported by another member who has done more than any other member to slow progress in this debate, and that member argues this amendment will speed up the handling of the Bill, I am doubly suspicious.

The argument that has been raised is that accepting this amendment will help the Chambers resolve the issue. It will not. Members here should consult with their colleagues in the other place as I have done. Across the political spectrum they tell me that the other place will not vote to accept the Foss provisions. If the other place is given a chance to vote on this Bill they will send it back.

The other place will not necessarily vote on this issue. The question may be resolved by a ruling from the President of the other place. I wanted to put this as politely as I can, in view of your previous ruling, Mr Chairman; I do not think we can expect a ruling on traditional principles from the President of the other place. On the basis of our experience so far, it is difficult for this Chamber to predict precisely what will happen. It may be as the member for Fremantle has argued that we will not get the Bill back for us to debate it again. We are taking a considerable risk if we support the amendment moved by the member for Roleystone and in any case, even if that risk does not come to pass and the other place debates and votes on the Bill as framed by the member for Roleystone, the other Chamber will reject it and send it back, and we will not be further advanced. If however, the Bill is killed by that non-traditional ruling to which I have been referring, there will be many losers: Women in the community because of the lost rights to abortion; and the Parliament because the community will hold us in scorn for the way in which we have dealt with this if we do not reach some resolution. I can see why the Premier is not supporting the amendment, because when the Parliament is held in scorn, the Government carries the political blame because the Government is normally held by the public to be responsible for what goes on in Parliament. That is the usual fate of any Government. In this case if there is a suspicion that internal politicking within the Government has contributed to the debacle, the blame the Government will carry will be all the heavier. I can see why there are plenty of reasons for those members on the government side who are wavering in their support of the amendment.

A lot of emphasis has been placed on whether this matter should be dealt with in the Criminal Code. Both sides of the debate are placing far too much emphasis on this. What is important is the practical impact on women going about their lives, and on doctors who wish to offer termination of pregnancy services to women. That should be our highest priority. The differences between the Davenport Bill and the Foss Bill, particularly in the light that amendments which are agreed to by all concerned will be moved and are most likely to be accepted are not that significant. We should get on with the hard work of considering those amendments, in considering the Davenport Bill, and getting a resolution which the community thinks was achieved a couple of weeks ago. They will be surprised and disappointed that we are still struggling with the issue. Imagine their scorn and derision and their contempt for politicians if we take the sort of risk the member for Roleystone wants us to take and it all comes to nought and there is no resolution. I would not want to explain that to voters in the electorate of Belmont.

Mr TUBBY: I thank members for expressing their views on this amendment, particularly the member for Armadale. She was very kind, and I agree with what she said. I made it perfectly plain in the second and third reading debates that I do not like either the Foss Bill or the Davenport Bill. However, the lesser of the two evils is the Foss Bill. During the second reading debate many members expressed the same view - that they preferred the provisions of the Foss legislation to those in the Davenport legislation.

If this Committee rejects my amendment, members will subject themselves, after the two week break, to another two or three weeks of emotional debate in which members are pitched against one another, when the community thinks that the issue was decided last week. The people think it is all over, and members will look stupid if this whole issue is in the headlines again after a two week break. This issue has advanced nowhere. Many members will move countless amendments to this lean Davenport Bill and will debate them ad nauseam. If members go through this process, the best this Committee can achieve is the position that was achieved a week ago. I did not support that, but the numbers were clear - 19 members voted against the third reading. The will of the Legislative Assembly is clearly that a decision must be made and some legislation must be progressed.

Members went through two weeks of emotional and heated debate to arrive at an overwhelming result last Thursday. They are now back to square one.

The decision by the upper House to accept or reject this legislation, if it is amended, has nothing to do with the members in this place. Members of the Legislative Council must act according to their consciences, their standing orders and their accountability to the people of Western Australia. Members in this Chamber can make only

decisions with which the majority in this place can live; they do not have to be decisions with which I, or the other 18 members who voted against the third reading, can live. If members wish to go through another two or three weeks of protracted debate, during which members are at each other's throats, they should vote against this amendment. If members want some progress to be made and a conclusion to be reached, they should vote in favour of this amendment.

Mr COWAN: I gather many people are ready to vote on this issue, and I hope that is the case. Many people seem to have made an assumption about what will happen if this amendment is accepted. People have drawn conclusions about what members in another place might do. All members know of the fundamental rule that the other place will determine its own direction. This Chamber will not make that determination. In this instance, there is already a process that allows members in another place to deal with the Foss Bill, if that is the will of those members. They have that choice and they have not yet made it. In no way can this Chamber force consideration of the Foss Bill on the Legislative Council by supporting this amendment. Members can be sure that the other place will decide not to deal with it. I am making an assumption.

I correct a statement made by the member for Eyre. Even if the Legislative Council does consider the Bill, there is no guarantee that a conference of managers will produce an outcome. I remind members - this may be the reason people want to move the amendment - that if a conference of managers cannot agree, the Bill will be lost. I repeat what I said a long time ago: In that case, this place will still be confronted with the issue and we, as parliamentarians, must deal with it. It will take some time to deal with it now that it is on the Table, but members should at least be prepared to deal with it in this place now.

