WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Tuesday, 21 October 1997

Legislative Council

Tuesday, 21 October 1997

THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

PETITION - OSTEOPATHS BILL

Hon Bob Thomas presented the following petition bearing the signatures of 23 persons -

> To the Honourable the President and members of the Legislative Council in Parliament assembled.
>
> We, the undersigned respectfully request that the Council amend the *Osteopath Bill 1997* via an exemption clause to make it abundantly clear that the normal process and practice of massage and its allied umbrella modalities is not in any way affected by the Osteopath Bill 1997.
>
> And your petitioners as in duty bound, will ever pray.

[See paper No 901.]

PETITION - PARKS AND RESERVES

Yanchep National Park - Closure of Swimming Pool

Hon Ken Travers presented the following petition bearing the signatures of 1 094 persons -

> To the Honourable the President and members of the Legislative Council in Parliament assembled.
>
> We, the undersigned residents of Western Australia oppose the closure of the swimming pool at Yanchep National Park.
>
> We believe the pool is important to:
>
> 1. The heritage of the National Park
>
> 2. The community in Yanchep and Two Rocks
>
> 3. Local children having access to swimming lessons
>
> We call on the Government to urgently repair the pool to enable it to open this summer.
>
> Your petitioners, therefore respectfully request that the Legislative Council will give this matter earnest consideration.
>
> And your petitioners as in duty bound will ever pray.

[See paper No 902.]

PETITION - OCCUPATIONAL SAFETY AND HEALTH REGULATIONS

Hon Kim Chance presented the following petition bearing the signatures of 1 366 persons -

> To the Honourable the President and members of the Legislative Council in Parliament assembled.
>
> We the undersigned residents of Western Australia oppose the proposed Occupational Safety and Health Amendment Regulations (No 2) 1997 which attacks the rights of citizens to smoke in public places and is therefore an attack on our freedoms and democratic rights.
>
> Your petitioners, therefore respectfully request that the Legislative Council withdraw these regulations now before the Parliament forthwith.
>
> And your petitioners as in duty bound, will ever pray.

[See paper No 903.]

COMMITTEES - JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Reports - Occupational Safety and Health Amendment Regulations (No 2)

Hon N.D. Griffiths presented the Twenty-seventh Report of the Standing Committee on Delegated Legislation on Occupational Safety and Health Amendment Regulations (No 2), and on his motion it was resolved -

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

[See paper No 904.]

MOTION - URGENCY

Occupational Health and Safety - Impact of Contracting Out

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 21 October -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House, at its rising, adjourn until 9.00 am on 25 December 1997 for the purpose of discussing:

1) Occupational Health and Safety in Western Australia;

2) The impact of contracting out on Occupational Health and Safety;

3) Restricted union right of entry to work sites, and its impact on the safety of Western Australian workers;

4) The role of WorkSafe WA in enforcement of safety standards; and

5) Related workers' compensation issues.

Yours sincerely

Ljiljanna Ravlich MLC
Member for the East Metropolitan Region

In order for this matter to be debated, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON LJILJANNA RAVLICH (East Metropolitan) [3.39 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December.

Mr President, thank you for providing me with the opportunity to raise these matters before the House. In doing so I pay tribute to the hundreds of Western Australian men and women - historically, there are thousands - who have died in the course of carrying out their duties. Many of these people, unfortunately, were in low paid, high risk work with few promotional opportunities and were certainly the most vulnerable in terms of employment within our community. It probably comes as no surprise that each year hundreds of workers are injured in Western Australian workplaces and many of them die. Many die immediately in the workplace while others die as a consequence of the injury they might have sustained at work. It might take some time before the worker dies; nevertheless, it is very much work related.

In Australia over 500 workers a year die from injuries sustained at work. That figure is too high. Those deaths are a direct result of injuries which have occurred in the workplace. I understand that 27 workers are killed each year at their workplace. As a matter of interest, a limestone wall at the workers' embassy has been built in memory of Western Australian men and women who have died in the course of undertaking their work.

Since 1988 there have been well over 200 workplace deaths in Western Australia. This figure is too high. My understanding is that a person is more likely to die at work than on the roads. A report in the "WorkSafe News" of August 1997 refers to the National Occupational Health and Safety Council and states -

> NOHSC estimates that there are around 2 900 work-related fatalities in Australia each year. About 450 of these are traumatic workplace events and the remainder result from exposures at work to hazardous substances and/or working conditions - many of which might have occurred some time prior to the year of death.

The size of the work-related death toll is put into focus by comparing it to other external causes of death. This article shows that in 1997 work related deaths numbered 2 900 compared with 2 367 suicides and 2 229 deaths resulting from motor vehicle accidents. The cost of work related injuries is estimated to be $27b annually. It is an area that we should consider. By not taking preventive action the community is exposed to much higher costs as a consequence of dealing with workplace injuries and diseases. I was alarmed to learn today that workers in the Western Australian Parliament are not covered by the Occupational Health, Safety and Welfare Act. It is of

enormous concern to me that employees of this place are not covered by occupational health and safety regulations.

I have been doing some work on contracting out and privatisation. The move towards contracting out and privatisation will have dire consequences for industry safety. As subcontracting and contracting out increase in the community we can expect a deterioration of safety standards. Put simply, there is enormous pressure to cut costs and present low price bids in order to win contracts. The one area in which employers appear to be cutting their costs is occupational health and safety. Rather than meeting the safety standards as required by the Occupational Health, Safety and Welfare Act, many contractors whose tenders promise to meet all the safety standards as required by the contract do not honour their undertaking in their tender documents and corners are cut. That is because little checking is carried out. That is a real concern, as is the flow of organisation. When many contractors undertake a job it is much more difficult to organise the labour and to sequence it, in contrast with a large organisation, where there is a work sequence and cooperative organisation of that labour. Our occupational health and safety legislation has not been designed to address that area of contracting out and we need to look closely at it.

