WESTERN AUSTRALIA

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(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE COUNCIL

Thursday, 21 August 1997

Legislative Council

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

PETITION - OCEAN VIEW LODGE

Hon B.M. Scott presented a petition, by delivery to the Clerk, from 140 persons about the persistent nuisance and inconvenience caused to residents in the vicinity of Ocean View Lodge in Fremantle from vehicles parked in the area by occupiers of the lodge.

[See paper No 692.]

MOTION - LABOUR RELATIONS LEGISLATION AMENDMENT ACT

Appointment of Select Committee

Resumed from 20 August.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.04 am]: It appears there is a need for discussion between you, Sir, and at least the two leaders in this place about establishing consistency in the way motions on the Notice Paper are handled. There has been a practice that once a motion is moved and seconded, it ends up on the Notice Paper as an order of the day. Today I find this motion has been left as motion No 1. Therefore, I ask for two things to occur: First, for the House to defer consideration of this motion today; and, second, in the meantime, for you, Mr President, to organise discussions between the three of us at least, so that we can establish a consistent method of handling motions once they have been moved and seconded and of determining where they end up on the Notice Paper. I move -

> That consideration of the motion be postponed.

THE PRESIDENT (Hon George Cash): I understand the general tenor of the Leader of the Opposition's comments. I would be pleased to meet with him and the Leader of the House to develop that argument further. If there is a need for change so we get consistency, let us agree on that course of action.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.06 am]: I must also confess to being a little confused at the standing orders as they apply to this matter. So that the Leader of the Opposition understands the situation, the decision to have this motion remain as No 1 is not anything I had to do with. I made the assumption last night that it would descend to where it belongs - on the bottom of the Notice Paper. I was as surprised as the Leader of the Opposition was to find it was still No 1 on the Notice Paper. I am a little sorry we might defer the motion because I wanted to say a few words about it. I hoped the member who had the call would continue his remarks so I could then make a speech in response to the outrageous nonsense we heard yesterday from the Leader of the Opposition. However, I am happy to defer consideration of this motion until we can get a clear position on what happens to motions once they have been moved and seconded. I have taken some advice; that is, it is necessary for a motion to be adjourned before it becomes an order of the day. I am not sure whether that has always been the case. I agree that we must clarify the matter so that we all know what we are doing. I am happy for this motion to be deferred until the matter is resolved.

Question put and passed.

MOTION - OFFICE FOR CHILDREN

Establishment

HON B.M. SCOTT (South Metropolitan) [11.08 am] I move -

> That an office dedicated to the wellbeing and interests of children be established and report directly to the Premier. This office to study all government initiatives, legislation and actions by government agencies and report on the way in which such action could impact on children. That this office studies issues across agencies and portfolios to provide a coordinated, holistic approach to all matters which affect the interests and wellbeing of children.

I take this opportunity to canvass an issue that has been close to me for a long time. Some members will recall that in the Address-in-Reply to the Governor this year I took the opportunity to reflect on the long time in Western Australia that people have talked about, considered and put forward propositions for the establishment of an office for children. I said then that I believe every Government should consider that its children are very important.

Everything we do in government should be reflected by our consideration of the impact on children and their future. My suggestion to establish an office for children is in no way a reflection on current Ministers or their portfolios. My suggestion is one that will bring together in a coordinated way the issues that are important to children and that can affect them in legislation, in regulation and in other matters of government.

I have long held the view that this coordinating role could take effect in a small dedicated office. I liken it to the Office of Road Safety where the Government looked at an issue that was of grave concern and said that a number of Ministers will be involved; that is, the Minister for Police, the Minister for Transport, the Minister for Education and others. The Office of Road Safety has brought together five Ministers, which is a great initiative in approaching a subject which we, as legislators and members of Parliament responsible to the communities we represent, have elevated to an issue of great priority. In my view we need that sort of office to coordinate the roles of the various Ministers.

Very often we cannot pull children's issues apart. In the very early stages it was difficult to separate care, education and heath, for instance; yet, three portfolios deal with those issues. Not to have some cross-pollinisation or coordination across portfolios is to the detriment of children in this State. In my speech during the Address-in-Reply I highlighted some of the early childhood stories that were, and still seem to be, very prominent in Western Australia. I looked at the mental health problems in children, the prevalence of hookworm in Aboriginal children, the low rate of immunisation and the high increase in infectious diseases like whooping cough.

The small dedicated office for children might comprise between five and seven people, under the auspices of an existing agency. It should report to the Premier to give it the special status, importance and priority that our children can expect and which we should demand for them. For members' benefit I will canvass some of the support for such an office and some information I gathered in support of it.

A major role of this office, from a legislative point of view, is that the Parliament should ensure that an office or a committee should study all the legislation that comes before the Parliament and make an impact statement; for example, the proposed changes to the liquor laws and how they would affect children.

The Human Reproductive Technology Amendment Bill is under review. Whilst that may appear to affect just the adults and childless couples, there are inherent matters that are very relevant to the children of the offspring of that technology; for instance, how many siblings will children have in a situation where donor sperms are frozen or where there is multiple freezing of embryos? There are often time gaps between when the frozen embryos are used. Often donor sperm is used in these situations. Every person has to right to know his or her origin. Knowing their origins is inherent in the development of the egocentricity of all people, not only children. I hold the same view on the adoption legislation. All persons have the right to know where they come from and how many brothers and sisters they have.

There are other implications to do with health for children to know their origin. The adoption legislation is currently under review by the appropriate agency, Family and Children's Services, and a report has been put out. That is the proper process. I am suggesting that the office for children should get the report from the office of the Minister for Family and Children's Services and have a quick look at it to see whether children have been considered in all the deliberations. In the issue of adoption there is the question of the origin of people; where they come from, and the diseases carried by their birth family, which is important later to their good growth and development. In the review of the adoption legislation, we should focus not only on the relinquishing parents and adoptive families, but on whether the full implications for children in the future have been considered.

The industrial relations legislation was a significant Bill that passed through this House and could have significant impacts on a number of children; for example, the changes in work hours, the flexibility that is given, who will look after the children and whether those new industrial legislative issues will impact - if so, how - on families and children.

I have not been the only advocate for this office . There are a number of advocates across this nation and the whole international spectrum. I have had the benefit of talking with a couple of people just recently, to which I will refer at a later date. I am most concerned to ensure that we have an integrated and coherent early childhood service. We have separate portfolios, one being under the Minister for Family and Children's Services dealing with child care. Until this year we have had two portfolios, two Ministers, delivering the services to four year olds in kindergartens and a number of other centres. Under two Ministers can parents expect a service of equity and equality? I find it very difficult to imagine how that can be without somebody overviewing it. Of course, in the delivery of the services to four year olds, we have recommended that they come under one Minister. We still have child care services coming under the responsibility of another Minister as well. I believe the care and education of very small children is probably better delivered under one Minister, but that is not happening.

We have all of these independent, separate portfolios and offices in government. I am seeking an integrated coordination of these services so that, firstly, there is not duplication and wastage and, secondly and more importantly, they are serving the very people they are meant to serve. Very often with the separation of powers in a portfolio there can be a blinkered approach with, for example, a Minister saying, "I am the Minister for Education so my role is to look at education." At the same time people out there are saying, "Hey, those facilities are not quite right; those rooms are not big enough for little children; parents cannot access this school; there is nowhere for them to park cars; the room is not big enough for play; the playground is not sufficient for tiny children." In early childhood education those issues could be looked at by the office of children and reported to the Premier, in the same way as the council comes together for the Office of Road Safety.

Also, the child care area needs a legal framework, including legislation, to provide a universal framework of registration and inspection. Although we may deliver the service in a variety of ways through government and the private sector, we need to protect children within those services. Day care is probably one of the easy examples when we look at services meant to serve families. Some people will say they serve mainly women, but I have always held the view that children should be the predominant consideration in child care. Policies should be child focused.

A number of issues arise which may cover health, growth and development relating to the early identification. We need to find more effective ways of addressing early learning difficulties. I bring mental health to the attention of the House. Very often mental health issues go undetected in small children. Those of us who work in the area know that disturbed young children often become disturbed young adolescents and disturbed adults. An article headed "Britain's forgotten children" commenced -

> Childhood mental illnesses too often go unnoticed, ignored and untreated. Psychologists say that unless children's problems are taken seriously they will carry them into adulthood.

The article cites a general practitioner who states that routinely children as young as seven years of age express a desire to commit suicide. This is disturbing. This doctor says that the incidence of depressive illness is very significant. A House of Commons select committee has been established in England to publish a report on a year-long investigation into the health of British children. One Parliament may deal with the issue independently by setting up a select committee, but my argument for the establishment of an office for children is that areas which may be deemed as health issues apply also to the education system: The children with mental health problems are probably those who develop attention deficit disorders or those who become disruptive students in the school system. Are these children's needs being met? Is anybody speaking out for those children who obviously need help? The article indicates that 10 per cent of children suffer mental illnesses which are serious enough to warrant treatment.

An office for children should be a small, dedicated office containing people very much attuned to a child's perspective on how children are faring within the system. Matters should be brought to the attention of the various Ministers, as the coordinating role is often absent within the system. Bureaucracies and Ministers point the finger. The classic example was the 17-year-old person within the justice system as the police, the Health Department and the prisons department were saying, "It's not our problem." The office for children could have taken a quick look at such a situation, liaised and coordinated to seek a solution for the 17-year-old person who had nowhere to go.

What may be deemed and treated as bad behaviour by miscreant children often has its origin in mental illness. If these children are not treated early, problems can be caused at school and in later adulthood. A number of a health issues should obviously be dealt with by this office.

A few weeks ago I received from the Australian Association of Paediatric Teaching Centres a document headed "Office for Children". When one has been interested in an issue for many years, upon receiving such a letter one thinks, "My goodness; this is the correspondence I have been waiting for; somebody else supports the idea." This letter provides a different health perspective which I now share with the House -

> The Australian Association of Paediatric Teaching Centres has recently proclaimed a policy in relation to the establishment of an Office for Children at a Federal and State/Territory level. Attached is a copy of the statement.
>
> The Association comprises all major paediatric hospitals and units in Australia and New Zealand and advocates for children and their health needs. Clearly the health and well being of children is intertwined with other factors including education, income, and family arrangements. There is currently not one organisation that considers the impact of Government decisions on the well being of children. It is our contention that the establishment of an Office for Children would ensure that the needs of children are addressed by all levels of government. You will see that we are not proposing a grandiose bureaucracy; rather the proposal is that a small office be established in each jurisdiction.

Those are almost the words I would have used to support this proposal in Parliament before I received this letter.

It continues -

> We urge you to support this statement and do all that you can to encourage the introduction of an Office for Children both at a Federal and State/Territory level.

That letter was accompanied by a small document which is headed "Office for Children". It states the reasons for the Australian Association of Paediatric Teaching Centres' support for the establishment of an office for children. It notes -

> In recent times, the interests of minority group and those with special needs have been met by the establishment of offices, departments and commissions within government.

During the years I have been involved with children's issues, we have seen a growth in such bodies as the youth bureau, the women's bureau, the Women's Advisory Council, multicultural and ethnic centres and a range of agencies dealing with what the community would regard as minority issues. However, we are still to achieve bipartisan parliamentary support for an office for children. The report continues -

> The major omission in this recognition process has been children and adolescents whose interests and needs have infrequently and haphazardly been the focus of the attention of society generally and government specifically. Most activity has been reactive and intermittent rather than proactive and coordinated.

Those are the two words I see as describing my endorsement for the office: That its role will be to be "proactive" and a "coordinator". It continues -

> There are numerous examples of situations, at both State and Commonwealth level, where children's interests have not only been ignored, but where children and adolescents have been excluded in an overtly discriminatory level. Examples include allowance for incontinence equipment, carers' allowances, provision of safety restraints in taxi cabs, and availability of drugs and medicines on the Pharmaceutical Benefits Scheme.
>
> . . . The New South Wales Legislative Council Standing Committee on Social Issues has recommended that the Premier establish an Office for Children and young people to be located in the Premier's Department and reporting directly to the Premier.

That is exactly the suggestion I made to the Premier of this State earlier this year after I made my Address-in-Reply speech to the House prior to receiving this document.

In my original report to Hon Norman Moore when he was Minister for Education I also suggested that the Government should look at a coordinating role. I commend the initiative he took to establish the Early Childhood Education Council, which considers issues that are common to the early childhood education sector. It is a worthwhile body. However, it does not go far enough. The document continues -

> The Chief Minister of the Northern Territory has undertaken to review all legislation to see how children and adolescents may be affected.
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> South Australia has reference groups within the South Australian Health Commission, and within the Department of Family and Community Services.
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> The National Australia Day Council has convened a meeting and gained consensus from interested groups that should allow a single coalition for children to be formed.
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> **The Australian Association of Paediatric Teaching Centres affirms** that:
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> The needs of children and adolescents must be recognised and accommodated, particularly in the current climate of growing economic and social concern. The needs of children and adolescents relate to their entire well being which includes health, education, social and legal requirements. The national health policy for children has addressed these issues.
>
> While considerable attention is given to the increasing elderly population, children must not be overlooked and ignored by governments.
>
> Children's hospitals and paediatric centres have a pivotal role in the advocacy for children generally, and not just for their health needs.

The Australian Association of Paediatric Teaching Centres goes into the specific health reasons why it would like an office to be established. In its final analysis it recommends as follows -

> An Office for Children be established in the Federal Department of the Prime Minister and Cabinet and the Premiers/Chief Ministers of each State and Territory of Australia. A similar office should be established within the New Zealand legislature. The Office should be established by an Act of Parliament.

It may be, Mr President, that I will consider a private member's Bill to seek the Parliament's approval of this initiative. To continue-

> The objective of an Office for Children is to ensure that the interests and needs of children are considered in the drafting of legislation and the formulation of regulations. The intent is that the impact on children from birth to eighteen years would be examined during this process.
>
> The Prime Minister, the Premier and Chief Ministers take the initiative in establishing an Office for Children in their own department.
>
> The Office for Children would be a small Office initially no more than 2-5 people, depending on the Government, similar to Offices in Scandinavia.

I will refer to Scandinavia later. To continue -

> The Office would ensure, through appropriate legislation, that all bills and regulations be reviewed by the sponsoring departments to ensure that the needs and interests of children were addressed and that guidelines or benchmarks, yet to be established, were satisfied regarding children.
>
> The Office would also identify problems in existing legislation and regulations that disadvantage children and seek redress of these consistent with the Government's policies and programs.
>
> The Office would provide advice to Government on matters relating to children's needs and interests and would have a national network within all States and Territories of Australia (and possibly New Zealand).
>
> The Office would exercise no statutory authority or have no ability to initiate any investigation. It would not be an Ombudsman.
>
> The Office would seek to influence opinion and policy through effective research, sound advice and the public standing of the Office and its officials. A policy of a small and efficient Office emphasised.
>
> The Office for Children would reinforce Government's concern for children and the value placed on children by the broader electorate.
>
> A small Advisory Committee or Council could provide the Office with the opportunity of involving wider community participation, should consultation and wider debate be deemed advantageous.

Clearly, there is a national and an international push for the promotion of an office for children. I would be very pleased if Western Australia could lead and be the first State after South Australia to establish an office for children.

Recently I was furnished with a document titled "Effective Government Structures for Children". It outlines what the Government should be doing for children and refers, in particular, to Scandinavia. I was told by Professor Peter Moss at the University of London on a recent visit with him, that in Norway, when the budget is brought down, an appendices is attached to the legislation on how it will affect children and that there is a Minister for children's affairs. This State has the portfolio and department of Family and Children's Services. This is a very effective office, but it does not have a coordinating role across all portfolios.

I will quote from the document "Effective Government Structures for Children" to inform members of what is happening in Scandinavia as follows -

> It appears that **Norway** is the first country to publish a 'children's annex' to its national budget. In September each year the Ministry of Children and Family Affairs sends a letter to nine ministries, requesting them to send details of policies for children and related budgets. Overall decision-making about the size of the national budget and how it is divided is led by the Ministry of Finance. The budget and the annex are presented to the Storting (Parliament), and debated.
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> In an introduction to the 1996 children's annex, the Minister for Children and Family Affairs writes:
>
> > *'In this document the Government presents the total package of measures aimed at children and young people during the coming year. With the many different building bricks which form the proposals for the 1996 budget, the Government wishes to continue its endeavours to secure good conditions in which children and young people can grow and flourish..."*

There is much more information in that document which I am sure members would like to share with me but, in essence, the important statement is that the Government wishes to continue its endeavours to secure good conditions in which children and young people can grow and flourish. I am sure I have the support of my colleagues on both sides of the House for something that will secure good conditions for all children so that they can grow and flourish.

The annex goes on to outline the Government's aim as follows -

> *'to develop and integrated, unified policy for children and young people cutting across departmental areas of responsibility and the lines between different sectors. The Department of Children and Family Affairs has overall responsibility for the co-ordination of public provision for children and young people'.*

To put it into a national and international perspective, there is a meritorious argument for such an office.

Each year the United Nations dedicates a year for a particular purpose. The International Year for Children was in 1972. It is a little like the Year for the Family, where we did lots of things in that year to celebrate the virtue of children and families and how important they are. The outcome from that for this State was not felt in any long term impact or set of actions. On the other hand, the International Year of the Disabled for some reason or other has had an enormous impact on Governments, local government authorities and statutory bodies throughout this country on how we deal with disabled people in our community. We provide for the needs of the disabled in planning and building codes. That is very good. This House would be a classic example of a building that was not designed to accommodate disabled people. When Hon Graham Edwards was a member of this place, I admired his tenacity in accessing almost every level. It was not easy.

Hon Tom Stephens: You will be intrigued to know that the very year he leaves we manage to organise the construction of toilets that cater for the disabled.

Hon B.M. SCOTT: On a lighter note, when I was reflecting on some of the earlier speeches by women members of Parliament, I noticed it was also very late when it was finally considered that women should have separate bathrooms in this place.

Hon Bob Thomas: There is a story about that involving Grace Vaughan, but I do not think I should tell Hon Barbara Scott.

Hon B.M. SCOTT: Some level of lobbying by interest groups and minority groups has achieved a separate office for the disabled. However, to date we have not been able to place our children in a priority position, which I believe they should be in, and to establish a similar office. I have canvassed a number of areas and given some samples of the national support for this.

Some people have interpreted my intention of pushing for an office for children as purely a push for children's rights as opposed to parent's rights. I hope I have made it clear that is not my purpose, although I would be one of the first to say that everybody has rights, including children, and we should respect that. Unfortunately, when one speaks about children's rights some people think that it is setting up a confrontationist exercise between children and their parents.

I have gathered a number of press statements over many months. Without going into great detail the headlines include "Ministry for children believed overdue", "Unity with purpose" and "Birth of a big idea". I also have an article written by Professor Peter Moss, who I had the opportunity of speaking with recently at the University of London. Professor Moss argues the need for a strategy of coordination and intergovernment agency cooperation. Some months ago I sat on a forum that was organised by Dr Fiona Stanley. Dr Stanley is totally supportive of this concept. How can we teach children if they have a hearing problem, are malnourished and hungry, or have other health problems which prevent them from learning in the school situation?

One of the most encouraging comments that I have heard in recent times is that rather than our schools being organised so the children fit into them, our schools should accommodate the children and their needs rather than being inflexible. It does not matter what age our children enter the school system, they will all be at different stages of readiness. There must be some flexibility. In Western Australia an office of children could look at that sort of broad based issue. In the United States of America, California prepares an annual report card on the state of its children and where its children are at. That is an area in which the proposed office of children could be proactive. The office could review the state of our children; where are our children at in their fitness, physical health, mental health, immunisation levels, general developmental issues including language, and all those issues that can be measured. One of the functions of the office could be to produce a report card for the Parliament on where our children are at.

I will reinforce the importance of legislators in this. The proposal for an office of children is not in any way meant to be a reflection on current Ministers, ministries or departments. We should look seriously at the impact of all

legislation. This office would play a role in preparing an impact statement; it should look at situations that may affect children and be proactive. In essence it could learn from other places that have set up this model. I am delighted that I have been able to find information to support the way I believe that Western Australia should go.