New clause put and a division taken with the following result -

Ayes (24)

Mr Ainsworth	Mrs Hodson-Thomas	Mr McNee	Mrs Roberts
Mr Barnett	Mrs Holmes	Mr Minson	Mr Strickland
Mr Barron-Sullivan	Mr Johnson	Mr Omodei	Mr Sweetman
Mr Bradshaw	Mr Kobelke	Mr Osborne	Mr Tubby
Mr Bridge	Mr MacLean	Mrs Parker	Mr Cunningham (<i>Teller</i>)
Mrs Edwardes	Mr Masters	Mr Pandal	
Mr Grill			

Noes (31)

Ms Anwyl	Dr Edwards	Mr McGowan	Mr Thomas
Mr Baker	Dr Gallop	Ms McHale	Mr Trenorden
Mr Board	Mr Graham	Mr Nicholls	Dr Turnbull
Mr Brown	Dr Hames	Mr Prince	Mrs van de Klashorst
Mr Carpenter	Mr House	Mr Riebeling	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Ripper	Mr Wiese
Mr Court	Mr Marlborough	Mr Shave	Mr Marshall (<i>Teller</i>)
Mr Cowan	Mr McGinty		
Mr Day			

New clause thus negatived.

Progress reported.

WESTERN AUSTRALIAN GREYHOUND RACING ASSOCIATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Cowan (Deputy Premier), read a first time.

BILLS (3) - RETURNED

1. Environmental Protection (Landfill) Levy Bill.
2. Agricultural Legislation Amendment and Repeal Bill.
3. Statutes (Repeals and Minor Amendments) Bill (No 2).

Bills returned from the Council without amendment.

CRIMINAL CODE AMENDMENT BILL*Council's Message*

Message from the Council received and read stating that it had declined to consider the Bill.

MINISTER FOR HEALTH - PERSONAL EXPLANATION*Princess Margaret Hospital for Children Waiting Lists*

MR PRINCE (Albany - Minister for Health) [4.30 pm]: During question time today, in answer to a question directed to me, I said that the waiting time at Princess Margaret Hospital for Children was not more than one month from outpatients to surgery. That information was given to me by the chief executive of the hospital by telephone shortly before question time as a result of my inquiry to him following a debate the member for Fremantle and I had in the media earlier today. Unfortunately, as often happens with a shorthand version of statistics and information, I have inadvertently and unwittingly misled the House.

The elective surgery news statistics indicate that the mean waiting time at the hospital is 0.95 of one month; that is, under one month. Obviously the waiting time for certain procedures is more than one month and for others it is considerably less.

I did not intentionally mislead the House. I also gave information to that effect to the Premier, who I am sure in that sense also perhaps totally unwittingly has given the wrong impression. The fault is mine. I regret that and table the Health Information Centre teaching hospital news of 28 February, which shows the mean waiting time as 0.95 of one month and which has further tables giving more detail regarding selected procedures.

[See paper No 1330.]

ADJOURNMENT OF THE HOUSE

On motion by Mr Barnett (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 28 April, at 2.00 pm.

House adjourned at 4.34 pm

QUESTIONS ON NOTICE

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

HOSPITAL INSURANCE

2908. Dr CONSTABLE to the Minister for Health:

With respect to each major metropolitan public hospital in Western Australia -

- (a) with whom does the hospital insure;
- (b) what was the cost of the insurance premium;
- (c) what are the essential terms of the insurance policy?

Mr PRINCE replied:

- (a) Riskcover.
- (b) \$19,175,950
- (c) The essential terms of the policy cover Workers Compensation, Property, Property and Business Interruption, Medical Malpractice, Liability, Motor Vehicles Machinery & electronic equipment breakdown, Volunteers personal accident and Miscellaneous areas such as Personal Accident & Travel.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3029. Mr BROWN to the Minister for Health:

- (1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr PRINCE replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3033. Mr BROWN to the Minister representing the Minister for Mines:

- (1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr BARNETT replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review

opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3038. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

- (1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr BRADSHAW replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3040. Mr BROWN to the Parliamentary Secretary to the Minister for Sport and Recreation:

- (1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr MARSHALL replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

EXMOUTH RESORT AND CANAL DEVELOPMENT - 1995 MEETING

3081. Mr BROWN to the Minister for the Environment:

- (1) In 1995 did Department of Conservation and Land Management (CALM) officers Colin Ingram and Jim

Williamson attend a meeting with representatives of the Trade Centre Pty Ltd and other government officers to discuss a proposal to develop a resort on the west coast of Cape Range?

- (2) How many meetings did such officers attend?
- (3) What was (were) the date(s) of the meeting(s)?
- (4) Who participated in the meeting(s)?
- (5) Did the officers prepare a report on the meeting(s) or any memorandum or note following the meeting(s) to either the Minister or senior ranking officers in the department?
- (6) What was the nature of that minute or communication?
- (7) Who was the minute or communication with?
- (8) Were any meetings held within the department to assess the proposal following that meeting?
- (9) What meetings were held and when?
- (10) Who attended the meetings?
- (11) What recommendations emanated out of each meeting?

Mrs EDWARDES replied:

- (1) Yes.
- (2) Jim Williamson - one
Colin Ingram - two
- (3) Jim Williamson - 1 March 1995
Colin Ingram - 1 March 1995
- 19 April 1995
- (4) Meeting of 1 March 1995 - representative/s from the Department of Land Administration (DOLA), Western Australian Tourism Commission (WATC), Department of Planning and Urban Development (DPUD), Shire of Exmouth, Gascoyne Development Commission (GDC), Trade Centre Pty Ltd and Colin Ingram and Jim Williamson from CALM. Meeting of 19 April 1995 - Dr Syd Shea and Mr Colin Ingram from CALM and representatives of Trade Centre Pty Ltd.
- (5) 1 March 1995 meeting - yes
19 April 1995 meeting - no
- (6) A file note outlining discussions and outcomes of the meeting.
- (7) The file note was copied to Dr Syd Shea, Mr Jim Sharp and Mr Keiran McNamara.
- (8) No.
- (9)-(11) Not applicable.

