



WESTERN AUSTRALIA

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LEGISLATIVE COUNCIL

Thursday, 11 September 1997

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

MOTION - STANDING ORDERS COMMITTEE

Private Members' Business - Amendment to Motion

Resumed from 10 September.

HON PETER FOSS (East Metropolitan - Attorney General) [11.03 am]: One of the other issues I wish to mention is important to the appropriateness of how we deal with the interests of private members in this House. It is something I led and insisted upon; that is, the way in which Ministers answer questions in a representative capacity. Members will note that, when answering in a representative capacity, Ministers no longer say, "The Minister for such and such has informed me." We take the view that it is our question and answer and we must therefore personally answer. When I was in opposition I insisted on that. We cannot say that we have been told; another Minister might be the Minister's source - obviously they are - and it is reasonable to rely on the information provided, but it is important that the Minister take responsibility for the answer. That has happened under this Government; Ministers regard the answer as theirs. To the extent reasonable, we make appropriate inquiries. I will not file answers to questions on notice if I am not happy with their tenor or if the detail is insufficient. Unless I am satisfied that it is an appropriate answer, I will not file it.

I am unsure whether I can do this, but I would like to see one further amendment: We should consider the institution of time management.

The PRESIDENT: The Attorney may not do that.

Hon PETER FOSS: I have spoken previously in some detail about why I believe it is appropriate. I particularly ask the Standing Orders Committee to look at that issue. Such a mechanism could be one way to meet the requirements of both government and private members.

I commend the amended motion, if that is the decision of this House, and hope that the Standing Orders Committee takes the opportunity to consider all these issues. I would be very happy to speak further on the issue of time management if the committee were happy to hear me. One of the recommendations of the committee on committees is that that should be capable of taking place.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.06 am]: I presume this is the opportunity for me to accept the amendment and hope the House will support it and carry the motion.

Amendment put and passed.

Question (motion, as amended) put and passed.

MOTION - STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Heroin Use in Western Australia

HON KIM CHANCE (Agricultural) [11.07 am]: I move -

That the Standing Committee on Public Administration be directed to inquire into and report on -

- (a) the incidence of heroin use in Western Australia;
 - (i) health effects of heroin use; and
 - (ii) deaths caused by heroin use;
- (b) the dangers of heroin consumption;
- (c) the adequacy or otherwise of facilities and treatment for persons who are dependent upon heroin, including recommendations as to facilities and treatments appropriate to be provided;
- (d) the provisions of health, welfare and community support services available to deal with heroin consumption and its consequences;

- (e) the adequacy of the provisions of the Misuse of Drugs Act 1981, and associated state or federal legislation - and their inter-relationship - in achieving the objective of detection and prosecution of illicit drug dealers or traffickers in Western Australia;
- (f) the relationship between dependence on heroin and the incidence of crime;
- (g) ways in which the public and, in particular, young people can be more fully informed of the dangers associated with heroin use including education programs to discourage people from heroin use;
- (h) the role of schools both in the distribution of heroin and in educating and supporting young people in discouraging heroin use and dependency; and
- (i) the relationship between heroin use and other illicit drug use including any consequential recommendations relating to those other drugs.

On recent occasions we have in this place, and in the community generally, debated the social issues raised by the abuse of drugs generally and, of late, heroin. Heroin has become rather higher in public consciousness as a result of a recent and tragic upsurge in the number of heroin related deaths in Western Australia. It seems to be associated with the fact that heroin is now cheaper and more available in the community than it has ever been. It has been said - I have no way of knowing whether it is correct - that a hit of heroin is now no more expensive than a packet of cigarettes.

The number of deaths that have occurred has also been a matter of discussion in this place in recent weeks. It is not something I wish to go over again; suffice to say that such deaths in Western Australia are now a critical factor in mortality among young people.

That is not a situation we could have contemplated 10 years ago. It is a problem that we thought existed in other societies, most particularly in the United States, but it is not something we expected to happen here. We are now being welcomed to the later end of the twentieth century sharing a problem on a scale close to the worst in the world.

We debated this issue on 13 May and more recently. In moving this motion, I must recognise that a select committee is currently under way in the other place.

The motion before the House contains terms of reference that are somewhat different from those before that particular select committee and, in a sense, it is an alternative prescription to the manner of that debate. I understand that standing orders prevent me from canvassing the terms of reference of that select committee, but suffice to say that the Opposition in the other place was critical of the terms of reference of that select committee.

The concentration of those terms of reference seems predominantly on the supply side of the question; that is, the enforcement and prosecution of our drug laws. The Opposition in another place proposed terms of reference identical to the proposed terms of reference in this motion, which calls on the inquiry by the Parliament generally to focus not only upon the supply side, but also upon the demand side. The motion calls on the whole question to be related to the health issues. It is fair to say that the terms of reference of the select committee reflect the Government's preferred approach to the issue in concentrating on these aspects of detection and prosecution, rather than the more important issue of why the demand for heroin exists.

Hon Derrick Tomlinson: It would be more accurate to say that is the preferred approach of the mover of the motion for the select committee. It does not reflect the Government's position at all, since a parliamentary member is not a creature of the Executive.

Hon KIM CHANCE: I understand that but, nonetheless, the Government has the numbers in that House, and that House has determined upon that course of action.

Hon Derrick Tomlinson: The member proposing the motion was a member of the governing party but, as with the Opposition, it is a broad church.

Hon KIM CHANCE: It most certainly is, and when I talk about the Government's approach I do not confine that to any one member. Nor do I rule out the possibility that members of the Government may hold an alternative view.

Hon Derrick Tomlinson: You are not suggesting it is the preferred position of the Executive?

Hon KIM CHANCE: I am.

Hon Derrick Tomlinson: I think you are wrong.

Hon KIM CHANCE: I am not ruling out the possibility that other members of the Government may have an alternative view. I claim it has the appearance of being the preferred position of the Executive.

The motion before us, which is identical to that moved by the Opposition in another place, seeks to balance both aspects; that is, detection and prosecution with the associated health aspect. It will balance the issue between the supply and demand sides. Even to the extent that the Government has opted to concentrate on the detection and prosecution side of the question, in my view the Government has set aside its responsibility. The Government has left itself open to the charge of not even fulfilling its responsibility insofar as the detection and prosecution side of the question are concerned. That has been a matter of some debate in the community, and I recognise that all kinds of comments have been made about the Opposition's failure to understand what the Delta program delivers in that respect. However, certain measures can be used to determine a commitment. One which is quite clear is the degree of financial commitment made to certain elements of the Police Service charged with the detection and prosecution of people involved in the sale of drugs.

Hon N.D. Griffiths: The Opposition does not misunderstand the Delta program, but the Minister for Police clearly has not been informed by the Commissioner of Police of what is going on.

Hon KIM CHANCE: I thank the member for that, and that finds expression very clearly in the media statement by the Commissioner of Police. It is headed "Statement from the Commissioner of Police" and is authorised by Peter Newman, Director of Media and Public Affairs, and dated 27 August 1997. In part that media statement confirms -

The Drug Squad's operational allocation, excluding salaries, has been reduced from \$381,000 to \$329,000.

In the face of what is obviously an escalating problem, which has its basis in a more ready availability of heroin on the streets, and given that young people are dying as a result of overdoses of heroin, the response of the law enforcement agency, at the time the Government is saying it must get tougher on the people engaged in this illegal trade, is to reduce the financial resources of the very division charged with carrying out the prosecution and detection of those persons. I recognise there has been some debate in the community on this matter. Notwithstanding both sides of the debate have put their points forcefully, the Minister for Police has been unconvincing - that is the kindest word I can use - in defending the Government's role in this area. It is not my intention to participate in or exacerbate that debate, but the facts stand clearly for all to see. There has been a reduction in the Government's financial commitment to the enforcement of laws associated with the illegal sale of drugs.

Hon Derrick Tomlinson: By whose decision?

Hon KIM CHANCE: Clearly, it is a decision sanctioned by the Minister for Police.

Hon Derrick Tomlinson interjected.

Hon KIM CHANCE: I did not hear that comment.

The PRESIDENT: Order! It is most unusual not to hear the member.

Hon Derrick Tomlinson: I am losing my touch.

Hon KIM CHANCE: I think Hon Derrick Tomlinson said it would have been a decision of the Police Service and the Commissioner of Police, and it is an operational matter. I believe that has been raised by the Minister for Police in the context of the debate. On the face of it, it is true; the commissioner has day to day control of the allocation of funding and resources within his service. Nonetheless, the Commissioner of Police is enjoined to adhere to government policy in these matters, and I do not believe that is sufficient reason for the Minister for Police to say it has nothing to do with members. To his credit, I do not believe the Minister for Police has ever used that excuse. Rather, he has argued that as a result of administrative changes within the Police Service other people can carry out functions previously carried out by the drug squad. I accept that that may even be possible. I do not profess to be an expert in operational matters within the Police Service, but the stark fact is that the financial resources available to the drug squad have been reduced, and that is no longer a matter of argument. It is inconsistent with the publicly expressed policy line the Government has so clearly tried to convince the Western Australian community it is pursuing. I did not want to become tied up in that argument but, rather, only wanted to refer to it, because that is not the key issue. The debate about whether we are pouring sufficient resources into detection and prosecution is important, but it is one which tends to make us concentrate still further on the management of the issue by addressing the supply side.

The supply side of the heroin problem is only marginally important because in one of the most controlled environments in our society, our prison system, where inmates are kept under lock and key, where there is a very high rate of supervision - although not one to one - where the walls are controlled by electronic means and surrounded by

barbed wire, drug use is still prevalent. If there are any circumstances on earth in which the entry and use of illegal substances can be controlled it would be within a prison, but we are failing to do that.

The other day I heard a mother speaking on the radio whose son was in prison. I am not sure what offence he committed, but he was in a maximum security prison. She was the only visitor her son ever received, he was locked up for six to seven hours a day and for the rest of the day he was in that controlled environment of the prison. She was not taking drugs to him, but he was using heroin daily. Without commenting on how or why that can occur, if we cannot control the supply of heroin inside a prison, what chance do we have in the broader society, where there are thousands upon thousands of kilometres of coastline? We simply cannot control it. I am not saying we should throw up our hands in despair and say, "Look, we have already lost the war"; I am simply highlighting that to illustrate how important it is to not simply concentrate all our resources to that end, because the chance of controlling the supply side alone is extremely slim.

I want importers and the pushers of hard drugs detected and prosecuted. They are criminals of the highest order because they are able to profit at other's expense. I am appalled at the tragic deaths from heroin use; but solving the problems only on the supply side will not uncover all the answers to the greater problem.

If we are to ever control the heroin problem we must look at the health implications and the demand side. Only then will we have any success. We will not make any impression on the problem unless people stop wanting to use the product, especially while any legal or illegal substances can move so freely around the State. When the buyers dry up so does the supply. Nothing more would need to be done because the problem disappears automatically. The pushers, importers and chemists would have no more work because there is no-one to sell it to. We cannot afford to look at one side only; we must look at both sides.

I am concerned that the terms of reference of the select committee pay little more than lip service to either health issues or the broader demand side. The rhetoric we have heard from the Government during this debate suggests that for reasons known only to itself the Government is prepared to pay only lip service to the question. We keep hearing that we need to be tougher on drug pushers. Even the Deputy Premier has asked that if every 14-year-old kid knows where the pushers are, how come the police do not have the same knowledge? That is a fascinating question and is one I have pondered ever since he asked it.

Hon Cheryl Davenport: It is true though.

Hon KIM CHANCE: It was an interesting question, but it brought a self-protective response from the Police Service - it did not answer the question. I was fascinated when HENDY COWAN put that question to the National Party Conference. But there is the rhetoric on one side and the need to reduce the budget on the other. Through the select committee the Parliament seems inclined to concentrate only on one side.

In the debate of 13 May, the Minister for Transport acknowledged there were alternative solutions. He told the House by way of interjection that the answer lies within the family. Although I am not sure he is correct, I do not doubt the Minister's sincerity. I appreciated his comment because at least it recognised that the family is one element of society which can address the demand side of the problem. However, where I would disagree with the Minister is that it simply does not go far enough. It is not enough to rely on the family - and I am sure the Minister meant the whole of society.

Hon E.J. Charlton: What I meant was families cannot walk away from the responsibility. We have to hit hard those who are causing the crime.

Hon KIM CHANCE: I am not disagreeing with the Minister on that point, but I would like to see a clear separation in the way we address those problems: To address the supply side on one hand, to hit the dealers, and to address the demand side on the other. However, I was pleased the Minister mentioned the role of the family because it does play an important part in addressing the demand side. It is not the only part of society that needs to address the issue, but, nonetheless, an important one.

Hon E.J. Charlton: I agree with that.

Hon Derrick Tomlinson: But the drug society is multifaceted and a multifaceted approach is needed on the demand side.

Hon KIM CHANCE: The Government presents its drug strategy as a multifaceted, multidimensional attack on the demand side, but it is not delivering that objective. Essentially, just as allegations have been made about the attack on the supply side, the Government is delivering rhetoric, not dollars and action. That is the concern of the Opposition and why we have sought to broaden the approach of the Parliament to the issue by using the words in this motion.

I come back to the question of the family. However important a family is in providing a sound foundation for a young person to go into what is a pretty cruel, cold world, it is not sensible to look only to the institution of the family for a solution. Many young people do not have the security of a family to lean on. For their own reasons, many have to leave the family, in some cases because the cruel, cold world is a warmer place than the family environment in which they live. Even where a secure family environment exists, there is no assurance that young people will not turn to drugs. One thing that has shocked our society to its foundations is that many young people who have died from drug overdoses in tragic circumstances, and quite recently, are not street kids, kids from broken homes or kids who have been abused within their families, but kids from loving and secure family environments. That is one of the problems.

Hon Derrick Tomlinson: And affluent families.

Hon KIM CHANCE: That is frequently the case. In trying to pigeonhole the problem, people often say that because the family was affluent, it ignored the child and did not give him or her the time that was needed. I will not add my comments to that, because it would also be pigeonholing the problem.

Hon Derrick Tomlinson: It is oversimplifying the problem.

Hon KIM CHANCE: That is right. A real tragedy in not addressing the demand side is that we have not really come to grips with that problem. We do not know why a young person from a secure and loving family wants to use heroin, a drug which heroin and other drug users have told me is not the greatest drug on earth anyway. There are certainly better ways of getting a kick. Alcohol might be one, but I am told a number of other illegal drugs do the job better than heroin. Why heroin? It is cheap and it is available. That is a supply side question, and we must look at that. Why does a young person from a secure family want to use a drug which, with any level of information and intelligence at all, that young person will know has the potential of killing?

In the past when framing a response to the heroin issue, we have tended to stereotype heroin users into an unusual, but somehow homogenous, group. We have an image of the junkie culture. Of course, the facts are very different. The simplistic notion that heroin belongs to some weird underworld is just not true now, and probably never was. Heroin abuse is an issue, if not a problem, for every sector of society. As a result our response to it must be as a whole society. Treating the issue purely as a criminal one is to condemn ourselves to further failure.

So far the Government - I regret having to say this because I would not want to be political at all about this; it is much too serious to use as a political issue - has left itself open to the charge that its approach has been one of the use of failed tactics. We have already tried the detection-prosecution attack on the problem. It has not, and cannot, provide the answer the community demands. Worse than that, the rhetoric of tougher policing has not been matched with the resources that are needed. The Opposition proposed this motion because it is a more comprehensive approach and has more chance of meeting society's needs. The performance of the Federal Government has been no better. Indeed, given the greater opportunities the Federal Government has in this area, one could argue it has been even worse.

Hon Derrick Tomlinson: Do you know of any examples in the world where the Government has succeeded?

Hon KIM CHANCE: That question calls for judgments which I do not think I am qualified to make. Given the scope of the heroin problem in northern Europe, there may be some interesting answers to that question in the Netherlands.

Hon Derrick Tomlinson: The Swedish model would be worth looking at.

Hon KIM CHANCE: Yes. That is out of my area of expertise, and it would be pointless for me to comment on it. I understand that in some of those northern European societies where the problem is much more serious than that which we have here, there have been some quite spectacular improvements. Even in Britain, the methadone program is more widely used than it is in Australia. It seems that those countries are approaching the matter in a much more mature manner.

Canberra's response has been to have another talkfest on the question. It has proposed a task force which is to be led by Mr Max Moore-Wilton. In doing that the Howard Government has simply evaded its responsibility to act. I refer to an article on page 10 of *The West Australian* of 27 August, under the byline of Carina Tan-Van Baren, who is now in Canberra. I did not realise that. We remember her from the Perth office.

Hon N.F. Moore: We all do, with no great enthusiasm!

Hon KIM CHANCE: She quoted a statement by the chief executive, Mr David Crosbie, of the Alcohol and Other Drugs Council who said that he was astonished by the plan to establish the drug task force. The article states -

Mr Crosbie said it was widely recognised that alternative treatments were the best means of avoiding drug-related crime and deaths and more resources were needed to provide the treatment, not another task force.

From my observations, he has pretty well hit the nail on the head. Frankly, society needs action, not just words. We need action directed at the right area, not words about what is probably the wrong area.

The federal Cabinet at the same time has rejected the proposed Australian Capital Territory heroin trial on the ground that "it is sending the wrong message". I must ask this: Just what does the Howard Government think is the right message on this issue? Will we see a revival of the approach by the Federal Government based on the "It's okay to say no" campaign? If the ACT heroin trial was the wrong message, what direction will the Howard Government lead us in?

I see the revival of the "It's okay to say no" campaign coming - perhaps not specifically in those terms. That is the culture we are approaching. The scare campaign of dead bodies in the morgue, for example, is far from the message that will finally hit home to people. It might impress non-drug users, but people who have already made the step to become part of that culture, or even casual and recreational users and people who associate with them, will not be impressed with a campaign of that kind. It is simply missing the mark.

I am astounded that in the face of advice from people like David Crosbie the Federal Government would make the decision it did about the ACT trial and state that the trial was sending the wrong message. I thought Crosbie was one of the people the Federal Government would have consulted most closely prior to making a comment. I am not necessarily commenting on the rights and wrongs of the ACT trial, because this is not an area of my expertise; however, I can comment on the reasons federal Cabinet gave for not endorsing that trial. If the comment that it is sending the wrong message is the basis of the Cabinet approach to this issue, I fear for our future. I see us embarking on an education campaign that will miss the target totally.

We must first define the problem. We do not seem to have got even to that level. Who are the heroin users? Do all heroin users have a problem? We do not know the answer to those questions. A large number of heroin users in society may not have a specific heroin problem, yet we have not come to terms with that. Perhaps some recreational users of heroin - people who use heroin on a regular, but infrequent, basis - do not have a health problem and are not likely to suffer any serious short term health effects. Indeed, their habit may be less harmful to them than cigarette smoking is to me. Are all heroin addicts at risk? Are all heroin users heroin addicts? We do not know the answer even to that question.

Hon Derrick Tomlinson: The recreational user you have just talked about could be classified as an addict.

Hon KIM CHANCE: He could be, but not necessarily. Do we know how addictive heroin is? It has been argued in many circumstances that it is addictive, but not as addictive as many legal drugs. We need openness about the issue because until we understand the extent of heroin use in society and who is using it, we will not know who is at risk from heroin and why they are at risk. When we finally come to terms with that, we will have a much better chance of knowing to whom we should go with the message and what the message should be. That is the only way we will begin to dry up the demand. That is the only way we will get people to say, "No, I don't need heroin."

That might seem idealistic because every western and eastern culture of which I am aware, including Islamic cultures, uses recreational drugs in one form or another. It seems to be a need expressed by society, perhaps forced on us by the pressures of society.

Hon Derrick Tomlinson: Even the most primitive societies use recreational drugs. It is wrong to say it is the pressures of society.

Hon KIM CHANCE: That is true.

Hon Derrick Tomlinson: It is characteristic of human problems.

Hon KIM CHANCE: Yes, it is a fundamentally human thing, rather like religion. Even the most primitive societies have religion. Karl Marx referred to religion as the opiate of the masses. That was in the days when the masses could not afford opium. That is one of the things that has changed. We have become a more affluent society and there is a greater availability of a greater range of substances. That diversion, in a sense, illustrates the scope of the problem.

Let us first try to understand the problem and try to understand who is at risk from the problem and why they are at risk. Why does the 17 year old son or daughter of a loving and secure family feel the need to experiment with heroin? We have not started on that. The words of the motion before the House, which has also been considered in the other place, will bring us closer to achieving a resolution of that part of the issue than the current terms of reference of the select committee.

I was speaking privately with the Leader of the Opposition some weeks ago about this issue. He said something that depressed me, but that I know he felt genuinely. He said, "We are a society in collapse, aren't we?" I did not respond either positively or negatively to that proposition. It was put as a proposition rather than as a statement.

Hon E.J. Charlton: He is absolutely right.