The other idea is that perhaps we could establish a Cabinet subcommittee like the one for the Office of Road Safety. That would say to the public of Western Australia that our children are very important. I have not canvassed all the issues. I am sure that in the social justice area there are cases of inequality - children under 18 not able to access the law properly and being disadvantaged. The role of the office of children would be to support this State's already very good health, education and care systems. We should try to benchmark that, set some levels, and ensure that we reach those targets so that we have not just a very good system but the best system in the world for children in Western Australia.

Debate adjourned, on motion by Hon Cheryl Davenport.

MOTION - ORDER OF BUSINESS

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.50 am]: I move -

That Order of the Day No 6 be now taken.

I will explain the processes that should apply on Thursday when we have a sessional order that gives precedence to committee business before 1.00 pm. For Thursdays I propose to put Orders of the Day relating to committee reports at the top of the Orders of the Day. If any member wishes to speak on any of the orders related to a printed report, that is for him to decide. The orders will be put in the order in which they are received. It will be up to members to decide whether they wish to avail themselves of the opportunity to speak on a committee report.

I am moving this motion ahead of the disallowance motion, which we will deal with later. That means that any member who wishes to speak on the only Order of the Day relating to a committee report can do so until 1.00 pm.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.51 am]: Normally we would now move on to the next motion. However, on this occasion the leader has moved that we debate Order of the Day No 6. I am happy to leave it on that basis and I second the motion.

Question put and passed.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Twenty-first Report - Control of Election Signs

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Hon N.D. GRIFFITHS: I move -

That the report be noted.

The Joint Standing Committee on Delegated Legislation has as one of its terms of reference the duty to scrutinise regulations. Members will note from the report that the regulations include rules, by-laws and local laws. This report concerns a by-law of the City of Rockingham relating to signs, hoardings and bill postings. The by-law caused the committee concern because it might conflict with the constitutional laws of this State, which the committee points out include having regard to the provisions of the federal Constitution, which applies to all States. The concern was that the relevant by-laws were inconsistent with what are said to be the entrenched provisions of the federal Constitution concerning an applied constitutional guarantee of freedom of communication. That implied guarantee is a matter of some controversy, but that controversy, as such, is not part of the committee's purview.

The issue arises from a relatively recent decision of the High Court, which is referred to in a shorthand way as the Australian Capital Television case. The by-law that caused concern provides that election signs shall not be displayed anywhere within the district of the municipality. Election signs are defined as a sign advertising, promoting or commenting on any particular candidate, party, group or policy, but does not include a sign erected by a local government, state or federal government agency.

The committee is concerned with process rather than policy. Therefore, in that context, I do not want to note - other than by way of an aside - that the City of Rockingham will enable the Minister for Labour Relations to carry on with a few propaganda exercises but will deprive the Australian Labor Party of the opportunity to respond in like manner. I say that as an aside because I do not want to get Hon Norman Moore excited.

Hon N.F. Moore: I am not in the least excited.

Hon N.D. GRIFFITHS: I can see that.

Election signs used to be very significant in the conduct of elections in Western Australia, and in many parts of the State they are still significant. I remember some years ago that candidates from a variety of parties were of the view that they were sure to win the election provided they got their election signs up first. I also remember some years ago during a state election campaign the two major parties with candidates in a seat agreed they would cut their expenses by not having election signs. That was a forerunner to these by-laws. It was a very proper agreement, which was honoured for a while. A candidate from one party - I will not mention which party, but it is a metropolitan party that occupies the government benches at the moment - reneged on the deal and put up his election signs. The moral of the story is that the old politicians who said that getting one's election signs up first would ensure success were right. The candidate in question did win on that occasion. The Labor Party candidate's election signs did not compare well with the very showy, expensive election signs put up by his opponent. There is some truth in the old adage.

Hon Derrick Tomlinson: The fact that it was a blue ribbon liberal seat may have influenced the result.

Hon N.D. GRIFFITHS: It may have, but the Labor Party won the seat in 1983. We have since lost it.

Several members interjected.

The CHAIRMAN: Order!

Hon N.D. GRIFFITHS: I do not wish to comment on what goes on in the dark north. The report of the joint standing committee brings to the attention of the House a consideration of that very significant legal issue to which I have referred. It points out that when one is dealing with this it is a question of balance. There is debate in the report as to where the balance lies and what sorts of matters should be taken into account. To be fair to the City of Rockingham it gave a number of reasons for bringing this law into effect. The committee notes that the first was a proliferation of such signs. The report lists a number of other points which were considered to have some validity by some committee members. The committee did not form a view one way or another. The points were visual pollution, the possibility that the signs may be contrary to the provisions of the Litter Act, the difficulty in controlling where signs are placed, controlling the authorisation of signs, and the possibility that signs may contain offensive language. One could well envisage that with election signs. If I see election signs from certain groups I find them offensive, but during election campaigns one is not as tolerant as usual. There was the possibility that signs might contain discriminatory material. The committee's view was that those matters are of genuine public interest and that they should be taken into account when one has regard for the constitutional guarantee of freedom of communication. There was a consensus in the committee that where there was a proliferation of signs there should be some form of control in the public interest. The committee did not form a view on how that should be achieved and the methods to be employed. The report refers to a number of methods of control. The committee had the advantage of receiving the views of the Acting Electoral Commissioner, Ms Auld, in evidence. Aspects of her evidence are set out in the report. The committee explored with Ms Auld whether this could be dealt with on a statewide basis rather than municipality by municipality. A number of methods of control are discussed in the document, such as the question of an absolute ban, which is what the City of Rockingham has done, a partial ban and licensing or regulation. In her evidence Ms Auld pointed out a number of practical problems which may be incurred with any form of regulation. In some respects it is very difficult to see how anybody could really enforce a measure such as this.

I will conclude my remarks by referring to what the committee highlights on page 8 of the report, which reads -

> The Committee draws the attention of the Parliament to its view that the local law passed by the City of Rockingham may transgress rights, liberties and freedoms and may be beyond power and recommends that in any review of the State's electoral legislation the question of whether the proliferation of election signs is a problem within the State and if so what controls are appropriate to regulate election signs be considered.

The committee raises the question to be answered by others. In due course it should be answered by the Executive bringing before the Parliament appropriate legislation following due consideration. In the report the committee has provided examples of how these matters are dealt with in other Australian jurisdictions.

Hon M.D. NIXON: I commend the committee for its work in preparing the report. I have been involved in the political process for some time and taken an enormous interest in it. I had not thought of the actions of shires as being unconstitutional. As one involved in the process, I know of many shires over many years which have different rules. Sometimes that has been an advantage. If one is a treasurer and all shires in one's area ban advertising, one takes the view that is one expenditure less. If one has half a dozen shires, some of which ban it and some of which do not, it would be a pain to have to comply with all of the regulations.

Nothing is more important in this world than politics. Many of the general public do not think that politics concerns them. They are wrong because politics is not only important but also something that affects everybody, whether they like it or not. Politicians impose on people laws and regulations through the political process. I was concerned to read that the City of Rockingham has special rules for political advertising which apparently do not cover other advertising. If that is the case there is certainly room for concern. The important subject of politics which needs public scrutiny is being hindered by the inability of candidates and political parties to enter into a full advertising campaign. One can divide the question into various areas. Local government elections provide a special problem for the political process. I am a ratepayer in a couple of areas, but I vote in only one because I understand the political situation there and know the candidates personally. I can vote responsibly there, and I do. I do not vote in the other, metropolitan council because I do not know who is who or what my vote will do. I act more responsibly by not voting than voting for the wrong person. It is important that as a ratepayer I am given the opportunity to know the views of the various candidates. In state and federal elections, candidates can advertise on television. In local government there are a huge number of councils and candidates, and so it is impossible to get the message through on television or radio statewide. If every candidate put an advertisement in a newspaper, it would be as big as Encyclopaedia Britannica or so complicated that no-one would be able to understand it. Advertising billboards are perhaps the most effective method of advertising at local government level. Therefore, at local government level it is important that people are given the opportunity to advertise in that manner.

I am pleased in many respects that the committee has not reached a definite conclusion but has opened up the subject for debate. The more we debate the issue the more we clarify our view. I agree with the view of the Acting Electoral Commissioner, when she spelled out the issue was a statewide issue. One would think, therefore, that there would be a statewide interest in it. However, as someone who believes in decentralisation of power to local people, I have always supported the fact that local people should decide those issues which affect them specifically.

On the face of it, the evidence is that these elections are more a statewide issue - perhaps one could even argue a federal issue, although I would hate to go that far - rather than a local issue. Probably it would be a good rule for the State Government to become involved and legislate in this matter rather than individual councils. Having said that, I can imagine that in particular parts of an electorate election slogans and pamphlets might not be appropriate, and perhaps there must be some give and take. I do not know how to compromise on that, and it would require further thought. I am concerned most that political advertising is picked out as the type of advertising that should be limited. I take the same view as that put in the High Court and refer to the statement on page 3 of the report -

> In this balancing process it is to be remembered that where the restriction imposed on the freedom of communication is by reference to the character of the idea or information and it is in respect of the conduct of elections for political office, the paramount weight is given to the public interest in freedom of communication. Accordingly there must be compelling reasons for this By-law which appears to restrict the freedom of communication in respect of elections.

I understand that is not a direct quote, and I ask Nick Griffiths to clarify that.

Hon N.D. Griffiths: Those are the words of the committee.

Hon M.D. NIXON: I thought they were, rather than a statement by one of the judges. It is well said and certainly in my view political advertising should not be picked out. Whether it is local government or the State Government, obviously there is some sense in setting rules that prevent signs being dangerous, insecure and the like. Obviously, under normal advertising rules an indication must be given that the person who produced the sign is duly authorised so that a trace can be made if required. In the recent federal election, even though certain advertising was traced back it was still difficult to find the person who had authorised it. Leaving that aside, it is important to know who produced the advertising so that if it is improper, the source can be traced. It is also important that signs do not create a traffic hazard, cover someone else's sign, are legally attached, and things of that nature. I agree with the committee that there is no way political advertising should be singled out for special treatment. There is a case for political advertising to be considered as the most important advertising of all.

Question put and passed.

Twenty-second Report - Disallowance Procedures

Hon N.D. GRIFFITHS: I move -

> That the report be noted.

In this report the Joint Standing Committee on Delegated Legislation highlights a number of difficulties it has in carrying out its duty. The terms of reference of the committee are set out in short form on the inside cover of the report. In the report the committee points out that the Legislative Council is able to function with respect to

disallowance motions, but notes that the Legislative Assembly does not have similar procedures. A motion for disallowance may be moved in the other place, sit on the Notice Paper and nothing else need occur. The standing orders of the Legislative Council require that such a question be dealt with. If it is not dealt with and the Parliament is prorogued, the disallowance can take place. These procedures enable some real punch to be given to the work of the Delegated Legislation Committee, whereas that is not true of the other place. It is hoped that consideration will be given to changing that situation so that the other place will be able to act in a more positive way along the lines that the Legislative Council operates.

The report points out the difficulty with regard to what can be disallowed, and that arises from the fact that some subordinate legislation is labelled in a manner that means it may not be tabled in either House and, therefore, will not find itself subject to the purview of the committee or subject to the disallowance procedures. There is, therefore, the potential for a degree of avoidance of scrutiny, which is undesirable and prevents the work of the committee being carried out to the degree that members of this place would wish it to be. Again, there are difficulties with respect to what type of subordinate legislation can be disallowed, and the report contains a discussion on that.

The publication of subordinate legislation is also addressed in the report, and in particular the committee notes and supports the recommendations of the Standing Committee on Constitutional Affairs and Statutes Revision in relation to continual consolidation of legislation and the posting of legislation on the Internet. Two committees are converging and suggesting this should be done, and the sooner that is achieved the better off this society will be. As the committee points out, it is fundamental to a civilised society that operates under the rule of law that the laws be accessible to people. It would be nice to know what the law is and if people do not know what it is, it should be readily accessible. As the committee points out, this is a problem not just for members of Parliament but for the public in general. It is a problem for members of the legal profession and for our society. The committee is joining in its views with another committee, in which Hon Murray Nixon has played a significant role in the past few years, in highlighting that difficulty.

The report also contains discussion on selective disallowance. Reference is made to whether one can disallow in whole or in part. Clearly, selective disallowance can take place but it must be dealt with very carefully otherwise a nonsense may be made of those parts of the regulations not being disallowed. In any event, the committee recommends, not just with respect to itself and it points out its practice in that regard, that other members be wary of that when moving for selective disallowance. In highlighting those problems the committee made a number of recommendations which are worthy of consideration, and it is hoped that those recommendations will be acted upon in due course.

Hon B.K. DONALDSON: I am pleased to second this motion. The sixteenth report of the Joint Standing Committee on Delegated Legislation spelt out clearly some of the difficulties that it experienced in dealing with regulations, which are, as has been stated many times, the least visible form of legislation. The Parliament relies heavily on this committee for the scrutiny of regulations, because not only would it be difficult for all members of Parliament to look continually at the regulations that are tabled in this place, but also they are not privy to the explanatory memorandums that are provided to the committee, because they contain the disclaimer that they must not be discussed outside of the committee. However, that is the very information that most members of Parliament need in order to assess the meaning of regulations, because regulations in gazettal form do not contain a great deal of backup information. The Commission on Government pointed out in its report that the Delegated Legislation Committee plays a vital role in ensuring that regulations are scrutinised, and it commended the Parliament for establishing that committee.

It is worth noting that it took a long time for the committee to get some indication of the Government's attitude to the sixteenth report. That was disappointing, because although the committee knew that no Government of any political persuasion would go along with some parts of that report, the remainder of the report provided a good framework for developing worthwhile approaches to the scrutiny of subordinate legislation. The committee knew that some parts of the report were throwaways, but we should always have a few throwaways to draw attention to the important issues.

One of the recommendations in the committee's twenty-second report is that the definition of "subordinate legislation" in section 5 of the Interpretation Act be deleted and replaced with the following definition -

> "Subordinate legislation" means any rule having legislative effect (howsoever it may be described) authorised or required to be made by or under an Act.

That is very important. A good example that the committee noted is that although the rules that were made under the Young Offenders Act for camp Kurli Murri had not been gazetted, many of them had been transcribed from prison rules which had been tabled when they were promulgated; therefore, they had legislative effect. The committee and its research officer then had to go through those rules one by one to see whether they had legislative effect. If rules for one institution need to be tabled, there is no reason that they should not be tabled for another.

It has been common practice for successive Governments to use notices and orders in an attempt to bypass the system. I am pleased that since I have been in the Parliament, which has been for only a short time, that process has been changing and the executive Government is now taking more seriously the use of notices and orders. That is a credit to it, because it allows the Parliament to scrutinise this least visible legislative process.

I welcome the committees's resilience in pursuing this important issue. This House made some major changes to the way in which it deals with disallowance motions. I hope the Legislative Assembly will follow that process closely. Previously, disallowance motions sat on the Notice Paper, and when the Parliament was prorogued they fell off the Notice Paper and no-one cared. Those motions must now be debated in the House. From a scrutiny point of view, the Government should look carefully at the subordinate legislation framework that was outlined in the sixteenth report. I think most members of the committee agree that that framework needs to be tidied up, because parts of it would be unacceptable to any party in government.

The thrust of the report is very important because it again highlights the serious manner in which we should deal with subordinate legislation. One can over-regulate. I, and I am sure many others, would like to see a compilation of regulations so that greater detail is provided of what is in the legislative process, and also a review to see which regulations can be dropped over time. Some time should be set aside by Hon Murray Nixon's committee, or some other committee, to review which regulations are worth keeping on the Statute book. That matter should be examined thoroughly. I commend the Joint Standing Committee on Delegated Legislation for continuing to pursue that important issue and play that important role.

Hon HELEN HODGSON: I have fairly specific ideas about the role of delegated legislation. I commend the Joint Standing Committee on Delegated Legislation for the work that it has done in this area. Many of the recommendations and issues raised by the committee are important and must be considered carefully by the Legislative Council. It is essential that legislation and subordinate legislation be subject to scrutiny, and that valuable task is currently performed by this committee.

An important issue is the types of matters that should properly be handled by subordinate legislation. As I perceive it, the role of subordinate legislation is to deal with the detailed administration of the policy that this Parliament implements. I have some concern about the amount of legislation that is dealt with through the regulation process rather than by the Parliament, comprising the elected representatives of the people.

I have heard it said there is a rule of thumb that members should not allow something to go through in regulation that they one day might want to question and perhaps disallow, because that sort of thing is properly the role of this Parliament. An extremely confusing array of subordinate legislation exists. As a newcomer to this place, often I look at documents that are tabled and see that some are orders and wonder whether that means I can do anything about them. I am encouraged to see that a number of Bills now indicate that an order is the appropriate way to go, but that that order can be treated in the same way as a regulation under the Interpretation Act. That is an encouraging procedure.

I commend the Joint Standing Committee on Delegated Legislation for this report. It raises some important issues, but the House as a whole must consider the role of subordinate legislation as part of the legislative process.

Question put and passed.

Report

Resolutions reported, and the report adopted.

FISHING AND RELATED INDUSTRIES COMPENSATION (MARINE RESERVES) BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and returned to the Assembly with amendments.

MOTIONS - DISALLOWANCE

South Coast Purse Seine Management Plan Amendments Nos 2, 3 and 4 - Cognate Debate

On motion by Hon N.F. Moore (Leader of the House), resolved -

That Orders of the Day Nos 4 and 5 be taken cognately.

Pursuant to Standing Order No 152(b), the following motions were moved pro forma by Hon Kim Chance -

> That the South Coast Purse Seine Management Plan Amendments (No 2) 1997, published in the *Government Gazette* on 27 March 1997 and tabled in the Legislative Council on 8 April under the Fish Resources Management Act 1994, be and is hereby disallowed.
>
> That the South Coast Purse Seine Management Plan (No 3) 1997 and the South Coast Purse Seine Management Plan Amendment (No 4) 1997, each published in the *Government Gazette* on 6 June 1997 and tabled in the Legislative Council on Tuesday, 17 June 1997 under the Fish Resources Management Act 1994, be and are hereby disallowed.

HON KIM CHANCE (Agricultural) [12.34 pm]: I am appreciative of the action of the Leader of the House in moving that these two items be dealt with cognately because it will make it much easier for the House to follow the process through. Members will be aware - but it must be stated for the record - that a fisheries management plan is put in place under subsidiary legislation, although I believe the preferred word is "subordinate" legislation. A fisheries management plan is put in place under the Fish Resources Management Act by the process of regulation. We will see more frequent use of the disallowance process when we have been unable to resolve questions relating to disputes over the manner in which a management plan might be most effectively put in place. The regulations are described in Orders of the Day Nos 4 and 5. Hereinafter I will refer to them as amendment No 2 and amendment No 3. It gets confusing because amendment No 2 is the first amendment, and amendment No 3 is the second amendment.

The process that is put together by those two gazettals of regulations at different times represents a response by the Minister to a serious problem that the Opposition is ready to acknowledge exists. However, the forms of the management plan, which is put into effect by regulations Nos 2 and 3, are an inappropriate response. Not only are they an inappropriate response in my view and in the view of others, but also an alternative response is being developed through the proper processes of the relevant management advisory committee, which, although not finalised at this stage, is in an advanced state. We must have the time to give the management advisory committee's proposal for a buyback scheme, to which I will refer later, time to develop and to gain acceptance and understanding in the industry on the south coast that is affected. In order to do that, it is necessary to disallow the proposal before us. I am happy to listen to arguments from the Government to the contrary. However, I will argue, with some justification, that the proposal has little, if any, support from the relevant fishing operators on the south coast. I will quantify that as I go along.

Basically, we are faced with two options: First, to support the plan as it is before us as described in the regulation including the buyback scheme or, second, we allow some time for it to be properly developed. The plan does little or nothing other than spread the existing excess efforts on the fishery and cause severe resource problems in the Albany based zones, referred to as zones 1 and 2. The proposal simply spreads that effort from an over-exploited fishery in Albany further east to the Bremer Bay and Esperance zones, which were, until the effect of these regulation was triggered, quite separate fisheries.