FAMILY AND CHILDREN'S SERVICES - PROGRAMS

3165. Mr BROWN to the Minister for Health:

- (1) Since 1 January 1996, has the Government proposed any changes to the supported accommodation assistance program, the home and community care program, and the crisis accommodation program?
- (2) What was or is the nature of the changes the Government would like to see made to each or any of these programs?

Mr PRINCE replied:

- (1) With respect to Home and Community Care Program: Yes.
Note: * Supported Accommodation Assistance Program is the responsibility of Family and Children's Services.
* The Crisis Accommodation Program is the responsibility of Family and Children's Services and Homeswest.

- (2) This question is addressed only in respect to the Home and Community Care Program. Ministerial approval has been given to the development of a set of options for consideration in respect of the implementation of a fees policy for the Home and Community Care Program, consistent with the National Home and Community Care Fees Policy.

TELEHEALTH

Remuneration of Medical Practitioners

3303. Mr GRAHAM to the Minister for Health:

- (1) Do medical practitioners undertaking consultations via a telemedicine/telehealth system receive the same remuneration under Medicare as they would for a face to face consultation?
- (2) If the answer to (1) above is no -
- (a) what is/are the bar/s to identical payments being made; and
- (b) what action has the Minister taken to ensure that this does not become an inhibiting factor in the introduction of telehealth proposals into Western Australia?

Mr PRINCE replied:

- (1) Only medical practitioners who practice tele-radiology and tele-pathology are currently allowed to receive remuneration under Medicare as they do not need to meet face-to-face consultation requirements. Other medical practitioners cannot claim for remuneration at present if they use telehealth.
- (2) (a) The bar to payments being made is that Medicare has to agree to provide remuneration for telemedicine/telehealth consultations given that these consultations will not be directly face to face consultations.
- (b) Western Australia is an active member of the National Telehealth Committee which is a committee reporting to the Australian Health Ministers' Council. The National Telehealth Committee, via a Working Group, has prepared a paper: Funding and Financing Options, specifically to address the Medicare issues and funding of telehealth. The challenge is to develop funding arrangements which allow maximum flexibility particularly for services across program boundaries, to ensure that appropriate funding arrangements are in place to realise the full potential of telehealth but also to ensure that inappropriate funding arrangements do not encourage expansion where there is no demonstrated benefit. This paper and its recommendations was presented to the Australian Health Ministers' Advisory Council on Thursday 19 March 1998. One of the recommendations which will be presented to the Council for approval includes: Trials to assess the relationship between the Medical Benefits Schedule (MBS) and selected clinical services based on selected criteria, for example telepsychiatry for areas of need. Other pilot evaluation trials will investigate the implications of cost and volume arrangements and applying output-based funding. Such trials would include the pooling of Commonwealth Medical Benefits payments for specific services if appropriate.

MEALS ON WHEELS, ROCKINGHAM

3309. Mr McGINTY to the Minister for Health:

- (1) Will the new privatized Peel Hospital support the local meals on wheels organisation by providing kitchen facilities for the preparation of those meals?
- (2) Did the former Mandurah Hospital provide this service. If it currently does not, when did it cease?
- (3) Where are the meals on wheels prepared for the Rockingham area?
- (4) Were meals on wheels once prepared at Rockingham Hospital. If yes, when did that cease?

Mr PRINCE replied:

- (1) No.
- (2) No. The service was never provided.
- (3) Meals are prepared in the Rockingham City Council's Autumn Centre.
- (4) August 1993.

NURSES EMPLOYED IN NURSING HOMES

Pay and Conditions

3442. Mr PENDAL to the Minister for Health:

- (1) Is it true that registered nurses in Western Australian nursing homes are paid approximately 10 per cent less than registered nurses employed in other areas of nursing in Western Australia, despite comparable qualifications and demands in the work?
- (2) If so, why?
- (3) How has this discrepancy affected the level of care provided in nursing homes in this State?
- (4) Has this discrepancy in pay between gerontology and other areas of nursing affected staffing levels or quality of nursing staff in nursing homes?
- (5) If so, how?
- (6) Does the Minister expect that this relative discrepancy in pay, between registered nurses in nursing homes and registered nurses in other medical fields, will change in the near future?
- (7) If so, will the changes mean that the nurses working in Western Australian nursing homes will be paid on the same level as registered nurses working in other medical fields within this State?

Mr PRINCE replied:

- (1) Yes.
- (2) Nursing staff in nursing homes, until the passage of the Commonwealth Aged Care Act 1997, were paid from an area of the Commonwealth Subsidy called CAM (Care Aggregated Module). A change in the funding calculation in July 1996 resulted in some States being reimbursed for the wage increase and others not. In this State the industrial decision (not under control or influence of the State Government) allowing the wage increase of 10% occurred outside of the time permitted by the Commonwealth, while in most other States the increases occurred early enough to be factored into the base for new calculations.
- (3) There is no statistical data to support that the level of care has been affected by the discrepancy. It is becoming increasingly difficult to attract Registered Nurses to work in the aged care sector and many aged care facilities regularly supplement their Registered Nurse staff with agency nurses. The minimum standard is for one Registered Nurse to be on duty on any shift. However in the country some nursing homes have been exempted from the requirement to have one Registered Nurse on duty for the night shift by rostering an Enrolled Nurse on duty with an Registered Nurse on close call.
- (4)-(5) The actual levels of staff are being maintained but due to the difficulty in attracting Registered Nurses into the aged care sector, nursing home agencies are employing more assistants in nursing. Information on the quality of nursing staff is not available as the evaluation of the nurses' performance and quality of clinical care is conducted by individual nursing home agencies.
- (6) I, along with the Chamber of Commerce and Industry in Western Australia have been aware of this issue and have already made representation to the Federal Government. Re-examination of the funding arrangements is a commitment only the Federal Government can provide.
- (7) If the Commonwealth does amend the funding arrangements the decision to pay the nurses at the same level as nurses in other areas of nursing will remain with the private sector employers. It is up to them to negotiate a salary increase with their employees if they want to retain Registered Nurses in the aged care sector.