Early in July under the new Industrial Relations Act issues arose in relation to unions' right to enter workplaces. As a consequence of difficulties arising from that legislation the Commissioner for WorkSafe gave an instruction to his WorkSafe inspectors that they were not to respond to union calls. I wrote to the Commissioner for Public Sector Standards on 10 July and asked him to look at that specific issue to investigate whether there had been a breach of the Act. My interpretation of the Act was that a breach had occurred. That was over three months ago and I am still waiting. I received an interim response from the Commissioner for Public Sector Standards that he would discuss this issue with the Premier and get back to me. It has been three months and I am still waiting for a response on whether there will be an investigation by the Commissioner for Public Sector Standards into the WorkSafe commissioner's directive to WorkSafe inspectors not to respond to calls that are brought to their attention by union members. It is of great concern to me that the Commissioner for Public Sector Standards is taking so long to act on this matter.

We have some serious problems because of the many shonky operators in the community. Some industries lend themselves to this more than others and I will touch lightly on the demolition industry. I do not want to labour the point, but there does not appear to be any requirement to license demolition contractors. As a result anyone can contract for work for which they are not licensed and they can subcontract to people who do not have high expertise or skill levels. They can win a contract and by not adhering to safety standards they place their workers at risk.

I asked a question on 28 August 1997 of the Minister for Finance representing the Minister for Works. I was keen to find out, in cases where contractors have breached occupational health and safety standards, whether in tendering for subsequent work any checks were made on previous breaches. I asked the Minister for Finance: Are tendering contractors required to disclose any previous convictions or imposition of penalties in relation to breaches of occupational health and safety legislation when they tender for a demolition contract? The answer was no. It means that some operators in the industry can continually breach the requirements of the Occupational Safety and Health Act; yet we have no checks in the system to deal with that.

I have managed to obtain a copy of the prosecutions' summary relating to these breaches. The Minister for Labour Relations continually stands in the other place and argues that we have fines of up to $200 000 for breaches of the occupational safety and health legislation. That is just pie in the sky stuff. The prosecutions' summary which I have before me is an index for 1997, and it shows some paltry fines being imposed; it shows fines of $1 200, $500, $1 000 and $8 000, and so it goes on. Not one prosecution has had a fine imposed that is anywhere near that $200 000 mark.

Many employers may find it is almost more cost effective to breach the safety standards than to ensure a safe workplace. At the end of day it will cost them only $1 000 or $2 000 in the event that an accident occurs on site. That might be much more attractive than spending $50 000 or $60 000 ensuring the workplace is safe for the workers. The summary shows there are many serious injuries, and many injuries are not being reported.

The Minister for Labour Relations argues very strongly that the rate of occupational injuries and diseases has decreased under this Government. I do not believe that is an accurate reflection of what is going on. We need only look at the claims for workers' compensation, which are increasing. How can occupational injuries and diseases be decreasing when significant increases in the number of workers' compensation claims are being made?

The prosecutions' summary also shows that many accidents are not being reported. Increasingly we are hearing of cases where workers are being instructed by their employer not to go through a workers' compensation system, but rather to see a doctor who will give them cover under Medicare. As a consequence these figures are not showing up in the statistics. This situation is very grave for Western Australian workers. It falls to the Government to address some of the key issues which I have brought to the attention of the House today. As long as I stay here, I will make it a personal challenge to ensure that I get the best deal for worker safety in Western Australia.

HON TOM HELM (Mining and Pastoral) [3.53 pm]: I congratulate my comrade Hon Ljiljanna Ravlich for bringing the issue to the attention of the House. It gives me the opportunity to make some criticism of the Commissioner of WorkSafe, Neil Bartholomaeus, and his petulant outbursts in the Press and on television, about his not using the unions in the best way he can to prevent accidents in the workplace in this State.

Hon Tom Stephens: He follows the lead of his Minister.

Hon TOM HELM: We have examples of where the best advice can be obtained from the unions, yet it is being refused. The Minister for Labour Relations should bring Commissioner Bartholomaeus into line. For some unknown reason the Minister is reluctant to do that, and we wonder what sway this commissioner has over the Minister. If members of Parliament acted in the same way, we would reduce our opportunities of being re-elected because we were not carrying out the duty of care. The commissioner gets paid a substantial amount - probably more than we do - to look after the health and safety interests of workers in this State. He just does not do that. He cops out.

In the Minister's words 25 per cent of the workers this State belong to unions. It follows that if the commissioner is refusing to deal with unions, he is ignoring the knowledge of occupational health and safety issues that has been accumulated over the years by, at least, those in that 25 per cent.

The second point of the motion talks about the impact of contracting out occupational health and safety. Hon Ljiljanna Ravlich drew our attention to the prosecutions that have occurred in this area. We heard of fines from between $800 and $8 000 being imposed. Let us compare that with evidence from workers who have lost their jobs because they have reported matters to WorkSafe. Last week the member for Nollamara brought to the attention of the other place an example of two workers being sacked from the same place for reporting to and answering questions from the WorkSafe inspector.

Members on this side of the House get information about these issues brought to our attention in our electorate offices much more than those on the other side do, because they are hand in hand with this Minister for Labour Relations. Workers do not trust them because they cannot trust WorkSafe. On the odd occasion, we receive reports from workers who are in danger of losing their jobs because they have reported to WorkSafe matters which they are obliged to report, matters which involve their lives and those of their work mates being put at risk. We have examples of people who have lost their jobs directly because they have reported these matters.

Mr Manfred Schlenner, who worked for Gandy Timbers Pty Ltd in Manjimup, proved a case for unfair dismissal before the Industrial Relations Commission. He was sacked because he reported the matter and answered questions put to him by WorkSafe inspectors.

Hon Simon O'Brien: The Minister was on the radio trumpeting that the other day, saying that the Government had succeeded.

Hon TOM HELM: Given the way this Minister talks, these figures could have related to 1984. We should rejoice because this lad who lost his job got compensation for unfair dismissal for reporting to WorkSafe matters of concern in the workplace! Surely this commissioner and this Minister stand condemned for pretending it is easy for workers to prove a case, while at the same time making it simple for WorkSafe inspectors and the WorkSafe commissioner to report to employers what their employees are doing, thus betraying the workers' confidence.