An outcome of these regulations was to take the five zones of the purse seine fishery and amalgamate them into a single fishery. There may be an argument for doing that because it is clear that the south coast fishery is a single biological resource. However, to do it in this context, and to take advantage of the breakdown of the internal boundary within the south coast purse seine fishery to spread the efforts from the Albany area to the Bremer Bay and Esperance area, causes some severe difficulties which perhaps were not properly anticipated by the Fisheries Department and the Minister when they first looked at the proposal.

If one has an over-exploited part of one industry, and one shifts the effort out into the more appropriately exploited parts, obviously a resources problem is created. One is spreading the problem, and creates a precedent, in solving a problem in one fishery by exporting it to another fishery. Prior to the gazettal of these regulations, the fisheries were separate. That matter has raised some very real concerns for the Western Australian Fishing Industry Council, which has had, and retains, a longstanding objection to the process of solving a problem in this manner. I recognise that the Minister had a clearly identified problem to which he had a responsibility to respond. He has done so. My only argument with him is that the response is at least in part inappropriate. The overall scheme he had in mind is probably acceptable, and even desirable, yet it contains some short term and intermediate problems in administration and resource management.

I also seek support for this disallowance motion to allow some time for the buyback proposal to be finalised. In that way, the two options can be analysed in their entirety. My understanding of the state of preparation of the buyback proposal, as constructed by the management advisory committee, is that it is advanced and could probably be completed within a month or so. I cannot be any more specific than that. Although I know the detail of the buyback proposal, it is not appropriate to speak about its detail at this stage because it might jeopardise the whole process and

may mislead the Parliament as it is not a formally finalised proposal. A few problems have been struck, and it may need some support from the fisheries adjustment scheme.

Some hard questions need to be an answered. We need some time before the proposal is finalised, and the answer is certainly not too far away. The management advisory committee process is within the formal structure of fisheries management and is being supported by the Minister and the Fisheries Department. That is perhaps another reason that it is legitimate not to proceed with the regulation until all the proper processes are complete.

I turn now to the opinion of the Western Australian Fishing Industry Council, and in so doing I refer to the May-June edition of *ProWest*, which describes itself as the Western Australian professional fishing industry magazine. This article, in which WAFIC essentially outlines its position, begins on page 8 and continues to page 11 of this edition. The journalist who wrote this article, being a professional, was able to condense the information required to understand the matter in a proper and reasonable way. Therefore, it is legitimate for me to quote the article as follows -

> Many Western Australian pilchard fishermen are facing uncertain futures while debate continues over the question of their future quota and allocations and management.

The article points out that much of the current debate stems from the 1997-98 quota recommendation from the Purse Siene Management Advisory Committee made in December last year. It is essentially those recommendations which clearly drew the attention of the Minister for Fisheries to the problem. As he was apparently disturbed by the recommended quota reduction in the Albany zone of the pilchard fishery, he met with the fishermen in March 1997 to hear their concerns to see how he might be able to assist.

The result of the meeting was that the Fisheries Department produced the management paper, which hereafter I will refer to as paper 99; this describes the detailed strategy by which the Fisheries Department set out to address the problem. Indeed, paper 99 is the vehicle from which these regulations sprang. Paper 99 advocated a dramatic change in the quota system for fishery B and it contained a lifeline for the Albany zone fishermen, who undoubtedly faced severe economic hardship due to the recommended quota level.

That strategy has proved to be extremely contentious. It is described in the article as "divisive amongst the industry". The major contentious element of the strategy was a provision for one zone of the fishery to fish in other zones of the fishery where the stock levels were higher due to the more conservative level of exploitation. That factor is at odds with the current quota management of the fishery, under which licensees are permitted to fish only in the zone in which they hold a quota. The Western Australian Fishing Industry Council raised its initial concerns about that issue. It has been a divisive issue, though perhaps not as divisive as many that I have come across in the fishing industry.

There are opposing points of view and I will quantify the extent of the division. Those opposed to the change believe the action of transferring excess effort from one area to another questions the security and rights of fishermen in all managed fisheries. Their overriding concern is that the proposed management changes were neither fair nor equitable and would disproportionately benefit some class of quota holders at the expense of others. They say that the proposal disproportionately benefits Albany fishermen. Under this proposal they will be given access to the resource which is fished in another zone. The two zones are Bremer Bay and Albany. They believe that all fishermen should be concerned. They warn that if such a change can be implemented in the southern purse seine fishery it must be viewed as a precedent for other areas. That is why WAFIC is concerned.

We can draw a direct parallel. For example, if there were over exploitation in an important area of the C zone fishery such as Bunbury or Fremantle, and it was decided that the B zone fishery from Greenhead north to Shark Bay had been under exploited, we would allow the fishing effort in the exploited zone of Fremantle to be moved into the B zone. That proposal would cause world war three in the rock lobster industry. However, that has potentially been established in these regulations. The prediction made by WAFIC in this article is that the regulation could potentially destroy the confidence and security in every managed fishery in Western Australia. The Purse Seine Management Advisory Committee considered and rejected the proposed strategy in March 1997. However, the plight of the Albany fishermen was seriously considered by the management advisory committee, which proposed alternative arrangements involving the buyback proposal. I have described sufficiently the progress of construction of the buyback scheme.

The WAFIC board considered this matter at length in its April 1997 meeting, and I have a letter from WAFIC which outlines the outcome of that meeting. The article set out WAFIC's general principles as follows -

> that a general principle of WAFIC is that in all management decisions *all* fishers should be treated fairly and equitably. In quota managed fisheries quota holders should be treated equally. If not the economic benefits of quota management will be significantly impaired;

> that upon examination, the management changes proposed within 'Management Paper 99' contain elements of cross quota subsidisation between fishermen in separate zones of the fishery. Where management changes are being proposed to solve an economic or biological problem the solution should not involve the subsidisation of quota level of licensees in one zone of a fishery by allocating them quota in another zone where this act alters the market value of entitlements held by an individual licensee. The exception is where there is broad agreement in relation to the proposed changes by the affected fishers;
>
> that the management proposal being contemplated in this instance involves major changes to the current management arrangements and as such the consultative process timeframe had been *too brief* to fully consider the issues and ramifications including equity between licensees and economic considerations including processing capacity and industry efficiency; and
>
> that if pursued as an absolute necessity, such intervention should only be on a short term basis to avoid the permanent market value alteration of an individual's authorisation and to facilitate during that time a thorough consideration of the implications through a consultative process involving the MAC -

That is the management advisory committee. That reasonably describes the situation as viewed by WAFIC. I will read from a letter from WAFIC dated 23 June 1997 addressed to me -

> Following is the position reached at the Purse Seine industry meeting held in Albany on 21.6.97. This was a unanimous position.

This goes back to the point made by Hon Bob Thomas, who said that it is hard to find anybody who supports it. I know that Hon Bob Thomas and other local members have taken a close interest in this and they have spoken directly to the people who are involved in the fishery. However, it was a unanimous decision of the 19 fishing operators who were present at the meeting. It was decided at that meeting that the resolution, which was agreed to unanimously, would be printed and sent to every licensed operator in the fishery for assent or notice of disapproval. At that stage 30 of the 33 licensed fishermen in the area indicated their support. I was advised that two probably would support the resolution and that the thirty-third fisherman could not be contacted. That is overwhelming support for the motion. WAFIC's letter continues -

> Subsequently we have received support for the position from many of the licensees not in attendance at the meeting.
>
> They have indicated this support by faxing a signed copy of the position back to us.
>
> Currently 30 out of 33 licensees have given their support for the position. This is likely to increase and I will advise the final numbers as soon as possible.

That is signed by Martin Holtz of WAFIC. Attached to the letter is the resolution that was reached at the meeting. The date of the resolution is 21 June 1997, so it is a mature date in the process. The resolution states -

> That the amendments to the Purse Seine Management Plan be rejected.

That was a near enough unanimous decision. It continues -

> That the FAS committee -

That is the fisheries adjustment scheme committee -

> - be permitted to consider all options in developing a workable and acceptable fishery restructure package for implementation in 1998/99. This must require that the terms of reference for the FAS Committee be broadened to include consideration of the Bremer Bay and Esperance Pool and unallocated TAC.

That is the total allowable catch. To continue -

> To provide a measure of assistance to Albany based fishermen during 1997/98 each licensee should be allocated 2.5 tonne per unit in the Esperance zone.

There is an element of accepting that there should be some degree of spread of effort. To continue -

> This arrangement must only be an interim arrangement which ceases to have effect at the end of the 1997/98 quota year.

The sunset clause which is implied in that resolution is also consistent with WAFIC's point of view in that article. That is, if this happens it should not be on a permanent basis and must be seen as a means of addressing an immediate problem.

Sitting suspended from 1.00 to 2.00 pm

Hon KIM CHANCE: I remind members of the two options with which we are faced; that is, the option proposed by the plan in the regulations and that proposed by the buyback scheme which is part of the management advisory committee's structure. I have told members of the state of progress in formulating the buyback scheme. The plan does no more than spread effort; it does not reduce it substantially. However, the buyback scheme makes a solid and long term contribution to rationalising the effort in the fishery.

I refer to the process by which the management plan and paper 99, from which it sprang, were formulated. In a letter from the Fisheries Department addressed to all south coast purse seine licensees dated 5 June 1997, the Fisheries Department outlined 12 key points to form the basis of the new management scheme for the above fishery. Those 12 points purport to explain and justify the amendments before us at the moment. The first point in the letter was that the south coast purse seine managed fishery is to be managed as a single fishery with an equal unit value for all zones and fishers, and that the entitlement may then be used across all five zones. This is the effect of the regulation to create a single fishery. I said earlier that I am not necessarily opposed to the principle of the creation of a single fishery on this south coast pelagic fishery. It is the same biological mass in many ways and the zones are interdependent. They do not exist as entities on their own, and there is a defined and cogent logic about managing it as one fishery.

The problem I have identified is that at the moment it is in five zones worked effectively as three units; that is, the Albany, Bremer Bay and Esperance zones. In trying to shift effort from one to the other, the problems I have identified arise which are so clearly expressed in WAFIC's magazine "ProWest" of May-June 1997. I do not need to add to WAFIC's argument. It is an extremely serious matter to set out to solve the problems of one fishery by transferring its problems to another, better managed resource or part of the resource. The abolition of zones within the fishery in the way this has occurred has the potential to affect that transfer of effort from one to the other. A difficulty arises with the property value of the quotas in the industry - it is a quota managed fishery - because it is acting to the detriment of the quota value of the other fishery. It was another fishery until these regulations were formulated.

One of the components of paper 99, which caused considerable angst within the fishery, was the fact that the Bremer Bay and Esperance zones were treated differently in the handling of the unallocated pool that remained in those fisheries. It is an extremely interesting issue even though a slightly tortuous one. In each of the Bremer Bay and Esperance zones a proportion is allocated in quota and has become the property of the licensees under authorisation in that fishery. That quota represents only a proportion of the whole resource within the fishery. The remaining part becomes the unallocated property of the people of Western Australia and it is held in trust by the Minister.

It was proposed in paper 99 that the Bremer Bay portion of the unallocated quota be allocated to the licence holders within the Bremer Bay zone. That is reasonable. However, it was not proposed to allocate the same unallocated quota to the licence holders who fish in the Esperance zone. Why were those two groups of fishermen treated so differently? I do not know and that is why I see it as tortuous.

The minutes and chairman's report of a management advisory committee meeting in 1994, for the first time as far as I am aware, indicate that the chairman thought there was always a commitment to tie the unallocated pool to the licensees already operating in the fishery in some form of compensation for moving from Albany to Bremer Bay; that is essentially how the Bremer Bay fishery was established. In fact, those changes were made in 1991. I have read the regulations gazetted in 1991 and have them in front of me.

I also have a press release from the then Minister for Fisheries, Hon Gordon Hill, dated 10 April 1991, which states in respect of the Bremer Bay pilchard fishery that an allocation of 590 tonnes is to be divided equally between the nine licence holders who have access to the Bremer Bay fishery, and the balance, or pool quota, is the proportion of the allowable catch remaining after individual transferable quotas are allocated. There is no suggestion that the unallocated pool should in any sense belong to the licensees who hold ITQs in that fishery, yet the 1994 MAC minutes assume that such intention of compensation exists. Therefore, having read that, I examined the 1991 regulations, but I found no mention of potential rights held by the ITQ holders of the pool quota in the Bremer Bay fishery.

Hon Bob Thomas: Rather than compensation, could it be an incentive? One of the reasons that the C class fishermen went to Bremer Bay was that they could see they would have their quota plus some prawns, so it was an incentive rather than compensation.

Hon KIM CHANCE: I thank Hon Bob Thomas for that comment. Hon Bob Thomas has spent more time than I speaking to Albany based fishermen about this matter. I believe he has pretty well described what probably happened: Rather than any legal form of commitment, there was perhaps an unwritten understanding that as an

incentive to go to the considerable expense of moving their operations to Bremer Bay, there was some future in the unallocated pool quota, and thus they might have assumed some proprietorship of that unallocated pool quota.

Hon Bob Thomas: And the Albany zone was considered to be the best and Bremer Bay was not such a good fishery.

Hon KIM CHANCE: Yes; it was a development fishery, and they needed some incentive to go there. I have no argument with that, but in fact and in law the Bremer Bay fishermen have no greater property right over the pool quota than have other licensed fishermen in those waters. Where it becomes a problem is that legally there is no difference in status between the Bremer Bay unallocated pool quota and the Esperance unallocated pool quota, even though there may be expectations. It may equally be argued that fishermen who have spent considerable amounts of money to develop the Esperance fishery - which is an expensive area to fish because it goes right out to the shelf - and who work in extremely tough conditions and have to endure the costs that arise from their greater isolation from the Esperance region, have the same expectation about the unallocated pool. They may say, "This is the number of units that I hold now, but my future expansion and my future viability as a business person rests in the unallocated pool."

It is precisely that unallocated pool that will be used to solve the problem that exists in Albany. The fact that I have described that fishery as being biologically more or less synonymous with the Esperance fishery does not mean that it is synonymous in the way that it is worked. Esperance is a night time fishery, but Albany is a day time fishery, or a go out and come back fishery. The fisheries supply different markets. The Albany fishery is fundamentally a bait fishery; the Esperance fishery provides a large amount of its catch to the tuna farms as stockfeed. The fisheries are worked under different conditions and use different catch mechanisms.

One of the arguments from the Albany fishermen about the inappropriateness of the change is that many of the Albany fishermen would not take advantage of the ability to shift and would be likely to on sell any entitlement because they were not geared to compete in the Esperance fishery.

Hon Bob Thomas: Or pool it - have one or two boats.

Hon KIM CHANCE: Pooling is a possibility, but it would not necessarily provide the resolution for which I believe the Minister was looking when he brought forward the regulations.

The second point is that the 1997-98 licensing period for all fishermen will be allocated a unit value of 8 tonnes. That is included within the fourth amendment. The device which allows the total allowable catch to remain unchanged is the number of tonnes allocated to each unit. Those units were previously set at 10 tonnes; so we have a 20 per cent cut in the unit value. The number of units will be increased - I did not make a mistake there - so that all licensees will retain rights to the same amount of stock by weight. That is the process of shifting the effort.

The third point is that no licensees will have their 1997-98 permanent entitlement - that is, the number of units - reduced in comparison with the 1996-97 licensing period. That appears to be contained also in the fourth amendment.

Hon B.K. Donaldson: Is that fair?

Hon KIM CHANCE: One could argue that. I am going through each of the points one by one. I am not trying to put a particular slant on them. That is the device that allows the total allowable catch to remain unchanged.

The fourth point is that the mechanism to reach uniformity of unit values across the fishery will be in the first instance according to what was outlined in the letter to licensees dated 27 March.

The fifth point is that the zone 5 segment of the fishery - and the numbers do not work consecutively, because zone 5 is on the western end, roughly off Augusta, or in that area - will be incorporated for the purpose of future management as part of zone 2. I have no problem with that either. Zone 5 is an essentially untapped resource, and it seems a shame to me that we cannot resolve the Albany problems by extending westwards rather than eastwards, because it is acknowledged that a considerable resource exists in that area. The problem is that no land-based handling facilities exist and it is difficult to cross the bar to what is presumably the Blackwood River in order to access Augusta. Were we able to overcome that, some future resolution might be possible. At this stage, zone 5, the Augusta end of the fishery, is not accessible to the pilchard industry.

Hon Bob Thomas: One boat is there.

Hon KIM CHANCE: He must have overcome the problem somehow, because when I asked about the maximum desirable sea time in zone 5 between the catch and the port, I was told it was only two hours, which surprised me because I thought one could allow a longer sea time without risking the value of the catch. However, a number of factors apparently with pilchards and the manner in which they are caught dictate that the catch must be returned to

port very quickly. I am more accustomed to fisheries where people stay out for a number of days in tropical climates. I was surprised to learn that two hours in cold climates was the limit

I have already mentioned the sixth issue: The Bremer Bay pool quota will be allocated temporarily to licensees with entitlements for zone 3 for the remainder of 1997-98. That is up to 5 March 1998. Those units are allocated in two steps; firstly, according to the licensee's historical use of the pool quota and, secondly, by distributing any remaining units equally to all licensees. Pool units will be allocated in zone 3 to the value of 500 tonnes. On 1 April 1998 the units will be permanently allocated to zone 3 licensees. Zone 3 licensees will be advised in writing of their allocation. I have already explained that despite the expectations that may have existed in Bremer Bay there is no legal right to the unallocated pool quota. If we treat Bremer Bay differently from Esperance in that regard and give essentially state property to the licensees in the manner proposed here, we will not only create an equity problem between Bremer Bay and Esperance fishermen but, more importantly, we will disable any chance of having a buyback scheme. Although I said I would not go into the details of the buyback scheme, I can repeat what has been said publicly.

The buyback scheme revolves around the ability to sell off the unallocated pool quota and to use the proceeds of the sale to fund, at least in part, the buyback scheme. To follow that process and simply give away Bremer Bay's unallocated quota, we will have half the resource we had to sell to fund the buyback scheme. If we proceed with the regulations and they are followed through, firstly, the buyback scheme will be totally disabled, because we will not have industry generated funds for it; or, secondly, the requirement for funds from the fisheries adjustment scheme will be very high indeed; they would be inflated by a factor of around $250 000. The FAS does not have the money to fill in the $250 000 hole. We will have difficulties accessing money from the FAS to complete the scheme anyway, but if we give away the Bremer Bay pool quota we will have no chance.

The point of view I have just expressed will be disputed but we should consider carefully the existing documentation. It will be disputed by the Bremer Bay operators who have always felt that they have had a promise of free access to the pool quota. However, our interests need to extend beyond that group of fishermen. I have a great deal of sympathy for them because I understand what their expectation was. However, as state parliamentarians, we cannot afford to embark on a policy by way of regulation which, on the information available to me at least, discriminates between two groups of fishermen of the same class; and discriminates against them on the basis of which side of a line they fall, particularly when on the evidence - I could be wrong in the amount of information I have been able to access - they would seem to have exactly the same rights in law. I do not say this will cause huge problems in the High Court -

Hon E.J. Charlton: Surely, rightly or wrongly, the issue is that there is no stock to share around?

Hon KIM CHANCE: I have no dispute with that. It is how we fix the problem. If we allocate the Bremer Bay pool free of charge to Bremer Bay licensees, and do not do the same for Esperance licensees, we will be treating the two groups inequitably. We must be very sure of the legal position before we proceed.

Members may recall that when we broke for the winter recess, by way of an adjournment motion I urged the Government and the Minister for Fisheries to try to resolve this matter during the winter break, because I did not want to return in the spring session and have to go through all this. I thought that if there were any chance to resolve the matter over the winter break, it should be done. I do not say the Minister did not make every attempt to do that, but the matter has not been resolved. Perhaps one reason for that is the fisheries adjustment scheme committee has not been able to produce a proposal. I accept that. However, that being the position, without being critical of the Government, it is imperative to support the disallowance motion because if this regulation is allowed, all the work that has been done by the FAS staff will fall over.