TELSTRA SALE

Allocation of Funds

3443. Mr PENDAL to the Minister for the Environment:

- (1) I refer to the Commonwealth's partial sale of Telstra and the subsequent undertaking to devote a proportion of the sale price to environmental and heritage projects and ask, has the Western Australian Government been advised of any access it will have to a portion of those funds?
- (2) If yes to (1) above, what is to be Western Australia's share?

- (3) Have any projects been funded in Western Australia from the partial sale?
- (4) If yes to (3) above, what are they?
- (5) If no to (3) above, what projects have been nominated for funding?

Mrs EDWARDES replied:

- (1) Yes.
- (2) At the signing of the Natural Heritage Trust Partnership Agreement between the Commonwealth and Western Australian Governments on 29 July 1997, the Acting Prime Minister and the Premier announced that funding from the Trust to Western Australia in 1997/98 will be more than \$30 million.
- (3) Yes.
- (4) See the tabled list of funded projects. Additional projects remain under consideration for funding in the 1997/98 financial year. [See paper No 1329.]
- (5) Not applicable.

DENTAL CARE WAITING LISTS

3479. Mr BROWN to the Minister for Health:

- (1) Is the Minister aware of an article that appeared in *The West Australian* newspaper on Saturday 7 March 1998 concerning dental care queues growing?
- (2) Is the Minister aware that the article reported that the waiting time for pensioners to receive dental care has blown out from 4 to 22 months since the axing of the Commonwealth Funds for Public Dental Services?
- (3) Has the State Government made any representations to the Federal Government about providing additional funds for dental care?
- (4) What is the nature of the submission that has been made?
- (5) How much has been sought from the Commonwealth Government for this purpose?
- (6) What is the waiting time for pensioners in Western Australia to receive dental care from public dental services?

Mr PRINCE replied:

- (1) Yes.
- (2) Yes, although this did not relate to Western Australia.
- (3) Yes. A submission has been made to the current Senate Inquiry into the affect of the cessation of the Commonwealth Dental Health Program.
- (4) The submission seeks the reestablishment of the Commonwealth Dental Health Program based on a patient copayment of 25% and stricter eligibility criteria.
- (5) \$6m to \$7m depending on the uptake of the Scheme.
- (6) It currently varies from around 6 months to 18 months with most waiting about 9 months.

MR PHILLIP GAUSTEN

Minesite Fatality

3502. Ms McHALE to the Minister representing the Minister for Mines:

- (1) I refer to the fatality of Mr Phillip Gausten on 22 November 1992 and ask, on what date did a (then) Mines Department Inspector first attend the minesite fatality?
- (2) If the answer to (1) above is not 22 November 1992, why did no Inspector arrive on the day of the fatality?
- (3) Is the Minister aware that Mr T. Wilman, (leading hand) ordered a full brake reline of the truck involved in the fatality on 24 November 1992?

- (4) Is the Minister also aware that in his statement dated 23 November 1992, Mr Wilman stated that he was not aware of the brake problems?
- (5) Why is there this discrepancy?
- (6) Did the (then) Mines Department Inspector(s) produce a comprehensive report on the condition of the truck involved in the fatality as of the day of the fatality?

Mr BARNETT replied:

- (1) Special Inspector of Mines, R Hampson arrived at the Digger's Rocks mine, where the fatality occurred, at 16.30 hours on 22 November 1992.
- (2) Not applicable.
- (3) No.
- (4) Yes. This was in response to a specific question regarding whether Mr Wilman was aware that Mr Gausten was concerned about the truck brakes. He replied that Mr Gausten had not informed him of his concern.
- (5) There is no discrepancy. While Mr Wilman may have been unaware of any concern on 22 November (as indicated in his statement of 23 November), it might be thought understandable for him to order checks and rectification work on 24 November.
- (6) No. The main issue of concern was to test whether the truck could be induced to "jump" forward if it was started with the transmission in both neutral and in gear.

MENTAL HEALTH FUNDING

3508. Mr McGINTY to the Minister for Health:

- (1) What Western Australian Mental Health Services are funded under the National Mental Health Strategy and what is the extent of the Commonwealth funding for each service?
- (2) When does the funding agreement expire?
- (3) Does the current funding agreement provide \$5.2 million of Commonwealth funding for Mental Health Services in Western Australia?
- (4) What will happen to those services if no new agreement is signed by the new financial year?
- (5) What is the current state of negotiations about funding for Mental Health Services?

Mr PRINCE replied:

- (1)

14 Public Health Services	\$ 2.9 million
20 Non- Government Organisations	\$ 2.3 million
- (2) 30 June 1998.
- (3) Yes.
- (4) Currently unresolved.
- (5) Dr. Wooldridge has made an offer of \$300 million over 5 years to the States to compensate for the existing Mental Health Strategy Funding. This is subject to negotiations of the total Healthcare agreement being concluded.

UNIVERSITY RURAL SURGICAL SERVICE

3540. Mr GRAHAM to the Minister for Regional Development:

- (1) Has the University Rural Surgical Service received any Government funding since 29 November 1996?
- (2) If not, why not?
- (3) If so -
 - (a) how much has been allocated to the service in budget years -
 - (i) 1996-97; and
 - (ii) 1997-98,

- (b) what is the forward estimate for the service for budget years -
- (i) 1998-1999; and
 - (ii) 1999-2000?