Hon KIM CHANCE: He may be. I had some weeks to think about it. In the end I think I responded negatively, but that is because my nature is that of the eternal optimist: I do not see a can of beer as being half empty, but as half full.

Hon E.J. Charlton: I see that, too. The only time I have ever seen you with one it has been full empty!

Hon KIM CHANCE: I am a moderate drinker these days. I have refined my habits.

Hon E.J. Charlton: I didn't say how many you drink.

Hon KIM CHANCE: Are we a society in collapse? The Leader of the Opposition made that statement to me after a compelling speech by Hon Simon O'Brien on a matter concerning the health of society and after a disturbing revelation from Hon Ljiljanna Ravlich on the same day. I think that was what affected Hon Tom Stephens and what caused him to say that. Perhaps we should all ask ourselves the same question, not hoping to come up with an answer immediately. My view is that we are not a society in collapse. I mix with young people a lot and I enjoy their enthusiasm, their optimism and their goodwill towards each other. One of the observations I made when my daughter, who is now 21, was in the senior years of high school was that she and her colleagues - who were drawn from a wide variety of backgrounds, as any kid in a government high school experiences with her peers - looked after each other and cared about each other's welfare far more than I and my colleagues did in the 1960s when we were part of the beginning of the "greed is good" society. We were optimistic about our future, but more optimistic about our personal prospects than about the good of the group.

I made that observation about my daughter and her peers, who were about to enter the toughest job market that young people have entered since the depression, yet they were not pessimistic; they were optimistic. They knew they would make it only if they looked after each other. That is a huge advance on the society that I went into as a person of the same age. I feel for them in the challenges that they face. However, I do not believe that we are a society in collapse. As legislators at this level, and our colleagues in Canberra similarly, we are uniquely placed to do something about that, although, perhaps we are closer to the problem than they are and more capable of reaching a solution. I am grateful, apart from the few political comments that I did make, that the approach to the problem has been bipartisan in the main. We have an opportunity to do something about a problem that threatens all of us individually and collectively. I urge support for the motion.

HON CHERYL DAVENPORT (South Metropolitan) [11.52 am]: Heroin use, particularly by young people, is an evil in society that is touching everybody. It is not enough to concentrate on the pushers of this illicit drug, as Hon Kim Chance mentioned in his address; we must find the reasons young people turn to drugs. I will concentrate my remarks on paragraphs (c), (d), and (h) of the motion which read -

- (c) the adequacy or otherwise of facilities and treatment for persons who are dependent upon heroin, including recommendations as to facilities and treatments appropriate to be provided;
- (d) the provisions of health, welfare and community support services available to deal with heroin consumption and its consequences;
- (h) the role of schools both in the distribution of heroin and in educating and supporting young people in discouraging heroin use and dependency;

I draw to the attention of members today an example of the inadequacy of services that came to my attention in the past fortnight. It is something that I have not encountered before. I have become a good friend of a woman I came to know through my involvement in the frail aged sector. She had not meant to tell me. She let slip during a conversation on the incidence of drug use in the community that her 22 year old son was a heroin addict, and had been for almost two years. She asked me to imagine receiving a telephone call from one's son - only last week my son turned 19, and I say to members that there but for the grace of God go any one of us - three days before Christmas saying, "Come quick, Mum, I'm in real trouble." She asked what the problem was, not for a moment imagining that he was a heroin addict. This young man comes from a good family. His mother was widowed with three children when her children were quite young, but they coped. She had brought up her children to be responsible young people.

At the age of 18 her son inherited some money from his late father's life insurance. He invested that money in a housing unit. However, 12 months ago he sold the unit and realised a profit of \$40 000. All of that has gone into his arm. His habit costs him \$300 to \$400 a day. When she received his telephone call for help nine months ago, she tried to get her son into a detoxification facility. The first vacancy was four weeks down the track. What does one do with a 21 year old who is crying out for help to his parents and they cannot find the services to provide

detoxification for that young person? She took her son through the detoxification process herself; she is a former nurse. She spent weeks with him getting him clean. He then went to Melbourne to his grandparents.

Unfortunately, the drug is so powerful that he got back on it. His habit destroyed his relationship with his grandparents, and that has now destroyed the relationship between his mother and her parents. Drug addiction has a major effect on families. It has destroyed the relationship between this young man and his 20 year old brother. They have fallen out because he has stolen from his brother, and hocked his brother's possessions to pay for his habit. He is still not off the drug, and he is now becoming hardened to it yet again. Having said that, he has now admitted that he has a problem. He wants to do something about it, but we still have the problem of getting him into a detoxification facility and onto a program where he can be released from heroin addiction. His options are not good. Methadone is a dangerous drug, and it takes a long time to get off methadone as well.

It is clear that rehabilitation facilities are not available when somebody needs them. Hand in hand with the detoxification facility is the need for a follow up program and support facilities. This young man has lost all his friends from school. They are aware of his habit and do not want anything to do with him. Addicts lose their friends when they are part of a culture that is drug dependent. It is difficult to get away from it. His mother, who has stuck by him through this, and her family are involved in a drug support program that tries to assist the family to deal with that young person. It is early days but she has persuaded him to come home. We are trying hard to find some way that they can try again to get him off the drug to which he is addicted. That is difficult because of the drug's easy availability.

The young man has not yet turned to crime but, because of the money needed, that is obviously the next step for him if he continues to feed his habit. Unfortunately the habit exists, as does the need for the drug. Therefore it places a great strain on the family and its relationships. I have grave fears that he will turn to crime. He was strip-searched by the police last week on the Horseshoe Bridge in William Street. They stripped him down to his jocks, although they showed no signs of charging him. He was clean and had nothing on him. He asked to be allowed to get dressed, and said that if they were going to charge him they should take him to the station.

Hon Derrick Tomlinson: Was the strip search done on the bridge?

Hon CHERYL DAVENPORT: Yes. We all talk about having respect for young people - and this happened on the footpath. We all want to be able to respect young people, but frankly that was no way to do it. If a problem must be dealt with, young people should be taken somewhere private.

Debate adjourned, pursuant to standing orders.

SELECT COMMITTEE TO REVIEW THE STANDING COMMITTEE SYSTEM

Report - Consideration

Resumed from 28 August.

Committee

The President in the Chair.

Hon BARRY HOUSE: Today I want to sum up my comments as a member of the committee which produced this very worthwhile report. Some scepticism was expressed about the report's purpose originally, and about whether it would produce a useful outcome. Some scepticism still exists that the report might sit around and gather dust, as the Ferry report has done for 12 years. I urge members not to allow that to happen.

The report contains many measures which should be considered and progressed. The proposal to establish a business management committee in an informal way but with some recognition by this House, is a very sensible idea, because it would be inclusive. In recent weeks, we have already seen in this place a far more useful outcome with legislation being passed and private members' concerns and issues being discussed. If this process is undertaken in an inclusive and cooperative way, the outcomes will be better. It will be only an advisory committee. A provision in the report is that it is the Government's right and responsibility to handle the business of this House. That is stated three times, and it is an essential part of the Government's right to pursue its program in this place.

It is also sensible that the functions of the Bills classification committee be transferred to the business management committee. I guess I was not madly enthusiastic about the proposal for substitute members. However, I have been persuaded that it is worth a try. I am prepared to concede that in some circumstances a member with particular expertise on an issue might be vital to the workings of a committee. However, I am wary of the circumstances where a member may have a very biased agenda - and given the nature of this place, it would probably be a political agenda. That is the reason I believe there may be a need to use a veto process within a committee, similar to the times when

leave is sought to allow debate to continue and it takes only one voice to prevent that occurring. If we have that safeguard within a committee structure, where one member can prevent another member from being substituted on a committee, it may be a useful exercise. The responsibility would then revert to the member who refused to allow a substitute member to take part; and he must explain why he did not agree. That responsibility would be incumbent on members, and that provision is probably worth a go.

Hon M.J. CRIDDLE: I was a member of the committee which produced this report. I did not always attend meetings, but I received all the information and followed the report through very closely. Country members sometimes have difficulty attending meetings, and we must bear that in mind when meeting times are structured. Members should be notified of those meeting times at an early stage.

A business management committee could be a very useful body, provided that the business of the House always remains the responsibility of the Leader of the House. The leaders of all parties can provide input, but ultimately that responsibility should remain with the Government. Business must progress, and the only way for that to occur is to ensure that the final responsibility remains with the Leader of the House. The transfer of the functions of the Bills classification committee is an excellent opportunity to have both exercises carried out by one committee. It would be a waste of resources to have two committees when one committee can make those decisions.

I see some value in having substitute members on standing committees at times, because certain expertise is necessary. I do not believe that if one has a special interest one must keep away from decision making. People with an in-depth knowledge of business or other matters can make useful contributions. Whether that is a lawyer or a farmer, it does not matter, because the expertise is sometimes useful to the committee, and firsthand input would be valuable.

As to the effect of prorogation on parliamentary business, there is some value in carrying business from one session to another. That would allow the business to flow, and it would be of real value to the committee system to allow that to continue. Explanatory memorandums for Bills can be of real benefit, especially for backbenchers as they follow the progress of Bills. It would be a very useful exercise and would help members to fully understand legislation. In some cases, it would eliminate confusion at the Committee stage. It would allow everyone to become more knowledgeable as Bills progress through the House, and later.

I must admit that I am not up to speed on all the technological advances that have occurred. However, I acknowledge those advances can be very useful for members who are on top of the situation. They can also eliminate a lot of paper that floats around this place. With matters of privilege and other documents, the amount of paper involved certainly places some stress on members of committees. There is a case for a safe holding place for the various documents. I am not sure how that would work because, as I said, I am no expert on the advances of technology.

The issue of members' personal interest in matters before standing and select committees must be worked through in a sensible way. The topic of Aboriginal affairs caused much discussion. We must have a balanced approach to the smaller issue groups around the place. They should all be dealt with in the same way. That is why I think Aboriginal affairs should be seen as just another issue. It is the only way to get Aboriginal affairs inclusive in the whole of society. While we keep them as a separate entity they will never be melded into the Australian community as they should be. Too often we treat them as a separate entity.

We talk about reconciliation when we are doing anything but reconciling. We are putting up a wall that keeps them apart from society. If we continue to bring down exclusive reports and establish exclusive committees, division will be created. In society we have a dichotomy - the Aboriginal group and the rest of society - which causes problems. I have firsthand knowledge of the situation having been involved with Aboriginal people all my life by either working or playing sport with them. We seem to exclude them also from the decision making process, and that is a bad thing.

I am a member of the Standing Committee on Ecologically Sustainable Development for which the terms of reference have changed and on which some discussion has been held. I can see that committee being well and truly put to work. However, an explanation should be made about how the committee will come to grips with that in the future. The committee saw that as the way the issue should be dealt with. People who have concerns about it should bring them forward and suggest wording that would suit the ESD Committee. I am happy with the way it is progressing.

Hon Barry House referred to the need for action on this report. It would be a pity if some progress were not made towards putting some of these recommendations in place. At times report after report is tabled, but no action occurs. Having put so much endeavour into the report the committee would like to see some of the recommendations implemented.

Hon BARRY HOUSE: Last week I referred to when the Standing Committee on Government Agencies a few years ago overcame some of the constraints of prorogation by contracting out some research required by that committee prior to prorogation. That is one way we can get around the situation; nonetheless, that is unsatisfactory. We need

a far more manageable mechanism where prorogation does not necessarily close down the committee structure which, after all, is a very important part of our job as a Parliament. If we want to take our job as a House of Review seriously we must take the committee structure equally seriously.

Contracting out was discussed in the committee at some length. That is another issue on its own. Opportunities arise for some of the functions of committees to be contracted to various other parties with expertise. However there are limits to that because we must retain some intellectual capital, if we like, within the committee structure, not to mention confidentiality on many things.

The explanatory memorandum on Bills is a very sensible development in our parliamentary structure. It takes members who are not used to dealing with legal matters or the parliamentary situation some time to get their mind around how this place works. If the general public tried to read a piece of legislation it might as well be in Greek or Chinese. That emphasises the need for our legislation to become more readable.

Hon N.F. Moore: Chinese would be easier to understand in some cases.

Hon BARRY HOUSE: The Minister is probably right. The use of technology by committees is also a sensible recommendation. We live in an age of technology and, like Hon Murray Criddle, I do not pretend to be too knowledgeable, unlike some of my colleagues who fiddle with little machines in this Chamber. However, we are moving into the age of technology which we must embrace as we move into the twenty-first century.

Personal interest in matters before a committee is a difficult issue. Our situation is different from that of local government which deals with issues where direct financial implications can stem from a decision made by members. However, members are elected to this Parliament as representative of certain banks of opinion and sometimes special interest groups. They expect us to make a difference and cast our vote. If we are forced as a result of personal interest in an issue to refrain from participating in a debate whether in the House or a committee, we would not be performing the function that the very people who elected us expect us to perform. We would be denying their representation in the Parliament. The standing order covers that fairly well. It provides that personal interest is not held in common with the rest of the subjects of the Crown.

The section in the report on Aboriginal affairs is sensible. We must embrace Aboriginal issues as mainstream issues; we do not need to single them out as needing special attention on every issue. I do not believe we need a special committee to deal with those issues. They would be far better dealt with in the way we suggest; that is, as part of matters pertaining to the other standing committees whether they be public administration, ecologically sustainable or community matters.

As the report notes, the emphasis of issues addressed by the Standing Committee on Constitutional Affairs and Statutes Revision has been on constitutional matters and its main role seems to have been to deal with petitions. Nonetheless, the committee agreed - I think unanimously - that the committee on constitutional affairs probably needs to revise its role regarding constitutional matters. Certainly in the history of our federation no more important time has been spent on commonwealth-state relations and the effect on our State of federal and state Constitutions. With public debate on Australia becoming a republic around the corner, we need to move towards a detailed examination of the federation, which involves constitutional affairs.

I come now to Statutes revision. We are always implementing legislation, but we do not repeal very much legislation. We have an enormous battle, as members have witnessed with the Hairdressers Registration Repeal Bill, to repeal any piece of legislation.

There is no doubt that the current federal-state constitutional arrangements are very complex. They are unwieldy and unhealthy for the federation. I saw a graph the other day that indicated that at the turn of the century the States were responsible for collecting about 90 per cent of the revenue they spent. After the Second World War, and even after the handing over of income tax powers to the Federal Government, the States collected approximately 40 per cent of the income they spend. Now the figure is down to 22 or 23 per cent.

Hon J.A. Cowdell: And from a very poor source as well, like gambling.

Hon BARRY HOUSE: That is correct. All the growth taxes are controlled by the Federal Government. It is an unhealthy situation that the body which is responsible for spending those funds does not have to wear the responsibility for collecting them. That is the main principle that needs to be examined.

A comprehensive review of standing orders is necessary. In my four years as Chairman of Committees the Standing Orders Committee met only twice, and that is not a satisfactory situation. I hope the committee has a far more comprehensive look at the standing orders in the next four years.

I reiterate that the select committee has produced a very reasonable document. This Chamber has changed in its composition. The way in which members approach some matters that come before the Chamber and structure of the committee system must change. I am not optimistic enough to believe that all the measures contained in the report will be adopted, but I am certainly optimistic enough to assume that the Chamber will embrace the report in a constructive way. I hope many of the recommendations are put into effect.

The PRESIDENT: Before I call on the next speaker I will refer to procedure. At the moment we are dealing with a motion that, if carried, will note the report. Clearly, that in itself is no real expression of opinion in respect of the substance of the report.

I have read the comments that were made two weeks ago when the Chamber last discussed this matter and those comments have been reiterated by Hon Barry House and Hon Murray Criddle this morning. It is obvious that there is a need for action. At some stage there will be a need to move a motion to adopt and agree to the recommendations contained in the report. Until that is done nothing will flow. If members agree to such a motion a number of things will flow. I will outline the procedure.

If the Chamber agrees to the recommendation regarding the business management committee it will become a matter for the Leader of the House to consider and bring into effect as a matter of procedure. The Bills classification is again a matter of procedure and does not require a change to the standing orders. In respect of the third item - non-members' participation in committee deliberations - by agreeing to and adopting that recommendation members would require the committee to go away and come back to the Chamber with a new standing order for their consideration. The same goes for substitute members.

The recommendation concerning prorogation and its effect on parliamentary business is a matter that requires legislation and members' adoption of that recommendation would invite the Government to come forward with that legislation.

The next item refers to explanatory memorandums and adopting that recommendation will be an indication to the Ministers that in future they should provide memorandums, and nothing more is required from the Chamber at this stage. The adoption of the recommendation in respect of technology and committees will give direction to the committee office that it is able to move forward in considering a range of communication technologies.

The recommendation relating to personal interest in matters before a committee would require a new standing order. The recommendation on Aboriginal affairs would require no more than an indication by the Chamber of the way in which matters were to be handled by the committee. The recommendation on constitutional affairs requires some work by the committee office and a new standing order. The terms of reference are a matter for the Standing Orders Committee, but nothing can be done until members agree to that recommendation.

If the recommendation regarding the acceleration of time for Bills is agreed to a new standing order can be presented to the committee. Again, the recommendation in respect of the Ecologically Sustainable Development Committee requires additional work to amend the terms of reference. The item relating to Standing Order No 334 - the requirement to give notice of a report - requires work for the Standing Orders Committee. The last item - staffing and resources - is an indication of support generally and will be taken up by the committee office in due course.

I raise those matters because they are important inasmuch as no real pain appears to attach to agreeing to and adopting the recommendations because the Chamber will have an opportunity, at a later stage, to consider a number of issues which flow from either agreeing to or adopting the recommendations.

Hon DERRICK TOMLINSON: In light of that information, what procedure do you, Mr President, want the committee to follow? Do you want a motion to that effect?

The PRESIDENT: I thank the member for the question. By way of clarification the Leader of the House indicated to me after the debate two weeks ago that he wanted further opportunity for members to advise their position with respect to the report. I am hopeful that next Thursday, when this matter is again debated, a motion is moved after we have noted the report so we can progress it further. I raise that matter so that members know that we will make progress, but if we use today to continue to hear from members their opinion of the report, then next week we can make real progress.

Hon J.A. COWDELL: I also look forward to making some real progress with respect to the adoption of these 14 or 15 recommendations. With respect to this motion of notation I welcome the report and compliment the members on the work they have done in compiling it. It continues the excellent work that has been done in terms of committee reform and it is the second major step of recent times in overhauling the standing orders. I believe that is desirable. They seem to have been frozen in time. Perhaps they are not a voodoo ritual, as Paul Murray would suggest, but certainly they are arcane in some respects.

Hon N.F. Moore: You do not support his comments?

Hon J.A. COWDELL: I just clarified that.

Hon N.F. Moore: I would love to read the speech, but the organisers will not publish it.

The PRESIDENT: Order!

Hon J.A. COWDELL: As I said, we all look forward to reading Paul Murray's speech, and perhaps its publication in *The West Australian* would please some members no end because of the consequence which may flow!

Several members interjected.

The PRESIDENT: Order!

Hon J.A. COWDELL: We have started the process with the sessional orders and we are participating in another change at the moment. The concentration of committee work on Wednesdays has been a good development, and on Thursdays the Chamber is able to consider the committee work and its outcome. That is worthwhile. We have made progress. The Standing Orders Committee will have to consider what moves from sessional orders to standing orders.

Similarly, as the President just indicated, it will need, we hope, to consider a detailed motion once the House has moved to adopt these recommendations. I do not want to traverse all the recommendations, but I will commend some of particular merit.

Recommendation 2 with respect to the business management committee involving the full range of opinion within the Chamber is very worthwhile. That is particularly the case with the recommendation that the committee meet immediately before the resumption of sittings following an adjournment, or immediately after the House rises on a Thursday in a sitting week. In either case, the committee will determine for the ensuing sitting week the specific business to be transacted on each day. The idea of trying to give a clear indication of the business to be conducted in the following week is long overdue.

Hon N.F. Moore: Are you supporting some kind of time management?

Hon J.A. COWDELL: This would be a form of time management, and it would not prevent some variance to that program. The committee report reads -

in lieu of the Notice Paper on Wednesday and Thursday, an Agenda be published that is confined to those motions and orders of the day scheduled for consideration on that day;

That recommendation is worthwhile as it would focus members on what we hoped to do on any day, and it would not prevent us from dealing with other matters. It would give members a clear indication of the proposed agenda. I would go one step further: If the business management committee considered the business for the following week, and determined what was desirable to take place on the Tuesday, Wednesday and Thursday of a week, there is no reason not to publish this agenda in *The West Australian* on the Monday. Therefore, we could indicate to the electors what their Parliament proposed to consider on a particular day. Last night we received a frantic call from someone who was particularly interested in the Human Tissue and Transplant Amendment Bill. If we determine that we will deal with a number of Bills in the following week, that information could be published -

Hon Barry House: It could go next to the Vice-Regal notices.

Hon J.A. COWDELL: That would be preferable to the death notices.