Hon E.J. Charlton: Why?

Hon KIM CHANCE: The scheme will become disabled because of our treatment of the Bremer Bay pool. Once it has gone there is no prospect for the buyback scheme to proceed.

Hon E.J. Charlton: It may have been fished out already.

Hon KIM CHANCE: The science of the Bremer Bay pool is well known. We have been well briefed on that by the Fisheries Department. It has been conservatively fished -

Hon E.J. Charlton: What about the total catch of the fishermen?

Hon KIM CHANCE: There are no problems at Bremer Bay that I know of. The catch rates are good, as they are in Esperance.

Hon E.J. Charlton: If the disallowance motion is passed, people will not be able to fish anywhere.

Hon KIM CHANCE: I do not think that will happen. If that is the consequence of our disallowing these regulations, I will be very surprised, but if it is, it will be necessary for the Fisheries Department to gazette regulations on Tuesday to overcome the problem. That aspect was part of the warning I issued at the end of the winter session. The Fisheries Department should have been ready for that possibility. I do not believe it is the case; I am not aware it is the case; no-one has indicated that it might be. If there were to be such drastic consequences of the disallowance, I am sure the Fisheries Department officials would have called me, but they have not.

Hon Bob Thomas interjected.

Hon KIM CHANCE: I certainly hope so. It is a possibility, because every time we disallow regulations there could be a void in which people cannot operate. However, that is not a reason for allowing regulations which might be wrong. I think they are wrong. An opportunity exists for people to argue otherwise.

The seventh point states that future annual adjustments of the total allowable catch across the fishery will be achieved through uniform variations in unit value. I have no difficulty with that. The eighth point states that the Minister has established a fisheries adjustment scheme committee to examine the desirability of a scheme to remove units from the fishery, in consultation with the purse seine management advisory committee. I have already referred to that, and I support the initiative.

The ninth point states that management measures will be put in place to ensure that fish are not wasted; that is, the rolling of fish will discontinue. The rolling of fish happens when more fish are in the purse of the net than can be sold. In other words, a boat will go out for an order, and if the freezer works can take 2.5 tonnes, that is all the boat can bring in. If they make an assessment that they have 3.5 tonnes in the purse, they must roll the net. That leaves 1 tonne of fish dying in the water. The number of fish that do not survive that process is estimated to be as high as 80 per cent in the Esperance region. I am told the figures are very much lower on the west coast purse seine fishery, possibly because of different methods; I do not know. Nevertheless, the rolling of fish is not an environmentally sustainable practice. The Minister for Fisheries and the Fisheries Department rightly want to see that practice cease. I approve of that. It has been argued that parts of the regulations may increase the economic pressure on fishermen to roll fish. I make no comment as to whether that is the case.

As a mechanism to achieve the discontinuance of rolling fish, the Minister has included a clause in the management plan that provides penalties for fishermen who set a net around more fish than they can bring ashore. As I understand it, that is an achievable technique in the Albany fishery. However, I am told it presents real technical problems for the Esperance fishery, where schools are much bigger and are found much deeper. It is a night fishery. The assessment of the number of fish in a school prior to looping the net around them is incredibly difficult in that fishery. I believe there are some particular problems there. I am not an expert on fishing or on that fishery. However, it is a matter about which I believe Fisheries and the Minister should have had advice from the Esperance fishing operators. The Minister will also seek further advice from the purse seine management advisory committee on techniques, technology and industry practices that will contribute to preventing the wastage of fish in the fishery.

The tenth point is that a research program underpinning the total allowable catch setting process will be developed in consultation with stakeholders and the management advisory committee. The eleventh point is that for the purpose of assessing a person's initial access to zone 4 of the fishery - zone 4 is Esperance - the criteria have been qualified to include that the fish taken were sold and recorded on monthly returns in accordance with the regulations. That is, take shall not be interpreted to mean any fish that have been rolled or released as a result of fishing operations. The final point is that the allocation of additional nets in the fishery is made in accordance with the provisions of the management plans. I believe I have been through the intent of the changes.

I will run through the problems that were identified. I will refer to the minutes of the purse seine management advisory committee meeting which was held at 2.00 pm on Wednesday, 10 March 1997 at the Esplanade Hotel in Albany. A number of disadvantages and advantages were identified from that MAC meeting and its examination of management paper 99. The disadvantages identified by Esperance fishermen relate to the shift of effort to Esperance. Members will find this interesting. The first was that the cost of electricity in Esperance was too high. Therefore, if the processing sector is moved from Albany to Esperance, one of the real difficulties created is that the cost of electricity will be too high for the processors. These minutes state it is around 250 per cent more expensive to produce a tonne of frozen fish at Esperance than at Bremer Bay or Albany, which are on the grid. The minutes state also that there is no infrastructure in Esperance to support an increased total allowable catch of 900 tonnes, which is part of the proposal, and there is a lack of moorings and a lack of factory freezers. They suggest it will increase fish dumping; that refers to rolling. I knew I had read that somewhere, but I just could not remember where. There are social factors in relocating families. Production costs are high; therefore, it is financially unavailable because it forces product into a lower price market, thus decreasing the return for each unit. That means the size of the existing Albany catch that goes to the bait processors would fall relative to the amount that goes to the tuna food market, which is a much lower price market.

The minutes state also that it is an untried fishery. The management advisory committee does not know what impact on the total fishery an increase in the total allowable catch from 1 800 tonnes to 2 700 tonnes will have. It may also delay the recovery in Albany. That is interesting because the south coast purse seine fishery, quite unlike the way I understand the west coast purse seine fishery to operate, does not breed internally to a great extent. It has a spawning, but the result of the spawning does not contribute all the juvenile recruits to the fishery. It relies on the recruitment of migrating juveniles which breed somewhere in the east - nobody really knows where. They are not sure it is in the east, but we are told that it is likely to be there.

Hon B.K. Donaldson: Rex Hunt probably knows.

Hon KIM CHANCE: Yes. They either breed further out in the Great Australian Bight or perhaps in Bass Strait or the Southern Ocean. No-one really knows. One of the difficulties faced by scientists working in fisheries is that much of the information is difficult to get. Members do not need to be reminded that in 1995, billions of pilchards died overnight, presumably as a result of a herpes virus. To be fair on the fisheries scientists, they have no way of knowing what the intermediate and long term effects of that huge rate of mortality was. It is not a reason to be optimistic about the chances of rehabilitating a fishery simply by spreading the effort into another fishery. A careful scientist would urge caution there.

The minutes from the MAC meeting state that problems are associated with the legalities of reallocating the pool and that the Bremer Bay pool was originally set up to aid fishermen moving to the Bremer Bay zone. I am quoting a statement from this paper that contradicts what I have just said. However, I make it clear that I stand by what I have said. These minutes reflect a common belief in Bremer Bay. It is fair enough for the committee to hold that belief; however, I do not believe there is any legal basis for it. I agree with the statement that there is a restructuring problem.

The minutes state also that research indicates the exploitation rate at Bremer Bay is around 15 per cent; therefore, the total allowable catch cannot increase and the economic viability of those in the fishery would be threatened. The Bremer Bay infrastructure allows a maximum of six boats and already there is a one and a half hour delay to unload at the wharf. That surprises me because my understanding is that the Minister recently opened significant new facilities at Bremer Bay. That statement may have predated the opening. These minutes are dated 10 March.

Hon E.J. Charlton: The opening was in March or at the beginning of April. That does not sound right to me.

Hon KIM CHANCE: It does not sound right to me either.

From both Esperance and Bremer Bay there was a feeling that reducing the quota for each unit in those areas to save Albany was morally wrong. I think the fishermen later adjusted that position, and they have a much more united opinion. In the very early stages there was some fairly spiky division between the regions, based on the potential threat of one to the other, which was quickly resolved in a very mature way. The fishery is pooling together well under the buyback process.

The fishermen in Albany also saw disadvantages, which rather surprised me. They said that the total allowable catch of 5.5 tonnes per unit was too low; that people would not take up the option to fish in the other zones - I have already mentioned that; and that the quota would have to be pulled onto one boat to be viable. Although the minutes are not written in this way, I think it means that that quota would have to be pooled onto one boat. The fishermen said that they would have to find a market; that there was a lack of real opportunities due to the problems outlined previously for the fishermen in Esperance and Bremer Bay. These people said that most fishermen who had shown support for the proposal were investors and it was not supported by full time purse seine fishermen; that it would seriously put processors at financial risk and one or two in Albany might fold; and that when the fishery came back in the future the facilities would not be available to take that catch.

From the point of view of the Esperance fishermen, the advantages included that it disperses the pool quota; that is, the unallocated pool quota. The same point was made by the fishermen in Bremer Bay. Both groups of fishermen are keen to see the pooled quota attached in some way. The attachment needs to be done very carefully. The advantages put forward by the Albany fishermen were that it would make available extra tonnages of Albany fish to those fishermen and allow the possibility of their catching more fish; that it would help the fishermen if they could get rid of the fish they caught; and that, if the Albany fishery was closed, fishermen would have somewhere to fish.

I concede that some beliefs may have been overtaken by the facts. The earlier information I read out had a June or July base in the main. The proposal which was supported by a large proportion of fishermen was dated 21 June. I spoke to them about the construction of the buyback scheme as recently as two days ago, and they remain committed to that course of action. I urge members to think this matter through seriously and to listen very carefully to other arguments that will be put. I am open to hear the point of view of the Government, when its members finish arguing about who will speak first on this issue.

HON HELEN HODGSON (North Metropolitan) [2.43 pm]: I second the motion. Hon Kim Chance has already given a fairly detailed explanation of the issues involved in this matter. However, a couple of the issues in the history of the way in which this matter has been managed should be drawn to the attention of the House. I am particularly concerned about the way in which this matter has been handled. On Tuesday answers in response to some questions placed on notice by Hon Kim Chance and I were provided to the House. They indicate that the fishing industry had a very limited amount of input into this management plan. According to the answer to question without notice 643, there were only six days, between 5 March and 10 March 1997, during which the fishing industry had the opportunity to comment on the implications of the plan for the industry.

As has already been explained, this whole restructuring of the fishery will have a major impact on the livelihood of the fishers in that area. I am concerned about the impact this plan will have on the allowable catch and the sustainability of the fishery. The quotas had already been resolved before the management plan was gazetted and put in place. The plan merely deals with the allocation of the catch among the licensed vessels in the area and the arrangements for catching the fish, bringing them in for processing and so on. To implement such a major restructuring with only six days set down for consultation with the management advisory committee seems to me not to be doing the right thing by the industry.

In questions on notice 564 and 566 Hon Kim Chance raised similar matters about the way in which the management package was implemented. In reading them conjointly, the answers to the questions of Hon Kim Chance and I show there was only a short period after the consultation to the time before the fishing industry was notified of changes by letter issued on 5 June, but a press release was issued on 8 June. I understand many of the people in the industry found out about it from the press release before they had the opportunity to receive the letter. Given that we are dealing with people in rural areas, it is not uncommon to find that mail takes a couple of days to reach the people concerned. There was no opportunity for further debate after the decision. All of this is about a plan that is supposed to have been implemented by 1 April anyway. The fishers there have a real problem in not knowing what they are dealing with because of the delays in implementing this plan.

Hon B.K. Donaldson: That is not quite true.

Hon HELEN HODGSON: I am just going on the Minister's answers to the questions on notice. The quotas had already been adjusted in December 1996 to deal with overfishing and to make sure the fishery remained sustainable. I understand the total allowable catch across the full area was adjusted to 7 325 tonnes, or thereabouts. The plan concentrates on the allocation of that catch among the fishers in the different zones. The proposal is to try to deal with the problems of concentration of licensees and the fact that they cannot catch around Albany, and that relative to the licensees, more fish seem to be available further along the coast near Bremer Bay and Esperance.

I am very concerned that we are now one-third of the way into the quota year and we still do not have a resolution to this problem. Fishers who have been acting in accordance with the management plan may have gone into the new areas under the new arrangements and obtained the extra catch. Some may not have done that as yet. This puts us in a difficult position when it comes to deciding whether to disallow this regulation. The disallowance of the regulation does not have a retrospective effect. It means that fishers who have been acting in accordance with the regulation for the past three months will be all right; however, it could prejudice those who have not yet caught the extra quota and who may now find they are disadvantaged by this disallowance.

That gave me a lot of hard thinking to do. We were told by the industry that 30 of 33 licensees signed letters indicating that they do not agree with the plan as they consider its long term impact upon the fishery management to be negative. Therefore, they told us they do not want the plan. Nevertheless, if we disallow the regulation, it could prejudice some of the fishermen in question.

Although I have come to the decision that the regulation should be disallowed, it is essential that something happen immediately to rectify the problems for fishermen who will be prejudiced by the way this entire matter has been managed. I understand that on 21 June the fishing industry agreed to deal with this year's problem. It would be acceptable to allow the extra catch, but only for the 1997-98 quota year. Unfortunately, we cannot do that under the regulations. I looked to some way to apply a partial disallowance to allow parts of the regulation to continue. However, its drafting does not allow that to occur without making the whole scheme fall apart, a problem mentioned in a report outlined earlier today.

The choice was to disallow to put the onus back on the Minister and the department to deal with the immediate problem, or to allow the regulation to stand and set up a problem in perpetuity which the industry does not want.

It is clear from the work of the management advisory committee since the matter first came to hand, and it continues to do, that other options are available. This management plan is not the only solution to the dilemma. The management advisory committee of the fishing industry is working hard to put a solution in place. I hoped that the

parliamentary recess would provide an opportunity for the Minister and the department to resolve the issue, as they were aware prior to the recess that the regulation was up for disallowance. The problem has been exacerbated as no negotiation took place or resolution found during the last two months. It has put the system in place for that much longer.

I have had to give a lot of hard thought to deciding what is best with this motion. I have come to the conclusion, based on the information provided by the department, the fishing industry body and the fishermen in question, that disallowance is the best way to resolve the problem currently facing the fishery.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [2.53 pm]: Debate today and last night has convinced me that we are not dealing with the disallowance of regulations in the most appropriate manner. The Leader of the House mentioned earlier that a better way would be for standing committees, such as the Delegated Legislation Committee, to take on these disallowance motions for consideration. I agree.

A member of this place, or a party, may decide in response to aggrieved people, or on his or her own initiative, that a particular regulation should be disallowed. Obviously, that will require the Government to respond and to gather information to present arguments supporting the regulation in question. People in this place have considerable experience and knowledge on particular subjects, but we are not providing the best opportunity for expanded consideration of matters in this forum. At the end of the day, the matter should come before this forum, but another avenue should be available to enable that expanded consideration to take place.

This is a complex fishery management matter which must be resolved and about which decisions must be made. Doing nothing is not an option. When a fishery has a catch arrangement allowing 4 400 tonnes to be taken and science and research says the fishery can sustain a catch of 2 000 tonnes, which is less than half the quota, acute decisions must be made. In a fishery, as with anything to do with nature, the capacity will fluctuate. However, we do not want to finish up like other parts of the world where the sea's natural resources have been fished out. Management practices need to be put in place. As I said yesterday in debate on the fishery conservation Bill, we are renowned throughout the world for having a management system which is second to none. As a result of technical support, research, and industry response, our fishing industry has grown, rather than dissipating and degenerating to a stage where people go broke or, and more importantly - if anything is more important than people going broke - we witness the demise of the fish stock itself. As a consequence, decisions were made to put in place a management plan.

That management plan is obviously not agreed to by all participants - they never are. Hon Bruce Donaldson will recall that a plan was announced in 1969 to restrict the amount of wheat grain growers could produce as a result of an oversupply. Farmers seemed to have the capacity to grow more wheat than it was believed the market could handle. Therefore, a decision was made to install a quota. However, the Good Lord came along that year and fixed that problem: We had the worst season ever leading to a total change in the world scene, and those of us who did not take much notice of what good judges were saying were in a position in the following year to take advantage of increased demand. Things change.

That example is the reverse of the problem dealt with in the regulation. The amount of viable catch has been determined to be less than half the current allowable total catch. The decision was made to apply these changes and a reduction was made in the Albany zone allowable total catch from 4 400 tonnes of fish in 1996-97 to 3 030 tonnes in 1997-98. Also, it was determined to maintain the 1996-97 total allowable catch in the Bremer Bay and Esperance zones, and to remove the unallocated pool units from the Bremer Bay and Esperance zones. It also involved the equalisation of the unit entitlements, so that all entitlements had the same value of eight tonnes a unit.

The decision resulted from the dilemma, about which nobody is arguing; the method applied and the final decision to produce a result is contested.

The debate in the community indicates that the industry does not agree with the regulation and that it was not consulted, and I will come to that in a moment.

The consequence of passing this disallowance motion will be, firstly, that temporary access to additional quotas of 1 377 tonnes by Albany licensees from the Esperance zone will cease; secondly, that temporary allocation of 500 tonnes to Bremer Bay licensees will cease; and, thirdly, there will no longer be a whole of fishery management scheme to deal with the allocation of pool quotas and wastage of fish. Those issues would be unresolved. A committee has been established to determine the situation and it will bring down its report in September.

If these regulations had been allowed to run their course the industry or the department would have been in a position to agree, if necessary, to some other form of action based on scientific evidence. If the disallowance motion is passed the situation will be that a 4 400 tonne catch mechanism will remain in place. I have not heard any members dispute that. It would be a different story if members said the Government had got it wrong and there were plenty of fish

available. Instead, members are saying that a buyback scheme should take the place of this mechanism. That might be the right thing to do, but that decision will be made in a democratic and businesslike manner by the committee which is carrying out that review.

This decision, however, will be made on the run and we will be left without any control in place. Perhaps industry, the other side of the political spectrum, will work together to put another plan in place. In the meantime people will continue to do what they can legally do; that is, to not operate in accordance with the regulations that were published in the *Government Gazette*.

I come back to the question of consultation. In February this year the Minister, with representatives of the Fisheries Department, visited Albany to talk about the problem with members of the industry. It was not a six day consultation period. A meeting was held on 5 March at which the "Management Plan 99" was put to the fishermen. On 10 March a management advisory committee meeting was held at which the proposal was agreed to.

Hon Helen Hodgson: They had only six days to respond to a major document. The document was not there until 5 March, according to the Minister's answer to a question on notice.

Hon E.J. CHARLTON: The member said there had been no consultation with the industry. I understand, and the member can correct me if I am wrong, that at an industry meeting on 21 June the industry agreed to give the other fishermen access to other areas to maintain their catch.

Hon Helen Hodgson: For one year.

Hon E.J. CHARLTON: By disallowing this regulation, obviously that goes by the board. That is the reason we have to come up with another way of dealing with disallowance motions. A couple of disallowance motions on the Notice Paper come under my portfolio responsibilities and I have been advised by the Crown Solicitor that those regulations are legally correct. It appears that someone has been advised to the contrary. It does not make for good management to always have conflicting points of view, and this is not the best forum to deal with these issues. The Minister for Fisheries did not gazette these regulations because he was playing a game. He did it on the best advice possible.

Hon B.K. Donaldson: Didn't the Minister meet with the fishermen the day of the meeting at Bremer Bay?

Hon E.J. CHARLTON: The member is correct, there was a meeting that day with the industry representatives on this issue. Obviously the official meetings and consultation which have been documented are not all that took place. For example, there would have been discussions with the Western Australian Fishing Industry Council and interested personnel as well as deputations to the Minister. In addition there would have been meetings in the Minister's electorate which he attended. It is one thing to say that this is the official record of what occurred.

In representing the Minister for Fisheries in this place, I have outlined the consequences of disallowing the regulations. The Minister will have to consider what legislative amendments would be required to protect the stocks of pilchards along the south coast from over-exploitation and review the entitlements of the fishery.