Hon Peter FOSS: Are you saying that is what happened?

Hon TOM HELM: Yes. I am saying that evidence from WorkSafe was released to the employer. As a result, this worker and Mr Wess Giblett, another employee of Gandy Timbers, were dismissed for reporting unsafe working conditions. I know some matters are under privilege in this Parliament. However, this is an example of how such privilege can be used for a good purpose. We can bring to the attention of the public the fact that these guys have been sacked; they have lost their jobs. There is nowhere for them to go.

Hon Peter Foss: What is the basis for that?

Hon TOM HELM: Because they brought issues of concern to WorkSafe.

Hon Peter Foss: Who says that the WorkSafe inspectors were the cause of their being sacked?

Hon TOM HELM: I do not know. Nobody can explain how the employer got a copy of the WorkSafe statements these guys signed. The Attorney General must read the corrected copy of *Hansard* for Wednesday, 15 October. A speech at 4.38 pm by John Kobelke contains a detailed explanation, but I cannot refer to it because a corrected copy is not yet available.

That goes right to the essence of the motion by Hon Ljiljanna Ravlich; that is, restricted right of union entry to work sites and its impact on the safety of Western Australian workers. It has a huge impact. One does not need more than

half a brain to recognise that workers feel more comfortable bringing matters to the attention of the union because it is in the union's interests to keep those matters confidential between it and WorkSafe. Workers' union representatives cannot raise those matters any more because the high and mighty Neil Bartholomaeus, who is being paid by the taxpayers and the workers he is supposed to protect, refuses point blank to talk to them.

I know of one case, which I will talk to Hon Peter Foss about behind the Chair, where a union listed some complaints in a letter and was told that WorkSafe would not consider the issue unless a worker from that company signed the letter. One of the workers signed the letter, and he has now been dismissed. I cannot refer to it in detail because it is before the court, and therefore sub judice, on the question of unfair dismissal. I am not trying to be sensational, but the taxpayers are paying this person a good and decent salary, and he refuses to listen to the authorised, legal representative - the workers' union representative. What kind of situation is that? What sort of Minister would allow that and crow that he has made it easier for people to prove unfair dismissal? People do not want to win cases of unfair dismissal. They want jobs and security, and they want the right to work in such a way that they will return safely home to their wives. They do not want to claim unfair dismissal. It is a waste of time because no compensation can make up for the loss of a job.

It is very timely for this motion to be discussed and I want to bring a number of things to the attention of members. Some members opposite are looking at me like stunned mullets. Some of them are halfway decent, but I must tell them the facts of life. People do not trust members opposite because they think any complaints they raise will be passed to Minister Kierath or to Commissioner Bartholomaeus and they will lose their jobs. They come to members on this side of the House because they know we will respect and keep their confidentiality. We want them to have safe jobs, and this House should congratulate Hon Ljiljanna Ravlich for her action today.

HON PETER FOSS (East Metropolitan - Attorney General) [4.04 pm]: The refreshing thing about Hon Tom Helm's speech is that it contained some facts, but Hon Ljiljanna Ravlich's speech, as usual, was entirely fact free. She always uses words such as "suspect", "believe" and so forth. She did not fail us this time. Most of her comments were "understood", or they "appeared" or she had "heard" about things.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: I listened to the member in silence, and she should listen to me.

The PRESIDENT: Order! The Attorney General.

Hon PETER FOSS: I have less time and I would like to make my points.

The PRESIDENT: Order! The Attorney General. Members, this argument will not develop into a slanging match. Hon Ljiljanna Ravlich and Hon Tom Helm were heard in relative silence and I expect that courtesy to be accorded to other speakers.

Hon PETER FOSS: As usual, her speech was fact free. I will give her some facts because it is important to understand them. Since this Government came to power lost time from work due to injury has been reduced from a frequency of 34 man hours per one million man hours, to a frequency rate of 26. That is a reduction of 23 per cent. More importantly, work related fatalities have declined from a figure of 25 in 1992-93 to 20 in 1996-97 - a reduction of 20 per cent.

Hon Tom Helm: Reported cases?

Hon PETER FOSS: There is this lovely myth that the figures have decreased because people are not reporting them. I suppose they never did that under a Labor Government. I am sure that was a totally different situation. These are the facts as they exist. I know that Hon Ljiljanna Ravlich would have us believe, suspect, understand and hear all sorts of things, but these are the statistics.

More importantly, she also misled the House about what is, and has been, the role of unions. Since the introduction of the Occupational Safety and Health Act, and before that the Occupational Health, Safety and Welfare Act, the unions have not been specifically mentioned in the legislation. It was seen that the appropriate people to deal with safety at work were the employers, the employees and the Government. The unions never had an official role. Even when members opposite were in government, they made no attempt to include them when the legislation was amended. Hon Ljiljanna Ravlich said that the situation was made worse by the Bill passed in May this year amending the Industrial Relations Act. Members may recall that it was made clear when the Bill went through that it had no effect whatsoever on the Occupational Safety and Health Act. That is another furphy.

More importantly, this Government has recognised that there are things occupational safety and health inspectors should pursue, and that other things should more appropriately be pursued by an employer. The inspectors have concentrated their efforts on high hazard plants and workplaces, while third parties carry out a lot of the routine inspections which previously took up much of the time of safety and health inspectors. This has had a result. There

has been an 87 per cent increase in prosecutions, with 127 in 1996-97 compared with 68 in 1992-93. There has been a 23 per cent increase in the number of improvement notices issued, with 5 502 in 1996-97 compared with -

Hon Tom Helm: I wonder why?

Hon PETER FOSS: The member said that nothing had happened. We cannot win in this argument. I know what members opposite will say. If the number had gone down, members opposite would say the Government was not enforcing it. If the number went up, they would say the Government was doing a worse job and they need more. The fact is that more is being done.

The PRESIDENT: Order! The Attorney General will address the Chair and not individual members.

Hon PETER FOSS: I apologise. I am afraid I was interrupted and I felt it necessary to respond. There has been a 25 per cent increase in the number of prohibition notices issued, from 580 in 1992-93 to 725 in 1996-97.