Hon Derrick Tomlinson: Or the shipping notices.

Hon J.A. COWDELL: If we prevail on *The West Australian* to publish those notices as a public service, it would also be worthwhile. We would provide some focus for ourselves by adopting that proposal.

Hon N.D. Griffiths: They would compete with the death notices.

Hon J.A. COWDELL: Not to mention the court notices or the weather. However, we would need to ensure that the information was published. As members are aware, public participation in this Chamber is minimal, and perhaps if the public knew that certain matters were to be considered, it would give people an opportunity to visit and listen to debate or to make representations. It would give forewarning.

I am supportive of the substitute members proposal, particularly in a committee such as the Legislation Committee which considers a wide range of Bills. A member with particular expertise may like to participate as a substitute member on a particular Bill, and that change would be desirable. Permanent members of that committee may not necessarily want to deal with 15 or 20 Bills in one year, and may be more than happy from time to time to vacate a

place for the consideration of one or two Bills. Committee members may also serve on other committees which on occasions have a particularly heavy workload; therefore, a substitute position would not go amiss in that case. I particularly commend that recommendation.

We also have a proposal for a change to standing orders concerning personal interest. In due course, Parliament will have to consider a code of ethics which is more wide ranging than this one recommendation - but it is a start. Perhaps the Standing Orders Committee needs to consider a more wide ranging code in that regard, or to have recommendations made to it by one of the standing committees, such as the Joint Standing Committee on the Anti-Corruption Commission under the esteemed chairmanship of Hon Derrick Tomlinson.

Hon Derrick Tomlinson: Steamed?

Hon J.A. COWDELL: That remains a matter for judgment. Indeed, that area has scope, but I welcome this recommendation as a start.

The alteration of the brief for the Constitutional Affairs and Statute Revision Committee and the referral to allow the Legislation Committee to have responsibility for statute revision are also important. I support the recommendation that the Legislation Committee have an initiating power in its own right when it determines to bring legislative changes to the attention of the House. I commend those changes in particular. Perhaps I will address other worthwhile changes shortly.

Hon B.K. DONALDSON: I am one of the members who welcome these changes. As you rightly put it, Mr President, a cultural change took place in the House with the commencement of the sessional orders to run the business of the House. That process has settled down and people generally accept the changes, which have very much enhanced the role of the Legislative Council.

I am also supportive of the ongoing need to look at some of the procedures of the House. Although I can agree with some recommendations in the report, I could not agree with all of them. In the time allotted - no doubt debate will continue on this next week - I will run through the recommendations. The first noted recommendation concerns the duplication of functions of committees, and that recommendation is wise and suitable. I have difficulty with the second recommendation, concerning the business management committee. It has been a convention and procedure of this House that the Government, through the Leader of the House, has the right to ensure that Government business is fully dealt with during each session of Parliament.

The Bills classification committee was a major step forward. It had not been around before and has been working very well. Bills have been looked at every Wednesday and classified. Generally, the Leader of the Opposition has willingly accepted the decisions. The Democrats and Greens have come along at the invitation of the Leader of the House to sit in on the committee's deliberations. In a short time we have achieved a great deal. However, when we start looking at a business management committee to look at the business of the Chamber in total, I wonder whether it could lead to the management of the business of the Chamber being taken away from the Government. Unless we are prepared to go into time management, with which I have some difficulty even though there are varying forms, it is very difficult for the Leader of the House to say, "This is what the Government wants next week." Things change; sometimes members on both sides and Ministers who are dealing with Bills are suddenly called away. The Opposition, whether in the form of the Labor Party or minor parties, has lead speakers who are dealing with these Bills.

I have often heard the Leader of the Opposition and the Leader of the House say, "Such and such will not be here tomorrow. Could we not do that? Could we do this?" A pretty good working relationship, as I have seen it since I have been in Parliament, has existed between the Leader of the House and the Leader of the Opposition. There are little hiccups, of course - things are sent to try us - but I would hate to see that sort of convention eroded. That is my concern with a business management committee. I see nothing wrong with the minor parties, the Greens and the Democrats, being part of the consultation process on Wednesday afternoon. A good deal of dialogue has taken place between the opposition parties and the Government on what they hope or propose to do, but I have great concern about formalising the process. It will strip some of the necessary flexibility which needs to be in the system through which the Leader of the House and the Leader of the Opposition can make those changes as necessary. I would need a lot of convincing to believe that a business management committee would be relevant, operable or workable.

Hon Tom Stephens: Sit down and I will convince you.

Hon B.K. DONALDSON: I wait with bated breath to hear the Leader of the Opposition.

Hon Tom Stephens: I am ready when you are.

Hon B.K. DONALDSON: I am not ready. I intend to keep talking because I have not finished yet. No doubt that debate will continue because, as the President has pointed out, there will be further debate next Thursday or at

another time when the committee reconvenes or when changes are proposed the Chamber will have the opportunity to debate the issue again. No doubt the President will inform the Chamber at some stage, but I do not know how he will handle this report, whether in full or in part.

Hon Tom Stephens: At the rate you are going, you are making a mountain out of a relatively small molehill.

Several members interjected.

The PRESIDENT: Order! The Leader of the Opposition, Order! We might be in committee but we still do not need interjections. We have had a pretty reasonable debate so far. I call on Hon Bruce Donaldson alone to continue.

Hon B.K. DONALDSON: Thank you, Mr President. I point out to the Leader of the Opposition that I am usually pretty courteous by listening intently to members of the Opposition. I occasionally interject.

Several members interjected.

Hon B.K. DONALDSON: I feel passionately about the proposed changes, as members well know. I was involved in the issue for a very long time, during which I felt quite alone at times.

Hon Peter Foss interjected.

Hon B.K. DONALDSON: The afternoon tea was a prime example. I was trapped into responding to that interjection, Mr President.

I believe the Bills classification committee should remain as it is. We have a very good, workable system at present. As for non-members participating in committee deliberations, at the present moment members who have expressed concern during second reading debate are invited to attend the committee when we take evidence. They can participate and ask questions. I do not know where we are moving to by saying that we do not ask for debate - that is standard. I am not too sure whether after those members have participated at that stage the next stage should be to participate in the committee's deliberations. That is not normally the case. I do not see any point in doing that. We would establish a committee and then what would we do? We would set up another de facto committee. Maybe four or five members could register their concern in this place about aspects of some clauses in a Bill and then turn up to a committee. I will use the Joint Standing Committee on Delegated Legislation as a good example of this. I can see a position in which we have five members of the committee and five members who are aggrieved about certain clauses, which makes 10. We would be stripping away the responsibility that this Chamber has given to the members of the committee. I have a problem with that as well. I know that I am sounding negative, and it is unlike me to do so, but we need to look very seriously at some of the proposed changes.

I have not given a great deal of thought to substitute members, but I will be thinking more positively about that aspect. I like to put a tag on any changes of legislation and ask myself whether it is of benefit to the Chamber or its better understanding of legislation or better results for us as a legitimate place of review. I would like to have that issue further clarified. No doubt the Leader of the Opposition will do just that.

The prorogation of Parliament has always been a problem. It especially affects the Joint Standing Committee on Delegated Legislation. There is a good case for that committee being allowed to continue.

Hon TOM STEPHENS: In reference to the recommendations that have come before the Chamber, I hope very soon, if we are to take cognisance of the indications from the Chair and others, we will have before us a recommendation that includes a proposal for a business management committee about which Hon Bruce Donaldson is apprehensive. I do not believe there is any alternative to the process that is before the Chamber. As Hon Bruce Donaldson needs to know, this is a watered down version of what I would have preferred to put in place. I wanted the opportunity for the Chamber to be firmly in control of its own business.

Hon Peter Foss: The Government has to be in charge of the business. You are departing from a very important position.

Hon TOM STEPHENS: I am not. Take for example next week when the Chamber might want to deal with and bring to resolution a motion. Just say there was a hypothetical motion, such as the establishment of a native title select committee. If the Government did not want to see that motion carried for any reason despite the fact -

Hon Peter Foss: It means you are taking the management of business away from the Government. If you do it, you run the risks.

Hon TOM STEPHENS: If the non-government majority wanted to have that motion carried and the Government did not want to have that motion carried, I suspect that one possibility would be that the Leader of the Government would use the unlimited time that is available to him in delivering a speech -

Hon N.F. Moore: As you sought to do on the labour relations legislation?

Hon TOM STEPHENS: Exactly. The possibility is available to the Government that the Leader of the Government will speak for four or eight hours -

Hon N.F. Moore: Or for one week, two weeks, two months or two years. You might see a bit of that.

Hon TOM STEPHENS: Next week we might see it. I do not know.

The PRESIDENT: Order! The Leader of the Opposition will address the Chair.

Hon TOM STEPHENS: The intention of this proposal for a business management committee is to avoid that problem of gridlock.

Hon Peter Foss: No it is not. Put on the record exactly what you want to do.

Hon TOM STEPHENS: It is an endeavour to balance the pre-eminent right of the Government -

Hon Peter Foss: It will not balance that right but will take it away. That is what you want.

Hon TOM STEPHENS: No matter how often the Attorney General says white is black, white is still white and black is still black.

Hon Peter Foss: That is what you want.

Hon TOM STEPHENS: No.

The PRESIDENT: Order! There are too many interjections. The Attorney General will have his chance to speak, and I want the Leader of the Opposition to address the Chair.

Hon TOM STEPHENS: Mr President, the recommendation that will come before the House adequately addresses the balance that will eventually need to be put in place. It is an endeavour to present a compromise; that is, it recognises that we need to avoid a gridlock. That gridlock can be avoided if, in advance of the potential for that gridlock, there was some negotiation around the business management committee process whereby the determination of both of the sides that would otherwise be lined up against each other was tested to see whether some resolution could be put to the Chamber.

The current situation is that if it became clear that all of the members on this side of the Chamber wanted to do something and the Government wanted to do otherwise, the Government would have at its disposal all of the devices that were available, which would include preventing the matter from being brought on for consideration; or if it did allow it to be brought on for consideration, putting in place a process of extensive filibuster or of potential amendment to that proposal which would delay its progress. We would then get to Thursday of next week, when presumably the Government would want to move a special adjournment, and we on this side of the Chamber would then have to decide whether we wanted to continue with seeking to establish a select committee on native title, for example, and if we did want to continue, whether we would be prepared to oppose the special adjournment and require the House to come back the following week.

Hon N.F. Moore: So long as you know that is during the school holidays and you have not made any plans to go away; but you can do that.

Hon TOM STEPHENS: The Leader of the House is saying that if we wanted to get a native title select committee up -

Hon Peter Foss: He is not saying that.

Hon TOM STEPHENS: I heard what he said and I want to make sure the Chamber heard what he said. If we on this side of the Chamber wanted to do something as radical as establishing a select committee on native title, and if members opposite filibustered for all of next week, on Thursday at 5.00 pm we would have to consider whether we were prepared to defeat the special adjournment and require the Chamber to come back the following week, when the Government would, no doubt, amend the motion again if it did not want it carried; and we would sit all of that week and for as long as the Government wanted to amend it -

Hon N.F. Moore: Perhaps we have learnt something from you.

Hon TOM STEPHENS: Regrettably I think the Leader of the House has learnt the worst processes of the past.

Hon N.F. Moore: It reflects your personality, which is a real shame.

Hon TOM STEPHENS: It is not. I am actually a very kind and good natured person.

The PRESIDENT: Order! The Leader of the Opposition will address this report.

Hon TOM STEPHENS: Mr President, I agree. I want this paper noted. The reason I want this paper noted is that I believe that it is important that we get involved in a process of resolving these things by negotiation, because there is a need -

Hon Peter Foss interjected.

Hon TOM STEPHENS: That is unkind, unfair and untrue.

Hon N.F. Moore: It seems a bit like a filibuster.

Hon TOM STEPHENS: Not at all. I know that as soon as I sit down I will be subjected to a tirade from the Attorney General.

Hon Peter Foss: No - a lecture.

Hon TOM STEPHENS: I warn members in advance that they should not let the Attorney General confuse them in any way in this regard.

Hon Peter Foss: With tradition and all those stupid things!

Hon TOM STEPHENS: I know that in this Chamber the Government has a pre-eminent right to have its business considered.

Hon Peter Foss: And you accept that?

Hon TOM STEPHENS: I accept that pre-eminent right. I also believe that that right must be matched against the right of the non-government majority to hold this Government accountable through the processes of this Chamber and to advance those items that will facilitate this Government's being held accountable to the people of Western Australia through this House of Review. In order to do that, that balance will have to be achieved somewhere.

Hon Barry House: You must also be prepared to accept the responsibility.

Hon TOM STEPHENS: I accept that responsibility. The Government has the right to govern, to legislate and to have its issues considered and brought to resolution, and we on this side of the Chamber have that same right to have our matters dealt with and brought to resolution.

Hon N.F. Moore: You were totally opposed to that when in government.

Hon Peter Foss: There are processes to achieve that. You do not have the pre-eminent right to set the business of the Chamber, and you know that.

Hon TOM STEPHENS: Not the pre-eminent right, but the right to bring matters to resolution.

Hon Peter Foss: You can do that.

Hon TOM STEPHENS: No. I suspect that next week the Government will bring forward a process, if I am to believe the -

Hon Peter Foss: You are paranoid.

Hon TOM STEPHENS: We will see whether I am paranoid. My words today will be judged by the performance of the Government next week. We will then know whether what I am saying today is an accurate estimate of what members opposite will engage in next week. I hope members opposite will not be persuaded to filibuster, because that would be a great travesty and misuse of this Chamber, in order to prevent this Chamber from bringing to resolution items that are of importance to parties in this Chamber other than the Government. If I am wrong, I will eat my words next week and say, "Sorry, I was absolutely wrong." I look forward to being proved wrong. All members opposite have to do to prove that I am wrong is not do what I suspect they will do.

Hon PETER FOSS: The Leader of the Opposition cannot say that he accepts the pre-eminent right of the Government to run the business of this Chamber and say in the same breath that he denies that right. There are powers in this Chamber which the Leader of the Opposition has seen exercised and which he, with his newfound power, has persuaded his friends to help him exercise. However, when the Leader of the Opposition does that, he and every member opposite must recognise that they are taking the business of this Chamber out of the hands of the Government. Whenever we exercise a power, we need to be responsible. What the Leader of the Opposition is seeking -

Hon Tom Stephens: Is a balance.

Hon PETER FOSS: No. The Leader of the Opposition is seeking to take the business of the Chamber out of the hands of the Government in such a way that it does not appear that that is what he is doing. He wants to set up a system where the rules are changed so that we lose our pre-eminent right to run the business of this Chamber. If all those members opposite who are supposedly independent of mind want to aid these people to take the business of this Chamber out of the hands of the Government, they can do it. They can force this Government to do whatever they want it to do. It will take time, but they can force it. However, they must realise that when they do that, they are breaking the tradition of the Chamber; and that if they do that, they must do it responsibly.

I want a rule that will force members opposite to take responsibility for what they do. This Chamber has the power to reject Supply. I do not know whether members opposite will ever use that power, because members opposite will impose upon themselves a restraint; and if they do exercise that power, they will be seen to be doing what is unusual and different. I want a rule that will make it quite clear that when members opposite do take the business of this Chamber out of the hands of the Government, they must own up to that and be seen to be doing that, so that we can then point out to the public that members opposite used this particular ruse to take the business of the Chamber out of the hands of the Government, and members opposite will wear that, as they should.

Several members interjected.

The PRESIDENT: Order! The Attorney General.

Several members interjected.

The PRESIDENT: Order! If when I call "order" members do not come to order, I will sit down the member speaking who refuses to come to order and go on to the next speaker. I ask members to note that. The last thing we need is everyone screaming at one another and no-one understanding what is being said.

Debate adjourned, pursuant to sessional orders.

Sitting suspended from 1.01 to 2.00 pm

LABOUR RELATIONS LEGISLATION AMENDMENT BILL (No 2)

Referral to Public Administration Committee

HON HELEN HODGSON (North Metropolitan) [2.03 pm]: I move -

That Order of the Day No 42 be discharged from the Notice Paper and the Bill be referred to the Public Administration Committee with power given to that committee to consider the provisions of the Bill to the extent to which those provisions relate to the terms of reference established by the committee to inquire into certain aspects of the Labour Relations Legislation Amendment Act 1997, and the committee report back no later than 22 October 1997.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.04 pm]: In seconding that motion -

Hon E.J. Charlton: We think it would be lovely if you did.

Several members interjected.

The PRESIDENT: Order!

Hon TOM STEPHENS: The Opposition would prefer to support a repeal Bill of the Kierath labour relations legislation.

Point of Order

Hon N.F. MOORE: That has nothing to do with the motion. I ask that the member be relevant to the motion.

The PRESIDENT: To date the comments of the Leader of the Opposition have been relevant to this motion. He is explaining why he supports this Bill being discharged and moved to a committee. However, the Leader of the Opposition said that he would be extremely brief.

Debate Resumed

Hon TOM STEPHENS: The Opposition notes that this Bill appears to be about partial repeal and amendment and it welcomes as much of the repeal process as possible being considered and expeditiously dealt with. I am a little apprehensive about delays that might be consequent. Nonetheless, I am keen that the motion moved by the Leader of the Democrats be dealt with expeditiously by the House.

Question put and passed.

WATER LEGISLATION AMENDMENT BILL

Third Reading

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

WATER SERVICES COORDINATION AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Part 3, Divisions 10 and 11, inserted in *Water Services Coordination Act 1995* -

Hon MAX EVANS: I move -

Page 3, lines 1 and 2 - To delete "specified in the transfer order as the day on which the transfer is to take effect;" and substitute the following -

on which a transfer order takes effect under section 46B (11);

Page 3, after line 26 - To insert the following -

(3) If the transfer order specifies by reference to schedules assets that are in a local government district, the schedules must be available for inspection by the public under subsection (2)(b) at least by exhibiting them -

(a) on a notice board at the local government's offices; and

(b) on a notice board at every local government library in the district.

(4) Schedules must be exhibited under subsection (3) for a reasonable time, being not less than -

(a) the time prescribed for the purposes of this subsection; or

(b) if no time is prescribed, 7 days.

(5) Notice of the places where schedules are to be exhibited under subsection (3) must be published in a newspaper circulating in the relevant local government district at least 14 days before the schedules are so exhibited.

Page 4, after line 14 - To insert the following -

(9) The Minister is to cause a copy of an order published under this section to be laid before each House of Parliament within 6 sitting days of that House after the order is published.

(10) Either House of Parliament may, by resolution of which notice has been given within 14 sitting days of that House after an order has been laid before it, pass a resolution disallowing the order.

(11) As soon as an order is no longer subject to disallowance under subsection (10), the order takes effect.

(12) The Minister is to cause notice to be published in the *Gazette* showing the day on which an order took effect under subsection (11).

Hon KEN TRAVERS: During the second reading debate I raised concerns about environmental liability. The information provided to me by the Minister shows that the South West Irrigation Management Co-operative and the South West Irrigation Asset Co-operative Limited are protected from any liability and that the liability for environmental violation, or contravention of any environmental law relating to the irrigation business which occurs as a result of circumstances existing on or before the completion date, or for any other violation or contravention to the extent that it is caused or contributed to by any act or omission of the corporation remains with the Water Corporation satisfies my concerns. I appreciate that information being provided to me.

Hon MAX EVANS: I thank the member for those comments. This amendment was agreed to in the other place and an undertaking was given that it would be passed to this effect.

Amendments put and passed.

Clause, as amended, put and passed.

New clause -

Hon MAX EVANS: I move -

Page 1, after clause 1 - To insert the following new clause to stand as clause 2 -

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

I do not know what would happen to a Bill which did not have a commencement date.

Hon NORM KELLY: The Australian Democrats believe that all Bills should have a commencement date and it fully supports this new clause.

Hon MAX EVANS: I have been advised that it automatically comes into operation 28 days after the Bill is proclaimed.

New clause put and passed.

Title put and passed.

Bill reported, with amendments.

CEMENT WORKS (COCKBURN CEMENT LIMITED) AGREEMENT AMENDMENT BILL

Committee

Resumed from 10 September. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 2: Commencement -

Progress was reported on the clause after the following amendment had been moved -

Page 2, lines 2 and 3 - To delete all the words after "on" and substitute "a day to be fixed by resolution of each House of Parliament being a date that is not later than 1 year from the day on which it receives the Royal Assent".

Hon N.F. MOORE: For the reasons I outlined yesterday the Committee should oppose this amendment and proceed with the Bill.

Amendment put and negatived.

Clause put and passed.

Clauses 3 to 5 put and passed.

Clause 6: Fourth Schedule added -

Hon NORM KELLY: Since the debate yesterday I have had further briefings from the department on the actual workings of this complex legislation. Clause 2(h) of the schedule in the parent Act states that the company is required to perform and comply under the provisions of all regulations, statutory rules and by-laws. It emphasises, that without derogating from the generality that the company must comply with the provisions of the Fremantle Port Authority Act, the Local Government Act, the Health Act and various other Acts. It is a double assurance that these Acts must be complied with. From my understanding of the briefing, this clause is related to only the leased land and not to the submerged lands that the company dredges.