I understand the Minister may have to put a stop to all fishing because there is no new management plan in place. The existing plan involves more than double the catch the fishery can produce. Everyone knows that the Albany area is totally overfished and Esperance is not. That is the reason for the Bremer Bay fishery. People were encouraged to go there. People who operate out of Albany do not want to operate out of Bremer Bay and people from Bremer Bay and Albany do not want to operate out of Esperance for a number of reasons, including the higher cost involved. I have been trying to do something about that and I am sure the issue will be resolved. The Government wants to develop the Esperance fishery, but a range of issues must be worked through. For instance, it must determine whether the catch can be transported to Perth by air.

It is not right to take the view that it is not fair for fishermen to move into another area instead of a having a buyback scheme. It might be good business to have more people in another area. If it can be proved that the area is capable of giving a greater catch, it will be the result of good management. That is the reason for zones.

I take the member's point about the rock lobster industry, but this is a different industry.

Hon Kim Chance: It is the same principle.

Hon E.J. CHARLTON: Principles must be acknowledged. The catch in this region is currently more than double what the fishery is capable of sustaining. These regulations were put in place because some areas have the capacity to be less affected than others. That is my interpretation of events; I might be wrong.

This is an interim measure until a more permanent resolution is reached. I warn members that the Minister will respond with something else. Whether that will be acceptable to this place or to anyone else remains to be seen. We must find a better way of doing business than this way. We should refer the issue to a parliamentary committee and

allow the fishermen, the Western Australian Fishing Industry Council, the Fisheries Department and anyone else involved to have the opportunity to put their point of view in a proper businesslike way. That will allow for rational debate, so we can be informed on the various issues that people are confronted with. Although our democratic system provides that the Parliament is the place where final decisions are made, we must be careful that we do not ignore the results of scientific research and development -

Hon Kim Chance: For political reasons.

Hon E.J. CHARLTON: - simply because someone does not like the idea and wants to knock it on the head. We have the responsibility to make a decision; however, we should make the right one otherwise we will wear the consequences. The Government opposes the motion to disallow because the right result can be achieved in a different way. The Government acknowledges that the issue must be dealt with. Bringing the disallowance motion to this place has delivered a clear message to the Government. However, the Government believes the regulations should stand. A report on the issue will be made in September, and we give a commitment to act on the report.

HON B.K. DONALDSON (Agricultural) [3.12 pm]: I support the Minister. He has raised some fundamental principles about the sustainability of managed fisheries. About four years ago management plans were implemented for the rock lobster industry. An 18 per cent cutback in the number of pots caused a lot of dissension in the industry, and many people were aggrieved. However, today lobster fishermen look like having three bumper seasons.

Hon Kim Chance: They were successful conservation measures.

Hon B.K. DONALDSON: At the time they thought their world would end. In the longer term that sustainability has been proved. That is why our managed fisheries are second to none in the world. I have heard Hon Kim Chance say this before.

The Minister met with many people in the industry. I was present during some of those meetings. The basic principles were contained in a paper and industry representatives were able to discuss with the Minister and Peter Rogers, the Executive Director of the Fisheries Department, some of the points in that management plan. One of the problems is that the worldwide trend is for a decline in the wild capture catch. While I was in Prince Rupert, Canada in July, I saw Canadian fishermen blockading an American passenger ferry. They were protesting at Alaskan fishermen coming into their fishing grounds and overfishing the salmon reserves. There was some feeling that President Clinton should retaliate. It would have been interesting to see a war develop over a managed fishery.

Hon Derrick Tomlinson: The war of Jenkins ferry.

Hon B.K. DONALDSON: It is a trend about which we will hear a lot more; for example, the snapper industry in the Shark Bay and Carnarvon areas, the northern demersal fishery, and wherever one looks at the wild catch. It is not a phenomenon unique to Western Australia. Hon Kim Chance is aware of that. A lot more pain will be endured as these changes take place. These regulations have provided an opportunity to keep a fishery together. I know Hon Bob Thomas would have had a queue outside his door if the tonnage per unit for sustainable catch was reduced by 4 tonne. Most of the fishermen in zones 1 and 2 in Albany would not have remained financially viable. I can understand the feelings of Bremer Bay and Esperance fishers. They proved there was an improved catch expectation in those areas. However, the ocean is one fishery. We cannot draw up artificial barriers across the ocean. It is a single mass.

Those fishermen have received some gains. Their capital value probably will be higher than it was. That is something that people tend to forget. That is what happened in the rock lobster industry. Over a number of years it provided a nice windfall for many people. I do not begrudge them that, because it is not an easy life. I could not hack the pace or put in the effort that it requires. Whether we like it or not, based on the world population today and assuming that not one more person will eat fish, 30 million tonnes of edible fish will be consumed by the year 2035. Worldwide, over many years, a huge effort has been expended on the fishing industry. We have seen a 30 per cent increase in not only effort but the number of fishing vessels around the world, yet the wild capture catch around the world has remained static. Disputes have developed over fishing grounds all over the world.

I cannot support the disallowance motion. The management plan that has been introduced has tried to reach a fair and equitable balance across the fishery. As the Minister for Transport said, the plan may not last a long time because there will probably be other ways and means to settle the industry down in that region and ensure a sustainable catch for some fisher people. Not all will survive, and those who wish to drop out of the industry will have an opportunity to recover some of their capital and make a bit of profit as well. I can understand the dilemma that Hon Bob Thomas faces with this disallowance. I am sure that he must be flinching at times because the Albany fishery was being badly overfished. A number of his constituents, or possibly all of them, in that zone probably felt that they had been well accommodated. I imagine Hon Bob Thomas must have great difficulty with this disallowance motion.

Hon Kim Chance: I point out to the member that 30 of the 33 licensees supported the resolution I read on 21 June. There is no support for this proposal.

Hon B.K. DONALDSON: With all due respect, if the member thinks back over his years as a farmer he would know that people say it is difficult to get farmers to agree on anything. Only one group is more difficult, and that is fishermen.

Hon Bob Thomas: The fishermen in Albany are asking me to get the Parliament to disallow this regulation.

Hon B.K. DONALDSON: There are two zones -

Several members interjected.

The PRESIDENT: Order!

Hon B.K. DONALDSON: I can remember Hon Kim Chance's making that statement some time ago. I am glad I did not hold my breath. There has been a positive response from the fisheries and the Minister to the scientific evidence presented. We are talking about sustainable catches. One must sometimes make decisions.

Hon Bob Thomas: It is a positive response.

Hon B.K. DONALDSON: There has been a positive response to the scientific evidence that has been provided about what is a sustainable catch in that industry. It is a single fishery. Let us not kid ourselves that fish swim in zones.

Several members interjected.

Hon B.K. DONALDSON: We do not have that sort of fish farming at this stage.

Hon Kim Chance mentioned the disease that wiped out billions of fish. The effect that will have on the potential catch is unknown and that could always happen again. Many other factors have come into play and pressure to make decisions has increased. The broader picture is being considered and when the report is released in September or October, certain steps will be taken to ensure we have a sustainable fishery in that area.

It would be wrong for this House at this stage to disallow these regulations and the management plans. They have been put in place in the best interests of the community. No member here would have sufficient scientific knowledge at present to dispute the Fisheries Department's findings and the advice given. As I said, many people scoffed at the lobster industry some years ago when evidence was given that this should happen. That industry is now prospering. While those in the industry were angry at the time, they are now happy. If we approach this issue in the right manner, the longer term issues will be addressed. I do not support the disallowance.

HON GIZ WATSON (North Metropolitan) [3.24 pm]: I support this motion. My concerns relate to the bigger picture issues of marine conservation. It is rather extraordinary when the industry is arguing for a more conservative approach than that proposed by the department. I have listened to the Fisheries Department's position on this and to the licence holders and have taken a long time to consider the various pros and cons of this difficult decision. I agree that disallowance will not necessarily give us the best outcome, but I cannot support the regulation as it stands.

This case illustrates the bigger problems associated with fisheries management. Many members have said that they accept the departmental position that Western Australia has one of the best managed fisheries in the world. I dispute that strongly. We are now seeing a number of fisheries running into difficulties. In the past six months we have seen problems with the school sharks off the south coast, pink snapper in the Shark Bay area, pilchards off the south coast, and with the herring and salmon stocks. We are seeing the same situation here as is seen elsewhere in the world.

Despite attempts to manage our fisheries we are still running into difficulties. We must be very conservative in our management of marine resources. That is particularly important because of the problems associated with assessment of fish stocks, which is the basis of setting total allowable catches. Fisheries management is fraught with difficulty when making an assessment of what is the stock of fish. It is very difficult to assess the total available stock because it fluctuates with seasons and conditions. Members have mentioned the recent major loss of pilchards right around the south of Australia. I urge a much more conservative approach to that which we are taking now. Fisheries management does not take into consideration monitoring of the whole marine ecosystem; it bases its management on the target species. Therefore, indications that we are having problems with pilchards stocks suggests repercussions for the entire marine ecosystem of the south coast.

The other word of warning is that the west coast fisheries of the United States have long argued that they have the best managed fisheries in the world. That has not stopped major crashes in their fish stocks. In fact, one of the management proposals put forward by those fisheries is that they put up to 30 per cent of their coastline into no-take areas to maintain fish stocks.

An important factor in resolving the issue of management of the south coast relates to adequate representative marine reserves being put on the agenda and being recognised as a valuable management tool for maintaining fish stocks. Fisheries managers elsewhere, particularly in the United States and the Philippines, recognise that adequate no-take areas enhance fish stocks both for recreational and commercial fishers.

The end product of this pilchard fishery is cat food and bait for the tuna fishing industry of South Australia. I ask the bigger question: Is this the best use of those fish? It is a very low value output for a large effort. The feeding of sea-caged tuna with pilchards is a nonsense; it takes between 10 and 22 tonnes of pilchards to produce one tonne of tuna. That is a most extraordinary waste of protein and it should be stopped. Of course, the feeding of the pilchards to the tuna is associated with the disease that spread around the south coast. Therefore, I would like members to consider the bigger picture and whether it is the best use of those fish stocks, and also consider the low value of feeding domestic cats. We must even question the role of domestic cats in the Western Australian environment.

Having discussed the broader issues of fisheries management, I turn now to the specific issues relating to this fishery. The Fisheries Department acknowledges there have been three years of high exploitation in the Albany area and a lower recruitment, either as a result of or coincidental to that high exploitation rate, and this has led to the crisis in the Albany area. I am greatly concerned that the proposal is to displace the effort from Albany to Esperance, and I do not think it will be the best long term solution.

I sum up by listing long term solutions. It is acknowledged that this fishery needs to be restructured, and there is general agreement that the catch effort must be removed permanently from this fishery. Some of the ways of resolving that are by conducting a thorough examination of the fishery and its ecological sustainability. By that very exercise its economic viability will be assessed. However, the ecological sustainability of these fisheries must be protected for the future. Included in this investigation should be the impact of rolling of fish, which is an atrocious waste of the resource and also impacts on the environment. We must adopt a whole of system approach, consider the impact of that fishery on the marine ecosystem, as well as the impact on maintaining pilchard stocks, and investigate the role and importance of no-take areas in fisheries management.

It is also very important that the fisheries management advisory committees have adequate representation from community-conservation groups which have no stake in whether they are allocated access to fish. MACs historically have representatives from licence holders, recreational fishing interests and the Fisheries Department. It is important that the MACs also have a non-exploitative representative who, in many cases, will be able to provide the scientific and community based comment, which perhaps does not involve a personal stake in receiving a quota or access to the resource.

It is critical to make no compromises in achieving ecologically sustainable fisheries, even though it might cause short term economic pain. Hon Bruce Donaldson has mentioned the world picture on fisheries, and we cannot afford to go down that track. We are at a watershed in Western Australia.

Hon B.K. Donaldson: Fish farming.

Hon GIZ WATSON: I do not believe fish farming will provide the answers because sea caged tuna means between 10 and 20 tonnes of protein is used to produce one tonne.

Hon B.K. Donaldson: We are talking about a 1.2:1 conversion ratio.

Hon GIZ WATSON: I dispute that.

Hon B.K. Donaldson: I am not talking about tuna.

Hon GIZ WATSON: The overriding concern must be the ecological sustainability of our marine ecosystems, and no fisheries should compromise those objectives.

HON BOB THOMAS (South West) [3.34 pm]: I support the disallowance because I have been encouraged by fishermen in my area to do so. They would like to see this regulation disallowed and the Fisheries Department go back with a much more workable plan so that the problems emerging now will be properly addressed. That would be preferable to moving the deckchairs.

HON KIM CHANCE (Agricultural) [3.35 pm]: I thank all my colleagues on both sides of the House for their contribution to the debate, especially Hon Bob Thomas! I agree with almost everything said by Hon Bruce Donaldson, my colleague in the Agricultural Region. He was essentially advocating the need for high level management and I could not agree with him more. We do not agree on whether the regulations will achieve this. The conservation objectives are met by the alternative buyback proposal, which would reduce effort in the fishery. The spread of effort is not a conservation measure. I simply remind members of my argument about the principle

of solving a problem in one part of the fishery by transferring effort to another part. Proper processes are available, as I have already said, by establishing the buyback principle under the Act, and using those other management advisory committees, the fisheries adjustment schemes committees and the fisheries adjustment scheme trust fund. All those proper processes will be circumvented if we go ahead with this regulation. That is entirely because of the disabling of the process that will occur if the resource of the Bremer Bay unallocated pool is taken out of the equation.

I agree with the Minister's comment about the way disallowance motions are handled. This House is an inappropriate forum in which to deal with something as complex and technical as this. Parliament is a place in which to debate policy and the detail of legislation, but it is an extremely difficult forum in which to argue the outcome of complicated regulations. I am the first to agree with the Minister. I make no criticism of the parliamentary process for disallowance motions. I happily acknowledge the difficulties, but the best way to address those problems is found in the way the existing process is used. It is a good process and if we are to address a problem within that process, it should be by making better use of the hiatus between the date of notice of disallowance and the deadline date, which in the case of one of these motions is next Tuesday. More than two months has elapsed during which this matter could have been settled. It was not necessary for it to be debated in this forum, and in the adjournment debate on the last sitting day of the autumn part of the session I made the plea that the recess be used to sort out the problem. That could have been done in a number of ways. I said in that adjournment debate that I hoped it would not be necessary to take a day of the parliamentary sitting during the spring session to thrash out an issue with which it is not appropriate to deal in this forum. I hope the Government and the Opposition can talk about that.

Earlier today, in respect of another disallowance motion on the Notice Paper, we found ourselves in a situation where had we not had an additional day - we were fortunate that we could defer the matter until Tuesday - we would have had to make decisions in the select committee room prior to coming into this place that we should have made seven or eight weeks ago. I am not allocating blame to anybody, because it is incumbent upon both the Opposition and the Government to try to find a resolution, but we have now arrived at this point, and we have all learnt something from the process. The way the process has been handled has been good, and fortunately we did have a little time. However, I can foresee circumstances in which the Parliament will not have the time to devote to this process and we will find ourselves greatly inconvenienced. I hope we can speak about that further in the appropriate forum.

I note the Minister's comment that this is not proposed to be a permanent process. I cannot accept that. A regulation exists for as long as it sits on the Statute book. Nothing gives me confidence that this will be a temporary process.

Hon N.F. MOORE: The Minister stated that that is the intention.

Hon KIM CHANCE: That may be the intention, but it will be difficult to deliver on that intention, particularly if we disable the buy-out process.

Hon Mark Nevill interjected.

Hon KIM CHANCE: Members on both sides of the House have been responsible for legislation and regulations which were temporary. The most famous of those forms of legislation was the original Income Tax Assessment Act, which passed through the Commonwealth Parliament in about 1916 or 1917 and was to be a temporary measure to enable Australia to pay its debts as a result of the First World War. I have not noticed Governments of either a conservative or progressive nature seek to reform that Act.

Hon N.F. Moore: The Labor Party has not done anything either.

Hon KIM CHANCE: This country has a number of progressive parties, but the only progressive party that has held government is the Australian Labor Party. It is the opposite of conservative. That is not a prejudicial statement.

Hon KIM CHANCE: The Minister asked what would happen if we disallowed this regulation. That is a problem with the process. We should not be confronted at this stage, with one day remaining to debate this disallowance motion, with not knowing the consequences of disallowance -

Hon N.F. Moore: You should know that.

Hon KIM CHANCE: That is not my responsibility. This was put to me earlier today by a member of the crossbenches, Hon Helen Hodgson, who asked me whether I had considered the consequences of disallowance; I said I had, but that was not my responsibility as the member who moved the motion, nor was it the Opposition's responsibility. Once notice of a motion for disallowance has been given, it is incumbent upon the Government to determine the consequences of that disallowance and to put in place a mechanism to alleviate those consequences so that it is provided with a fall back option. That is the process of government: The Government, faced with the possibility that its regulations would fall over on a certain day if certain things happened, should have prepared reserve regulations that it could gazette the following day if it was unable to convince the Opposition that its course

of action was wrong. The process fell down because neither of those things was done, despite the fact that on the last day of the winter session, I invited the Government to try to sort out the problem.

We are all new to this process and to the process of having relatively equal numbers in this place.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon KIM CHANCE: I was speaking about the possible consequences of disallowance motions and the manner in which they should properly be dealt with. I had made the point that the mover of the disallowance motion, the Opposition or the cross-benchers should not take entire responsibility for the consequences of a disallowance motion.

Hon Peter Foss interjected.

Hon KIM CHANCE: I am quite happy to take some responsibility, as are my colleagues I am sure. I do not believe the responsibility lies entirely with the mover of the motion, the Opposition or those who support the motion. Given the length of time involved in the process, the Government shares that responsibility.

Hon E.J. Charlton: No.

Hon Peter Foss: You have taken away a decision of government. You cannot hold us responsible for something you have done.

Hon KIM CHANCE: That may well be the Attorney General's viewpoint but mine is different, and he can argue his as long as he likes in his own time. When the Government is faced with the possibility of these regulations falling over, it has a responsibility to put fall back action into place to correct the situation.

Hon Peter Foss: Even if we put something in place it is not necessarily our decision because it has been forced on us. You must take responsibility because what we have decided to do has been taken away and something you want to do has been put in its place.

Hon KIM CHANCE: I am happy to accept that those who support the disallowance motion carry some responsibility. However, the responsibility is the responsibility of the Parliament.

Hon Peter Foss interjected.

The PRESIDENT: Order! The Attorney General. We are listening to Hon Kim Chance in reply.

Hon KIM CHANCE: Not only in reply, Mr President, but trying to conclude.

There may be alternative views about this. My view is that given the two months' duration of this disallowance motion, ample opportunity was available for the Government to have this issue debated and resolved in a more appropriate manner, not simply by offering the Opposition spokesperson a briefing, but by bringing the affected parties together and seeking a rational outcome to what is clearly a problem. Secondly, it was incumbent upon the Government to try to change the minds of those who moved the motion so that they would share the Government's view. That is a process of providing information.

I suggest that anyone who believes that responsibility does not lie with the Government is seeking to abdicate the responsibilities of government. We may have different views about that, but I believe the Government has a responsibility to respond to occasions such as this. I believe that on this issue and on the Health Department issue, the Government has not adequately met its responsibilities, but I am not over critical of that because I acknowledge that this is a new process and we need to find our way through it.

I am sure that the Opposition is more than ready to work with the Government to find reasonable resolutions to these issues, as we have on another disallowance motion with which I will not proceed and which has now fallen over; namely, the Shark Bay pink snapper recreational fishery issue, which was adequately resolved by the actions of the Minister for Fisheries.

I urge the House to support this disallowance motion. I have considered the views put by the Minister and Hon Bruce Donaldson and I am not convinced by their arguments.

The PRESIDENT: We have been dealing with Orders of the Day Nos 4 and 5 cognately, but as required under the Standing Orders, the vote will be taken separately. I therefore put the question in respect of Order of the Day No 4. The question is that the motion be agreed to.

Question put and a division taken with the following result -

Ayes (13)

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

Noes (12)

Hon E.J. Charlton	Hon N.F. Moore	Hon W.N. Stretch
Hon Max Evans	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Peter Foss	Hon Simon O'Brien	Hon B.K. Donaldson *(Teller)*
Hon Ray Halligan	Hon Greg Smith	
Hon Barry House		

Pairs

Hon Cheryl Davenport	Hon B.M. Scott
Hon N.D. Griffiths	Hon M.J. Criddle
Hon E.R.J. Dermer	Hon Murray Montgomery
Hon J.A. Scott	Hon Muriel Patterson

Question thus passed.