We all accept that any death in the workplace is one too many and, unfortunately, far too many occur for the same reasons that deaths occur on the roads. They occur because of inattention, familiarity, and people becoming complacent. There is no room for complacency in the workplace at all. It is important that everybody accept their responsibility in this area.

We all know that for some period there were problems with unions that used occupational safety and health matters. Even Hon Tom Helm admitted there was a time when unions misused occupational health and safety issues. He said it has completely gone and I accept his word. It is important that people have realised over the years that occupational safety and health is not a matter for mere industrial byplay. It is a very serious matter that must be treated seriously in the workplace. Mr Bartholomaeus has not said he will not deal with union members. Hon Ljiljanna Ravlich first said he would not deal with unions and then said he would not deal with union members. That is not correct. Mr Bartholomaeus said he will deal with people given the right to complain under the Occupational Safety and Health Act; that is, the workers themselves. He said he will deal with those parties to whom the Act, under this Government and the Labor Government, gives the prime responsibility.

It does not give the union prime responsibility; it gives it to the workers. Attacks have been made on Mr Bartholomaeus because he was an appointee of the Labor Party and its members thought he was on their side of politics - I know he stood for the Labor Party at some stage. Members opposite always like people defecting to their side, not from it. Mr Bartholomaeus has been an excellent public servant; he has carried out his work without fear or favour. He has even caused a few problems for people on our side of the House because he has taken a very independent view as, under the Act, he is entitled to do. He is a servant of neither the Government nor the unions.

The important thing about this matter is that as a result of the policy being followed by the department and by WorkSafe inspectors, the safety record of Western Australians has improved markedly. As I said earlier, the number of hours lost has dropped significantly.

Hon Ljiljanna Ravlich: Why is the number of workers' compensation claims rising?

Hon PETER FOSS: One reason that workers' compensation claims are rising - we should deal with claims made rather than claims paid - is that the cost of claims and the number of people employed are rising. Members opposite do not realise that owing to this Government's policies a greater number of people are employed who were not employed. The Government's policies have created thousands of jobs. Much more activity is happening in Western Australia than previously. We have an economic growth which we should be proud of and as a result more things are happening and more hours are being worked. However, the important thing to remember is that the number of hours lost has dropped. The number of people who have died in the workplace has also dropped and the cost of medical care has increased. Those are the results we should be examining.

We should be pleased that the good things that can be done for workers - the rehabilitative work and other work that can be done by medical processes - are better than before. I am sure members will agree that we should not begrudge spending the money on more complex processes if they achieve a better rehabilitative result. I do not think they would want us to stint on spending money if better medical care achieves better results.

An incorrect answer was given to the House in response to question on notice 874 on 14 October. Under subsection 5 the heading is "cost" whereas the matter should be "total number of days". I will clarify that later if I am given an opportunity to answer a question. Unfortunately the wrong column was included and perhaps the member was misled.

HON E.R.J. DERMER (North Metropolitan) [4.12 pm]: In support of the motion moved by Hon Ljiljanna Ravlich I emphasise the Government's failure to address the problem of occupational health and safety for Western Australian workers in one industry. The industry is clearly illustrative of the special concerns of occupational safety and health

in WA and of the Government's neglect. I refer to taxi driving, a matter I have raised a number of times in this House. I am pleased that the Minister for Transport is in the House to hear what I have to say.

Taxi drivers in Western Australia offer a vital service which relates directly to road safety. As an alternative service it allows many people under the influence of alcohol who should not drive to take a taxi because that alternative service is available. Everyone who drives is afforded the advantage of a taxi service that can provide alternative transport so important to our community.

It is worth noting that the taxi drivers in Western Australia perform this service with great personal courage. By the nature of their work they are vulnerable. They can find themselves more often than not sitting next to their customers and as a result directly threatened by them in lonely and isolated circumstances and locations. The time and location of an attack on a taxi driver is purely in the control of the patron who plans to attack the driver. The patron can decide the loneliest location and the time to leave the taxi driver who is discharging his service in good faith. Perpetrators deliberately choose times when a driver is likely to be alone and vulnerable and in a quiet street. In these circumstances taxi drivers are open to danger.

They provide a service of great importance to our community; therefore the least we can do as the representatives of the Western Australian community is adequately provide for their health and safety. Sadly this is not occurring.

Hon E.J. Charlton: Why?

Hon E.R.J. DERMER: I have asked the Minister that question often.

Hon E.J. Charlton: The industry decided it did not want screens if that is what you are talking about.

Hon E.R.J. DERMER: The inherent vulnerability of the taxi drivers' lot is also borne out by tragic example. The Attorney General asked for facts in this debate. The facts in relation to the vulnerability of taxi drivers are chilling and undeniable. We need only consider the odd example. I will demonstrate a few of many. These three examples indicate the difficult profession it is in which taxi drivers are engaged: In December 1995 Mr Tad Krysiak had his throat cut in an attack but fortunately survived. Following his survival of the attack Mr Krysiak requested that safety screens be installed in taxis for the protection of drivers. In *The West Australian* of 25 September 1996 the Minister for Transport was quoted as saying that he was willing to negotiate whatever the taxi drivers wanted. Mr Krysiak showed enormous courage in surviving that dreadful attack.

In March 1997 Mr John Hall of Yokine was strangled from behind with a seat belt by one of his patrons. It reached the point where WorkSafe WA fully recognised the terrible occupational risk confronting taxi drivers and it declared Mr Hall's taxi an unsafe workplace. The declaration of the unsafe workplace was made clear by WorkSafe WA. During question time in the House I asked for Mr Charlton's response to that. I was told that the Government had initiated moves to establish surveillance cameras in taxis.

Another example that occurred in September this year was when Mr Rodney Pilgrim in Coolbellup was stabbed in the stomach by one of his patrons when he asked for the fare. Mr Pilgrim's courage was a fine example of the courage taxi drivers show every day when they face the hazard of their workplace. With, I think, a 15 inch blade protruding from his stomach Mr Pilgrim drove some distance to find assistance.