I said in the second reading debate that the Australian Democrats have serious concerns that the obvious environmental problems which have been brought to the Government's attention by the Environmental Protection Authority have not been acted upon. The Government has failed to use this opportunity to progress the environmental causes with respect to the future activities of this company.

I referred to clause 10C of the schedule yesterday. I understand that the amendment to it is simply a change in terminology. The existing clause will be replaced with a clause relating to environmental protection, which is common to state agreement Acts. Again, it can be seen from the work this company has undertaken that its provision for environmental protection is not adequate. The provision pertaining to the carrying out of this work should be included in the Environmental Protection Act rather than in this legislation.

Once again the Government has failed to address these concerns adequately. It is unfortunate that even today we were given ministerial notice from the other place that the Government is still ploughing headlong into new state agreement Bills that will have an horrendous impact on the natural heritage in the south west, which is owned by all Western Australians. I refer to the speech I made during the second reading stage of this Bill when I said that we have very serious concerns about the way these state agreements are being entered into. In this instance an agreement is being amended. Although I appreciate that the State will benefit to the tune of about \$750 000 from royalties, increasing to an estimated \$800 000 per annum in three years, the environmental implications vastly outweigh the monetary rewards that this State may receive. For that reason the Australian Democrats oppose this clause.

Hon GIZ WATSON: The Greens (WA) also have a problem with this clause. We have been presented with a proposal under which the State will receive more royalties, and obviously we would be foolish to oppose that. However, we are being asked to accept an amendment to clause 10C of the agreement which, on the best legal advice I can obtain, will weaken the requirements of the company to adhere to a whole range of other provisions under the legislation.

We have no problem with putting an amendment into the agreement Bill that the Environmental Protection Act will take precedence. That is not an issue. We believe existing clause 10C could have been modified by merely adding another sentence which would clarify the role of the EPA Act in this arrangement. The Greens have not been convinced that this amendment to clause 10C will not result in a lessening of the company's obligations. We realise we cannot amend this legislation; however, we place on record our belief that this clause is not the right way to progress, but unfortunately at this stage we are unable to do anything about that.

Hon N.F. MOORE: I thank the two previous speakers for their contributions. I suspect that no amount of talking on my part, or that of the officers, will convince the members that this agreement is worth proceeding with. The concerns they are expounding are about the company generally, and the agreement in total I suspect. Although it has been acknowledged that the minor parties are not in a position to amend this variation on the agreement, they are capable of trying to get the numbers to have the Bill defeated in total. I sincerely hope that is not the case today because the result will be the loss of \$800 000 in royalties.

I accept that they are serious in believing that the agreement in its entirety must be amended further in respect of other matters. I suggest they promote that argument with the Minister for Resources Development, who has the responsibility for this legislation, to see whether he can be persuaded to accept their point of view. In the event that they cannot persuade him, the next thing they should seek to do is to become the Government of Western Australia and then they can do what they want to with the legislation themselves. That is all I can add to the debate. I sincerely hope the Chamber will agree to this Bill because it effectively means \$800 000 in royalties to Western Australia, and that is money we desperately need.

Hon TOM STEPHENS: I have been preparing for question time, so I have missed out on a little of the debate that has just taken place. Earlier behind the Chair, I said to the Leader of the House that if there were any ongoing concerns by the Greens (WA) and the Australian Democrats with this Bill, the Leader of the House might come to me and tell me that before the matter was brought on.

Hon N.F. Moore: I just found out then. I did ask and I understood we were proceeding.

Hon TOM STEPHENS: I would like to come up to speed on this matter and I wonder whether I could have the opportunity of hearing again from my colleagues exactly whether the issues they were raising with the officers outside the Chamber were resolved to their satisfaction.

Hon N.F. Moore: They said they were not and they said that there was no way anybody could persuade them otherwise.

Hon TOM STEPHENS: I want to be able to understand the situation precisely. Last night they expressed some specific concerns about a particular clause. They spoke about the deletion of a number of words at the end of a clause within the agreement that they felt may limit the authority of the local government body to ensure there was compliance with the environmental requirements about the operation of this company. At the invitation of the Minister, they were to pursue their inquiries outside the Chamber to ascertain whether the deletion of those few words would remove that power from the local authority. I would appreciate hearing directly from the members for a moment exactly how their inquiries went.

Hon NORM KELLY: I realise it is probably a little unusual to have this cross-dialogue because one member was absent from the Chamber when my comments were made.

Hon Tom Stephens: It is also unusual not to know that the Bill was to be brought on.

Hon NORM KELLY: I will be very brief on this matter. The specific inquiries that were made last night about the empowerment of the Local Government Act to effect Cockburn Cement Limited, to my mind have been satisfied in that the Act does take precedence unless something is specifically written into this agreement overriding it. My main concerns were whether there are enough environmental protections overall in connection with this operation.

Hon TOM STEPHENS: The discussions I had with the Minister for Mines a little while ago indicated that if there were some residual concerns on the part of the Australian Democrats and the Greens (WA), the Labor Party would be given the opportunity to have some discussions with the departmental officers outside the Chamber before this matter came on. I now ask the Minister to consider maintaining those arrangements.

Hon N.F. MOORE: The conversation I had with the Leader of the Opposition earlier today about the business of the House is not strictly as he has interpreted it. The first I knew that there was an ongoing, lingering problem with this Bill in the minds of the Australian Democrats and Greens (WA) was when they got up in this Chamber when we got to that point of today's business and I was told that was the case. I sought to explain to the Chamber - regrettably the Leader of the Opposition was doing something else and was unable to listen to the debate - that we simply cannot agree on some things.

My understanding of the matter is that the issues of concern to the Democrats and the Greens do not relate to the Bill but are to do with overall environmental aspects of the agreement in total. That is why I said that if they wanted to change the environmental conditions that apply to the overall program, they must try to convince the Minister for Resources Development to bring in further amendments to the agreement by negotiation with the company. I cannot see any purpose in an ongoing debate about this matter because all it will do is delay the opportunity for the agreement to come into force and for the Government to begin collecting royalties.

I am happy to talk for a few moments while the Leader of the Opposition talks to one of his colleagues. I hope he is prepared to proceed. I assure him that I am not taking action today that is different from any understanding I have with him about the progress of today's business. I was surprised at how quickly we reached this order of the day. Members may have noticed that my adviser arrived late because he also was surprised at the speed with which we reached this Bill. At the beginning of this afternoon's session I moved the order in which orders of the day for the afternoon would be taken. That was agreed to by members, including the Leader of the Opposition. I was a little surprised at how quickly one of the orders of the day preceding this legislation was dealt with and I expected more time to prepare myself for this debate and to consult the Leader of the Opposition about where we are going on this Bill. However, the Bill is now before us.

It is a simple Bill to amend the agreement Act. The Democrats and Greens have been briefed by officers from the department. The officers advised me they thought they had convinced those who attended the briefing that their concerns were not valid; however, that is obviously not the case. I fear that no matter what I say or do today, it will make no difference to their point of view in this matter.

I am pleased Hon Norm Kelly was able to explain to Hon Tom Stephens what it means in the context of other legislation, because it must be understood that agreement Acts are Acts of Parliament that override other Acts. That is the reason for having them. If there is no mention in an agreement Act about an issue, the other Acts apply in those circumstances. We have come down to, not a dispute about the Bill, but about whether the environmental processes in place for this company are adequate. That is a debate for another time and another place. I encourage members who hold those views to take up the matter with the Minister for Resources Development and argue for different environmental conditions within the total agreement, or to try to close it down, if that is what they want to do. I do not know how many jobs that would cost. However, I do know that if this Bill is defeated today, or continues to be delayed, it will delay revenue to the State, which I thought every member would argue we should get hold of.

Hon TOM STEPHENS: The Leader of the House is correct that I have taken the opportunity of consulting the Labor Party's spokesperson on resources development, Julian Grill. I am pleased to hear from my colleague that in discussions he had a little while ago with the Democrats they assured him they have no ongoing concerns about this legislation and are happy for the legislation to proceed. The Labor Party has put its position on this agreement Bill in the other place. That position was put capably in the Legislative Assembly by Julian Grill. He indicated to the Assembly that the Labor Party supports the passage of this Bill, effectively providing the agreement with legislative status. That is accompanied by the view of the Labor Party that the environmental arrangements that govern this operation must be acted on appropriately by environmental agencies of this State. The Opposition will continue its support for the legislation. I am a little perplexed by what appears to be a couple of items of miscommunication.

Hon GIZ WATSON: If the Democrats are concerned about ongoing environmental operations and their concern does not pertain to this amendment, the Greens have a different position. I stand by the fact that we have concerns about this amendment as well as about the ongoing environmental record of this company. For clarification, I will read existing clause 10C and new clause 10C so members can understand what the difference is. Existing clause 10C states -

Nothing in this Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities hereunder that may be made by the State or by any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act from time to time in force.

That will be replaced with -

Nothing in this Agreement shall be construed to exempt the Company from compliance with any requirement in connection with the protection of the environment arising out of or incidental to its activities under this Agreement that may be made pursuant to the EP Act.

The new clause will take out all the other provisions and leave only reference to the Environmental Protection Act. The advice from the agency at the briefing before lunchtime is that legally that will still remove some of the company's obligation. Nothing I have heard to date from the Department of Resources Development has convinced me otherwise. It is on that basis the Greens argue that this amendment, as well as the ongoing issues, is the problem.

Hon NORM KELLY: The point about departmental briefings and assurances the Democrats received comes down to clarifying what is in the Act. I was happy with discussions I had on these points with both members of the other parties and the department. I am clear about what the Act does and does not do. It comes down to how we regard the Act in total, this Bill in particular, and what emphasis is placed on the environmental concerns I outlined and the economic benefits the State will receive, for example. I am sure all members will agree we have those interests at heart. It is a matter of deciding from an individual or party point of view what emphasis will be placed on those factors in this agreement. It is on those emphases the Democrats stand.

Hon N.F. MOORE: Agreement Acts make clear what can be done by parties to an agreement. In some cases it enables them to do things that are contrary to certain laws. However, when it is not expressed in the Act that parties can behave in a way contrary to a particular law, they are obliged to abide by all the laws that exist. It makes no difference whether clause 10C of the agreement is changed. The existing clause is a belt and braces clause, and according to the people who draft these agreements, it is not necessary. Any other law that exists in Western Australia that is not affected by this agreement will apply. I cannot explain it any better, except to say that Crown Law considers it to be a far better clause on environmental issues. The other issues in clause 10C of the agreement are covered by the nature of the agreement Act. Unless something in the agreement Act affects a law, that law applies. The concern that Hon Norm Kelly has is unfounded.

Hon TOM STEPHENS: We had some interesting debate on the responsibility that this side of the Chamber has in its handling of legislation. If members on this side of the Chamber were to persuade each other to adopt a particular course of action we would have a significant impact upon the operations of the State. If I thought for a moment that the arguments being put were trying to persuade the Labor Party to vote with the Democrats and the Greens (WA) on this issue I might have adopted a different approach. However, if someone in this Chamber wanted to convince us to defeat this legislation they would have lobbied us about the shortcomings in the legislation. In part, this reflects some sort of comfort zone, because the Australian Democrats and the Greens (WA) expect the Labor Party to vote with the Government and they want to delineate themselves from us without putting arguments to us outside the Chamber.

Hon Norm Kelly: I have 10 Bills to debate. Does the Leader of the Opposition want me to go through each one of them with him?

Hon TOM STEPHENS: Hon Norm Kelly was approached by my colleague Hon Julian Grill and he could have put an argument to persuade him of the position he wanted the Labor Party to adopt. Each issue will rise and fall on its merits. The Labor Party has no intention of trading across issues. If people seriously want our support they will need to put their arguments to us.

Hon N.F. Moore: We would like your support on this reason.

Hon TOM STEPHENS: Hon Norman Moore has my support. No-one else seriously set out to try to obtain that.

Clause put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I cast my vote with the Ayes.

Division resulted as follows -

Ayes (27)

Hon Kim Chance
Hon E.J. Charlton
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon N.D. Griffiths
Hon John Halden
Hon Ray Halligan
Hon Tom Helm
Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon Simon O'Brien

Hon Ljiljanna Ravlich
Hon B.M. Scott
Hon Greg Smith
Hon Tom Stephens
Hon W.N. Stretch
Hon Bob Thomas
Hon Derrick Tomlinson
Hon Ken Travers
Hon Muriel Patterson (*Teller*)

Noes (5)

Hon Helen Hodgson

Hon J.A. Scott
Hon Christine Sharp

Hon Giz Watson
Hon Norm Kelly (*Teller*)

Clause thus passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

HUMAN TISSUE AND TRANSPLANT AMENDMENT BILL

Second Reading

Resumed from 10 September.

HON J.A. SCOTT (South Metropolitan) [2.49 pm]: I support the Bill. Yesterday I asked the Government to consider the underlying concept, at a time when money is hard to find for hospitals, that money spent on high tech operations like heart transplants might be better spent in preventive medicine - better diet and that sort of thing. I said yesterday that I recognised the many areas in which smoking or diet played no part in an illness requiring a transplant.

When we debated the Coroners Bill, people told me that they were concerned that some matters had not been picked up by that legislation, although generally they were happy with it. A concern about this Bill is that when a coroner undertakes an autopsy to discover the cause of death, it is a pathologist who undertakes the procedure, because a coroner is legally trained, not medically trained. The concern of the people who spoke to me is that pathologists take more human tissue than is necessary to discover the cause of death.

Hon Max Evans: For what purpose would that be? Is it to do research?

Hon J.A. SCOTT: The suspicion is that the material would be used for transplant purposes. Most of those people support the transplant process; indeed, some of them have signed up to offer their organs for transplant. However, their concern is that the pathologists are not properly monitored when carrying out the autopsy process. People are very worried about that, because some unacceptable procedures have been undertaken in the past.

People also expressed concern about bone marrow being taken from stillborn infants. I do not know whether that happens. I cannot ascertain whether the Bill covers that.

Hon Max Evans: The deceased could not give permission.

Hon J.A. SCOTT: Many people believe that this is a routine process. I do not know how to check whether that belief is valid. I thought I should raise that issue in this place.

I am concerned about the provision dealing with under age persons wishing to donate transplant material to a sibling. In most circumstances, I think that would be an acceptable thing to do. However, should there not be a provision in the Bill to consider whether the child concerned might have been put under pressure by siblings or parents to make that offer? General matters are handled well in this legislation, but that aspect raised some concern in my mind.

It has been drawn to my attention also that when people fill out the appropriate form to specify which body parts will be donated after death, when the time arrives the opportunity is there for additional body parts to be taken. Some parents when they come to bury their child have been shocked to find that more than the corneas from the child's eyes have been taken - perhaps even half the body is missing. That is a shocking situation for parents to face. When people fill out the form to donate specific organs, it should be only those organs that are taken at the time of death.

Hon B.M. Scott interjected.

Hon J.A. SCOTT: That must be clearly set out. We want to see greater participation in the donation of human tissue. However, I do not agree with the Singapore model. I would rather be quite sure that people want to donate, because it can cause great offence when body parts are taken when people did not specify whether an organ or organs were to be donated. People should make a definite statement in that regard, and perhaps there should be an education campaign so that people know that if they want to donate they can, and that they should sign up as soon as possible. I support the Bill, but I seek some clarification on the matters raised.

HON MAX EVANS (North Metropolitan - Minister for Finance) [2.58 pm]: I thank opposition members for indicating their strong support for this legislation. I find it very interesting to handle Bills for other Ministers. It broadens my vision about what goes on in the world and widens my knowledge of subjects about which I do not know very much. Hon John Cowdell spoke about problems caused by the low donation rate. Currently the Health Department is considering its options and looking at interstate and overseas experience. Any code used must not discourage organ donation. I look at it from the marketing viewpoint. We know that 100 000 people have acknowledged that they want to make an organ donation, but only seven people in one million have been involved in organ transplants. We need to balance the need for organs and the wishes of the deceased with the reality of traumatic circumstances usually attending organ donation. It is a very difficult and sensitive situation. This is what the Bill is all about.

Mention was made of not advocating a cash payment, and currently that is not permitted by the Human Tissue and Transplant Act. In India sometimes cash payments are made. Some people sell one kidney, and keep the other one which will keep them going. We must encourage more people to sign up to donate their organs after death.

I found it difficult to believe that in Western Australia the organ donor rate is only seven transplants per million people out of a population of 1.7 million people. Some experts advise me that only two corneal transplants were undertaken last year. I am not criticising Hon Jim Scott, but in the light of anecdotal evidence concerning the problems with the Coroner's Office it sounds as though dozens of transplants should have taken place. It makes me wonder whether they have occurred without any acknowledgement that they took place. Anecdotal evidence suggests more has been done than has been recorded. Only 23 occurred in Spain, which has a population of approximately 30 million. I do not understand what the problem is.

Hon Jim Scott indicated that he would not be in favour of the Singapore model of dealing with organ donation. However, some people seem to think it might be a good idea to adopt that model. This was considered in the late 1970s by the Australian Law Reform Commission. It was rejected based on community views then. Community views might now have changed towards the Singapore legislation.

Based on advice from some legal people it seems that recently body parts of the deceased have been removed by various members of the medical profession, without controls. Clarification is necessary on whether consent was given for the removal of parts. I think that type of situation is now under control.

I agree with Hon Norman Kelly that section 22(3) needs further clarification. I am certain more work will be done on this and on the code of practice. This Bill seeks to tidy up obvious matters. As issues are raised they will be clarified.

Seven donations a year for each one million population amounts to only about 12 in Western Australia. The passage of the Bill leads one to believe many problems have occurred which need to be rectified. Being an accountant, I am trying to balance the books on the issue. Perhaps the legislation picks up problems experienced by other States so that they do not occur here.

Hon Kim Chance: Some of the problems we have inherited from the Coroners Act rather than this Act have been implied to exist in this legislation.

Hon MAX EVANS: A few members referred to the Coroners Act. That has been tightened up to a large extent. Hon Kim Chance could be right. I am surprised that this legislation addresses so many problems in the light of so few transplants in Western Australia. I agree with Hon Kim Chance that clarification of the legal position is most important. I referred earlier to the low rate of transplant and the Health Department is trying to do something about it. The Minister for Health has responded to Hon Jim McGinty about promoting the idea of organ donation more.

It is a matter of whether we are selling the sizzle or the sausage. We need to educate people and create more discussion in families, on talkback programs and through television about how people have benefited from organ transplantation. So few have occurred that not many benefits have been highlighted. The success of it will depend on a marketing exercise. We want everyone to tick the box on the driver's licence application. I do not know whether I ticked the box but I would be quite happy to tick it. If I did I made no mention of it to my wife.

Hon Kim Chance: It shows on your driver's licence.

Hon MAX EVANS: Nonetheless, I do not know whether I have. With more exposure people may become more aware of the need for organ donation. I was reminded this morning that not many deceased bodies are suitable. Only a limited number have the organ parts that might be wanted.

Hon Kim Chance: Who would want the head of the Minister for Transport, for example?

Hon MAX EVANS: Many offers are made but it boils down to what is compatible. A comment was made about the pressure placed on siblings to donate an organ when one of them might be in need of say a kidney or bone marrow. That is an issue between live people rather than being about deceased people. This legislation is about whether a deceased person may or may not have given permission for their organs to be taken.

Hon John Cowdell asked how the situation will be resolved when a donor wants to donate but the next of kin is vehemently opposed to it. In legal terms the donor's wish prevails, as we discussed last night. The issue remains at the discretion of a designated officer. Consultation with next of kin happens in practice and may be addressed in the code of practice. In practice, donations are unlikely to go ahead in the face of vehement opposition. This is acknowledged by the National Health and Medical Research Council guidelines. This circumstance must be handled very sensitively.

Hon J.A. Cowdell: When you say there is vehement objection from next of kin, are you saying that has been used to override previous donor approval?

Hon MAX EVANS: Yes; in practice it is unlikely to go ahead in the face of vehement opposition. That is the opposite to what was said yesterday when Hon John Cowdell said organ donation should be able to proceed.

Hon J.A. Cowdell: This Bill is hitting that firmly on the head.

Hon MAX EVANS: No. I think the code of practice will need to clarify the situation. In the light of the delicate situation when someone is deceased, this is an attempt to make it as clear as possible that the person has agreed to organ donation and the medicos can go ahead with it. However, if strong opposition is shown by a senior next of kin the National Health and Medical Research Council guidelines suggest that consideration should be given to that person.

Hon J.A. Cowdell: This is what I asked yesterday. What is that consideration given to? Is that an override?

Hon MAX EVANS: The legislation goes a long way in this regard. The code of practice will try to highlight these issues. Hon John Cowdell might want to assess from the medical profession what is the situation. It is a question of interpretation.