Mr COWAN replied:

- (1) Yes. Money provided by the Commonwealth Department of Human Services and Health via Grant No 102 - Specialists Medical Services Delivery in Rural and Remote Areas. \$177,656
- (2) Not applicable.
- (3) (a) (i) \$177 656
(ii) \$297 936
- (b) (i) \$345 408
(ii) \$314 828

HEALTH SERVICES IN COUNTRY AREAS

Multi-purpose

3541. Mr GRAHAM to the Minister for Health:

- (1) How many multi-purpose health services have been developed in country Western Australia?
- (2) Where has each multi-purpose health service developed?
- (3) On what date was each multi-purpose health service developed?

Mr PRINCE replied:

- (1) Seven.
- (2)-(3)
- | | |
|------------------------|----------------|
| Eastern Wheatbelt | February 1998 |
| Central Great Southern | January 1998 |
| Dalwallinu | January 1994 |
| Boyup Brook | September 1994 |
| Laverton-Leonora | January 1997 |
| Murchison | February 1998 |
| Northampton-Kalbarri | July 1995 |

QUESTIONS WITHOUT NOTICE

HOSPITAL CRISIS

1048. Dr GALLOP to the Premier:

I refer to claims by Dr Tony Taylor, the State Chairman of the Australian Association of Surgeons, on ABC Radio this morning.

- (1) Is the Premier aware that Dr Taylor has accused the Government of "passing the buck" for the hospital crisis in blaming nurses and the Commonwealth Government?
- (2) Is the Premier prepared, as Dr Taylor says he should be, to take responsibility for the sickness and suffering the Premier is causing?
- (3) Does the Premier take any notice of Dr Taylor's warning that more people on waiting lists will die and that cancer patients and the elderly will be among the worst affected?
- (4) When will the Premier stop using elective surgery delays as a cost saving device, as the Association of Surgeons claims and everyone knows the Premier is doing?

Mr COURT replied:

- (1)-(4) I am not aware of the detail of the comments made by Dr Taylor. The funding issues that we are trying to resolve with the Federal Government have an effect on elective surgery.

Dr Gallop: You are using the pain and suffering of people -

Mr COURT: The member for Fremantle supports our campaign to achieve a better Medicare deal over the next five years. Under the funding provisions of the Medicare arrangement that we are being asked to sign, the payment will decrease in the first couple of years. We simply cannot run hospitals with the current level of funding; therefore, how will we be able to run it under the new proposal in which the funding will dip during the term of the Medicare agreement?

Dr Gallop: We have a problem now.

Mr COURT: The member is right.

Dr Gallop: And you are happy to allow that problem to exist?

Mr COURT: The Leader of the Opposition should support our campaign to obtain a better deal.

EASTER ROAD TOLL

1049. Mr OSBORNE to the Premier:

Easter is a particularly busy time on Western Australian roads. Can the Premier inform the House of the strategies being undertaken by state government agencies in their endeavours to avert the needless loss of life on Western Australian roads over the Easter period?

Mr COURT replied:

This is a serious issue. I am sure that it is the prayer of all members of this House that no fatalities occur on the roads over the Easter period. This time last year, when I made similar comments, I said that statistically three people would die on our roads over the Easter break. Tragically that is what happened. There were three deaths, and five people were critically injured during the Easter break last year.

I compliment the Police Service, and I am sure all members support the police operation "Easter Care", in which a large number of resources will be invested in an attempt to achieve a fatality free Easter this year. The police will concentrate on four key areas - alcohol, speed, the non-wearing of seat belts, and fatigue.

The Office of Road Safety has also initiated a campaign. The office published its 10 commandments on road safety in *The West Australian* today. I thank the staff of *The West Australian* for their cooperation with the road safety initiatives. To their credit they approached the Office of Road Safety to see whether they could assist in any way with the campaign.

I urge all families to be very careful on the roads this Easter. I pray that we can get through the Easter period without any fatalities occurring on our roads.

PRINCESS MARGARET HOSPITAL FOR CHILDREN

1050. Mr McGINTY to the Premier:

I refer to the fact that Princess Margaret Hospital for Children has cancelled 59 operations on babies and young children, scheduled for the school holiday break.

- (1) Why can the Premier not see the pain and suffering he is causing these children as a result of his decision to withhold the additional funding the hospital requires?
- (2) When will the Premier act in the manner expected of a Premier and put patient care ahead of his devotion to economic rationalism?

Mr COURT replied:

- (1)-(2) I am advised that the policy at Princess Margaret Hospital for Children is that no child waits more than a month between the time of being an outpatient and when an operation takes place.

Mr McGinty: That is not true.

Mr COURT: I am advised that is the policy. I am advised also that there has been no change to that policy.

CITY OF WANNEROO SPLIT

1051. Mr BAKER to the Minister for Local Government:

I refer to the Minister's statement in this Chamber last week in which he advised that it is proposed to split the City of Wanneroo into a new City of Joondalup and a new Shire of Wanneroo.

- (1) Does the Government intend or foresee that the proposed split will directly or indirectly result in increased rates for the rate-paying residents of the new City of Joondalup?
- (2) Does the Government intend or foresee that the proposed split will result in a diminution of the nature, extent and quality of services currently being provided by the City of Wanneroo to the residents and ratepayers in the Joondalup region?

Mr OMODEI replied:

I thank the member for some notice of this question.

- (1) The report of the Local Government Advisory Committee indicates that the proposed City of Joondalup will be in a very strong financial position. On that basis, and with the commissioners continuing to pursue efficient and effective delivery of services, the ratepayers of the proposed City of Joondalup should not expect a dramatic rate increase as a result of the division of the City of Wanneroo.
- (2) There is no reason to believe that the level of services to the residents of the proposed City of Joondalup will be reduced or diminished in any way.