The Minister should ask Mr Pilgrim and Mr Krysiak what they want. These people suffered the consequences of these dangerous workplaces. Each of these gentlemen is clear in stating that safety screens are needed in taxis.

A camera surveillance unit, which had been long promised, was not in place in his vehicle when Mr Pilgrim was attacked in September. I have asked a series of questions of the Minister for Transport in an endeavour to encourage him to take his responsibility for occupational health and safety seriously, and to provide a safe workplace for taxi drivers. I thought I had a breakthrough on 11 June when the Minister said that finally the details for the surveillance cameras had been worked out and that the cameras would be in place -

Hon E.J. Charlton: It was done in consultation with the industry, my friend!

Hon E.R.J. DERMER: - probably in 18 weeks following the final testing of the cameras. Today is 19 weeks from the date of that undertaking from the Minister. The Minister's most recent undertaking last week, when I asked him questions following the great misfortune of Mr Pilgrim, was that cameras would be in place in the last of the taxis in Western Australia by Christmas; that is, the twenty-eighth week following his June undertaking.

Hon E.J. Charlton: The Government is not putting them in.

Hon E.R.J. DERMER: It is not good enough. How can people in this industry have any confidence? They asked for screens, and they were told that would get surveillance cameras by a certain date. However, that date passes.

Hon E.J. Charlton: You're a fake!

Hon E.R.J. DERMER: Another taxi driver is assaulted, and no substantial progress is made on the undertaking. Drivers were told that installation would be completed by Christmas, and this has echoes of undertakings given in 1914, the consequences of which were that many people lost their lives.

Hon E.J. Charlton: I thought you were better than this, Hon Ed Dermer.

Hon E.R.J. DERMER: It is very disappointing. We are told that monitoring will occur of the further tragic incidents expected in this industry in the year to come. We are told that if the situation is monitored, steps may be made towards the installation of safety screens.

Hon E.J. Charlton: I give you a challenge! If you get the taxi industry to agree -

The PRESIDENT: Order! The Minister for Transport will come to order. Any challenges will be dealt with later.

Hon E.R.J. DERMER: How many more good and honest hardworking people in Western Australia will need to suffer before the issue is addressed thoroughly? I am concerned when I see quotes of the Minister indicating that taxi owners should not have the provision of taxi screens imposed on them. That is not good enough. This example of the Government's putting the concern of the owners ahead of the workers more than anything else sums up the differences between the Australian Labor Party and its conservative opponents.

HON GREG SMITH (Mining and Pastoral) [4.23 pm]: I address this issue from a different perspective. This motion has nothing to do with occupational safety or health; it is about falling union membership. We have moved to private contract agreements and such things, and workers have found that they are better off, or certainly no worse off, under such arrangements. People are moving away from unions.

Hon Ljiljanna Ravlich: Forced away.

Hon GREG SMITH: The unions and the Labor Party - which are one and the same - are grasping for a handle. It is seen that unions cannot get union members more money and better conditions, as these are achieved if people are not in unions, so what is left? They say that workplaces are no longer as safe as they were when workers were union members. Why is that?

I have found some interesting material. Sections 24 and 25 of the Occupational Health, Safety and Welfare Act contain provision for the resolution of workplace safety issues. Those sections recognise the key parties; namely, the employers, employees and safety and health representative as elected at the workplace. They say nothing about union officials. Those provisions applied when members opposite were in power. Nothing has changed.

Hon Tom Helm: What if it were not an elected safety representative?

Hon GREG SMITH: Elected safety representatives are in the workplace. I visited Kalgoorlie a week ago and went around a workplace with the occupational health and safety people, and an elected representative from Minesafe was on site. He was elected by his peers to ensure safety for workers.

The PRESIDENT: Order! There is too much audible conversation in the Chamber and I am battling to hear the member.

Hon GREG SMITH: Hon Ljiljanna Ravlich stated that employers were encouraging employees to go to the doctor for minor accidents. I have been an employer and an employee. If someone in the shearing industry has a minor laceration and goes to the doctor under workers' compensation to get two or three stitches, it costs $120 because of all the bureaucratic forms the doctor must fill out. However, if one pays for a visit oneself, it costs $25.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order!

Hon GREG SMITH: Nothing is wrong with that. Workers' compensation premiums are increasing. If employers are happy to pay for minor accidents to be fixed -

Hon Ken Travers: Would you encourage employers to send their employees to doctors?

The PRESIDENT: Order! Hon Ken Travers will come to order. We will not have a slanging match. If members do not want to continue the debate, we can go on to the next item. It is up to members.

Hon GREG SMITH: Hon Ljiljanna Ravlich also raised the matter of fines for a breach in the workplace. Fines would be the least of an employer's problems if someone is killed through a breach in workplace safety. The employer would face litigation, fines and the prospect of being sued. If someone has an accident at an unsafe

workplace, the employer will have big problems. They will be sued and taken to the cleaners.

Hon Tom Helm: Oh dear.

Hon GREG SMITH: The member can argue if he likes, but it is the truth. Fines are provided purely for guidance. No employer tries to injure his workers because the cost to the employer of an injury to an employee is enormous. Employers do everything they can to keep their employees safe, fit, healthy and happy. They do not want to pay compensation to people or pay for litigation. Members opposite say that the system was not working because someone was sacked for reporting unsafe things, and also indicate that the finding was against the case of unfair dismissal. Hon Tom Helm killed his own argument. This motion has nothing to do with safety, and everything to do with falling union membership.

Hon Tom Helm: You don't have a clue what you're talking about.

Hon GREG SMITH: The member is not concerned about occupational health and safety, but about falling union membership.

HON J.A. SCOTT (South Metropolitan) [4.28 pm]: An important factor in workplace injuries and sickness is that death from chemical inhalation and other problems is the prime cause of premature deaths in our society. That is a serious matter which we need to take very seriously indeed. If a union reports a problem to WorkSafe, that organisation should be obliged to look at the matter. I do not care who reported the problem. It is nonsense for Neil Bartholomaeus or anyone else to say that a problem should not be dealt with because it was reported by the wrong person. That is a stupid, pig-headed attitude. I will not go into the ramifications of what I wanted to say because I do not have the time. Whether or not the current situation is an improvement - and I do not know that it is - it is still very serious. Workplace injuries are the principal cause of premature death. We must do more about it.