Hon J.A. Cowdell: As the Parliament we are sending a message to the medicos that our views, as embodied in legislation, should override that code very clearly. I seek your confirmation on that.

Hon MAX EVANS: No; it is not a message to the medicos per se. As I understand the situation we are trying to acknowledge that if senior next of kin have very strong views against the removal of body parts, despite the wishes of the deceased, the removal of body parts might not go ahead. That has been happening until now. I do not think the code of practice has been drawn up yet. The adviser might be able to give me a clearer view.

Hon Kim Chance: We have agreed to leave that matter until the Committee stage.

Hon MAX EVANS: The number of transplants is very low but some experts this morning on the legal side who have dealt with many of these issues said that it is not very often that a deceased person's parts are compatible with someone else. It is usually as a result of very quick action after an accident that body parts can be removed and there must be a recipient.

I read somewhere that 1 000 people want kidney transplants. One thousand pagers have been issued in this State so that a patient does not have to sit by a telephone for a long time. If only seven transplants occurred in the year, which were not all kidney transplants, people would have sat by the phone for a long time. It is not a very quick response. I still think that seven transplants for each million people is very low. I am not too certain about that.

Hon Kim Chance: Nor am I.

Hon MAX EVANS: The experts told me this morning it is very low. I am not sure whether they are dealing with statistics or the facts. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 22 amended -

Hon KIM CHANCE: I understand the Minister has had a rush of clarification on the question members were debating towards the end of the second reading debate. On the proposition posed by Hon John Cowdell, and raised also by others, in the second reading debate, where a person has given a clearly expressed indication of his will to donate and after that person's death the next of kin vehemently opposes the donation, what will be the situation?

Hon MAX EVANS: Mr Chairman, you will be very interested in the answer. The donation is at the discretion of the designated officer, who is usually the chief medical officer. He is under no obligation to take the organ, even if the donor wishes to donate. In some cases the organ is not suitable. Doctors faced with a distraught family are unlikely to push for donations. This highlights the requirement for a donor to tell his family of his wishes. That is the key issue. It comes down to getting people to think about the good that can come out of organ and tissue donation. If they discuss their wishes with their family there should not be any problems. At the end of the day it comes down to whether there is a living person who needs that organ. I repeat that the organ donation is at the discretion of the designated officer and he is under no obligation to take the organ even if the person wishes to donate.

Hon J.A. COWDELL: The Minister's explanation makes a mockery of this piece of legislation and the purported clarification. The Minister has just explained that it will still be at the discretion of the medical officer. I recognise that, quite rightly, a range of medical factors will need to be taken into account. However, for the Committee to agree that because the relatives or the senior next of kin make a violent objection the senior medical officer has the authority to decide not to utilise the organs or tissue, is to allow for the wishes of the donor to be overridden.

If I thought we were doing one thing in this legislation, which I said yesterday is a relatively minor piece of legislation, it was to at least clarify that the donor had the ultimate say and that no next of kin, no matter what they thought, could override the wishes of the donor. Invariably when we get to the situation of next of kin being asked "Do you want your dearly beloved deceased to be chopped up?" it is understandable that most of them will hesitate and say no. They should not be put in that situation.

This Bill is supposed to clarify things so that the donor's rights are established. However, the Minister has said that despite what the legislation is supposedly clarifying, the medical officer will have the discretion to take notice of an hysterical next of kin and override the donor's wishes. If the Minister is saying that our clarification to allow the donor's wishes to prevail is meaningless, and it will be interpreted that way because the medical officer will have the discretion to override the wishes of the donor because of the reaction by a relative, the Bill is a farce and we may as well defeat it in Committee. It is completely meaningless.

Hon MAX EVANS: It is more about limiting what can be taken. The experience is that when people have objected, after a lot of talking to they usually realise the good that will come out of that procedure. On the odd occasion that is not the case.

Hon Kim Chance: It works in 70 per cent of cases.

Hon MAX EVANS: That is right. If members want to vote against the Bill that is their prerogative. We are looking at approximately seven transplants per one million people in Western Australia a year. Approximately one million Western Australians have a driver's licence. Approximately one in 10 people have agreed to organ donation. People are dying all the time and not a lot is happening if there have been only seven transplants.

There are a lot of reasons for organ transplants not proceeding. The designated health officers might reach the conclusion not to go ahead with the donor's wishes because he was not healthy. Someone may agree to donate his eyes and the next of kin may not be able to agree whether the other organs of that person should be donated. This legislation clarifies the problems of the past and also gives discretion to the chief medical officer, who deals with these issues all the time. The Bill should be supported.

Hon B.M. SCOTT: I accept the Minister's explanation, but subclause (3)(b) is unclear. It reads -

in the case of the circumstances referred to in subsection (2)(b), by the consent of the senior next of kin,

I have had difficulties with this explanation and I am not convinced about its clarity. I refer to the instance of a child under 18 years of age of a couple who are divorced or separated, which is common these days. If that child is killed in an accident, and had made a will, and one of the parents is upset about a body part being used for a transplant, who is the senior next of kin? I am not convinced that the Bill is clear about that. Is it the mother, the father or the eldest of the two? Could the Minister clarify that matter and assure me that no protracted arguments will arise in such situations which will put the medical profession into a dilemma. I can foresee this as not being an uncommon situation.

Hon MAX EVANS: Regarding the next of kin, parents of a child are equal. If one of the couple holds a negative view, the donation will not proceed. One does not override the other. If one parent is for donation and the other is against, no donation will be made.

Hon KIM CHANCE: If we needed an indication of the difficulty with such legislation, not in its legal sense but the emotional sense, it is illustrated by the differences indicated by my colleague Hon John Cowdell and me on this question: We are two people of the same party with similar social attitudes, yet we have such different interpretations of the measure. I will clarify in a corporate sense our positions, at least in how I understand them. The Minister said that if Hon John Cowdell wishes to oppose the measure, he can do so; however, I am sure Hon John Cowdell does not want to do that as he is looking for the same things sought by the Government, the Opposition and me. There is no debate about the legal clarity which this amendment provides. Obviously, legal questions have been raised about the form of authority which has precedence regarding a donation, and this amendment settles that. The wording is clear.

However, Hon John Cowdell says that a more important issue to be resolved is whether the donor's will should be supreme. He believes it should be and that we should not countenance any expression of a measure of superior authority from the next of kin. His argument is consistent. He suggests that the legal question should be solved on this question, and that should be the end of it. That is why he and I differ. In my view, the emotional question is very strong. We must settle the legal question. Despite the donor's will being clearly known, if a mother says "I do not want my baby hacked up any more", the mother's will should be taken into account. We have solved the legal question, but one cannot solve an emotional question by any Statute. The Government is saying, "Let humans be humans and judgments be made on the spot according to the prevailing circumstances." It might fall to the designated officer to say to the grieving parents, "If you do not let us take that organ, another child will die." It is an immensely difficult issue to tie down any further than we have in the legislation.

We have tied down the legal question. If we then try to cut off the discretion which might be exercised by the designated officer, we will create horrendous problems. I appeal to my colleague to let that issue lie and be sorted out. Tremendous pressure will always apply to designated officers to try to convince parents or the senior next of kin of the deceased to set aside his or her objection and let a donation proceed. That must be done at a human level and we cannot attempt to interfere.

I am interested in the Minister's comment that something in this regard can be found in the National Health and Medical Research Council guidelines. I asked in the second reading debate whether there was a prospect of putting this aspect into the code of practice, but I cannot image how words could be formed, to be gazetted and tabled in this place, to achieve that end. I hope my colleague understands how I feel about that matter. I share his belief that we need legal clarity. Other members may have the view that the legal question is so important that the donor's will must be supreme. I ask members to consider the circumstances: Having clarified the legal situation, how does one clarify the human situation?

Hon J.A. COWDELL: I am supportive of this legislation. In looking at this clause, I considered the Minister's second reading speech in that regard where he said -

However, the drafting of some of the sections of parts III and IV of the principal Act has led to concerns about the limitation that may be placed on the use of tissue. One interpretation of section 22 is that the intention of the deceased could be limited by the senior next of kin. The correct interpretation is that if the consent of the deceased is obtained, the limitations to be observed are those imposed by the deceased.

That is very clear. However, I am disappointed that the Minister has introduced a Bill with far less substantial clarification. Contrary to what the Minister said in his second reading speech, the Bill states -

The authority of a designated officer to authorize the removal of tissue from the body of a deceased person under this section is restricted -

Therefore, it becomes a negative, not a positive. It is restricted by the donor's intention where there is a known donor intention; and it is restricted by the next of kin where there is no donor intention. However, there is no positive force to apply; it is a negative force. It is stated that further restriction may apply to the donor's wishes by the designated officer taking into account the wishes of the next of kin. Therefore, it is a negative force to make sure that the donor's wishes prevail.

I think I understand that now. I am disappointed that the Minister's speech does not say that. The Minister's second reading speech is completely misleading. I was supportive because the Minister's second reading speech implied a positive sanction. He says very clearly that the correct interpretation is that if the consent of the deceased is obtained, the limitations to be observed are those imposed by the deceased. He also says that one interpretation of section 22 is that the intentions of the deceased could be limited by the senior next of kin, but this is not correct.

In clarifying this the Minister has said that there is a limitation and restriction. I welcome this as slightly better than the current legislation and better than nothing, but I thought it would be appreciably better. It is only slightly better because it appears that although the restrictions placed on the designated officer are cleared up, there is still no primacy or positive force given to the donor's wishes.

I am very disappointed that the Minister has said to this Chamber that if I as a donor make a very clear statement of wish, any of my emotive next of kin could completely overturn my wishes, and the Minister would sanction it. I completely disagree with that.

Hon MAX EVANS: The drafting of some of the sections of parts III and IV of the Act have led to concerns about limitations - I stress the word "limitations" - which may be placed on the use of tissue. One interpretation of section 22 is that the intentions of the deceased can be limited by the senior next of kin. The correct interpretation is that if the consent of the deceased is obtained, the limitations to be observed are those imposed by the deceased. I mentioned a while ago that the deceased may have imposed limitations such as, for example, that only his eyes could be taken. The word "limitations" is the key to the whole section.

If the consent of the senior next of kin is obtained, the limitations to be observed are the limitations imposed by the senior next of kin; in other words, section 22(3) has been redrafted to remove those doubts. Hon Kim Chance said that people have been pushing to get other parts. That is where we come back to the word "limitations", which means that nothing else can be taken. This clause is all about imposing certain limitations rather than referring just to body parts.

Hon J.A. COWDELL: I regret that the clause applies only to limitations and does not give positive force to the wishes of the donor. I outlined the problems in the second reading speech. I mentioned a range of other matters which might be considered. I welcome this clause as better than nothing but, as I have said, I am very disappointed that it is styled in terms of limitation and does not give positive force to the wishes of the donor.

Hon MAX EVANS: My adviser has confirmed what was told to me this morning. This clause is addressing the concerns that arose from the change in the Coroners Act. People have been wanting to take other parts. The situation has been uncontrolled. We are trying to impose some limitations and control. I am not certain at this stage that they are perfect.

Hon NORM KELLY: I appreciate Hon John Cowdell's comments. I am quite allied to his thinking on how we should be able to extend organ donations. I am quite happy with the way the Bill amends the Act. It clarifies what exists at the moment and goes no further. The community should definitely have the debate about extending beyond that. That would be a lengthy process and should involve full community debate. We are dealing with the legal framework for people who have to work in these medical situations. It would be wrong if we were to place an imposition on people having to deal with somewhat traumatised relatives of a recently deceased.

Hon John Cowdell commented that we should have better access to the deceased and impose a more direct opportunity to take organ parts. We could be removing ourselves from the reality of the situation of having to deal with people so closely connected to death. A greater need is community education of the need for organ donation. The Minister mentioned a donation rate of seven people per million. Looking at the population base I quickly worked out we have 200 road deaths a year of which I imagine 100 or so would involve licensed people. If we are getting about 10 per cent, the figures seem to fit. It is a very rough estimate because of other causes of death, but it seems to be in line with our legal framework for organ donations. I would be happy to see the debate for extending that pursued in the wider community, but at this stage the clarity imposed by this Bill makes it worthy of being passed.

Hon MAX EVANS: I thank the member. That is what it is all about. We all admitted a couple of weeks ago that none of us really knew about this problem. It had emerged from coroners and from problems experienced. All 91 members of Parliament are now more aware of the situation. Some 20 years ago a committee looked at the Singapore system, which Hon John Cowdell mentioned the other day. They may be changing things there, but a lot can be done

here. We are trying to solve some legal problems which have arisen. They might not be solved perfectly because a few human touches must be allowed in the legislation. The important factor is that 91 of us can talk about it and make the public more aware. This will be much more worthwhile legislation if it results in a lot more donated parts being made available to be used to save lives.

Hon J.A. COWDELL: It was not during my comments on this clause when I was advocating a Singapore model.

Hon Max Evans: I know that.

Hon J.A. COWDELL: My comments were on another general issue. I asked for an assurance from the Minister that he would raise with the Minister for Health the concerns expressed in this Chamber to know that there was an adequate strategy to increase organ donations. I also requested that we receive information on what steps were planned in that regard. The Minister did not address that in response to my second reading speech.

Hon MAX EVANS: I will be contacting the Minister for Health to look at solving the problems in the future and making certain something happens. I will follow that up.

Clause put and passed.

Clauses 7 to 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 4)

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.40 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to appropriate out of the consolidated fund the sum of \$355.966m for recurrent purposes to be undertaken for the period 5 August 1997 to 30 June 1998 as detailed in schedule 1 of the Bill.

The purpose of this Bill is to provide funding for activities associated with the State's response to the High Court decision in the Ha and Hammond case which invalidated state business franchise fees on tobacco and cast sufficient doubt on the validity of franchise fees on fuel and liquor for all States to have little choice but to stop collecting them.

The Bill is essentially a machinery Bill and provides a funding mechanism to pass on revenues collected by the Commonwealth on behalf of Western Australia under the agreed "safety net arrangements" which operate with effect immediately after the High Court decision on 5 August 1997.

By way of background, the safety net arrangements negotiated with the Commonwealth involve the replacement of state franchise fees on tobacco, fuel and liquor with increases in the federal excises on tobacco and fuel, and the federal sales tax on liquor. The additional revenue raised by the Commonwealth is to be distributed between the States primarily on the basis of shares calculated by the Commonwealth Grants Commission.

Complexities arise under the safety net arrangements because of the different tax bases, tax rates and timing arrangements for the Commonwealth taxes compared with the state franchise fees. In relation to tax bases, the major issues are that the federal fuel excise applies to diesel fuel used for off-road purposes, which was previously exempt from state fuel franchise fees, and the federal sales tax applies to cellar door wine sales, which were previously exempt from state liquor franchise fees. Western Australia will provide subsidies to the fuel companies and wine producers in respect of these products to effectively maintain the tax exemptions that applied prior to the High Court decision. There will be sufficient money in Western Australia's share of the safety net revenues to accommodate these subsidies without unduly affecting the State's budget position.

In relation to the tax rates, the major issues are that the federal excise increase on petrol of 8.1¢ per litre is less than the previous Western Australian franchise fee rate of 9.67¢ per litre, while the federal excise increase on tobacco is higher than the previous state franchise fees on tobacco. To maintain Western Australia's overall budgetary position, including revenue available for roads expenditure, the State will apply surplus revenues from tobacco to offset reduced revenues from fuel. One outcome is that petrol prices in Western Australia have dropped by around 1.6¢ per litre. Tobacco prices may increase, but for a variety of reasons any such increases are now expected to be minor.

The federal sales tax increase on liquor also significantly exceeds the previous concessional state franchise fee on low alcohol products. However, a state subsidy to liquor merchants and/or producers is proposed to remove any price impacts. This can also be accommodated from Western Australia's share of the safety net revenues.

In relation to timing arrangements, a major issue was that liquor retailers had ostensibly pre-paid certain franchise fees for the whole of the September quarter, prior to the High Court decision. Pro rata refunds are proposed, to remove any possibility of double taxation, after allowing for the increase in sales tax on liquor shortly after the High Court decision.

This Bill provides appropriations to Main Roads WA, the Department of Transport and the Health Promotion Foundation to maintain funding levels in accordance with the 1997-98 Budget to make the subsidy payments and refunds over the next six months to the fuel and liquor industries.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon MAX EVANS: The Commonwealth Government is now legislating to protect the States against possible refunds of past franchise fee collections, as well as to use its taxing powers to provide replacement revenues for the States.

The expenditure proposed in this Bill will be offset by the revenue to be received from the Commonwealth under the safety net arrangements.

The expenditures proposed in the Bill to maintain the 1997-98 budgeted levels of funding are -

\$209.936m to Main Roads WA;
\$5.83m for the Department of Transport; and
\$11.2m to the Health Promotion Foundation.

The Bill also seeks to provide for subsidies estimated to total \$106m to fuel companies for the next six months on the condition that they do not pass on the commonwealth excise surcharge on fuel to off-road users of diesel, or the amount by which the excise on fuel exceeds the previous state franchise on diesel used on-road. The subsidies to wine producers in respect of cellar door sales and low alcohol liquor sales, and the refunds of certain advance payments of liquor licence fees by retailers, are also provided for.

Legislation will also be introduced to establish each of the subsidy schemes, and associated standing appropriations, later in the year. The intention of these subsidies is to return surplus revenues collected under the safety net revenue to taxpayers, thereby keeping any price increases to a minimum. The Bill also provides funding for administration and other costs associated with the introduction of the safety net arrangements. It is expected that the funding to be received from the Commonwealth, which is estimated to be approximately \$856m in a full year, will compensate the State for the loss of revenue resulting from the High Court decision as well as covering subsidy and administration costs as I have previously mentioned. I emphasise that the safety net arrangements covered by this Bill are a stopgap measure, and it is intended that they will be subject to a full review by all States and the Commonwealth within six months.

If there is a positive side to the mess caused by the High Court decision, it is the spur it has given for the Commonwealth Government to commence serious consideration of genuine reforms to the national tax system and commonwealth-state financial relations. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

MOTION - NATIVE TITLE

Appointment of Select Committee

Resumed from 26 March.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.49 pm]: I had hoped that we would deal with this motion a little earlier today, but as question time went on for longer than I had anticipated -

Hon Tom Stephens: Your nose is growing!

Hon N.F. MOORE: Give them an inch and they take a mile! I did not mind. I was happy for people to ask those dorothy dixers today, and it is always helpful when the Opposition asks questions that would one normally contemplate as being dorothy dixers. I will respond to the motion moved by Hon Tom Stephens for the formation of a select committee into native title. To refresh my memory, I read the honourable member's speech supporting this motion. I was impressed, to say the least, by his very obvious sincerity. I know him well enough to know he has a genuine and abiding interest in the welfare of Aboriginal people. I also know that they hold him in high regard as well, and that is something of which he can be very proud. I understand the genuine spirit in which this motion has been moved.

I was pleased that the member said he was not being theatrical on this occasion - he was reverting to normal. In the time that he and I have been in this place I have never been sure about the difference. I can only assume that, when he said that, he was being normal and that most of the time he is being theatrical.

He moved this motion in March this year and we are now getting around to dealing with it. It has been delayed for numerous reasons, many of which have nothing to do with me. That is beside the point and I am happy we are now dealing with it.

As I have explained to the honourable member on a number of occasions, I do not have a problem with the formation of a select committee on native title. The fundamental idea of a parliamentary investigation of native title could have significant merit. It might have been a worthwhile exercise had we dealt with this in March and the committee had reported already.

The Government opposes this motion, and I will try to explain why it is taking this action. It is not being done on the basis of opposition to the notion of a select committee of inquiry into native title, but to having such an inquiry now.

Members will be aware of the history of the native title issue, and I will go into that at some length next week. However, in the context of this motion at this time, the Federal Parliament is currently contemplating legislation and until that legislation has been dealt with we are not in a position to know what native title legislation will apply to Australia. We know what has existed since the Keating Government introduced and passed legislation and we know the Federal Parliament is contemplating significant amendments to the legislation. However, we do not know what will come out of that parliamentary process. If we are to have such an inquiry as is proposed in this motion, we should know into what we are inquiring. We could inquire into the concept of native title - that is, the Mabo decision - but that has already been done at great length. There is general agreement that the concept of native title exists and it is a matter of working out how best to deal with the issues that arise from that acceptance. The Federal Parliament, which has the prerogative to determine national legislation on this issue, is currently deliberating on its own legislation. Given that we have not already established this committee, surely it is premature to proceed with it at this time. As I have also indicated to the honourable member, I would not have a serious problem with the establishment of a select committee after the Federal Parliament has deliberated and determined its position on native title and we see what comes out of that.

Hon Tom Stephens: Do you accept the proposition that native title issues affect Western Australia more than any other State?

Hon N.F. MOORE: Yes.