LNG TRAIN PROJECTS

1052. Mr RIEBELING to the Premier:

In his statement to the House yesterday dealing with his trip to Japan the Premier said -

Energy growth projections for Western Australian liquefied natural gas into Japan were not optimistic, in particular the two additional LNG trains producing 7 millions tonnes a year as part of the North West Shelf expansion.

- (1) Are we to interpret the Premier's words as code that the LNG train projects will not proceed?
- (2) If not, can the Premier confirm that the projects will go ahead as previously announced by the Government?
- (3) If so, when will this happen?

Mr COURT replied:

I thought I explained this to the member in a conversation yesterday. However, I have pleasure in doing it in question time.

- (1)-(3) We visited Tokyo Electric, which is probably the largest of the power utilities. Its position was pessimistic about growth in energy. As members know the Japanese economy has been stagnant for some time and there is no air of optimism around.

Tokyo Electric said originally that, along with other utilities, it was looking at supporting being able to take seven million tonnes - two trains - from 2003 onwards. It said it would probably extend that to 2005 and in Tokyo Electric's words, "It may have to be phased in with one train leading up."

At the same time we met with other parties involved in the industry such as the trading houses and the like. Their view was somewhat different. They sit on similar committees making projections for energy. They said two factors were involved: First, we can expect a utility when the economy is low to be pessimistic in its projections. Secondly the utilities had been put under pressure to lower their energy costs. Ironically, the quickest way to lower their costs is to move into more coal fired generation. They had some large scale projects on the planning board to develop coal fired generation. I mentioned briefly in the statement that that is not acceptable to government in the sense it now has certain environmental obligations under the Kyoto agreement, etc. A number of the new large coal fired projects will possibly not get off the ground. The view of some of the other people is that LNG will take a larger share of energy generation at the expense of both coal and nuclear power.

Mr Riebeling: The bottom line is that it will not proceed.

Mr COURT: The bottom line is that those companies believe that within a year there will be the ability to proceed

with the seven million tonnes on two trains. As members know, that will be around the year 2005. I cannot give a watertight commitment because it goes through a process of letters of intent and the like. We hope that the Japanese will firm up on being able to make commitments for the expansion of that project. I saw it as my responsibility to outline simply what we were told by both the power utilities and the other companies. One of the strongest things in our favour is the environmental argument that pushes the equation in favour of LNG versus coal.

BUS SERVICE, PEEL REGION

1053. Mr MARSHALL to the Minister representing the Minister for Transport:

The growing population of the Peel region was recognised with the introduction of the new rapid transit buses between Perth and Mandurah. Now that an expanding suburban population is requiring more regular transport from arterial roads to the outer suburbs such as Dawesville and Halls Head into the city of Mandurah, does the Minister foresee an improved local bus service in the near future?

Mr OMODEI replied:

The number of questions that come through on the subject of transport never cease to amaze me. The members for Dawesville and Swan Hills are among others who are certainly keeping the Minister on his toes. It is an indication that the Minister for Transport has been busy. He has provided me with the following response to the question -

There is no doubt that the Peel area is a growing area and the member for Dawesville has been pushing for services in that area. I understand that a town bus service currently operates in Mandurah on selected days of the week to only some areas of the city. From the middle of 1998 Transperth will introduce a more regular off-peak bus service in Mandurah. Transport staff have worked with the staff in the City of Mandurah to determine appropriate routes and timetables for an improved town service. It is planned to operate the service during off-peak hours with four routes covering the key residential areas of Mandurah and providing public transport opportunities, particularly for shoppers into Mandurah.

This demand for an off-peak transport service in Mandurah was supported by a survey recently conducted by a consultant on behalf of Transperth. The running of a Saturday bus service is being evaluated by the City of Mandurah. It is intended that the Mandurah town service will expand further, both in size and frequency, and will allow for suburban feeder links to the morning peak services.

I understand that the start date for the Transperth town service is being confirmed with the City of Mandurah. It is likely to be early June 1998. The new town service is being introduced marginally ahead of the Transperth planning time line due to an approach from the City of Mandurah. Therefore, the new town service is a joint venture, with the City of Mandurah providing some of the financial support until the year 2000. I hope that helps the member for Dawesville keep his constituents informed of what is happening.

GOVERNMENT MEDIA OFFICE

Provision of News Items Free of Charge to Private Agencies

1054. Mr RIPPER to the Premier:

Notice of this question was given four hours ago.

I refer to an answer given in the Legislative Council yesterday on the Premier's behalf in which it was said that he was not aware of any instances where the Government Media Office had provided media monitoring services free of charge to private public relations companies. It was also said on his behalf that the Director of the GMO had instructed that if such practices occurred in the past, they were to cease immediately.

- (1) Is the Premier prepared to have this matter properly investigated to determine whether such practices have occurred?
- (2) If not, why not?
- (3) Was the director's instruction issued in writing; and, if so, will he table his instructions?

Mr COURT replied:

- (3) The director passed on the instruction verbally to the media secretaries at a weekly conference. If the director thinks it is appropriate that that be done in writing, I am sure he will do that.
- (1)-(2) If there is any evidence, I suggest it be provided to the Director of the Government Media Office and the appropriate action will be taken. No evidence has been provided to warrant such an investigation.

Mr Ripper: Have any inquiries been made?

Mr COURT: I just said that all the media secretaries said it was not the practice.

RURAL WATER SUPPLIES

1055. Mr McNEE to the Minister for Water Resources:

An increasing number of areas are being put on water restrictions due to the lack of rain over the past year. What is the Government doing to ensure adequate water supplies will be provided to rural communities?

Mr House: Pray for rain.

Dr HAMES replied:

I thank the member for some notice of this question. Praying for rain is included as a suggestion!