The PRESIDENT: The question now is that Order of the Day No 5 be disallowed.

Question put and a division taken with the following result -

Ayes (13)

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

Noes (12)

Hon E.J. Charlton	Hon N.F. Moore	Hon W.N. Stretch
Hon Max Evans	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Peter Foss	Hon Simon O'Brien	Hon B.K. Donaldson
Hon Ray Halligan	Hon Greg Smith	*(Teller)*
Hon Barry House		

Pairs

Hon Cheryl Davenport	Hon B.M. Scott
Hon N.D. Griffiths	Hon M.J. Criddle
Hon E.R.J. Dermer	Hon Murray Montgomery
Hon J.A. Scott	Hon Muriel Patterson

Question thus passed.

WESTERN AUSTRALIAN COASTAL SHIPPING COMMISSION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon E.J. Charlton (Minister for Transport), and read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [4.50 pm]: I move -

That the Bill be now read a second time.

This Bill will amend the Western Australian Coastal Shipping Commission Act 1965. The Government's decision

to cease operations by the Western Australian Coastal Shipping Commission was made in June 1995. Subsequently, legislation to repeal the commission's Act was introduced into Parliament and passed through the Legislative Council. However, before passage of the Bill was complete, legal advice was received that, should the Act be repealed, insurance cover against future claims by past employees, particularly relating to asbestosis, would be negated. In order to ensure the preservation of full entitlements for past employees of the commission and that financial responsibility for those entitlements remained with the insurance institutions, the Government took the responsible decision to retain the shell of the commission as a non-operating legal entity. The original Bill was not progressed and the current replacement Bill was prepared.

This Bill will confirm the commission's position as a non-operating legal entity and remove the obligation on the commission under the Act to provide a shipping service. When Stateships stopped operating, a privately operated shipping service into the Kimberley and the Northern Territory was established with government support as a result of a clear demand from regional communities in the north for a regular shipping service. This demand has since been reiterated. Loadings on the vessel providing the service are steadily rising, which bears out the view of the Kimberley community on the need for shipping. The operator is considering various operational improvements to the service to better meet this growing demand.

The present support arrangements are administered by the Department of Transport, in the same way as progressive State Governments have supported aviation services to outlying areas. The current support will be in place until 1999 and the Government will obviously consider future arrangements well before the present ones expire. Fundamental to this consideration will be clear evidence of continued support of the service by the Kimberley community and also evidence of ongoing operational reform on the part of the service provider.

The orderly winding down of Stateships' operations requires the establishment of the commission as a non-operating legal entity and the withdrawal of the obligation to provide a shipping service. Various sections of the Act will be repealed, consistent with these requirements. In addition, the Minister will be given the ability to direct the commission, and the commission's powers of delegation will be extended beyond individual commissioners and the general manager. Each of these steps is commonplace in the winding down of government entities. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

HUMAN TISSUE AND TRANSPLANT AMENDMENT BILL

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) [4.53 pm]: I move -

That the Bill be now read a second time.

The primary purpose of this Bill is to address concerns expressed by the public over the use of certain provisions of the Human Tissue and Transplant Act 1982 for removing tissue in circumstances in which there may have been doubts as to whether the consents required by the Act were obtained or given in accordance with the Act. The other amendments are minor and will update the Act following amendments to the Hospitals and Health Services Act 1927 and the enactment of the new Coroners Act 1996. Donations of tissue after death are subject to the requirements of the administration of justice. Therefore, in cases where the coroner has jurisdiction in relation to a death, the requirements of the Coroners Act must be followed.

Part III of the Human Tissue and Transplant Act 1982 deals with donations of tissue after death, either by the deceased or by the senior next of kin as defined by the Act. For a donation of tissue to be made under part III, the designated officer has to be satisfied that there is a consent or an expressed wish by the deceased for that donation or that there is no reason to believe the deceased had expressed an objection to the use of the tissue. Where the views of the deceased are unknown, the consent of the senior next of kin is required. Part IV of the Human Tissue and Transplant Act provides a scheme of consents for the use of tissue for medical research.

However, the drafting of some of the sections of parts III and IV of the Act has led to concerns about the limitations that may be placed on the use of tissue. One interpretation of section 22 is that the intentions 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. 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. Section 22(3) has been redrafted to remove those doubts. To ensure the persons obtaining consents act properly in so doing and to assure the public

that the Government takes a serious view of the practices related to obtaining human tissue, the Bill enables the executive director, public health, to prepare codes of practice that will set standards to be observed in obtaining those consents. It will also be possible for the executive director to adopt, in the codes, the best practice rules that are obtained from the experience of other jurisdictions or developed by advisory groups appointed by the Minister for Health.

The codes will be enforceable by undertakings. If an undertaking is breached, provision has been made for a maximum penalty of $1 000. In addition, it will be possible to report a breach of an undertaking to the relevant professional registration body and the registration body will be able to take the report of the breach into account when performing its disciplinary functions. There will also be provision for counselling of relatives to ensure that their concerns are not overlooked.

The Bill provides that codes of practice will be given the status of subsidiary legislation by requiring that it is published in the *Government Gazette* and laid before each House of Parliament. The codes will be subject to disallowance. It is considered that these amendments will reassure the public - as donors or as relatives - that the provisions of the Act will be properly administered and that their wishes will prevail. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Report - Breach of Standing Orders

HON KIM CHANCE (Agricultural) [4.56 pm]: I have been directed by the committee to report to the House that there has been a breach of the standing orders regarding the disclosure of committee deliberations. I move -

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

The circumstances are such that a witness in relation to the University of Western Australia-Rindos inquiry received an incomplete copy of the committee's draft report on or about 11 August 1997.

Question put and passed.

[See paper No 694.]

ADJOURNMENT OF THE HOUSE - ORDINARY

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.57 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Parliamentary Travel Allowance

HON NORM KELLY (East Metropolitan) [4.58 pm]: I take this opportunity to speak about travel entitlements for members of Parliament. In particular, I will speak about, firstly, the need for members to undertake travel; secondly, the public perception of that travel taken; and, thirdly, possible ways of improving current accountability mechanisms.

I fully understand members of Parliament have a strong need to travel. The original intent of the imprest account is so that members of Parliament can expand their knowledge of matters that are affecting this State, so they can better debate and discuss those issues in this House.

Hon Tom Stephens: I can assure you that that was not the original intent of the imprest account.

Hon N.F. Moore: I can also assure you that that is not the reason for the imprest account.

Hon NORM KELLY: I am referring to the matters raised in the report of the Commission on Government; so I stand corrected.

Hon N.F. Moore: It was the amalgamation of the travel entitlements.

Hon NORM KELLY: I feel there is a need for members to debate a wide range of matters in the House, and the travel component of our work puts us in a better position to deal with those matters, especially when some parties have only a couple of members in this House at this stage. The experience that can be gained from such travel can place us in a far better position to debate those matters.

Likewise, our experience can grow rapidly through interaction with other Legislatures. The question is not whether we should travel, but the extent of that travel and how we remain accountable for it. Unfortunately, the public

perception of such travel, which in many cases is highly legitimate, is distorted by the actions of a few. Recent cases, particularly from the federal Parliament, have damaged the public credibility of all members of Parliament in the public jurisdiction. Our role is to restore the community's faith in our work. I realise that we can blame the media for causing the distortion of these facts, or we can thank the media for alerting us to the few indiscretions or blatant cases of abuse of privilege.

Hon E.J. Charlton: Such as?

Hon NORM KELLY: Such as the recent case of the senator overextending his travel entitlements.

Hon N.D. Griffiths: That is before the courts. That is outrageous.

Several members interjected.

The PRESIDENT: Order!

Hon NORM KELLY: In the end, we must correct and improve the public perception of the work we do and the travel we take. We can achieve this by taking on stronger accountability measures. I refer to the Commission on Government report No 3 in which Mr Mal Wauchope, the Chief Executive of the Office of State Administration, referred to ways of delivering public accountability. He stated -

> Members of Parliament themselves can ask questions in the house if they belief there were some issues that needed to be addressed, based on the report that is submitted in parliament, or members of the public could have their members of parliament ask questions if they felt concerned and thirdly, . . . an equally powerful tool is the fact that the media go through that quarterly report fairly closely and if they have got some questions it certainly gets some profile.

Members may have noticed that one of my questions without notice today was based exactly on that idea. Although legitimate travel occurs, it is important that we know why the travel was undertaken.

Hon E.J. Charlton: Here is a typical example: The Minister for Racing and Gaming goes to the Melbourne Cup and it is reported that he went to have a good time, rather than that he was ensuring the betterment of the racing industry, which is his prime responsibility. That is the perception.

Hon NORM KELLY: It could be reported that the Minister went to Melbourne for a good time, but we could, as just occurred, have the purposes of the trip placed on the record. That does not happen unless we ask these questions. Today's tabled report indicates that the travel can be reported 10 months after it takes place, so I would like to see a mechanism installed for more current reporting.

Hon N.F. Moore: Four years ago you did not get anything. This Government brought this reporting in.

Hon NORM KELLY: We could do better. Some cases can be found, if Ministers want to look beyond state boundaries, of how this process can be done better. For example, members of Parliament in South Australia need to report back to Parliament if they are using travel allowances for more than three days' travel. They must report to the Presiding Officer, and the report needs to include detail such as a statement of the objectives of the trip, the names of organisations visited, a reference to any documents or publications obtained, summaries of the study areas pursued, summaries of the results achieved, and recommendations deriving from the travel. Members undertaking travel would be more than happy to provide that information to constituents to outline the work being done. I quote again from the Commission on Government, report No 3, as follows -

> Queensland members submit a report six weeks after their return from overseas journeys setting out the objectives, officials visited, results and recommendations arising from the trip.

These are easy reporting mechanisms which could be implemented in this State. I have been made aware of how to be careful when I use my own travel imprest account.

Hon E.J. Charlton: We are watching you.

Hon Max Evans: No select committees for you.

Hon NORM KELLY: Members can keep watching me. During the recess I used my travel imprest account to the tune of $650. The money was used on two trips. One trip was to the Geraldton-Shark Bay area where I met with various bodies.

Several members interjected.

The PRESIDENT: Order! This is a serious matter and I ask members to hear the member in silence.

Hon NORM KELLY: During that trip I met with various bodies, including the Industry Inland group in Geraldton, the Denham Fishermen's Association, Shark Bay Shire Council and a number of tourism operators. The other trip was to the Kintyre uranium site.

Hon B.K. Donaldson: Camp Tracey.

Hon NORM KELLY: I was manager of Camp Tracey in the 1980s, and it was good to go back there. I am aware that issues confronting Shark Bay Salt, the World Heritage area in Shark Bay and the proposed Kintyre uranium mine will come before this House. It is important that members are made fully aware of the factors that influence these projects. That is the reason I made the trips.

We do not need to implement a system if members are prepared to voluntarily provide the information on their travel. However, if that is done it will better inform the public of what members of Parliament are doing. The common perception in the community is that members of Parliament have a seven week holiday between sittings. Members are aware that is definitely not the case.

Hon Derrick Tomlinson: What, you have shocked me.

Hon NORM KELLY: I apologise to Hon Derrick Tomlinson. I feel that by members reporting on their travels, either voluntarily or by a formal system, the public will be better informed of the role members perform in Parliament, and the work they do will be far better appreciated by the community.

Adjournment Debate - Analog Mobile Telephone Network

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.08 pm]: A brochure from the Australian Telecommunications Authority has been drawn to my attention. It is titled "The analog mobile network will end on 1 January 2000" and it states that some rural areas which currently receive analog coverage may not receive digital coverage after the analog network officially ends on 1 January 2000. It also states that in these areas analog services may be retained until a viable alternative is available.

That brochure has been a source of some concern to people in parts of my electorate, where the users of the mobile telephone network currently have available to them only the analog service. It is suggested in that brochure that there will be no guarantee of the availability of mobile communications in those centres following the conclusion of that service on 1 January. It is for that reason that today I wrote to the Federal Minister for Communications, Richard Alston. I advised him that different sections of my electorate raised this issue with me demonstrated a concern, which I imagine will grow as the year 2000 approaches, that the Government has not made a commitment to retain analog mobile phone services. It is my view that the Government must commit itself to a policy of ensuring that Australians who have analog coverage will be able to retain that coverage beyond that date. Hopefully, the Government will set about ensuring that not only are the services to those customers protected, but also the service is expanded.

I wrote to the Australian Telecommunications Authority and asked what led it to include that qualification in its brochure. I am keen to know what areas of Australia that currently have an analogue service run the risk of not having that digital service available after 1 January. It appears that some people face the prospect of having their mobile telecommunications facility simply hung up on them so far as this Government is concerned. The Government must explain to those people what factors make this prospect likely. Why is it that at this stage there is no commitment to retain analogue services to communities that will not have digital services after 1 January 2000?

Hon B.K. Donaldson: It was introduced by a federal Labor Minister.

Hon TOM STEPHENS: The federal Liberal Minister for Communications is not putting in place the guarantees that would ensure that this mobile telecommunications network continues to service at least those people who have that service to this point. It is a most unfortunate display of a lack of commitment on the part of the Federal Government to the rights of mobile phone service users in rural Western Australia. Already this week the State Government demonstrated in this House its disregard of the interests of regional Western Australia.

Hon Greg Smith: Rubbish!

Hon TOM STEPHENS: We now have indications in brochures circulated by federal authorities that the Federal Government has that same disregard for the bush as this Government has.

Hon N.F. Moore: You spend much of your life complaining about our not fixing up problems that were created by the former federal Labor Government.

Hon TOM STEPHENS: The Leader of the House has had four and a half years; it is four and half years too long. During that period, he has been joined by his federal coalition colleagues who seem to be incapable of fulfilling the commitments made to the people of Western Australia.

Hon N.F. Moore: We are fixing up the problems that you people caused.

Hon TOM STEPHENS: The Leader of the House and his Liberal colleague Senator Eggleston made pre-election commitments to people in the remote areas of this State to extend services like the SBS network into the bush. What has happened? The money has been spent extending services in Queensland. They have reneged on the commitment to the people of Western Australia.

Hon N.F. Moore: Not through any lack of effort by Senator Eggleston.

Hon TOM STEPHENS: Senator Eggleston had the opportunity to cross the floor on that issue.

Hon N.F. Moore: Don't you speak about crossing the floor. How many times have you crossed the floor?

Hon TOM STEPHENS: Senator Eggleston made pre-election commitments on behalf of the Liberal Party to the people of the north west promising the extension of services like SBS. Not only are the Liberals reneging on that commitment, but in addition they are overseeing the loss of mobile telecommunications services beyond the year 2000 - that is, if this brochure is anything to go on. I hope that the Minister will take these urgings and quickly put in place guarantees to ensure that the service is not only maintained but extended so that as many Australians as possible can have easy, affordable access to telecommunications throughout this nation.

Adjournment Debate - Casual Labour, United States of America

HON TOM HELM (Mining and Pastoral) [5.13 pm]: The House should not adjourn before it takes note of the story in today's *The West Australian* on the win by the Teamsters Union in the United States against the United Parcel Service. It is an historic time for workers, and the mobsters on the other side of the House should take note of it. Perhaps it will prompt a change in the philosophy in this State and maybe the nation from the conservative side of politics.

The union fought a long fight to get rid of the casualisation of labour. The Teamsters Union fought a long fight so that people would have regular employment and certainty in the work force. From the newspaper report today it appears that they have won that fight. I want members opposite to take notice of the comments in that article. Workers will not allow the casualisation of employment and no regular employment to continue.

The next fight - it has begun - will not be about wages: It will be about security of employment. Members opposite should realise that the whole economy of this nation is affected by the fact that they want workplace agreements and contracts of employment. They want to manage affairs so that workers have no certainty. They are holding back the economy of this nation just as the economy of the United States is being held back. Although unemployment in that country is very low, the large proportion of casual employment is holding back its economy.

The tide will turn. The conservatives in this State and this nation follow the Thatcherism of the United Kingdom and the Reaganomics of America. However, the union movement has learnt different tactics and there is a different mood in the population. Members opposite should realise that the industrial relations issues coming before this House must be treated differently in the future.

Question put and passed.

House adjourned at 5.16 pm

QUESTIONS ON NOTICE

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

POLICE - BRENNAN CASE

Evidence to NSW Royal Commission

205. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

In respect of police involvement in the Brennan stolen car/drugs case and further to question without notice 103 of March 27, 1997 -

(1) Is the Commissioner of Police aware of evidence given at the NSW Police Royal Commission by corrupt detective WS14 in respect to the Mercedes Benz and Rolls Royce stolen from Mr Richard Brennan?

(2) Is the Commissioner of Police aware that the Mercedes Benz in question (1) was the vehicle belonging to a woman living in Katherine, Northern Territory referred to in previous questions I have asked?

(3) If not, will the Commissioner of Police ensure the evidence to the NSW Royal Commission of corrupt Sydney detective, code named WS14, is examined?

(4) Is the Commissioner of Police aware that the Mercedes Benz in part (1) was driven in Sydney by Mr Graham Frost?

(5) What action has been taken as a result of this knowledge?

Hon PETER FOSS replied:

(1) Yes.

(2)-(3) Yes. This question was previously inadvertently answered in the negative in response to question without notice on 26.3.96.

(4) Yes.

(5) As a consequence of information received, the WA Police Drug Squad caused the NSW North West Major Crime Squad Drug Unit to search the vehicle for drugs. No drugs were located.

POLICE - BRENNAN CASE

Acting Inspector Thoy - Interview

206. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

In respect of the Brennan stolen car/drugs case -

Further to question on notice 754 of September 27, 1995 can the Attorney General now provide me with the answer to part (2)?

Hon PETER FOSS replied:

Acting Inspector Thoy was not interviewed by officers from the Professional Standards portfolio in relation to the Brennan matter.

POLICE - BRENNAN CASE

Mr N. G. Hunter - Previous Convictions

207. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

In respect of the Brennan stolen car/drugs case, and further to question without notice 104 of March 27, 1996 -

(1) Is the Commissioner of Police aware that Neil Hunter has previous convictions for car deals with police in Queensland?

(2) Is the Commissioner of Police aware that Neil Hunter was shifted to Perth by Queensland police?

Hon PETER FOSS replied:

(1)-(2) No.

NATURAL DISASTER - FLOODS

Shire of Asburton - Funding

242. Hon TOM STEPHENS to the Minister for Finance representing the Treasurer:

Following the floods that devastated the Shire of Ashburton in February, can the Treasurer advise -

(1) What funding will the State Government supply to the Shire of Ashburton to assess the cost of damage in the area?

(2) What funding will the State Government supply to the Shire of Ashburton for the rebuilding of roads and infrastructure damaged by the floods?

(3) When will each of these findings be made available?

Hon MAX EVANS replied:

(1) Nil.

(2) Assistance with road repairs might be available from the emergency road funding program operated by Main Roads.

(3) The Acting Premier advised the Shire President on 11 July 1997.

POLICE - FEDERAL

Eucla Case - Assessment

364. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

(1) Has the Minister for Police released the Federal Police independent assessment of the Eucla case?

(2) If not, why not?

Hon PETER FOSS replied:

(1)-(2) The Commissioner of Police has provided the Minister for Police, the Anti-Corruption Commission, the Parliamentary Commissioner for Administrative Investigations and the Parliamentary Select Committee into the Western Australia Police Service, with copies of the Australian Federal Police report concerning the "Eucla case".

POLICE - WARRANTS

Ms Norbury

478. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

Further to question on notice 415(2) of 1996 -

(1) Was the warrant listed against Ms Norbury's name on the police computer?

(2) Are industrial relations matters cross-listed on police computers?

(3) Did Police Officer Paul Devin Lydiate, an officer with the Fraud Squad, write to the Industrial Relations Commission requesting a conversion from a Warrant of Execution against Sarina Holdings Pty Ltd to a Warrant of Commitment against Ms Norbury?