Hon Tom Stephens: Do you think it is appropriate then for this Parliament to leave these matters entirely in the hands of the Federal Parliament to resolve on the national stage?

Hon N.F. MOORE: That is interesting. This Parliament made a decision to pass its own legislation on native title, a Bill subsequently rejected by the High Court. Ironically, to a large extent that Bill mirrored the Federal Government's 10-point plan. We have already had a go as a Government and a Parliament at sorting out the problems. In retrospect, our Bill was a pretty good effort at the time. As the member and I know, the High Court has already said that that legislation does not stand up constitutionally. I believe that the only way to achieve legislation on native title is through the Federal Parliament and subsequently through the State Parliaments, which would need legislation flowing from the national legislation.

I am 100 per cent behind the notion that Western Australia is the most affected State in Australia and that we should know what we will do. The Western Australian Government is regarded around the nation as the Government with the most knowledge and understanding of the issue. It is also acknowledged as having spent more time contemplating the notion of native title than any other Government.

Hon Tom Stephens: There is another perception of your Government as well.

Hon N.F. MOORE: The member might have that view and will argue it. The point is that a native title unit exists within the Ministry of the Premier and Cabinet. The people working in that unit are highly skilled and knowledgeable about the issues and have provided enormous assistance to other Governments in Australia in their response to native title. Therefore, the Government is well placed to respond to the federal legislation once it knows what it is.

If the coalition parties had control of the Senate, and if we could be relatively certain that what is going in one end of the system is what will come out of the other end, we could contemplate the Western Australian scenario, but we do not know. The Federal Parliament might reject the Government's legislation or it might dramatically amend it in such a way that the Government will not be able to accept it. All sorts of things can happen in the next few weeks. Surely it is inappropriate for us to have a state select committee investigating native title when we do not know what we will be investigating. We will know once the Federal Parliament has deliberated and the Bill is passed. As I said, that might be the time to establish a select committee to look at what we should do in response to the federal legislation.

Hon Ljiljanna Ravlich: We would be responding to what is already prescribed at the federal level.

Hon N.F. MOORE: I do not believe a select committee here will have a lot of effect on what is happening in the Federal Parliament now. Having a select committee here taking evidence and Hon Tom Stephens getting the sorts of headlines he would naturally hope to get while the Federal Parliament is deliberating on the issue could be detrimental.

As I said earlier, if this motion had been dealt with in March, I would not have had too many problems with setting up the select committee at that time. I may not have a problem with it after the Federal Parliament decides on its position. It does not matter much what Western Australia does, until the Federal Parliament's position is known. I am very sorry about that, because this Government had a go at fixing it in Western Australia and this Parliament passed legislation against the Opposition's wishes. Unfortunately, that legislation was rejected by the High Court. I am not trying to knock the proposition by Hon Tom Stephens. His proposal is worthwhile in some contexts, but not in the context of the timing of the Federal Parliament's deliberations on this matter.

Debate adjourned, pursuant to standing orders.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.00 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Dr Roden

HON KIM CHANCE (Agricultural) [5.01 pm]: I raise a matter that has come to my notice recently. I have just learnt that the health system in Western Australia has lurched to yet another in a series of crises which have affected it. This time the crisis is the identification of a contingent budget shortfall which may result in cutbacks in services to the value of between \$70m and \$80m. It comes hard on the heels of the revelation that major metropolitan hospitals will suffer cuts amounting to \$10m in order to pay for costs associated with the private Joondalup Hospital. We hear of these macro scale disasters in the health system, but they do not effectively convey the meaning of the underfunding of the health system.

I have been handed information that puts those budget cuts in perspective. It came to me in the form of a letter to my colleague in another place, Alannah McTiernan, from one of her constituents. It concerns the limitation of the surgical activity of a doctor in Northam, which is in my electorate. Dr Dermot Roden of the St John of God medical centre in Wembley has been practising eye surgery in Northam since 1991. When he went there, he was encouraged by the previous Labor Government to attract metropolitan patients to undergo surgery in Northam. He did so with great success and, sadly, it seems he has been too successful. Dr Roden has just been advised he will be subject to a limitation on the number of operations he may perform in Northam. Even worse - if it can be worse - he may now operate only on residents of the Avon Valley and may not attract public patients from the waiting lists of metropolitan hospitals to have surgery in Northam for, say, glaucoma or cataracts.

This cost cutting exercise means three things: First, metropolitan patients waiting for surgery for disorders such as glaucoma or cataracts will no longer be able to have that performed in Northam, but must wait longer on what is becoming an ever increasing waiting list. Second, Dr Rodan will suffer a substantial decrease in the economic viability of his surgical practice in Northam, which he was encouraged to establish by the previous Government. I have nothing to indicate that the decrease in viability will be severe enough to prevent him continuing, but he will certainly suffer a significant loss in the number of patients he treats.

Hon E.J. Charlton: Is it totally a decision of the state Health Department?

Hon KIM CHANCE: As it immediately affects him, it would be a decision of the state Health Department. Of course, the bucket of funding is a much broader issue.

Third, the Northam Hospital will make a less substantial contribution towards meeting the health needs of the community. Although that is the third point, it is an extremely important one because I have always been very much aware - as has Hon Peter Foss and I discussed this with him when he was Minister for Health - that country hospitals have surplus capacity, driven by a reduction in population in those areas. Therefore, they are well equipped to address the waiting lists for elective surgery that plague the health system. It cannot be done unless specialist doctors practise surgery in those areas, and we all want that to continue. That is why I am happy that the previous Government encouraged this doctor to carry out his practice in Northam for a number of days a week. He certainly was not there full time. In the first place it addressed the waiting list problem; second, it made the hospital more economically viable so it could continue to provide services for people in the Avon Valley; and, third, the skill levels of the staff were maintained by their caring for a wider range of patients.

An effective, worthwhile and much needed service in Northam has been cut back for what seem to be no more than cold-blooded and thoughtless cost saving reasons. People's names will be on waiting lists for longer and, coming after the slashing of the patient assisted travel scheme which removed Northam from the equation altogether, once again country people have been singled out for especially shabby treatment by this Government in the health system.

Adjournment Debate - Woodchipping

HON CHRISTINE SHARP (South West) [5.07 pm]: I wish to share my comments with my colleagues in the South West Region concerning an announcement made in the other place today by Mr Colin Barnett, Minister for Resources Development, that the Government has given the immediate go ahead for renewal of the woodchip supply contracts before the agreement Act comes before this House. I knew that one day I would talk in this place about woodchipping, but I did not expect it to be today. I have had no time to prepare my speech, so I will not say much about woodchipping itself. The time will come for that.

However, as this has just happened I shall comment on the process this Government has embarked upon today. As a member representing the south west I am appalled that the Government has decided to renew the woodchip supply contracts without any mediation or discussion in this House, despite the fact that the agreement Act will come to this place later this session and that the first inquiry of the new Standing Committee on Ecologically Sustainable Development, which I chair, will look at future planning for the south west forest. One of its specific terms of reference is the woodchipping agreement Act.

As member for the South West Region, I advise members that there are not many old growth forests left. I do not know whether members who travel by air over that area have noticed that coupe upon coupe has been clear felled over the past 20 years. Virtually all that is left are areas of high conservation value, old growth, karri-marri forests recognised in the early 1990s by the Australian Heritage Commission as part of the heritage of the south west. Those are the blocks that the Government unilaterally decided today, without any negotiation with anybody in this Parliament or in the south west, would be made available.

I am appalled at the fate of those remaining old growth forests. Given that I represent the communities of the south west to some extent, I am also appalled that the Government has failed us in helping find a solution to this problem. Does the Government not know that the people from down there have been arguing bitterly about this issue for 25 years? Could we try - I think the committee on sustainable development was beginning to try very seriously to do this, with much goodwill on the part of its five members who are from all parties - to look at a long term solution to stop the conflict, to find a way in which the timber industry has some kind of secure future in some areas of forest, and to keep the high conservation forests in perpetuity for their many values, apart from their economic value? Surely the Government could have helped to mediate some solution, instead of ramming legislation through, making this Parliament a mockery. We have a parliamentary committee with terms of reference for an inquiry and already these contracts have been renewed. What kind of scope does that give to inquiry? It leaves open two possibilities to this Chamber - either to be a total rubber stamp or to reject outright any renewal of an agreement Act. That is not how solutions are mediated.

I will also speak on behalf of many of the shire councils in the south west which over the past couple of months have come out in support of greater protection of the forests in the region. The Bridgetown-Greenbushes Shire Council passed a motion about a month ago announcing that it does not want any more logging within its shire boundaries due to the conflict it sees between the protection of forests and its burgeoning tourism industry. It has also been supported by motions of the Augusta-Margaret River Shire Council, the Denmark Shire Council and another shire, the name of which I cannot quite remember at the moment. There has been a whole process where local government has been increasingly in conflict with the ongoing large scale dedication of a high impact, residue driven clear-felling operation.

I, as one who has been involved in these issues for many years, as all members will know, believe we could come up with a win-win situation for the communities of the south west. We have real problems there. Many people are employed in the timber industry. If we are to save the old growth forests, we must seriously look at plans of how to prevent disruption to the community which will be affected by hardship as a result of a decision to stop logging. We need help to do that. We also need help to recognise the economic and social importance of the tourism industry, which provides hundreds of jobs on a small community based scale throughout the south west.

Just in the past couple of days, newspapers in the south west have published arguments between local tourism operators and the Department of Conservation and Land Management about the clearing of jarrah forests just outside Dwellingup and of old growth karri trees just outside Northcliffe. Tremendous conflict is occurring. I hope all members in this House will try to work things out for the community and for our environment.

Although this is the first time I have spoken about the future of our forests, it will not be the last. I will repeatedly say that there are ways of working out a solution to this situation which will keep jobs in the south west as well as protect many more forests and prevent this conflict which is tearing my region apart. I am very disappointed that the Government has failed to give leadership in this regard. I have not given up entirely in hoping that this Parliament will continue in its role of trying to provide that leadership. I am sure the parliamentary inquiry will continue and we will make recommendations to this House, which is a great improvement on Governments simply putting their head in the sand and ramming legislation through, making a mockery of the democratic process and the mediation of conflict. Instead this will become the arena for the conflict. I think I will have the support of many members in this Chamber. I know already that many members - on both sides of the Chamber - support the protection of our forests. I hope we can all carry out the role which we have in this conflict to come up with a better solution.

Adjournment Debate - Public Sector Equal Employment Opportunity

HON LJILJANNA RAVLICH (East Metropolitan) [5.15 pm]: The Government has also let us down in the area of equal employment opportunity in the public sector. It is of enormous concern to me - I have heard these rumours for some time - that a consequence of contracting out is that people with disabilities are becoming victims of that process. The other day a government publication entitled "The Key" crossed my desk. It contained an article under the headline "Public Sector Management Office takes a leading role in equal employment opportunity". This publication announced that the Premier was setting up an award for public sector agencies to nominate themselves for having achieved success in the area of equal employment opportunity. I thought this was a very good thing. I started to investigate when the Premier's awards would be held, and I found that the closing date for applications is 24 September.

Not long after I had read this publication, I was advised that Activ Industries had lost its contract to provide indoor plants to the Education Department. I understand the winning tender to provide that service for that department was \$2 500 lower than that put forward by Activ Industries. To have deprived those people of that employment opportunity for the sake of \$2 500 is absolutely appalling. At the same time that organisation lost the lawn mowing contract. That will also have an impact on its ability to employ people. Not long after I was advised of that - it was reported in "Inside Cover" - it was brought to my attention that currently four blind telephone operators and two who are not visually impaired work for the Education Department. My understanding is that those six positions will be contracted out. The position of equity officer in the Education Department is also being abolished.

Hon Kim Chance: Just as well by the sound of it!

Hon LJILJANNA RAVLICH: Under a Labor Government we had a unit of equity in the Education Department. We had one lousy position for an equity officer in the Education Department and this Government has managed to get rid of it. That is absolutely appalling.

The other day I put some questions to the Minister representing the Minister for Education in relation to the employment of Aboriginal people on levels 7, 8 and 9 within the Education Department and how those figures compared with those for the employment of non-Aboriginal people on those levels. I also asked him how many Aboriginal or Torres Strait Islanders picked up the position of district superintendent under the new Education Department restructure. The response was very grim. I asked also how many school principals there were in total and how many were of Aboriginal or Torres Strait Islander descent. The figures were grim. Of the 768 principals in total, only two are of Aboriginal or Torres Strait Islander descent. That is 0.26 per cent. The Aboriginal student population in this State is considerably higher than 0.26 per cent. I am not making a case that it should be an exact pro rata arrangement. However, this figure is a disgrace and it falls far short of community expectation and far short of what is acceptable. There are 101 level 7, 8 and 9 positions in the Education Department, of which only five are occupied by Aboriginal or Torres Strait Islander people. That is a disgrace. It is even more of a disgrace when one considers it in the context of retention rates of Aboriginal and non-Aboriginal students in Western Australian primary schools and high schools.

The 1995-96 annual report of the Education Department of Western Australia indicates the apparent retention rates for years 8 to 12 in government schools for 1993-95. For Aboriginal males it was only 14.1 per cent compared with 61.1 per cent for urban males. Apparent retention rates for Aboriginal females was 19.3 per cent compared with 72.3 per cent for urban females. That is appalling. These retention rates signify that the Government should be doing something to ensure the department employs people with an understanding of the requirements of Aboriginal and Torres Strait Islanders and who are role models and have an understanding of the culture and a range of other factors. If the Government cannot do better than that - obviously it is not doing better than that - it is failing in this key area.

It is not good enough that equity issues in employment are overlooked. It is a farce that the Premier holds these awards and that the Government claims on paper that it is achieving positive outcomes in promoting equal opportunity in the public sector when the examples I have given indicate that in practice there is little, if any, commitment in the Education Department to promoting equal employment opportunities. The Ministry of Education would not be a hot contender for this Premier's award. I suspect that if we had a closer look at most government agencies we would find a similar trend. The Government is jumping up and down and saying all the right things in its rhetoric, and it is producing all the glossies, but the bottom line is that on the ground very little is happening. It is just a lot of hot air.

This trend cannot be allowed to continue. The case involving Activ is appalling. This is where contracting comes into question: That is, what are the real costs and benefits of contracting? It is much more than just an economic consideration. The Government cannot hold its head high for having achieved anything in equal opportunity employment.

Adjournment Debate- Legislation Committee System

HON J.A. COWDELL (South West) [5.25 pm]: I feel it appropriate to answer seven charges that were levelled against me yesterday in this House by the Attorney General. Charge No 1 was the politicisation of the Legislation Committee. The Attorney General referred to the politicisation of some standing committees. He said he would not like members opposite to be offended, but he drew attention to me.

Charge No 2 was causing embarrassment to Hon Derrick Tomlinson -

Hon Derrick Tomlinson: Oh!

Hon J.A. COWDELL: - a capital offence if ever there was one.

Hon Derrick Tomlinson: You are always an embarrassment to me.

Hon J.A. COWDELL: The Attorney General said one of the reasons the Legislation Committee failed was that the committee caused considerable embarrassment to Hon Derrick Tomlinson - a momentous charge.

Hon Derrick Tomlinson: Cut to the heart!

Hon J.A. COWDELL: Charge No 3 was that of not calling on the Attorney General to give evidence.

Hon Peter Foss: Are you defending yourself? I obviously hit home deep.

Hon J.A. COWDELL: The charge was that I spent the whole time going over what the committee said. Now there is a real crime - coming into this House and raising what the committee said. It is a capital offence. The Attorney General was critical of the fact that the committee did not even ask him to appear before it. I interjected in response to that comment and said that we rectified that problem. We recognised the error of our way and invited the Attorney General after he complained. With regard to the charge of the politicisation of the Legislation Committee, I pointed out that 95 per cent of the committee's recommendations had been unanimous - some politicisation!

Charge No 4 - this is a good one - was not taking into account the supremacy of party over Parliament. Can members believe that comment from a member opposite? The Attorney General said that committee members must allow and recognise that Hon Derrick Tomlinson has party responsibilities and they must stick together. Fine; I am guilty of that.

Hon Derrick Tomlinson: Stop it! Stop it!

Hon Peter Foss: I obviously hurt you, and I am going to do it again, if you give me time.

Hon J.A. COWDELL: A wet lettuce! The charges are stunning. Charge No 5 was disloyalty to the chair. The Attorney General said the committee must be allowed to make a report as appropriate and that the Government, not the chairman of the committee, could then be attacked for not following it.

Hon Peter Foss: Are you going to answer that?

Hon J.A. COWDELL: I will return to that. Charge No 6 - this is another a good one - is the destruction of the whole Legislation Committee. The Attorney General said that what happened on one occasion might seem clever and appropriate, but that the result was no Legislation Committee. The charge is the destruction of the whole committee.

Charge No 7 is disloyalty by virtue of a no confidence motion. The Attorney General said that I twice moved a vote of no confidence in the chairman and that his first reaction was that it was the end of the committee system. I did not twice move a motion of no confidence in the Chairman of the Legislation Committee. The Attorney General should check the record. Let us look at the sum of the charges.

Hon Peter Foss: Are you saying he was not censured twice?

Hon J.A. COWDELL: The core charges are politicisation of the Legislation Committee; embarrassment of Hon Derrick Tomlinson; disloyalty to Hon Derrick Tomlinson - all capital offences; and destruction of the Legislation Committee. I did come into this Chamber and oppose the disowning of the committee's reports. I did reflect in this Chamber on the fact that members came in here, only hours after signing a committee report, and voted against those same recommendations in this Chamber. If they did not believe in the recommendations that is fine; but they should not sign the report in committee. It is inappropriate to sign in committee and then to come in here immediately afterwards and vote against the committee's recommendations.

Hon Peter Foss: You are proving my case.

Hon J.A. COWDELL: I did reflect on that action; I still do.

Hon Peter Foss: You reflect on the members too.

Hon J.A. COWDELL: There were two other situations, and I do not apologise for highlighting them. One was when I opposed the delay of presenting a committee report. You, Mr President, and others will recall that the previous President ruled that it was not competent for the Chairman of the Legislation Committee to hold up a report, whereupon the chairman immediately produced the report after 20 days' delay. I do not apologise for coming in here and raising that situation. Nor do I apologise for coming in here and disowning the ambush of the committee. The situation was that two members of the committee were not in attendance at a committee meeting.

Hon Peter Foss: What about the two censure motions? That was the main charge; deal with it now while you are on your feet.

Hon J.A. COWDELL: Two members of the committee were not in attendance; thereupon the committee ended a term of reference and uninvited the Trades and Labor Council. A group of people was invited to give evidence. They were sent notices saying, "We invited you to give evidence and we are now uninviting you to give evidence, piss off." Rather, they were asked not to attend.

Withdrawal of Remark

The PRESIDENT: Order! I ask you to withdraw that.

Hon J.A. COWDELL: I withdraw that comment.

Debate Resumed

Hon J.A. COWDELL: They asked the TLC and other members not to attend. I did come into this Chamber and reflect on those issues. The Attorney General said, "... to twist the chairman's tail over political realities is to doom the committee system." I say that to acquiesce in those rorts that took place is to doom the committee system. The pompous prognostications of the Attorney General with regard to these charges should not be taken at all seriously.

HON PETER FOSS (East Metropolitan - Attorney General) [5.32 pm]: It is interesting that the main charge I levelled against Hon John Cowdell was that he showed disloyalty to the chairman of the committee by his involvement in censure motions against that person. Hon John Cowdell cannot deny that.

Hon J.A. Cowdell: You said I moved two censure motions, which I did not.

Hon PETER FOSS: There were two censure motions. Hon John Cowdell supported them. He was one of the main speakers in favour of them. He showed disloyalty to the chairman. The biggest single problem in this is that having been a political animal for so long Hon John Cowdell uses every political opportunity to pull down the system.

Hon Bob Thomas: Garbage.

Hon PETER FOSS: It was interesting to see Hon John Cowdell at work. He saw instantly that the Legislation Committee was an opportunity for him to play politics in here. There is no doubt that we would all wish to be free

spirits in how we do things in this place. Hon John Cowdell knows the situation as well as I. He and I have seen members of the Labor Party change their tune out of the committee, because that was the requirement of their party.

Hon J.A. Scott: Is that a good thing?

Hon J.A. Cowdell interjected.

Hon PETER FOSS: The one thing that would happen to us would be instant disendorsement. I do not believe the situation on loyalty in the two parties is any different. Many things that happen in committee require a collegiate atmosphere.

Hon J.A. Cowdell: It was 95 per cent unanimous.

Hon PETER FOSS: I do not mind that. It was often 100 per cent unanimous when I was a member of the Legislation Committee. However, when the committee came into this place Hon Garry Kelly often found that he could not support the recommendations. Ministers in the other place would be furious with him. The problem he had was that he had to stay with the party. We did not criticise him for that. That is the difference between us. Hon John Cowdell understands the political situation that people find themselves in.