The member for Kimberley has a reputation in rural Western Australia for doing an excellent job in his time as Minister for Water Resources of providing water to rural communities. In his absence I commend him for that. He was able to do that with around \$7m over three years, mostly on things such as pipeline extensions.

I am pleased with the support I have had from this Government in providing water to rural communities. There are two major ways of providing that support, one of which is through funding for pipeline extensions and catchment expansions. In this current financial year in the drier parts of rural Western Australia we spent in the order of \$4m from the Water Corporation's budget which has funded about \$6.8m in that one year in pipeline extensions at places such as Mt Collier, Snake Soak, West Wongan, Tarin Rock and Newdegate and catchment expansions for Lake King and Jerramungup.

I am pleased to say that I have a commitment from the Water Corporation as part of its statement of intent for a further \$5m for each of the next two years. A further \$10m will go into pipeline extensions or catchment expansions. With the one-third contribution that comes from the farming community or the local government authorities, that will result in a further \$13m over that two years. Although I will never be able to match the number of parks in the area of the member for Kimberley for water initiatives in the country, I am sure we have been able to match, and significantly better, the amount of money going into providing that sort of water supply. The member for Moore is the chairman of the farm water advisory committee, which is doing an excellent job in determining priorities for the areas where the money should go for that water. Regional representatives contribute to that. In the current budget there is \$200m for farm water grants, which provide either 50 per cent or 30 per cent of the cost, depending on whether the water is for personal or stock use or on the farms themselves. I am hopeful that we will get a significant increase in that funding in the next financial year. This Government is making a very strong commitment to providing water in rural areas. I am very proud of the work this committee and the Government has done in that area.

FREMANTLE PORT STEVEDORE DISPUTE

1056. Mr McGOWAN to the Deputy Premier:

I refer to the comments of the Deputy Premier in *The West Australian* of 21 February 1998, where he was reported as saying that he does not want a union busting stevedoring company setting up in Fremantle and, further, that he believed the State already had good stevedoring companies. In view of these comments, does he support the actions being taken by Patrick The Australian Stevedore on the Fremantle wharf?

Mr COWAN replied:

I can certainly confirm that when I was asked the question in February I indicated Western Australia already had a stevedoring company that was trying to break into additional stevedoring services in Western Australia; that it was confined to some bulk products, predominately in the live sheep industry; that it was not necessary for us to import the troubles from the east; and that all we had to do was to give that company greater scope and access to some of the operations on the Fremantle wharf. I have not changed my opinion. I would much rather see a local company be given the opportunity to provide competition on the waterfront. Whether I do, or do not, support Patrick's efforts is a very speculative question, and I certainly do not intend to answer it. However, I repeat: I support greater opportunity being given to Western Stevedores to provide greater services to those companies that want to avail themselves of those services. The member for Rockingham has made the mistake that many other people make: They always like to quote from a newspaper article. We all know that before they do that, they must ask whether it was correct. In this instance, I did not talk about union busting companies; I said that we have a company in Western Australia which wants to expand its operations in the State and it should be given the first opportunity.

RENAL DIALYSIS SERVICE, MANDURAH HOSPITAL

1057. Mr NICHOLLS to the Minister for Health:

There is a great deal of interest in the delivery of renal dialysis services from the new Mandurah Hospital, particularly since it is nearing completion. Could the Minister indicate when this renal dialysis service will be available from the local hospital to the local people?

Mr PRINCE replied:

Health Solutions (WA) Pty Ltd, the operator of the new campus at Mandurah, is in the process of gearing up to offer a satellite renal service from the Peel health campus with a view to patients being admitted from Monday, 11 May 1998. At present no such service is available. The unit will consist of five renal dialysis chairs and will be staffed by a clinical nurse specialist with support from four registered nurses who will receive training over six units at the renal unit at Fremantle hospital. That facility was renovated recently by the State Government. People who reside in the Peel or Rockingham-Kwinana regions, and who are medically stable and suitable for a satellite service - by that I mean, being seen by a renal physician - will be eligible for admission to this service in Mandurah. People residing outside of that geographical area will be considered on an individual basis. It may well be, for example, that some residents of Bunbury may be admitted to the service until such time as a satellite service is operating in Bunbury, which will happen as soon as the south west campus is finished. That will take a little while yet, but it is under construction at present. Health Solutions has been contracted to provide up to 3 000 attendances from the commencement of the service until 30 June 1999. That should enable service provision for about 17 people. At present, 12 people have been identified who could benefit from the service. The new service being brought to Mandurah will benefit the people of that immediate area and forms part of the extension of the service to the people where they live.

MOTOR VEHICLE REGISTRATION FEES

1058. Ms MacTIERNAN to the Premier:

- (1) Can the Premier confirm that early next week the Government is planning to announce a massive increase in motor vehicle registration fees?
- (2) Can he also confirm that the increase may be as high as \$100 per vehicle, an almost 30 per cent increase in the cost of registration to the ordinary motorist?

Mr COURT replied:

- (1)-(2) In the next three weeks the Government will announce all of the increases, or otherwise, in charges. They will be announced prior to the Budget coming down on 30 April.

Mr Graham: Is that so you can say there will be no increases in the Budget?

Mr COURT: Unfortunately, I cannot even promise that. I wish I could.

MOTOR VEHICLE REGISTRATION FEES

1059. Ms MacTIERNAN to the Premier:

In the announcements that will be made some time in the next three weeks, is it likely that motor vehicle registration fees will be increased by about \$100 per vehicle?

Mr COURT replied:

I do not think it is appropriate to be saying what will happen in relation to fees and charges before the announcements are made. I can say that a broad range of fees and charges will be affected, as is the norm every year.

Mr Ripper: What else? School fees?

Mr COURT: It will apply to electricity and gas. We announce what will happen in relation to fees and charges for the coming year, and that will be done at the appropriate time, in the appropriate manner.