(4) Why did the Fraud Squad Officer take this action?

(5) Who ordered or requested the Fraud Squad officer to seek this information?

Hon PETER FOSS replied:

(1) Yes.

(2) No.

(3) No request was made to the Industrial Relations Commission. However, a report compiled by Detective

Senior Constable Lydiate requesting conversion of the Warrant of Execution was prepared on January 15, 1992 and forwarded via the Officer in Charge of the then Fraud Squad, Detective Sergeant Stone, to the Industrial Magistrates Court.

(4) Detective Senior Constable Lydiate took this action after speaking to Ms Norbury. During this conversation regarding satisfying the warrant, Ms Norbury stated that she could not forfeit goods to the value of $6 882.22 as the Bailiff had seized her property in relation to other matters. As police were unable to seize property, a request for the conversion of the Warrant of Execution to a Warrant of Commitment was made to the Industrial Magistrates Court.

(5) This information was requested as part of normal police procedure. If a Warrant of Execution cannot be satisfied, application may be made to the issuing court for its conversion to a Warrant of Commitment.

MR SAMUEL JOHN PAPOTTO - ASSAULT

Police Investigation

484. Hon TOM HELM to the Attorney General representing the Minister for Police:

Regarding the case of Samuel John Papotto who was in Central Law Courts Perth on January 20, 1997 charged with knowingly running a business whilst bankrupt -

(1) Has the Police Service received a complaint regarding an incident which took place on January 20, 1997, in the Central Law Court Building, Perth, Courtroom 91?

(2) Is the Police Service investigating the complaint?

(3) Does the complaint relate to Mr Papotto assaulting and threatening with death a witness?

(4) (a) Has it been three and a half months since the complaint has been made to the police; and

(b) have the police concluded the investigation?

(5) Has the Police Service found any offences that have been committed?

(6) If so, what are the offences?

(7) Are the police intending to lay charges?

Hon PETER FOSS replied:

(1)-(2) Yes.

(3) Those issues form part of the allegations.

(4) (a) Yes.
(b) No.

(5)-(7) The complaint is currently subject of investigation.

POLICE - OFFICERS

Business Interests - Conflict of Interest

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

(1) Are full-time members of the Western Australia Police Service allowed to conduct other business activities in addition to their official duties?

(2) If yes, are any restrictions placed on these business activities?

(3) Does the Police Department require police officers to report any business activities they are involved in, in addition to their official duties?

(4) If yes, to whom must they report?

(5) Does the Police Department require police officers, with other business activities, to report any potential conflict of interest if their duties as police officers are at any stage related to their business activities?

(6) If yes, what action does the department take?

Hon PETER FOSS replied:

(1) Yes.

(2) The business activity must comply with the provisions of the Western Australia Police Service Secondary Employment Policy.

(3) Yes.

(4) Applications fall into three categories that may be either:

(a) Prohibited
(b) Approved by the District Officer
(c) Approved by the Commissioner of Police

(5) Yes.

(6) Should a conflict of interest be identified at any stage, the original application is reviewed. Where there is a conflict of interest the application is rescinded.

POLICE - OFFICERS

Business Interests - Conflict of Interest

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

(1) Are police officers, who have private business interests, permitted to handle prosecutions against citizens who are business rivals?

(2) If yes, why?

(3) If no, how is this rule enforced?

(4) Is it appropriate for police officers, who hold private business positions, to involve themselves in cases where there is a possible conflict of interest?

(5) If yes, why?

(6) If no, what is done to prevent this?

(7) Is a list of the private business interests of police officers available?

(8) If yes, can I receive a copy of it?

(9) If not, why not?

(10) Are police officers requested to declare a conflict of interest if requested to undertake work which may impinge on their personal private interests?

(11) If not, why not?

(12) If yes, to whom is the declaration made and what form does it take?

Hon PETER FOSS replied:

(1) Such a conflict of interest is not permitted by the Commissioner of Police. Police officers should bring any conflict of interest immediately to the notice of their supervisor.

(2) Not applicable.

(3) Where the officer's conduct breaches Police Service instructions or policies, the member may be the subject of disciplinary sanctions and instructed to cease the secondary employment.

(4) No.

(5) Not applicable.

(6) Police officers are required to seek approval to engage in secondary employment. Each application is the subject of investigation prior to approval, which includes the potential for a conflict of interest. Should a conflict of interest be identified at any stage, the original application may be reviewed. Where a conflict of interest exists, the application may be rescinded.

(7) The Internal Affairs Unit and Personnel Administration Unit maintain a current database of the secondary employment details of all members.

(8) No.

(9) The personal affairs of police officers are a matter between the officer and the Commissioner of Police, through the officer's superiors.

(10) Police officers are expected to declare a conflict of interest and by virtue of regulation 608, Police Regulations, are not entitled to improperly use his/her reputation or position as a member for a private advantage.

(11) Not applicable.

(12) Applications for secondary employment fall into 3 categories and may be either (1) prohibited, (2) approved by the District Officer or (3) approved by the Commissioner of Police.

PERTH MINT - JEWELLERY INDUSTRY

Commission for Tourist Operators

545. Hon TOM STEPHENS to the Minister for Finance representing the Treasurer:

With reference to question on notice 326 regarding Perth Mint's jewellery operations -

(1) Has the State Government investigated complaints that tourist bus drivers and operators in Perth are being paid a commission by the Perth Mint to bring bus loads of tourists to the Mint to purchase jewellery at the Perth Mint shop?

(2) If not, why not?

(3) Does the State Government approve of the practice of a government agency paying tour operators to favour this store by bringing tourists to it, rather than leaving them to exercise free choice in selecting between the broad range of private jewellery outlets and the publicly owned jewellery store in the Perth Mint?

(4) What steps will the Government now take to stop this practice from occurring by sanction of a government agency?

Hon MAX EVANS replied:

(1)-(2) The State Government is not aware of any complaints that tourist bus drivers and operators in Perth are being paid a commission by the Perth Mint to bring bus loads of tourists to the Mint to purchase jewellery at the Perth Mint shop.

(3)-(4) Gold Corporation is a Government Trading Enterprise that is responsible to its Board of Directors. In line with common industry practice, Gold Corporation's Board has approved that incentives be provided to bona fide tour operators who bring their clients to the jewellery store at the Perth Mint.

A 10% commission on the value of jewellery and souvenirs purchased by clients brought to the Perth Mint is paid to licensed inbound tour operators.

FIREARMS - HANDING IN

Number

547. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

(1) What was the number of firearms handed in to the Western Australia Police Service in each financial year between July 1, 1980 and June 30, 1996?

(2) What percentage of these firearms were unlicensed in each of the periods in (1) above?

(3) When during these periods in (1) above did amnesties for the handing in of unlicensed firearms begin and cease?

(4) Would the Minister for Police provide any details on the categories of firearms handed in during the above period, and specifically the approximate percentage that would qualify for the National Firearms Buy-Back Scheme?

Hon PETER FOSS replied:

(1) The number of firearms that were handed in and destroyed by the Western Australia Police Service in each financial year from July 1, 1980 are:

Year	Amount	Year	Amount	Year	Amount
1981	1410	1982	1020	1983	1600
1984	1332	1985	1483	1986	1527
1987	1700	1988	2317	1989	2061
1990	2072	1991	2415	1992	1872
1993	1222	1994	1350	1995	2034
1996	2736				

It is not possible to quantify firearms handed in for other purposes eg safe-keeping, without a lengthy manual search of records which will be extremely resource intensive and I am not prepared to authorise resources necessary for this request.

(2) Electronic records are not available to supply this information. A manual search of records would be required and I am not prepared to authorise resources necessary for this request.

(3) Amnesties were held during the following periods:

October 1, 1982	to	December 31, 1982
October 1, 1985	to	December 31, 1985
September 14, 1987	to	November 9, 1987
May 1, 1990	to	July 31, 1990
October 1, 1994	to	December 31, 1994

(4) I am unable to provide this information as records were not kept for this purpose. A manual search would be extensive and I am not prepared to authorise the resources necessary for this request.

POLICE - OFFICERS

Deployment - Number

552. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

At the beginning of each month commencing July 1, 1996 how many sworn police officers were deployed at each of the following agencies -

(a) The National Crime Authority;

(b) The Official Corruption Commission;

(c) The Anti-Corruption Commission;

(d) The Parliamentary Commissioner for Administrative Investigations; and

(e) The Director of Public Prosecutions?

Hon PETER FOSS replied:

Month	(a) National Crime Authority	(b) Official Corruption Commission	(c) Anti-Corruption Commission	(d) Parliamentary Commissioner for Administrative Investigations	(e) Director of Public Prosecutions
01.07.96	5	0	0	0	1
01.08.96	5	0	0	0	1
01.09.96	5	0	0	0	1
01.10.96	3	0	0	0	1
01.11.96	3	0	0	0	0
01.12.96	3	0	0	0	0
01.01.97	4	0	0	0	0
01.02.97	4	0	0	0	0
01.03.97	4	0	0	0	0
01.04.97	3	0	0	0	0
01.05.97	3	0	0	0	0
01.06.97	4	0	0	0	0

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Former Officer

574. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:

What is the name of the former Western Australian police officer said by the Premier to be working for the Anti-Corruption Commission in the course of the debate on the matter of public interest - Royal Commission into the Western Australian Police Service in the Legislative Assembly on June 10, 1997?

Hon N.F. MOORE replied:

The Anti-Corruption Commission has advised that it would be inappropriate for this information to be provided.

POLICE - CHARGES

Dr Carmen Lawrence and Hon John Halden - Media Statement

590. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Police:

(1) At what time on April 21, 1997 did the Western Australian Police Service notify the media that charges had been laid against Dr Carmen Lawrence and Hon John Halden arising out of the Marks Royal Commission?

(2) Were all media outlets advised at the time?

(3) At what time was the Police Commissioner's media statement issued?

(4) Who drafted the Police Commissioner's media statement?

(5) Was the statement cleared by the Director of Police Media and Public Affairs?

(6) Who was the police spokesperson who advised the media that the penalty for the offences was 14 years?

Hon PETER FOSS replied:

(1)-(6) This matter is currently being investigated by the Parliamentary Commissioner for Administrative Investigations. It would be inappropriate, therefore, to comment on this matter before the matter is completed.

POLICE - INVESTIGATIONS

Leak to Australian Financial Review

625. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Police:

(1) Has the Western Australian Police Service initiated an inquiry into the source of an apparent leak to the *Australian Financial Review* dated March 25, 1997 of details of an investigation into Dr Carmen Lawrence and others?

(2) If not, why not?

Hon PETER FOSS replied:

(1)-(2) No. The issue is the subject of an investigation by the Parliamentary Commissioner for Administrative Investigations.

MINING - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD

Mt Charlotte Mine - Earth Tremors

639. Hon J.A. SCOTT to the Minister for Mines:

I refer to question on notice 312 of March 26, 1997 -

(1) The Minister has stated "A record book entry was written following his inspection. Work was progressing in a safe and orderly manner with due precautions being taken by employees and company staff members". Can the Minister state precisely what due precautions were being taken by employees and staff members?

(2) If not, why not?

(3) The Minister has stated "Present information indicates that the tremors are in part due to natural ground

movement and partly due to energy releases associated with mining activity". Can the Minister state precisely what "present information" he is referring to?

(4) If not, why not?

(5) The Minster has stated "The department has found no reason to declare that the sites inspected after these events are unsafe, provided that ground support systems are maintained to a high standard". Can the Minister state precisely what “ground support systems” he is referring to?

(6) If not, why not?

(7) The Minister has stated "The company has also installed a modern seismic monitoring system which measures and locates the sites of seismic events". Can the Minister state and provide a map where this so called modern seismic system has been installed?

(8) If not, why not?

(9) Does this modern seismic system operate 24 hours a day and 365 days of the year?

Hon N.F. MOORE replied:

(1) Work areas affected were closed off for a minimum period of 24 hours. An inspection was then undertaken by the statutory appointee, the Underground Manager, assisted by the Geotechnical Engineer. Repair work was defined and resources allocated to complete the work. Work teams under the supervision of experienced staff were allocated to the defined work. Areas were made safe by scaling the backs and sidewalls in a systematic manner, and additional support devices were installed in areas determined by the Geotechnical Engineer.

(2) Not applicable.

(3) Information is available from a number of sources. The data is summarised in a publication provided by Australian Mining Consultants entitled “Stress Waves and Seismic Events at Mount Charlotte, Kalgoorlie”, a copy of which is provided. [See paper No 693.]

Records of natural seismicity are available at the Mundaring Geophysical Observatory. Kalgoorlie Consolidated Gold Mines Pty Ltd (KCGM) has a database of the seismic activity from mining and natural sources. The issue of periodicity of seismic activity was discussed at the 3rd International Symposium on Rockbursts and Seismicity held in Ontario, Canada in 1993. A bibliography of additional reference material is provided. [See paper No 693.]

(4) Not applicable.

(5) The ground support systems used at KCGM include:

The development of pillars for in situ excavation support.
The backfilling of old stoping areas as directed by the Geotechnical Engineer.
The provision of -

rock bolting systems including resin, cement and cone systems.
grouted rope anchor support systems.
steel support straps.
wire mesh to contain loose rocks.

The design of excavations using established techniques. Support design is under the direction of a Geotechnical Engineer at KCGM.

(6) Not applicable.

(7) The seismic system is installed at the Mt Charlotte section of the KCGM operations. The computer equipment is located on surface in the office block adjacent to the Cassidy Shaft. Underground geophones are situated at pre-determined locations in the mine workings to correlate seismic activity. Between 8 and 10 sites would normally be in use at any one time. A map and cross section showing the locations of this equipment are provided. [See paper No 693.]

(8) Not applicable.

(9) Yes, except when there is a major disruption to the mine’s electrical power supply.

MINING - FIMISTON I AND II TAILINGS DAMS

Rise in Ground Water Levels

646. Hon J.A. SCOTT to the Minister for Mines:

I refer to question on notice 3974 of October 25, 1995 and the Fimiston I and Fimiston II tailings dams -

(1) Has the Fimiston I and Fimiston II tailings dams through leakage and seepage, caused ground water levels to rise on Prospecting Licences P 26/1848 and P 26/1858 killing and causing environmental damage to trees along with salt contamination of the ground?

(2) If not, then what has caused the groundwater levels to rise on Prospecting Licences P 26/1848 and P 26/1858 killing trees and causing environmental damage to trees along with salt contamination of the ground?

(3) Who is the operator(s) and owner(s) of Fimiston I and Fimiston II tailings dams?

(4) Has the department or the Minister received complaints from the owner(s) and other person(s) with respect to the Fimiston I and Fimiston II tailings dams in relation to them causing inconvenience, pollution, contamination and environmental damage of Prospecting Licences P 26/1848 and P 26/1858?

(5) Have the owner(s) or operator(s) of the Fimiston I and Fimiston II tailings dams, through leakage and seepage and the development of a groundwater mound underneath P 26/1848 and P 26/1858, breached any section or regulation of the *Mining Act 1978* and Regulations or any conditions on all mining tenements which Fimiston I and Fimiston II tailings dams are situated?

(6) If not, why not?

(7) Will the Minister or the department issue a stop work order under Regulation 120L of the Mining Act 1978 and Regulations to the owner(s) or operator(s) of the Fimiston I and Fimiston II tailings dams for continually breaching Regulation 98 of the Mining Act 1978 and Regulations by causing inconvenience to the holder(s) of P 26/1848 and P 26/1858?

(8) If not, why not?

Hon N.F. MOORE replied:

(1) There appears to have been a rise in ground water levels in the Kalgoorlie area. The actual causes of this rise have not been identified. In relation to the Fimiston I and Fimiston II Tailings Storage Facilities, the operator has implemented an extensive water recovery program to control any possible seepage from these tailings facilities.

(2) There is no clear answer to why ground water levels have risen. There are similar reports of tree deaths from other areas of Kalgoorlie at some distance from this area.

(3) Kalgoorlie Consolidated Gold Mines Pty Ltd (KCGM).

(4) Yes.

(5) No.

(6),(8) The situation is being managed by KCGM to the satisfaction of the Department of Minerals and Energy.

(7) No.

SCHOOLS - HIGH

Enrolments

649. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

(1) Will the Minister for Education confirm that the Education Department seeks to achieve, for most senior secondary schools in Western Australia, long term stable enrolments within the range of 1 000 to 1 200 students?

(2) Will the Minister confirm that the student enrolments for the Clarkson Community High School would peak at approximately 1 800 students without the development of an additional high school proximal to Clarkson Community High School?

(3) If so, when would the Minister expect the enrolment of students at Clarkson to peak at approximately 1 800 students?

(4) Will the Minister confirm that the Education Department proposes to establish a new secondary school at Kinross?

(5) If so, when is it expected that the construction of a new secondary school at Kinross will commence and when is it expected that the first enrolment of students will be received for a new secondary school at Kinross?

Hon N.F. MOORE replied:

(1) Yes.

(2)-(3) Without a new neighbouring secondary school, Clarkson Community High School is projected to reach 1800 students by 2005.

(4) Yes.

(5) The timing for a high school in Kinross will depend on future rates of residential growth in Clarkson, Kinross, Merriwa, Mindarie and Quinns Rocks, and the opening up of proposed subdivisions at Butler and Jindalee.

QUESTIONS WITHOUT NOTICE

TOURISM - ELLE RACING

Contract - Signing

668. Hon TOM STEPHENS to the Minister for Tourism:

On Wednesday, 20 August the Minister said in Parliament that the final strategy, including Elle Macpherson's role in the TV consumer advertising campaign, was approved by the Western Australian Tourism Commission board on 25 October 1996.

(1) Can the Minister confirm -

(a) that a draft contract between Elle Racing Pty Ltd and the WATC had already been sent to John Harvey on 5 September 1996;

(b) that approval to proceed with the Brand WA initiative including Elle Macpherson's participation was given by the Premier and the Minister after meetings to discuss the Elle Racing proposal held on 23 August and 7 October 1996;

(c) that he formalised this approval and gave his permission to proceed with the signing of the contract with John Harvey on 10 October 1996?

(2) If yes, can the Minister explain why the WATC was the last in line in the approval of the strategy?

(3) Why did the WATC not give its approval to the contract until after it had already been signed by Harvey and announced by the Premier?

Hon N.F. MOORE replied:

I thank the member for this question. I ask the member to place the question on notice.

LEGAL AID COMMISSION - FUNDING

Commonwealth Cuts

669. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the 40.85 per cent cut in the Commonwealth's contribution to the funding of the Legal Aid Commission of Western Australia.

(1) What other agency under the Attorney's purview has received such a cut in funding?

(2) What are the Commonwealth's reasons given to the Attorney for cutting its contribution by 40.85 per cent?

(3) Why was it that in the course of negotiations the cut in the Commonwealth's contribution grew from an envisaged $3.3m to almost $5.7m?

(4) Can the Attorney confirm that the cut to Western Australia is the biggest percentage cut to any State or Territory in the Commonwealth?

Hon PETER FOSS replied:

(1)-(4) I have some difficulty in answering the question as I have only Hon Nick Griffiths' statement about the 40.85 per cent. I have not calculated the percentage, so I am unable to answer the question.

Hon N.D. Griffiths: You don't know!

Hon PETER FOSS: I do not run around working out percentages all the time, Mr Griffiths! The original offer from the Commonwealth where it had access to our figures was, I think, $7.89m. The cut ended up not at $5.7m; that was probably the second last one we spoke about -

Hon N.D. Griffiths: I relied on your media release.

Hon PETER FOSS: We received extra money on top of that. The main reason was that we were spending more money on state matters than on commonwealth matters. Unfortunately that happens to be the case. Each State was treated in exactly the same way. Hon Nick Griffiths already knows the reason the cut was made.

Hon N.D. Griffiths: You did a bad job.

Hon PETER FOSS: No, it was not that. Every State was treated equally. The one difference was that I managed to get extra money for domestic violence matters. It was the one area where Western Australia was treated better than everyone else. However, in every other respect the process followed was exactly the same. The money was to do with commonwealth matters.