HON LJILJANNA RAVLICH (East Metropolitan) [4.31 pm]: I get a little tired of the Attorney General making allegations about my not dealing in facts, facts and more facts. I like to give the Government the benefit of the doubt, and so on occasions I say, "I suspect". The Attorney General has a fact fetish. I will run out of time and therefore not be able to say everything I want to say. Let me assure the Attorney General that I am not through yet. There will be many opportunities during the next few weeks for me to make my point, and make my point I will. I will do so factually. I will not let the Attorney General move sideways from some of the things I will say.

[Motion lapsed, pursuant to standing orders.]

STATEMENT - PRESIDENT

Hansard - Quoting from Uncorrected Copy

THE PRESIDENT (Hon George Cash): I want to clarify a comment that I made last Thursday in the House. Members will recall that during a debate on a motion a point of order was raised. Hon Ljiljanna Ravlich was asked whether she was quoting from an uncorrected version of *Hansard*. She confirmed that was the case. At the time I indicated that was out of order. I should clarify my comments.

It is not out of order as such to quote from an uncorrected version of *Hansard*. However, it is out of order if members do not advise the House that it is an uncorrected version. That clarification is necessary because members will be aware that at times debates in this House are corrected by members and comments made are changed significantly if, for instance, Hansard misunderstood or misheard what a member may have said. I hasten to add that happens only on rare occasions because of the accuracy of Hansard in taking down the debates in this House. The reason I clarify it is to raise the question of privilege. If members go outside the House and quote from an uncorrected version of *Hansard*, which is later found to have been corrected - that is, a member has published outside the House matters which become untrue because of the correction - they will not be afforded parliamentary privilege on those matters.

I conclude by saying that it is not against standing orders to quote from uncorrected versions of *Hansard* but if members are to do that they must advise the House that it is an uncorrected version. I hasten to add that if members quote from *Hansard*, they must make quite sure they do not breach Standing Order 91 by alluding to debates in this House or other standing orders which prohibit members from alluding to debates in the other place.

SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL

Committee

Resumed from 16 October. The Chairman (Hon John Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Progress was reported after the following amendment had been partly considered -

New clause 6 -

That the following new clause be inserted to stand as clause 6 -

New section 5A

The principal Act is amended by inserting after section 5 the following -

5A. (1) The Minister shall -

(a) establish and publish selection criteria for positions on the Board which include the balance of skills and abilities needed for the Corporation;

(b) advertise in the major newspapers that a position is available and applicants are invited to apply; and

(c) outline the basis of appointment, including the need to disclose any possible conflicts of interest.

Hon N.F. MOORE: When we were last dealing with this Bill the time of the Chamber expired and so my comments were cut short. I had already spoken about the first part of the clause, which is a proposed new section 5A(1)(a), which refers to the need to "establish and publish selection criteria for positions on the Board and which include the balance of skills and abilities needed for the Corporation". I suggest that it would be very difficult to prepare those sorts of requirements for a position on a board. I wonder what sort of selection criteria would be appropriate and who would decide what they were.

The reason for this amendment is to stop the Minister from having an unfettered right to appoint people. The amendment reads that we need to establish and publish selection criteria. Who will decide what they are to be? I guess it will be the Minister. Who will decide what the balance of skills and abilities are to be? I guess that will also be the Minister, who would do it anyway without being required by an Act of Parliament.

Proposed new section 5A(1)(b) reads that the Minister shall "advertise in the major newspapers that a position is available and applicants are invited to apply". What are the major newspapers? That is a good question. This will be an Act of Parliament if it is passed. If the Minister decides that *The Australian* is not a major newspaper but that the *Sunday Times* and *The West Australian* are and he does not advertise in *The Australian*, maybe someone could take him to court on the basis that a position was not advertised in *The Australian*. Hon Mark Nevill and I would argue that the *Kalgoorlie Miner* is a major newspaper. Should it be advertised in that newspaper? Other members might argue that the Merredin *Wheatbelt Mercury* is a major newspaper. What will happen is that one will never know what are the major newspapers, which is the terminology in this amendment. That sort of loose terminology in legislation is totally unsatisfactory.

I draw to the attention of members that parliamentary counsel cannot find any other legislation that requires a Minister to go through this process.

Hon N.D. Griffiths: It will set a precedent.

Hon N.F. MOORE: Yes, and an unfortunate precedent because it is not clear enough. It will create a situation where somebody who is not appointed to the board could take action on the basis that his view of what is a major newspaper might be quite different from that of the Minister. We could finish up in a court arguing about what is a major newspaper. That will be an extraordinary and totally unnecessary situation, which will be brought about by the Committee agreeing to this very loosely worded amendment.

Proposed new section 5A(1)(c) requires the Minister to "outline the basis of appointment". I can understand what that might mean. If we want to be technical and say that the appointment is for four years, that the board will meet every week and that the remuneration is so many dollars, that is understandable. However, the terminology "basis of appointment" could mean a whole lot of different things to different people. It could contain a lot of subjectivity.

The proposed new clause refers to "including the need to disclose any possible conflicts of interest". Is this an announcement that someone is prepared to disclose any possible conflict of interest? If so, when would he have to do it? Would it be before or after he is appointed? Would it be whenever the board meets or would it relate to particular matters before the board? Who would decide what is a conflict of interest? If someone has to declare that

up front before he is appointed, who would decide whether it is an appropriate conflict of interest? Bearing in mind it is the Small Business Development Corporation, some people could take the view that a small business person appointed to the board would have a conflict of interest.

Hon Max Evans: If he is not a small business person there might be a conflict of interest!

Hon N.F. MOORE: In that case the person would have a lack of knowledge. Surely one would need some understanding of small business to be appointed to that board. By being a small business person there is the potential conflict of interest in respect of the board's decisions.

Hon John Halden: Put Richard Lewis or Barry MacKinnon on it.