ELECTIVE SURGERY, PRINCESS MARGARET HOSPITAL FOR CHILDREN

1060. Mrs HOLMES to the Minister for Health:

What is the situation for elective surgery at Princess Margaret Hospital for Children over the next two weeks during school holidays?

Mr PRINCE replied:

Princess Margaret Hospital for Children did not have any surgery scheduled for next week, a short week. It is in the process of creating an adolescent ward, which will involve a fair bit of construction. Elective surgery is not booked. For the following week, 59 cases were booked which have been postponed. Those 59 cases consisted of four category two cases and the rest were category three cases. Category one cases are urgent, and must be dealt with as soon as possible. Most cases will be dealt with, irrespective, because they are urgent. In those cases something must be done, and subject to the state of the individual child as quickly as possible. For category two cases the requirement is they be dealt with within 30 and up to 90 days. Category three cases should be dealt with within a year. I spoke to the chief executive officer of Princess Margaret Hospital for Children and King Edward Memorial Hospital just before question time. He has assured me that no patient waits for more than a month between coming to the outpatients' department and being in surgery. Waiting times in the adult hospitals are much longer, particularly in some areas of surgery. In Princess Margaret Hospital for Children that is not the case. The types of surgery we are talking about in category two cases involve, for example, a tonsillectomy and the removal of adenoids, where a fairly large set of tonsils is causing some discomfort to the child. Category three involves much more minor matters which can, or cannot, be done, depending on whether people choose to have that sort of operation.

It is regrettable that the cases are being postponed. However, it is partly the result of maintenance, and partly the result of the construction of a new adolescent ward, which will be excellent when it is finished. It is also against the background, obviously, of the nurses' dispute.

Mr Marlborough: Stop blaming the nurses!

Mr PRINCE: I am not. I said it is against the background of the nurses' dispute. It is also because at school holiday times, many of the people who work in the hospitals also want to take time off to spend with their families. That requires striking a balance between the patients and the staff, and that balance is often difficult to achieve. This time, for those reasons, some of which are budgetary, Princess Margaret Hospital has made the decision to cancel that surgery for the second week of the school holidays.

PRINCESS MARGARET HOSPITAL FOR CHILDREN WAITING LISTS

1061. Mr McGINTY to the Premier:

I refer to the Premier's answer earlier in question time today and also to the answer just given by the Minister for Health to the effect that no child waits for more than one month for surgery at Princess Margaret Hospital for Children. How does the Premier explain the Health Department's most recent figures which show that of the 1 052 children waiting for surgery at Princess Margaret Hospital, 244 ear, nose and throat patients wait for up to 12 months; 283 general surgery patients wait for up to 12 months; 107 ophthalmology patients wait for up to 12 months; 148 plastic surgery patients wait for up to 12 months; and 11 general surgery patients and 11 plastic surgery patients have been on the waiting list for longer than 12 months? What hope can the Premier offer to the two year old child whose parents contacted the Opposition today to say that because of the failure of Princess Margaret Hospital to deal with their child, they will fly to Malaysia for that operation?

Mr COURT replied:

I am not aware of that case, and the member should give those details to the Minister for Health. Similarly, the detail in that question is more appropriately addressed to the Minister for Health. The Minister for Health has just explained the situation with regard to the operations. He outlined to the member in some detail the different categories. I think the Minister for Health had already answered the question before the member asked it.

NATURAL HERITAGE TRUST FUNDING

1062. Mr MASTERS to the Minister for Regional Development:

Is the Minister aware of lengthy delays, now largely overcome, in the allocation of funds to regional community group projects approved for funding under the Natural Heritage Trust, such that the groups are constrained in applying for additional natural heritage trust funding in this year's round of applications, which recently closed?

Mr COWAN replied:

I thank the member for some notice of the question, notwithstanding the fact that the question is not quite the same as the one of which I received notice. I understand that the member is asking me this question in my capacity as the chair of the Cabinet committee that deals with the Salinity Council, because he would be well aware that the responsibility for the allocation of funds through the Natural Heritage Trust rests with my colleagues, the Minister for Primary Industry and the Minister for the Environment. I am advised by those Ministers that all of the Landcare

applications that were awarded this year have been paid out for quite some time. The bushcare programs have also been funded, with the exception of four projects. I do not think anyone could describe that as a delay with regard to that funding. Nineteen joint programs have also received funding.

The member suggested that the failure of those groups to receive that funding has not given them sufficient time to make an application for continued funding through the Natural Heritage Trust. I do not think that would be the case. Those groups are perfectly able to lodge an application for funding for new programs, which will be stand alone applications and not have any requirement with regard to previous funding. The merits of the case will determine whether they receive funding.

GOVERNMENT TELEVISION ADVERTISING

Non-standard Indemnities

1063. Mr KOBELKE to the Premier:

I refer to the extraordinary indemnity granted to television stations by the Department of Productivity and Labour Relations in 1997, and called a "non-standard" indemnity by the Auditor General in his report tabled in this House yesterday, and ask -

- (1) Does the Premier accept the finding of the Auditor General that the indemnity is correctly classified as non-standard, contrary to the view that he put to this House on 11 September last year?
- (2) What has the Premier done to ensure that Treasury instructions with regard to non-standard indemnities are not again flagrantly breached?

Mr COURT replied:

(1)-(2) I not aware of that particular part of the Auditor General's report.

Mr Kobelke: It is a full page!

Mr COURT: I said I am not aware of that particular part with regard to a so-called non-standard indemnity. I did make the comment that, as I understand it, for all advertising the television stations require indemnities to be in place. I will certainly inquire into the difference between a normal indemnity and what the member says is a non-standard indemnity.