Hon J.A. Cowdell: It is party over Parliament.

Hon PETER FOSS: Hon John Cowdell knows the job of the committee is to try to arrive at a compromise that will be acceptable to everyone on the committee, but it may not be acceptable in the House. Hon John Cowdell does not realise that the committee system will be damned if he goes back to the House and takes the opportunity to play the man and not the issue. The one charge that I levelled at Hon John Cowdell was that he played the man.

Hon J.A. Cowdell: No, there were seven charges.

Hon PETER FOSS: The argument comes back to the one thing that Hon John Cowdell purposely did not answer; he could not answer it. He did not explain why he would come into this House and make an argument about Hon Derrick Tomlinson and not the report. That was where Hon John Cowdell betrayed the party system. He has not answered that accusation because he cannot answer it. If he had not played the man, but played the politics, the report and conclusion -

Hon J.A. Cowdell: I did that.

Hon PETER FOSS: Then Hon John Cowdell should have stopped there. Where Hon John Cowdell went wrong and where he endangered the committee system -

Hon J.A. Scott: I do not think he went wrong.

Hon PETER FOSS: I do not know where the Greens (WA) members stand on these issues.

Hon J.A. Scott: A unanimous decision is a unanimous decision.

Hon PETER FOSS: As a fundamental operation of standing committees, if members think they can come into this House and be one of the major speakers to a censure motion of their colleague on the committee - not one's opposition in the Chamber - they do not understand the system.

Hon J.A. Cowdell: I asked that colleague to vote as he did in the committee on the report.

Hon PETER FOSS: Hon John Cowdell's supposed defence of that collegiality shows that he does not understand. I was trying to say it in a nice way: Hon John Cowdell does not understand the committee system.

Hon J.A. Cowdell: Collegiality is voting for your own report.

Hon PETER FOSS: Hon John Cowdell thinks he can betray that sort of confidence and collegiality.

Hon J.A. Cowdell: Confidence in the chairman voting against the committee's report? That is not collegiality. Voting down the committee's report is not collegiality.

Hon PETER FOSS: Hon John Cowdell should understand this point. It is perfectly proper to stand in this House and to point out that the Government, or whoever, is departing from a unanimous or majority opinion of the committee. That has been done many times in this House. I have only twice seen motions of no confidence moved in these circumstances, and Hon John Cowdell was a principal player in both instances.

Hon J.A. Cowdell: I did not move them.

Hon PETER FOSS: In both motions Hon Derrick Tomlinson was the person on the receiving end. Frankly, I was disgusted by that. As a matter of straight out good communications, good working relationships or whatever one might like to call what makes committees work, Hon John Cowdell's actions do not work. That is the proposition I was making. I was urging people not to do that in future. I am saying that if members do that they will cause the standing committee system to fail. People will not be able to be frank.

Hon J.A. Scott: It has been made to fail by the chairman's actions.

Hon PETER FOSS: They will not be able to step out of their committee without Hon John Cowdell saying, "Look, you agreed." Of course they agreed. How will a committee ever reach agreement if members bring party politics into that committee and members hold against their colleagues the fact that they worked with the committee to find a solution? It might not be the solution for the party or for the whole House.

Hon J.A. Scott: It is a subcommittee of this House not of your party.

Hon PETER FOSS: Precisely, so they cannot bind the party or members in this House to it. Hon John Cowdell has taken the opportunity to slice his committee colleague as opposed to slicing his opposition.

Hon J.A. Cowdell: Yes, after the chairman withheld a report and ambushed the committee on two occasions.

Hon PETER FOSS: Hon John Cowdell knows he was wrong. He took the opportunity, because he saw a political advantage to get stuck into the chairman of that committee. Is there any wonder that Hon John Cowdell will not get that committee to work if that is the way he behaves. Hon John Cowdell must have some sympathy with those people; they have a larger area in which they play.

Hon J.A. Cowdell: That committee has worked and it does work.

Hon PETER FOSS: Except when there are people like Hon John Cowdell on the committee who are prepared to stab their colleagues in the back. Hon John Cowdell did that twice. There is no other way to describe it. Hon John Cowdell stabbed Hon Derrick Tomlinson in the back twice. That undermines the system. Hon John Cowdell is not prepared to stick up for his chairman in the way the coalition did when Hon Garry Kelly made some unpalatable decisions which were not accepted by his party or this House. We stuck by Hon Garry Kelly. We did not say, "That was not what you said in committee. You are acting totally contrary to the committee". We respected his situation. We stood by him and supported him. We know the ultimate decision is made in this place. It is not made in the committee; the recommendations come from the committee. If members opposite want the committee system to work they must support the chairman. Hon John Cowdell did not support his chairman. That is disgraceful.

The PRESIDENT: Before I call Hon Norm Kelly, there was some surprise when I gave the call to the Attorney General, because Hon Norm Kelly had tried on at least four occasions in the last 39 minutes to get the call. I point out that at the time, firstly, the Attorney General rose first and called first; secondly, Hon Norm Kelly happened to be having a drink at the time and regrettably missed the call.

Adjournment Debate - Bunnings Ltd's Woodchipping Contract

HON NORM KELLY (East Metropolitan) [5.41 pm]: I would like to speak about today's announcement by the Minister for Resources Development to renew or renegotiate a contract between the Department of Conservation and Land Management and WA Chip and Pulp Co Pty Ltd, a subsidiary of Bunnings Ltd, which as most people probably are aware is a major contributor to the Liberal Party. In recent years Bunnings contributed at least \$70 000 to the Liberal Party's coffers.

Hon Derrick Tomlinson: I hope you are going to report this allegation to the Anti-Corruption Commission.

Hon NORM KELLY: I hope those people who own shares in Wesfarmers Ltd or Bunnings will make sure that this company is working to maximise its profits. I am sure they would like every cent spent by the company to provide a good financial return on their money. The contract being renegotiated was originally due to expire at the end of this year. Recently Bunnings was granted an extension to 30 June 1998.

Question put and passed.

House adjourned at 5.42 pm

QUESTIONS ON NOTICE

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

HOSPITALS - PINJARRA*Board of Management*

682. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

- (1) Can the Minister for Health confirm that the Member for Murray-Wellington, Mr Bradshaw, gave a commitment to the community of Pinjarra that they would have a separate board of management for their hospital?
- (2) Has the member for Murray-Wellington, Mr Bradshaw, written to the Minister asking for a separate board of management?
- (3) If yes, has the Minister replied to this request?
- (4) Will the Minister be setting up a separate board for the Pinjarra hospital?

Hon MAX EVANS replied:

- (1) The Minister is unable to answer for another member of Parliament
- (2)-(4) No.

WATER RESOURCES - HARVEY DAM*Purchase of Land - Cost*

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

- (1) What area of land will need to be purchased by the Water Corporation to build the proposed Harvey Dam?
- (2) How much land has already been purchased and at what cost?
- (3) How much land is currently under offer to purchase and at what price?
- (4) What is the total estimated cost of purchasing land for the proposed Harvey Dam?

Hon MAX EVANS replied:

- (1) On the basis of information currently available to the Water Corporation, a dam on the Harvey River would be expected to inundate an area between 500 and 800 hectares. However, further development of the Harvey River as a water source is dependant upon the findings of a water allocation planning study currently being undertaken by the Water and Rivers Commission. The study will determine, inter alia, the volume of water available for public water supply and water resource management constraints within the catchment. The outcomes of this study may impact the way in which the catchment is developed (if at all) and this could include the physical nature of assets and the corresponding extent to which land in the catchment is impacted.
- (2) The Water Corporation has purchased three properties in the Harvey catchment. The purchase price negotiated in respect of these properties is commercially confidential.
- (3) No other negotiations to purchase property in the Harvey catchment are currently in progress.
- (4) \$25 - \$30 million.

WATER CORPORATION - CHAIRMAN*Remuneration*

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

- (1) What is the annual remuneration paid to Mr Peter Jones in his capacity as Chairman of the Water Corporation?

- (2) Is Mr Jones reimbursed for any expenses?
- (3) If yes -
 - (a) for what expenses; and
 - (b) how much?
- (4) Does Mr Jones have access to a Water Corporation office, vehicle or telecommunication services?
- (5) Has Mr Jones declared an interest in any matters under consideration by the Water Corporation Board?
- (6) If yes -
 - (a) on what matters; and
 - (b) when?

Hon MAX EVANS replied:

- (1) \$75,000.
- (2) Yes.
- (3) (a) Out of pocket expenses such as secretarial services, telephone calls, facsimiles and courier services provided by his business office and home, and use of his private motor vehicle on the Water Corporation's business outside the metropolitan area.
 - (b) \$3,511 during the year ended 30 June 1997.
- (4) An office is provided for the Chairman at the Water Corporation's headquarters at Leederville. The Chairman has access to normal office telecommunications services (telephone and facsimile). The corporation does not provide him with a vehicle.
- (5) Yes.
- (6) (a) (i) In relation to the Corporation's advertising for tenders for the provision of insurance services.
 - (ii) In relation to a contract for work in connection with the refurbishment of the John Tonkin Water Centre (the Corporation's head office at Leederville)
- (b) (i) 29 January 1996.
 - (ii) 6 May 1996.

WATER CORPORATION - BOARD

Meetings - Location and Cost

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

- (1) On how many occasions has the Water Corporation Board met outside the Perth Metropolitan area since January 1, 1996?
- (2) What has been the location of these meetings and when did they meet?
- (3) What was the reason on each occasion for the board meeting outside the Perth Metropolitan area?
- (4) What was the cost of each board meeting held outside the Perth Metropolitan area?
- (5) How many people, not based in the Perth Metropolitan area, are members of the Water Corporation Board?

Hon MAX EVANS replied:

- (1) None.
- (2-4) Not applicable.
- (5) One.

WATER CORPORATION - MARKET EQUITY PTY LTD

Contract Details

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

- (1) What is the nature of arrangements between the Water Corporation and Market Equity?
- (2) On what basis was Market Equity chosen?
- (3) Is it a fixed price contract or is each job individually quoted?
- (4) What other companies were considered?
- (5) On what basis were they selected for consideration?

Hon MAX EVANS replied:

- (1) Market Equity is under contract to the Corporation to provide market research services for a period of three years, reviewable annually.
- (2) Market Equity was selected as the best of the six tenders by a panel using a process with agreed selection criteria.
- (3) Each job is individually quoted.
- (4) The five other companies who submitted proposals conforming with the tender parameters were; REARK Research, AMR Quantum Harris, Barrington Consulting Group, Market Alliance Solutions and David Hides Consulting Group.
- (5) The Corporation advertised the Request for Tender to provide market research services on Saturday, 20 July 1996.

WATER CORPORATION - REMUNERATION PACKAGING

Engagement of Consultant

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

- (1) Has the Water Corporation engaged an outside consultant to assist it with remuneration packaging?
- (2) If yes -
 - (a) what is the name of the consultant;
 - (b) what are the names of the consulting principals;
 - (c) what process was undertaken to choose the consultants?

Hon MAX EVANS replied:

- (1) Yes.
- (2)
 - (a) Enhanced Remuneration Solutions Pty Ltd
 - (b) Richard Moore
Charles Hayward
Steven Perica
 - (c) Enhanced Remuneration Solutions Pty Ltd was selected from amongst only three companies within Western Australia who provide an administration bureau service. An evaluation of each company was made by representatives from the Corporation's finance and human resource areas. Each company was invited to provide a written expression of interest addressing a list of key issues. All were subsequently invited to provide a verbal presentation. Following this, referee checks were conducted.

The final selection decision, and the announcement of this, was then held pending Board endorsement of the Corporation's Salary Packaging Scheme. Announcement of the decision was made Monday, 23 June 1997.

WATER CORPORATION - SERVICES

Cost Increases

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

- (1) What was the average percentage increase in the cost of Water Corporation services to customers in -
 - (a) 1995/96;
 - (b) 1996/97;
 - (c) 1997/98?
- (2) What was the average percentage increase for metropolitan residential customers in -
 - (a) 1995/96;
 - (b) 1996/97;
 - (c) 1997/98?
- (3) What was the average percentage increase for country residential customers in -
 - (a) 1995/96;
 - (b) 1996/97;
 - (c) 1997/98?
- (4) Do these increases in costs to country residential customers vary from region to region and, if so, will the Minister for Water Resources give the average cost increase for each regional area for both 1995/96 and 1996/97?

Hon MAX EVANS replied:

- (1)
 - (a) -1.0%
 - (b) -1.0%
 - (c) 3.4%

While there was no increase in prices for 1995/96 and 1996/97, metropolitan business sewerage charges were reduced by \$5m in each of those two years resulting in the real terms decrease to charges of approximately 1% per annum. The \$3.1m reduction in those charges for 1997/98 resulted in the nominal 4% price increase being reduced to 3.4% in real terms.

- (2)
 - (a) 2.0%
 - (b) 1.5%
 - (c) 4.0%
- (3)
 - (a) 2.8%
 - (b) 2.4%
 - (c) 5.2%
- (4) Increases relating to residential water service charges and to charges for the average water consumption apply to all properties across the State. Increases relating to residential sewerage charges vary depending on the cost of operating each of the 79 individual country town sewerage schemes and are unrelated to geographical locations.

QUESTIONS WITHOUT NOTICE

TOURISM - ELLE RACING

Contract - Payment of Funds

781. Hon KEN TRAVERS to the Minister for Tourism:

- (1) Will the Minister confirm that Elle Racing Pty Ltd has not received any money from the State Government from the part of the \$1m contract relating to sponsorship of the yacht because no yacht is sailing in the Whitbread Round the World Race under the name of Elle Racing Pty Ltd?
- (2) How many contracts has the Western Australian Tourism Commission entered into with Mr Harvey and/or Elle Racing Pty Ltd.

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) The answer to question (2) is one.

So that members opposite do not continue to peddle the misinformation it has spread already, assisted by *The West Australian*, I will explain very clearly how this contract was constructed and how the funds were paid out so that they will understand the situation once and for all.

The contract between the WA Tourism Commission and Elle Racing Pty Ltd was valued at \$1m. The \$1m was for the whole contract to be delivered by Elle Racing Pty Ltd. It involved a range of elements, but essentially the entry of a yacht in the Whitbread Round the World Race and having Elle Macpherson in a range of advertisements and the race itself. The total price for that contract was \$1m. The contract also notionally allocated \$600 000 of the \$1m to the involvement of Elle Macpherson. The remaining \$400 000 relates to the State's sponsorship of the race. The agreement between Elle Macpherson and Elle Racing Pty Ltd, in which the WATC has no involvement, was that all the funds in this contract - that is, the money due to Elle Macpherson for her services - was to be paid to Elle Racing Pty Ltd. The arrangement she had with Elle Racing Pty Ltd was that the company would use the funds however it wished. That means in effect that the Government had a contract between the WATC and Elle Racing Pty Ltd for \$1m notionally of which \$600 000 was for Elle Macpherson's services and \$400 000 for our sponsorship of the yacht.

The contract also provided for the payment to be made over a period. I emphasise that none of the payments relates to any one aspect of the \$1m. The first payment was \$100 000 and related to the execution of the contract. Once the contract was agreed to, \$100 000 was paid as part of it. The second \$200 000 was to be paid at the announcement of the contract. The next \$200 000 was to be paid, I think, by 19 December 1996, but the contract also provided that, rather than paying \$200 000 cash, the Government could provide \$200 000 worth of contra with respect to support of the yacht, but it had to be arranged by 19 December or paid in cash. Ultimately \$60 000 worth of contra was arranged and \$140 000 was paid in cash on 19 December.

Hon Ken Travers: That was for the support of the yacht?

Hon N.F. MOORE: No; it was part of the \$1m contract.

Hon Ken Travers: The contra was in support of the yacht?

Hon N.F. MOORE: Yes, the \$60 000 contra was in support of the yacht, but that was not delivered.

Hon Ken Travers interjected.

Hon N.F. MOORE: Hon Kim Travers should let me finish. Half the trouble is he does not listen. The \$200 000 was to be paid in cash or in contra as part of a \$1m deal; how Mr Harvey used it was his business. The point is that we did not raise \$200 000 worth of contra but \$60 000, which is unused because there is no yacht. The WATC was required to pay the \$140 000 cash because the \$200 000 worth of contra had not been arranged. The next part of the payment was another \$500 000 due on 31 July. Those amounts total \$1m.

In reality we paid \$300 000 in two cheques on 14 November 1996; that is, the \$100 000 for the execution and the \$200 000 at the announcement of the contract. The amount of \$140 000 was paid on 19 December as the next payment, and \$60 000 worth of contra was arranged. That is in place and would have been available to be used by Elle Racing Pty Ltd had it entered a yacht.

In early July when the decision was made to not proceed with the contract with Elle Racing Pty Ltd, the WATC was faced with the prospect of paying out the final \$500 000, which it decided it would not do because the contract was terminated. However, we made an assessment about the amount of funds Elle Racing Pty Ltd had received for the Elle contribution, bearing in mind that the notional number of dollars for her contribution was \$600 000. We sought independent advice about what proportion of the \$600 000 she had delivered, bearing in mind that part of her contract was that she be involved in the race. However, she could not deliver on that because the race was not going to occur. The WATC therefore sought independent advice on the amount to which her \$600 000 should be reduced to compensate for her not being involved in the race. The advice was to reduce it to \$60 000. The WATC then paid another \$100 000 on 31 July to Elle Racing Pty Ltd, making a total of \$540 000, which we believe was our obligation for those services provided by Elle Macpherson herself. In effect no money was paid for the yacht sponsorship. The \$540 000 we paid is what we believe to be our obligation to Elle Macpherson and delivery of services by her.

Hon Peter Foss interjected.

Hon N.F. MOORE: People wrote to the papers saying that we lost money and someone said we lost millions. I do not know why the Editor of *The West Australian* keeps printing letters like that. We have not lost one cent; we paid \$540 000 out of a \$1m contract. If my sums are accurate \$460 000 is unspent.

For the \$540 000 eight magnificent advertisements have been made by Elle Macpherson. They are being shown around the world and are encouraging people to come to Western Australia. I hope members opposite will be supportive of that.

Mr Harvey received the money owing to him and his relationship with Miss Macpherson is his business. I do not know whether Elle Macpherson received any money. I suspect the \$540 000 all went to Mr Harvey to get his yacht going. He could not get a sponsor to finance his boat and therefore he could not put the deal together and was consequently unable to enter a yacht in the race. The WATC was always going to be a fairly minor sponsor contributing \$400 000 out of a several million dollar project. Mr Harvey was unable to raise the rest of the money, therefore his racing venture collapsed; not because of anything the Western Australian Tourism Commission did but because Mr Harvey could not get a sponsor. That is the sum total of it all. The Government paid Elle Racing Pty Ltd \$540 000, as per the contract for instalments. Those instalments were made in accordance with the contract, and the money was paid for the totality of the contract; but the notional distribution was \$600 000 to Elle Racing for Elle Macpherson's services and \$400 000 as the notional sponsorship for the yacht. That is the simple statement of what happened. Any suggestion that the Government should not have given the \$140 000 -

Hon Ken Travers: Was the \$140 000 to do with the home porting of the yacht?

Hon N.F. MOORE: No.

The PRESIDENT: Order! I have allowed the Minister to give what seems to be a fairly lengthy explanation because the member who asked the question and other members seem interested in the answer. The member who asked the question has now asked another question. I do not need any interjections; I need the Minister to draw his answer to a close because other members want to ask questions.

Hon N.F. MOORE: I hope members understand why I have taken some time to answer the question and I am happy to extend question time by five minutes to compensate.

The member misunderstands the situation. A misunderstanding was also portrayed in the newspaper this morning that somehow the \$140 000 related to home porting. It did not. The payments the Government made were part of the \$1m contract. The fact is that \$200 000 could have been delivered by way of contra at 19 September. The Government was unable to do that, but it was able to deliver \$60 000 worth of contra and it made another payment of \$140 000 in the same way as it made the first two payments. The last payment was made as part of the \$1m contract. The \$60 000 worth of contra is still sitting there. That business is in Fremantle and the Government is prepared to expend that amount to assist this yacht. It will not be paid to anyone; it will not be used because there is no yacht.

They are the simple facts of the matter and I am appalled at the negative attitude taken by the media on this issue. I have never seen such a knocking campaign by *The West Australian* as I have seen in this instance and it is ably assisted by the Opposition. The Opposition knocks all the time. The Government got a very good deal out of this. Everyone outside Western Australia says it is the best deal they have seen in tourism matters.

The PRESIDENT: Order! I ask the Minister to conclude the answer.

TOURISM - ELLE RACING

Contract - Redefining

782. Hon KEN TRAVERS to the Minister for Tourism:

I thank the Minister for his extensive reply. In today's *The West Australian* it was reported that the Minister said that after the contract with Mr Harvey was terminated the instalment - it related to the contra instalment - was redefined. Can the Minister explain how a contract can be redefined after the money had already been paid and the contract had been terminated?