Hon N.F. MOORE: We could: They are on everything else and no harm would be done if they were appointed to this board. It is very important to have on this board people with the expertise and the capacity to do the job.

I raise these simple matters to illustrate to members that this amendment is, firstly, unnecessary and, secondly, full of holes. It is badly drafted, and I do not criticise anyone for that because I understand what Hon Norm Kelly is trying to achieve. It is not drafted in a way that will give members any certainty of the outcome.

In the event that there are a couple of vacancies on the board caused by circumstances outside anyone's control and there is no quorum, for the Minister to appoint somebody to the board he will, by this amendment, have to advertise in the newspaper and go through certain criteria. That would add weeks to the process and it could become very difficult for the organisation to operate.

At the end of the day, if the Minister wanted to be grossly political, which I will seek not to be, he could drive a bus through this set of requirements. He could go through all the processes, but still do what he originally intended by appointing the person whom he had in mind. That is not a bad thing. Governments appoint people who have the required skills and who it thinks will make sure that the board and the organisation operate properly. The vast majority of people who are appointed to boards of statutory authorities accept the appointment on the basis of wanting to do a good job because if they did not their reputation, as much as anyone else's reputation, would be on the line.

If the Minister appoints dopes to a board it ends up being a dopey board which makes silly decisions and the Minister has to wear those decisions. Ministers are not inclined to appoint people who have no capacity and who are simply political hacks. In the past that has happened, but it is not the general rule.

The member's concern about political patronage is overstated. We will never get rid of political patronage because politicians will appoint people for reasons best known to themselves. We cannot eliminate that. This amendment does not go close to achieving that. Any Minister can go through these processes and still appoint the people he had in mind. It would not make any difference except that under proposed section 5A(1)(b) the appointee would have to apply in writing.

It is important that Ministers, regardless of to which Government they belong, appoint to boards people with expertise and ability. If they do not the process of government is affected badly and ultimately the Government wears the odium for bad decisions. This proposed amendment will make no difference to that, but it will introduce an element of doubt as to whether appointments are made properly. It would be most unfortunate if someone were to be especially keen to serve on the board of the Small Business Development Corporation and there was an argument over what is a major newspaper. People would argue about whether the proper processes had been complied with.

I can think of no reason to support this new clause. It is unnecessary and it will not achieve what the member wants it to achieve. On the other hand, it could introduce significant doubt into the appointment of individuals and that would be unfortunate for any organisation, let alone the Small Business Development Corporation. I ask the Committee to vote against this clause.

Hon NORM KELLY: I appreciate the Minister's comments. This amendment is not intended to put doubt into the selection process and it is not about denying the Minister's right to appoint particular members to the board. The amendment will open up the appointment process and people will know the reason that certain people were appointed to the board.

I agree with the Minister that the issue of political patronage is not as major a concern as some people believe it to be. However, it must be made clear that appointments are not made because of political patronage.

The amendment has been framed this way to give the Minister reasonable scope to adhere to this process without being tightly bound by it. I understand that it would be impossible, even with the Small Business Development Corporation board, to stipulate the requirements for the level of skill and ability required of a person to be suitable

to fill the position. The expertise of the appointee would be determined on the level of expertise that was required as a result of the vacancy.

I refer to the proposal that advertisements be placed in major newspapers. A particular newspaper should not be specified. It is important, given the corporation's emphasis on country and regional areas, that the people in those areas should be made aware of vacancies on the board. In the same way as city people with country interests should be appointed to the board, people who are based in country areas should be given the opportunity to be appointed to the board. Currently, that is not the case. The selection process for the appointment of people to a range of boards should be opened up. This amendment is a start to introducing some uniformity in that process. I agree with the Minister that the result could be that the people whom the Minister originally had in mind would most likely be appointed to the board.

This amendment will give people the opportunity to be aware of the selection process. They can consider the other applicants who applied for the vacancy to determine on what grounds the Minister made the appointment. The main thrust of the amendment is to make the appointments to the board open and transparent; it is not about restricting the Minister's ability to make such appointments.

Hon TOM HELM: As the Minister referred to the definition of "major newspapers" it is opportune for me to inform him of the contracting out of government agencies' advertising. I will refer to a problem which was brought to my attention recently concerning the Newman Community Newspapers' publication, *Newslink*. Recently it tendered for a contract to make it part of the Government's advertising scheme and it has been in touch with one agency. That agency said that *Newslink* would not be a part of the advertising program for which the Government had budgeted.

The CHAIRMAN: Perhaps the member will relate this story to the amendment before the Committee.

Hon TOM HELM: Proposed new section 5A refers to metropolitan and significant newspapers. The circulation of *Newslink* is equal to the Campbell and Nevill report.

Hon Mark Nevill: Is it a major newspaper?

Hon TOM HELM: I would say it is a major newspaper in Newman.

Hon N.F. Moore: So would I.

Hon TOM HELM: In the old days, on the odd occasion the Government would advertise in Newman a particular position or situation that was relevant to Newman. New section 5A will give people like me the opportunity - and we have limited opportunity to do this - of highlighting to the Minister, who may not be aware, the impact of any changes that are taking place. The major newspapers may not be a significant source of information that is relevant to Newman.

We will not go to the wall about this - my information is that we will not divide - but if this is an information sharing exercise, then I would like to share information with the Minister and the Chamber and say that changes in the way that the Government conducts business may have a major effect on small, isolated and remote communities whose small community newspaper may be the only means by which they can receive information that is of vital interest to them.

Hon MARK NEVILL: I understand a major newspaper to be a newspaper that is circulated throughout the State.

Hon N.F. Moore: That is your understanding.

Hon MARK NEVILL: Yes, but under the Interpretation Act, the debate in the Chamber indicates what is meant by the terminology of the Bill. Can Hon Norm Kelly confirm that a major newspaper is any newspaper that is circulated throughout the State, so it may be the *Sunday Times*, *The Australian* or *The West Australian*, or all of those newspapers?