It is difficult for me to say whether other States were worse off or better off. The federal Attorney General indicated to me that the figures claimed by the other States were mythical and did not represent the deal that was done. The difficulty is that I have an assurance from the federal Attorney General that the process was exactly as was originally announced; they were commonwealth matters.

Western Australia was one of the only States to get money for domestic violence - a commonwealth matter. I am not aware the other States have anywhere near what they claim to have received. The federal Attorney General tells me that the figures claimed by those States are specious. I know Western Australia's figures are accurate. In view of the assurance by the federal Attorney General that our State was treated equally with everyone else and, in one respect, was treated better, it is difficult to make the sort of comparison Hon Nick Griffiths is asking me to make.

I take pride that the one area in which I succeeded in changing the Commonwealth's mind was domestic violence. I am sure some members opposite will agree with me that that is an important area for which the Commonwealth can take responsibility and I am pleased that I was at least able to get a quarter of a million dollars for Western Australian people who are subjected to domestic violence.

MINISTERS OF THE CROWN - MINISTER FOR TRANSPORT

Overseas Travel - Itinerary and Cost

670. Hon NORM KELLY to the Minister for Transport:

On 25 June in response to my question without notice the Minister gave a commitment to this House that he would table accurate costings and the itinerary of his visit to the United States of America. In his words, this would be done "shortly after the resumption of Parliament in August".

(1) Is the Minister now able to table these documents?

(2) If not, why not; and when will these details be tabled?

Hon E.J. CHARLTON replied:

(1)-(2) I look forward to tabling that document. I will even have associated colour pictures for all members opposite so that even they will be able to understand it. It will set a tremendous standard. I do not know how members opposite will compete in the future with the detailed report of almost every minute of every day that I spent away. I have the draft of the report right here.

Hon Ljiljanna Ravlich: How many pages? I think you are trying to take off the report of members in the other place.

Hon E.J. CHARLTON: A concerned member wants to know when this report will be presented, and another member has interjected and implied that it is a waste of time and that members do not really want it. I do not know how we can please everyone.

NATIVE TITLE - FEDERAL GOVERNMENT'S PLAN

671. Hon GREG SMITH to the Leader of the Opposition:

My question relates to Order of the Day No 26.

(1) Has the member considered the Federal Government's 10 point plan to resolve the problem of native title?

(2) If so, does the member support the plan; if not, why not?

Hon TOM STEPHENS replied:

(1)-(2) In answer -

Several members interjected.

The PRESIDENT: Order! One of the reasons we want one member talking at a time is not so I can hear, but so the Hansard reporters can hear. I ask members to bear that in mind.

Hon TOM STEPHENS: I thank the member for this question. I assure the House that this is not a dorothy dixer in any sense. I had no forewarning of it. However, my life's work has prepared me to answer this question.

Hon John Halden: Take as long as you like; you have 20 minutes.

Hon Peter Foss: Have you read it?

Hon TOM STEPHENS: I have read the 10 point plan. I do not support it in its entirety. I have a way of responding to the plan. It appears as an item within the orders of the day; that is, a motion which would have this House, this Parliament and this Government prepare for what it must do - pass legislation in response to whatever happens in the federal Parliament on the native title question. This Chamber must tackle that proposal quickly. There can be nothing worse than not being ready to move in the direction of legislation in this Parliament in response to whatever happens in the federal Parliament on the native title question.

Hon N.F. Moore: We are more ready for it than anybody else anywhere.

Hon TOM STEPHENS: The Government is not ready for it.

The PRESIDENT: Order!

Hon TOM STEPHENS: The Government does not have control of this House any longer.

The PRESIDENT: Order! I call Hon Tom Stephens to order. I ask him to address his answer through me to the House. There is no need for cross-Chamber interjection like that. I also ask the Leader of the House not to interject.

Hon TOM STEPHENS: I thank you, Mr President, for the invitation to address you once again. Government members must rise to the opportunity of preparing the House for legislation that can get through this Parliament in response to the native title issues at the national level.

TOURISM - MARKETFORCE ADVERTISING CONTRACT

672. Hon KEN TRAVERS to the Minister for Tourism:

On 19 June this year the Minister informed the House that the Western Australian Tourism Commission had signed a contract with Marketforce Advertising on 27 November 1996 to develop "a long time brand position for Western Australia".

(1) What was the date of the WATC board meeting at which the recommendation was made to give the contract to Marketforce?

(2) When did Marketforce commence work on developing the WA brand advertising strategy?

Hon N.F. MOORE replied:

(1)-(2) I will ask the member to place the question on notice. I will just explain the reason for so doing in the context of this question and the previous one I was asked by Hon Tom Stephens. From time to time there

are problems in this form of question. On a number of occasions I have told Hon Tom Stephens why it is not possible to answer some questions on the day they are asked.

Hon Tom Stephens: Even when you have the answer beside you?

Hon N.F. MOORE: I do not have the answer beside me; I have the question. That is the same for the question asked by Hon Ken Travers. I have been sitting in this Chamber since 11 o'clock this morning, as I was supposed to be. These questions are sent through a variety of office circumstances and arrive at the Western Australia Tourism Commission some time during the day. Those officers sit down and seek to prepare an answer to the questions. On many occasions I must sit down and discuss the answers with the officers who are preparing them. I am the person giving the answer in the House and I am responsible for it. If I do not have a chance to discuss the answers with the officers who are preparing them, I do not propose to give an answer in the House. History shows that on 99 out of 100 occasions, an answer is provided on the same day; however, today I am not doing that because I have not had an opportunity to talk to the officers involved. I am asking members to put the questions on notice for that reason.

ROADS - BRIDGETOWN BYPASS

673. Hon CHRISTINE SHARP to the Minister for Transport:

In view of the ruling of the High Court of Australia on the franchise levies, does the Government intend to defer the construction of the proposed Bridgetown bypass?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. As I have already stated a couple of times, the consequences of the High Court decision are that we have been given an interim arrangement for the next six months. That has left the fuel income coming to the State Government $29m less than in the current budget. It was indicated to me that road funding will be able to be made up from other sources for the balance of this financial year. After that, no arrangement is in place, either in the federal proposal or any other state arrangement, to cover this shortfall.

As for the Bridgetown bypass, I hope it, along with every other project currently planned, will receive funding. We will certainly do our best to ensure that all projects will proceed. Two country deputations came to see me this morning wanting road work as a matter of urgency due to the build up of traffic in areas with new industry and associated activity - the very reason for Bridgetown wanting a bypass.

Hon Christine Sharp interjected.

Hon E.J. CHARLTON: I have taken on board the honourable member's view, as she is aware. As a consequence, I have invited her to meet various people involved. If there is a better way of proceeding, that will be done. I doubt that the community will accept nothing being done as this would allow the current traffic volume to be maintained on the main street of Bridgetown, a traffic problem found in just about every other town in the south west of the State.

BLUEGATE NOMINEES AND MULTIPLEX CONSTRUCTIONS - LEASE

Extension

674. Hon HELEN HODGSON to the Minister representing the Minister for Lands:

Some notice of this question has been given.

(1) Has any extension been granted by the Minister for the completion of a lease between the Minister and Bluegate Nominees Pty Ltd and Multiplex Constructions Pty Ltd entered into on 18 June 1992?

(2) If so, on what dates were the extensions granted?

(3) Under clause 9.1 of the contract, an extension is only to be granted by the Minister in the case of any "Event of Force Majeure".

  (a) Has such an event of force majeure occurred to justify the extensions of the lease?

  (b) If so, what are the details of these events of force majeure?

(4) If there has been no event of force majeure, why did the Minister chose not to terminate the agreement as is his right under section 9 of the agreement as prescribed for in section 32.2?

Hon MAX EVANS replied:

(1) There has been no extension of the terms of the lease. However, extensions have been granted under schedule 3 of the lease.

(2) In respect of schedule 3 of the lease, extensions were granted on the following dates -

16 July 1996;
13 June 1977;
14 July 1997; and
13 August 1977.

(3)-(4) Not applicable.

RAILWAYS - SOUTHERN EXTENSION

675. Hon SIMON O'BRIEN to the Minister for Transport:

Can the Minister explain why the State Government decided to route the southern extension of the metropolitan railway network via Jandakot and Armadale rather than through Fremantle?

Hon E.J. CHARLTON replied:

The route was chosen for two basic reasons: First, it will enable people travelling from points south of Jandakot, such as Kwinana, Rockingham and Mandurah, to get to Perth quicker than the other option. That is important. People make their decisions on public transport use on two counts: The quality of the transportation, and the time taken to travel.

The second, and very obvious, reason for choosing the route is, as I have tried to explain to Hon Jim Scott on more than one occasion, that it has probably double the catchment capacity of the alternative route through Fremantle. When putting in a transport system, one conducts research to determine how to ensure that the greatest number of people will have access to the quality service. That is the reason for the Government's choosing that alignment and proceeding to implement that plan.

RAILWAYS - MANDURAH-PERTH

Route

676. Hon J.A. COWDELL to the Minister for Transport:

(1) How much has been spent to date on planning reports and studies for the Mandurah rail line?

(2) Why has the Government rejected the recommendations of Transperth's 1992 South West Area Transit study?

(3) Will the Government consider appointing a parliamentary select committee to make recommendations about the best route for the planned Mandurah rail line?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Approximately $400 000 has been spent on external consultants and data acquisition. This figure does not include -

time spent by Westrail, Transport and Ministry for Planning staff over the past four years;

up to $800 000 which has been committed to the design of the rail tunnel and amendment to the road design plans at Kenwick - that is the interchange which is being installed; and

up to $2m which was committed for land purchases between Kenwick and Jandakot for stations.

(2) The Government has not rejected completely the South West Area Transit findings, which cover four reports between July 1992 and June 1994. From the final report, "Rapid Transit Review, Volume B, June 1994", the Government has accepted the primary finding for a staged busway between Fremantle and Rockingham on a westerly alignment, as an integral part of the overall strategy for the south metropolitan coastal area. It must be stressed that the South West Area Transit work treated the south metropolitan area in isolation to the greater metropolitan region and strongly implied an ownership and capital status by Fremantle. It is important to note that in designing a public transport network one must take into account the whole metropolitan region.

(3) No. This has not been the practice, for example, with the planning process for the northern suburbs railway. It is properly planned. I advise Hon John Cowdell that this is not a game; it is serious.

PRISONS - KARNET

Requests for HIV Tests

677. Hon CHERYL DAVENPORT to the Minister for Justice:

(1) How many Karnet Prison Farm inmates have requested HIV tests in the past six months?

(2) How many have received HIV tests in the same period?

(3) Have any inmates tested positive so far, and if so, what number?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) All prisoners are offered tests and encouraged to be tested. The number tested would include those who requested tests and those who consented to testing.

(2) A total of 103 prisoners were tested between 1 January and 21 August 1997.

(3) No new HIV positive results have been obtained from prisoners.

MINING - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD

Land Clearing

678. Hon GIZ WATSON to the Minister for Mines:

I refer to the environmental management operations of Kalgoorlie Consolidated Gold Mines Pty Ltd. On 26 March 1997 my colleague, Hon Jim Scott, asked question on notice 311 which referred to the building of KMCGs's Fimiston II tailings storage facility. Can the Minister clarify -

(1) Which person or persons from KCGM authorised the clearing of bushland in association with the building of KCGM's Fimiston II tailings storage facility?

(2) (a) Can the Minister advise what was the value of sandalwood timber lost as a result of KCGM not adhering to the Department of Conservation and Land Management's land clearing procedures at this site?

(b) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) I advise the member that the answer to question on notice 311 was recorded in *Hansard* on 24 June 1997 and was as follows -

(1) It is not known which individual officer or officers of KCGM was or were responsible for authorising the company's activities. The company was held responsible.

(2) I am advised by the Minister for the Environment that -

(a) no sandalwood was lost;

(b) not applicable.

MINISTER FOR FINANCE - MELBOURNE VISIT

679. Hon NORM KELLY to the Minister for Finance:

(1) In reference to the Minister's travel to Melbourne from 1 to 4 November 1996, which covered the first two days of the Melbourne Cup carnival and cost the State $4 251, can the Minister explain the benefits to this State from his visit?

(2) Can the Minister explain the reason he needed to make a further trip to the Melbourne Cup carnival on 8 November 1996, after having returned to Perth only four days earlier?

The PRESIDENT: I do not know whether that should be addressed to the Minister in his capacity as Minister for Finance or Minister for Racing and Gaming.

Hon NORM KELLY: In the Treasury report tabled today the funding for these trips came out of the Minister's Finance portfolio.

The PRESIDENT: The question is directed to the Minister for Finance.

Hon MAX EVANS replied:

I have visited Melbourne in the past and I will continue to go there in the future. Before I became the Minister for Racing and Gaming I rarely attended race meetings, and when I am no longer a Minister I doubt I will ever go to another. However, it is an important part of my portfolio. There were two trips because I had to return to Perth for the parliamentary sitting on the Tuesday, Wednesday and Thursday. The Parliament sat at that time this year as well. I came back on the Sunday or Monday night.

Hon Mark Nevill: How much did you win?

Hon MAX EVANS: I did not have a bet. I do not even get an allowance for my wife to bet. That is even worse, because she keeps losing! We caught up with Lloyd Williams and Ron Walker of the Crown Casino. Western Australia and Victoria have tax problems with their casinos. We hope that the problem will be resolved in the next couple of days. They did not even know of the problem until I advised them of it.

I also spent time during that trip with Ross Wilson of TABCorp. We are in a pool with TABCorp on win and place bets. The New South Wales Minister and I want all the TABs in Australia to bet in the one pool. We would have bigger jackpots and increase turnover.

We also spoke with the Caulfield racing club on gaming and clubs. There have been a number of misunderstandings about the money made by clubs. Caulfield made $1.7 in its first year from gaming clubs, because its gaming area is on the outside perimeter. Moonee Valley made $1.4m and Flemington made nothing. I discussed the issue with David Burke, the head of the Victoria Racing Club. I could not get him to see sense. We should increase the commission rate so we can make more profits to go back to the codes.

Hon Bob Thomas: Not at the expense of the punter!

Hon MAX EVANS: A Minister is entitled to one trip a year to the Eastern States with his or her spouse. My wife has to go to umpteen race meetings around the country because that is my job. I expect her to get that allowance.

ALINTAGAS - NORTHGATE COMMUNICATIONS

Fibre Optic Cabling

680. Hon E.R.J. DERMER to the Leader of the House representing the Premier:

I refer to the Premier's answer to Legislative Assembly question on notice 807 received by the member for Belmont on 20 August where the Premier stated -

> AlintaGas recently announced Northgate Communications as its potential partner for providing wideband cable in AlintaGas trenches throughout Kalgoorlie.

(1) Is the Premier aware of the media statement issued yesterday, 20 August, by AlintaGas announcing that AlintaGas and Northgate Communications have been unable to reach a satisfactory conclusion in negotiations to lay underground telecommunications cables in natural gas trenches in Kalgoorlie-Boulder?

(2) What measures have been taken by the newly established office of information and communications within the Department of Commerce and Trade to attempt to salvage this prime opportunity?

(3) What steps will the Government take to ensure effective coordination between government instrumentalities to prevent this situation arising in the future?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I do not have an answer as yet, so I ask that he place the question on notice.

This sort of question is not necessarily one that must be asked without notice; it seeks a lot of information and it could be placed on notice. Members opposite use question time to ask questions that would be better placed on notice. I have half a dozen answers to questions that were to be asked by Hon Tom Stephens on Tuesday. They have not been asked yet because we are dealing with questions that do not need to be asked without notice. I do not have the answer and I ask the member to place the question on notice.

Hon Tom Stephens: Send over the answers you have.

Hon N.F. Moore: Put them on notice; the Leader of the Opposition will probably get them more quickly.

The PRESIDENT: Order! The Leader of the House and the Leader of the Opposition will come to order.

Hon E.R.J. Dermer interjected.

The PRESIDENT: As will Hon Mr Dermer; he has had his chance.

DRUGS - HEROIN

Methadone Waiting List

681. Hon JOHN HALDEN to the Minister representing the Minister for Family and Children's Services:

Some notice of this question has been given.

(1) Can the Minister inform the House how many of the fatal heroin overdose victims in May, June and July this year were on the methadone waiting list?

(2) If not, why not, and when will that information be available?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Information for May was received and analysed today. Of the fatal heroin overdoses that occurred in May this year, none of those people were on the methadone waiting list.

(2) The list of names of people suspected of dying from a heroin overdose is not readily available. This information is provided to the WA Drug Abuse Strategy Office on a strictly confidential basis for statistical analysis purposes, as it is compiled by the Chemistry Centre in preparation for coronial hearings. In accordance with the coronial process, this takes some time. Similar information for June should be available in one month, for July in two months and so on.

Hon John Halden: Can I put the rest of the question on notice? You gave the answer in respect of only May.

Hon E.J. CHARLTON: As I just stated, it will take some time to do it, and the information for the other months will be available in some time.

BLUEGATE NOMINEES PTY LTD AND MULTIPLEX CONSTRUCTIONS PTY LTD

Lease - Legal Advice

682. Hon HELEN HODGSON to the Minister representing the Minister for Works:

(1) Has the Government received legal advice on the interpretation of section 40.1 of the lease agreement between the Minister and Bluegate Nominees Pty Ltd and Multiplex Constructions Pty Ltd entered into on 18 June 1992?

(2) If so, what was that advice?

(3) Is the Government aware of any interpretation any other party to the agreement made of section 40.1?

(4) If so, what was that interpretation?

(5) Has the lessee stated to the Government what it considers to be a "mutually acceptable agreement" under that section?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The lease was signed between the Minister for Lands in the previous Government and Bluegate Nominees in 1992. The Minister for Works has sought legal advice.

(2) The parties should meet to discuss any issues put forward under section 40.1, but there is no obligation on the lessor to agree to the issues.

(3) No.

(4) Not applicable.

(5) The lessee has put forward its proposals at various times under this section of the lease. Agreement has been reached to extend the completion date.

TOURISM - MARKETFORCE CONTRACT

683. Hon LJILJANNA RAVLICH to the Minister representing the Minister for Services:

In relation to the tender for a company to develop a long term brand name for Western Australia -

(1) What is the name of the successful company?

(2) Was the successful company notified by the State Supply Commission or the Western Australian Tourism Commission?

(3) If notified by the State Supply Commission, when did this occur?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Marketforce.

(2) By the Western Australian Tourism Commission, which was in accordance with the approval granted by the State Supply Commission on 14 December 1995.

(3) Not applicable.

While we are dealing with this matter, I refer members to an answer given to Hon Ken Travers to question without notice 661(3). I am advised that the recommendation from the WATC was dated 12 December 1995, and that it was delivered to the Department of State Services but not date stamped on receipt. I am further advised that the only date stamp which appears is 14 December 1995, which is the date of approval by the tenders committee.

MINING - URANIUM

Kintyre Mine

684. Hon GIZ WATSON to the Leader of the House representing the Minister for Resources Development:

In relation to the article in *The Australian* on Monday, 18 August 1997 about the Kintyre uranium mine being put on hold as a result of falling world uranium prices -

(1) Has the Government been advised of the delay in the potential start-up date of the Kintyre uranium mining project? If yes -

(a) To what has this delay been ascribed; and

(b) has the Government been advised of a new projected start-up date?

(2) Is the Government aware that the proposed Rio Tinto's uranium mine at Kintyre is having difficulty finding a suitable water supply that could provide the 3 000 cubic metres of water required per day for the project?

(3) If Rio Tinto found a water supply suitable for its needs within the Rudall River National Park, what process would the Government need to go through to enable access by Rio Tinto's uranium mine to any such water supply?

The PRESIDENT: Order! It seems from what I have heard that the last part of the question may be out of order because it asks for an opinion.

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I suggest that part (3) of the question is hypothetical and is out of order.

(1) Yes.

(a) Depressed world uranium prices.

(b) No. This will depend on world uranium prices returning to a level that would meet the company's project criteria and, among other things, obtaining agreement for native title and state and commonwealth environmental approval.

(2) I am not aware of such a problem in obtaining requisite process water.

(3) This is a hypothetical question.