Point of Order

Hon PETER FOSS: Where did the Minister say that?

The PRESIDENT: Can the member advise the House from what he was quoting? I understood it to be from today's *The West Australian*.

Hon PETER FOSS: I understood he is supposed to have said it in the Parliament and if the member wishes to refer to something that is said in the Parliament he should refer to the *Hansard*.

The PRESIDENT: I realise that, but I am asking the member to indicate to the House from what he is quoting?

Hon KEN TRAVERS: I was reporting an article in today's *The West Australian*.

The PRESIDENT: If that is the case the member is reporting something that was printed in *The West Australian* and the Minister can reply to the question.

Questions without Notice Resumed

Hon N.F. MOORE replied: That is the interpretation put on an explanation which I made at great length to a journalist. At no time have I used the word "redefined" because it is not my understanding of what happened. I hope my answer today properly explained the situation. It is not a redefining. The situation is very simple. As I said yesterday in answer to a question, the Government paid \$140 000 because the contract required it to do that. It required certain payments at certain times. The word "redefined" has been used by the journalist and it is her interpretation of what I said. Regrettably, as is often the case, journalists misinterpret things and get it wrong.

ROADS - RIPON HILLS ROAD, PILBARA

Construction

783. Hon GIZ WATSON to the Minister for Transport:

I refer to the proposed Oakover Road construction in the Pilbara.

- (1) At what stage has the development of that road reached at this time?
- (2) Has the road and its construction been referred to the Environmental Protection Authority?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) I presume the member is referring to the planned Ripon Hills Road, which will cross the Oakover River. Tenders for the initial stage will be announced shortly. The other stages are being designed.
- (2) Yes. This road is to replace the current Woodie-Woodie Road, which is often acknowledged as the worst road in Australia. The road is being constructed to enable all traffic to continue to Marble Bar on that main road and then go directly east to service the mining and other areas. I guess the member is aware that the mining companies have given an undertaking to contribute to that road.

TOURISM - COCKATOO AND KINGFISHER ISLANDS

Leases

784. Hon NORM KELLY to the Minister for Tourism:

- (1) Who owns Cockatoo and Kingfisher Islands in the Kimberley region?
- (2) Are there leases covering parts or all of these islands?
- (3) If yes, what is the nature of these leases and who owns them?
- (4) Is the Government considering contributing \$3m towards the expansion of the existing airstrip on Cockatoo Island?
- (5) What cost benefit analysis or assessments of this proposal have been conducted and by whom?
- (6) Will the Government table copies of these assessments and reports?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) These questions should be referred to the Minister for Lands because they come under his responsibility.
- (4)-(6) These questions should be referred to the Minister for Transport because they come under his responsibility.

MINISTRY OF JUSTICE - MR DAVID MASTERS

Transfer from Northern Territory

785. Hon CHERYL DAVENPORT to the Attorney General:

- (1) Has the Minister signed the papers for the transfer of David Troy Masters to Western Australia to serve out his Northern Territory sentence in Western Australia?
- (2) If yes, when is Masters to return to Western Australia?
- (3) Will Masters be charged for the Victoria Park murder upon his return to Western Australia?
- (4) If he is subsequently acquitted on this charge, will he then be returned to the Northern Territory?

Hon PETER FOSS replied:

- (1) Yes, I have, but it is a three part process. The first part is a document signed by the Minister in the transferring jurisdiction and if it is one in which he has no jurisdiction he merely has to determine certain facts and then sign. The second one is a discretionary document which is signed by me and the third one is the discretionary document to be signed by the Northern Territory Minister. I have certainly signed the discretionary document I have.
- (2) That is an operational matter. I am not aware of that and I do not know that we would normally announce when high security prisoners will be transferred. It is preferable not to advise those matters.
- (3) Whether he will be charged is a matter for the police and the Director of Public Prosecutions.
- (4) It is a question of law as to whether he will return to the Northern Territory, but it is up to him whether he wishes to apply to go back.

RAILWAYS - NORTH EASTERN WHEATBELT

Closure

786. Hon B.K. DONALDSON to the Minister for Transport:

- (1) Is the Minister aware of rumours circulating in the community about the possible closure of a railway line used seasonally in the north eastern wheatbelt?
- (2) If yes, what process is used to assess road or rail requirements for the movement of grain on the narrow gauge rail or roads running parallel to that narrow gauge rail?

Hon E.J. CHARLTON replied:

- (1)-(2) There is some speculation in the community that the Bonnie Rock railway line will no longer be used and the grain that is normally transported by rail on that line will be transported by road.

Hon Kim Chance: Is it the Bonnie Rock to Bencubbin railway line?

Hon E.J. CHARLTON: No, the Bonnie Rock to Wialki line. Last year the Government established a Grain Logistics Committee whose members are representative of the grain industry. I have said publicly that the grain industry must make these decisions. The Government made a commitment that it would not close any railway lines.

Last year, the Wheat Board demanded that additional grain be taken to the ports in quick time, so Westrail moved that grain to fast unloading bins using road transport to facilitate that cartage from other receival points. For the next 25 years, we want the Grain Logistics Committee to make that decision, not the Government or Westrail.

MAIN ROADS WESTERN AUSTRALIA - STAFF

Reduction

787. Hon TOM STEPHENS to the Minister for Transport:

- (1) Can the Minister confirm that the new Main Roads Commissioner is proposing to shed about 800 staff as part of the Best Roads blueprint?
- (2) Has the Minister approved the major reduction of jobs in the department?

Hon E.J. CHARLTON replied:

- (1)-(2) The Best Roads blueprint was put in place approximately one year ago. It publicly refers to reductions in the number of staff in that organisation. What is happening now, and will continue to occur, is that the organisation is ensuring that the money road users pay, in the form of licences and the equivalent fuel levy being raised by the Commonwealth as a consequence of the High Court decision, is used to the greater benefit of road users.

Main Roads should be judged not on the number of people it employs, but on how it administers its dollars to ensure that the maximum benefit accrues to the community across Western Australia.

Hon Nick Griffiths: How many jobs will be shed?

Hon E.J. CHARLTON: It has nothing to do with it. The number of people working for Main Roads directly or indirectly is beside the point. Members opposite should have learnt from their past mistakes in trying to protect unions. I understand that the question has come from the union executive, and has nothing to do with Main Roads or the community of Western Australia.

Hon Tom Stephens: I asked the question.

Hon E.J. CHARLTON: The Leader of the Opposition is only the messenger, I suspect.

Hon Tom Stephens: You're the monkey.

The PRESIDENT: Order!

Hon E.J. CHARLTON: Main Roads will continue to employ the number of people it takes to deliver its allocated funding in the most efficient manner. The number which remain there at the end of day remains to be seen. The new Commissioner of Main Roads has not presented me with any recommendations on job numbers. He has accepted the blueprint of the Best Roads plan and, like the former Commissioner of Main Roads was doing, he is implementing it.

MINISTRY OF JUSTICE - GENDER AWARENESS PROGRAM

788. Hon HELEN HODGSON to the Attorney General:

The Chief Justice's gender bias task force report recommended in 1994 that a program be established for current and prospective judges and magistrates to receive continuing education in gender bias issues.

- (1) Has the Ministry of Justice developed any such program, or is it aware of any such program having been developed?
- (2) How often, and on what dates, has that program been delivered?
- (3) Who delivered each program?
- (4) What format did each program take and for how long did they extend?
- (5) How many judges and/or magistrates attended each program?
- (6) Has magistrate Ron Gething attended such a program?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

Yes, the Ministry of Justice is aware that gender bias training has taken place for judges and magistrates. By reason of the independence of the judiciary, the training of the judiciary is a matter for the chief judicial officer, as is the conduct of individual judicial officers. Therefore, I will put these questions directly to the chief judicial officer and will respond once his comments are to hand.

FIRE SERVICES - FIRE BRIGADES BOARD

Representation

789. Hon TOM STEPHENS to the Attorney General representing the Minister for Emergency Services:

- (1) Are any propositions before the Minister, or in the process of being drafted for the Minister, to eliminate or lower the representation of the WA Volunteer Fire Brigades Association on the WA Fire Brigades Board?

- (2) If so, what is the substance of the proposal and how does the Minister propose to give representation to some 2 500 volunteer fire and rescue personnel in this State?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) In June 1997 the Minister for Emergency Services announced the establishment of the Emergency Services Task Force to progress the implementation of a proposed new structure to improve coordination and planning across the Emergency Services portfolio. The aim of the new structure will be to achieve overall improvements in the effectiveness and coherence of policy development and implementation; a coordinated approach to planning and management matters across agencies; and an improved delivery of services to the community and volunteers by bringing together the Bush Fires Board, the Fire and Rescue Service, and the Western Australian State Emergency Service under the umbrella of one emergency services board and chief executive officer. The FRS, BFB and WASES will retain operational roles as divisions under the new structure, but will share common corporate support services.

Under the proposed structure currently being finalised by the task force, the importance of the contribution of volunteers from all the agencies to the decision making of the new authority has been clearly recognised; it will be catered for.

It is proposed to replace the existing FRS and BFB boards with one board of management with members appointed on the basis of their individual expertise and experience in various areas, such as senior management, strategic focus, emergency services, finance, community education and relations and volunteerism. In addition, each of the three emergency service agencies will have a consultative committee which will include volunteer representatives. It is further proposed that additional volunteer input to the decision making of the new authority will come from a proposed twice yearly volunteer forum.

HEALTH - CARDIOTHORACIC SURGERY

Strategies for Improvement

790. Hon RAY HALLIGAN to the Minister representing the Minister for Health:

What strategies has the Government put in place to improve the standard of health care, particularly in cardiothoracic surgery, in Western Australia?

Hon Tom Stephens: Shutting wards and closing down hospitals!

Hon MAX EVANS replied:

That is not my answer.

Several members interjected.

The PRESIDENT: Order! Members should calm down and listen to the answer.

Hon MAX EVANS: Cardiothoracic surgery is well covered in Western Australia with services being provided at Royal Perth, Sir Charles Gairdner, Fremantle and the Mount Hospitals. There are no identified long-wait patients in public hospitals, and the average waiting time is currently four to six weeks. The opening of the new service at Fremantle Hospital in August is a demonstration of the Government's commitment to provide services close to where people live. The Metropolitan Health Service Board and the Health Department will continue to explore means by which such services can be redistributed within the metropolitan area to ensure people get access to the greatest possible level of service close to where they live.

ROADS - SUES ROAD

Upgrading

791. Hon CHRISTINE SHARP to the Minister for Transport:

- (1) What was the total cost of upgrading Sues Road in order to transport mineral sands?
- (2) Does this costing include the cost of the Nannup bypass and, if not, how much was the cost of developing the Nannup bypass?

- (3) What is the total cost of road improvements, including the projected Busselton bypass, in order to transport mineral sands from the northern end of Sues Road to Bunbury?
- (4) What was the total cost tendered by Westrail for the transportation of mineral sands from Beenup to Bunbury?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) It was a cost of \$64.3m, including contributions of \$17.5m from Broken Hill Proprietary Co Ltd and \$2.6m from Cable Sands Pty Ltd.
- (2) No, the Nannup bypass was not built. There was a plan to build the Nannup bypass on the understanding that the Beenup mine did not go into operation; therefore, there was no requirement for the new road.
- (3) No cost was involved. The improvement to the road system between the southern end of the Ludlow deviation and Bunbury has been undertaken in response to the demand from rapidly increasing tourist and general traffic. The proposed Busselton bypass is not part of the mineral sands cartage route; it is a totally separate issue. Additional tourist traffic needs to be dealt with from Mandurah right down the south west.
- (4) Westrail did not tender transportation costs. The capital cost to construct the railway was estimated to be \$59m in January 1995. The previous Labor Government had already planned and identified Sues Road as the alignment for road transport for that task. When we came to government, we quickly put together a plan for a rail transport alternative, but there was no guarantee that the mine would go ahead.

Hon Bob Thomas: The volumes were too small anyway.

Hon E.J. CHARLTON: That is in question. I would like to have my time over again going back a number of years. The current situation, with Westrail running as efficiently as it is, would produce a very different result.

TRANSPORT - BUS

Contracts - Renegotiation of Price

792. Hon BOB THOMAS to the Minister for Transport:

- (1) Have all or any of the private bus operators made submissions to recover the cost of wage increases arising out of consent awards entered into by the bus operators since winning the competitive tender?
- (2) Have the companies made any other submissions seeking a renegotiation of price pursuant to escalation clauses in the contract?
- (3) If yes, what are the price increases being sought?
- (4) What provision has been made in the Department of Transport's budget to provide for these cost increases?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(3) Price increases sought relate primarily to increases in the price of distillate and wage increases flowing from a dispute initiated by the Transport Workers Union against one private operator in the Federal Industrial Relations Commission. There is also a claim before the Industrial Relations Commission by the Public Transport Union for a 20 per cent pay rise. The PTU represents MetroBus employees.
- (4) The Department of Transport's budget contains provision for an annual contract cost review. Because of misleading statements made today by the Opposition spokesperson on Transport, it is important that I inform the House that the intent of the question that has been asked is that the Western Australian private operators supplying 50 per cent of public transport will burden this State with increased costs. That is totally wrong. As a consequence of the Government entering into an arrangement to contract out 50 per cent of public transport, we have had already a \$30m reduction in the cost of operating the same services. We have also had a significant improvement in the performance by the private operators as compared with MetroBus. That has not been as a consequence of bad management by MetroBus but simply because its employees have less application to want to service the public. I will give a quick example. Missed trips by MetroBus in a six week period this year were 1 016, from memory, and those missed by the private operators were 25. That illustrates the sorts of benefits and changes that have been made.

Hon Kim Chance: That is a very selective quote. I have seen the services record, which is not that brilliant.

Hon E.J. CHARLTON: If members opposite want to hang their hats on the tired old rhetoric of knock, knock, knock -

Several members interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: The truth is that it seems to hurt the Labor Party, which is totally opposed to change. For the first time in nine years we have seen an increase in public transport use. In all that time the Opposition has knocked the changes we have implemented. It opposed the introduction of private operators. It is now trying to say that the cost of operating the 50 per cent of public transport operated by private operators will increase by 50 per cent. It has never mentioned the fact that the PTU has made a 20 per cent claim. Does the Opposition disagree with that claim by the PTU or does it support it?

Several members interjected.

The PRESIDENT: Order! The Minister has gone beyond providing information and is now entering into debate.

TRANSPORT - BUS

Contracts - Tabling of Price Rises

793. Hon BOB THOMAS to the Minister for Transport:

As a supplementary question, on the radio this morning the Minister promised to provide the Opposition with details of price rises relating to the private bus contracts. Is the Minister prepared to table that information and, if yes, when?

Hon E.J. CHARLTON replied:

No.

Several members interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: The annual report of the Department of Transport quite specifically details the amount of funding allocated to the private bus contractors.

Hon Bob Thomas interjected.

Hon E.J. CHARLTON: If the member gets the transcript he will see what I said. I said that I would make available all the information that the member or any other member wanted in order to deliberate on the additional costs which they thought would be the reasons for any additional charges.

Several members interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: If members have a specific request at any time, I will respond to it.

SECURITY AND INQUIRY AGENTS - LICENCES AND TRAINING COURSES

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

- (1) How many individuals in Western Australia hold current -
 - (a) security agents' licences; and
 - (b) inquiry agents' licences?
- (2) Do any of these individuals have criminal records?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) (a) As at 11 September 1997, records held by the commercial agents squad indicates that 248 individuals hold current security agent licences.

- (b) As at 11 September 1997, records held by the commercial agents squad indicate that 183 individuals hold current inquiry agent licences.
- (2) Yes. Some individuals do have a criminal record. However, each application is assessed on an individual basis whereby the record is considered in relation to the recency - that is a word, because I have found in it the dictionary - and relevancy of the offence or offences, existing case law governing the issue of licences and other matters relative to the fit and proper status of the individual to hold a licence.

TRANSPORT - BUS

Replacement

795. Hon LJILJANNA RAVLICH to the Minister for Transport:

The Auditor General's report on competition reform of Transperth bus services, at page 22, states that the Department of Transport conservatively estimates that it has an immediate need for about 130 replacement buses and an ongoing need for about 60 buses a year.

- (1) Have the 130 buses been replaced?
- (2) How many buses will be replaced this financial year?
- (3) How can the public ensure that they are safe on public transport?
- (4) Will the Government be able to meet its target of 60 replacement buses a year and, if not, what is likely to be the number of replacement buses?

The PRESIDENT: Order! Part (3) of the question, apart from seeking an opinion, is very hypothetical. I ask the Minister to answer the balance of the question.

Hon E.J. CHARLTON replied:

- (1)-(4) Mr President, I would not question your assessment of the question. I can give an assurance that the travelling public are not in any way riding on public transport which is not safe and does not meet every requirement of transport infrastructure. We have called tenders for the bus fleet. Those tenders have closed and are being assessed. When the selection is made of the preferred tenderer to provide buses to the State for the total bus replacement program, because we are not calling tenders for 130 buses -

Hon Ljiljanna Ravlich: That is the requirement.

Hon E.J. CHARLTON: It might be the member's requirement.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich has asked the question; the Minister is now answering it.

Hon E.J. CHARLTON: The Auditor General made that comment because the Government decided to purchase that number of buses first as part of the total contract. I am informing the member so that misleading statements are not made or misconceptions held. Once the contract is completed we will take delivery of the first batch of buses; whether it is 130, 160 or 200 remains to be seen. For the first time in the 40 or 50 year history of public transport operating in this State under a government operator, we have had independent vehicle inspections. That was previously not available. People could not make complaints about missed services, late services and non-services, or about dirty buses, to anyone other than the one government operator.

The private vehicles have passed those inspections, the MetroBus vehicles have now passed those inspections and any defects have been rectified, and people can now look forward with 100 per cent confidence to a more efficient public transport system that will be delivered by people who are providing competition. We have seen for the first time some real competition in the marketplace. I cannot understand why the Labor Party keeps trying to denigrate the people who are providing the service. It does not care about the public. All it cares about is the Public Transport Union.

TAXATION - STATE

Avoidance - Trusts

796. Hon N.D. GRIFFITHS to the Minister for Finance:

What steps is the Minister taking to minimise the avoidance of state taxes by the use of trusts and other devices?

Hon MAX EVANS replied:

I am trying to think where trusts can be used. We catch up with avoidance of state taxes by the use of trusts. People who transfer assets out of trusts to beneficiaries pay stamp duty of \$5. Trusts cannot be used to avoid land tax or payroll tax. I am not sure what the member is talking about. If he is talking about using trusts to avoid income tax, he may not know that we do not collect income tax.

FAMILY AND CHILDREN'S SERVICES - FAMILY HELPLINE

*Benefits***797. Hon RAY HALLIGAN to the Minister representing the Minister for Family and Children's Services:**

What benefits has the community received through the Government initiated Family Helpline?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

The Family Helpline is an early intervention and prevention service established by the Government in 1994 as part of its Abuse in Families public education campaign. Early intervention and prevention is a major priority of the Government in working to strengthen families. It is vital that people seek help before problems become too difficult. The helpline is a confidential and professional telephone counselling and information service for families with relationship difficulties. The service is free and available 24 hours a day, seven days a week, to anyone who believes that the relationships between family members can be improved or is afraid that the family may separate without counselling or information.

In 1996-97, 9 524 calls were made to the Family Helpline on issues such as family problems, parent-teen conflict and community resource information. Seventy-five per cent of the calls were from women. The work of the counsellors at the Family Helpline is backed up by a range of non-government agencies which provide counselling and education services to people experiencing relationship difficulties. It also complements a broad range of services under the Parenting Plus campaign, such as the Parenting Information Centre.

The helpline is actively promoted in the community to increase awareness of the service and encourage people to telephone it before problems become too serious. A promotional campaign held during 1996-97 resulted in a threefold increase in calls. In addition, a specific promotion targeting people from eight language groups was run to raise awareness of the helpline among ethnic communities with few support networks.

RAILWAYS - WESTRAIL

*Freight Cartage***798. Hon KIM CHANCE to the Minister for Transport:**

- (1) Has Westrail advised clients of Specialised Container Transport and TNT Australia that it will no longer cart freight from the time the current contracts expire?
- (2) Can the Minister confirm that as from December 1997, Westrail will not run freight trains and will operate only as a freight forwarder?

Hon E.J. CHARLTON replied:

- (1)-(2) I am not aware of a decision by Westrail that it will not continue to cart freight for those two companies. I am aware that some negotiations have taken place between Westrail and those two companies about future operations. It must be acknowledged that Westrail is an operator in its own right and its core business is operating its own trains. Obviously it would encourage SCT and TNT to do likewise - that is, have their own locomotives and operate their own trains - and that is probably the point of the negotiations that are taking place. Westrail will continue to operate as a freight train operator. That is its core business; it is doing it very well and it wants to continue doing it.