Hon NORM KELLY: If notification of board vacancies and appointments, and of review processes, such as by the EPA, were made in a particular newspaper on a particular day of the week, in a standardised format, any person who was remotely interested would need to refer only to that edition of the newspaper under government notices, or whatever.

Hon Bob Thomas: Like the EPA notices on Saturdays.

Hon NORM KELLY: Exactly. The EPA gives notification of its public consultations and reviews in the Saturday edition of *The West Australian*. I am not saying in what newspaper that notification must appear, but that is the obvious first choice. If people were aware that notifications would appear in a certain edition of a newspaper, rather than get the whole newspaper, they could have a particular page sent to them. That would make the overall process

easier, and it would be a better use of the Government's advertising budget to inform people in that way rather than to concentrate the advertising budget on the months leading to an election.

Hon B.K. DONALDSON: I disagree with proposed new section 5A because, as the Minister said, one can drive a truck through it; and, secondly, it means that this Chamber is becoming the de facto Executive Government. Things start to look a bit grim when we remove from a Minister the flexibility to select the people who are appointed to authorities.

In saying that the Minister shall establish and publish selection criteria, Hon Norm Kelly is really saying that some of the people on the boards of authorities in Western Australia who have been appointed by Ministers in the past two years should not be there because they are not satisfactory.

Hon Norm Kelly: I am saying that the process should be open so that people can see how these appointments are made, rather than read about them in the Press after they have been made.

Hon B.K. DONALDSON: The Minister will make that judgment at the end of the day.

I would like to give the Ministers who appoint people to statutory authorities the credit of being able to appoint the people who are most suitable. I know of one person who was invited to go onto the board of the Small Business Development Cooperation but who unfortunately had to decline because he could not make himself available for at least two days a week. That person would have been an outstanding appointment. However, he would have had to declare a conflict of interest because he is in small business; and I guess at the end of the day that is what happened to the former federal Minister, Geoff Prosser, who understood small business and knew something about his portfolio.

Every time a Bill comes into this Chamber, Hon Norm Kelly attempts to introduce a clause of this type. I believe that what he is really saying is that the criteria under which people are appointed are substandard and the people on some of those authorities are substandard. This is a stupid amendment, and it is not befitting of this Chamber to tell the Government how to run the State. We are seeing all sorts of disallowance motions where suddenly after five o'clock we have marine biologists, town planners and environmental scientists looking after the State.

Hon Derrick Tomlinson: From where do you get them? I need one!

Hon B.K. DONALDSON: After five o'clock, you will find them all sitting in this Chamber. This Chamber is almost becoming the sole fountain of knowledge in this State. I violently oppose this type of amendment. I do not mind having checks and balances and accountability, but this amendment is taking it to the nth degree and is ridiculous.

Hon N.F. MOORE: Although I understand what Hon Norm Kelly is trying to do and I am not totally opposed to it, the words in this new section are not appropriate terminology for an Act of Parliament. The words "the major newspapers" are a simple example of how this amendment will create doubt. Hon Tom Helm said that *Newslink* is a major newspaper in Newman. I do not care whether it is a major newspaper. I suggest that a person who was not appointed to this corporation but wanted to be appointed, and who found out that the position had not been advertised in certain newspapers, could take action against the corporation or the Minister on the basis that the appointment was not made according to the proper process.

Hon Norm Kelly: A person would not get legal aid in that case.

Hon N.F. MOORE: He probably would; that is half the problem.

This amendment will add a subjective element and create the possibility of people taking litigation. Paragraph (c) refers to the need to disclose any possible conflicts of interest. Does that mean that people will be required to disclose any possible conflicts of interest during their membership of the corporation or that they will be required to disclose any possible conflicts of interest before they are appointed to the corporation? The amendment does not state which of those will be the case, which will again introduce a degree of doubt into the selection process and create the possibility of people taking litigation. We should try to prevent people from taking litigation. We should try to make the law as clear and as straightforward as possible.

[Questions without notice taken.]

Hon N.F. MOORE: Prior to question time I was trying to convey the message to the mover of the amendment and the Opposition that the words contained in this amendment are sloppy, in the context of the terminology to be included in an Act.

Hon N.D. Griffiths: Do you have an alternative form of words?

Hon N.F. MOORE: I will make a suggestion, but I will not suggest an amendment. I have been arguing for uniformity in these things for some time. This process will not create uniformity, as the member suggested, but it will lead to one agency being out of step with the other agencies. If he then wants to make the other agencies in step with this agency, I suggest the achievement of that uniformity will take a long time. I suggest a course of action to the Committee, and it is not based on the concern I have with going through a process of telling the world that there is a vacancy. My concern is with the terminology used in the amendment becoming part of an Act. I have indicated that the terminology is subject to all sorts of doubt and could lead to litigation for a number of reasons.

I suggest to the Chamber that the whole matter be considered by the Standing Committee on Public Administration. That committee spent a lot of time looking at the relationship between Governments and statutory authorities and the Parliament and statutory authorities, and that was the subject of its thirty-sixth report. While I acknowledge that the progress in implementing the recommendations of that report are taking a long time -

Hon N.D. Griffiths: It is Order of the Day No 36. You could bring it on for debate earlier.

Hon N.F. MOORE: In line with my recommendations to this place in the adjournment debate last Thursday, I suggest that some of these broader issues which relate to matters of accountability should not be considered on a one by one basis as legislation comes before this place, but should be considered through the standing committee system as a broad issue that is deserving of the consideration of this place.

I hope the Opposition might agree to not passing this amendment because it is bad legislation. It is bad in the context of the words; not the intent behind it.

Hon Mark Nevill: From your point of view we are consistent?

Hon N.F. MOORE: Yes, consistently bad.

I am happy to move a motion that this issue be referred to the Public Administration Committee. Perhaps that committee will take it on board for consideration. We are dealing with the question of appointment to statutory authorities and there are varying views about how that should be achieved. It would be adhockery in the extreme to include this amendment in this Bill without the committee system of this place having a chance to consider the question of appointment to boards. It is an issue worth considering and I recommend it to the Public Administration Committee. I do not want to formally move a motion to that effect now. I ask the Committee to reject this amendment.

Hon NORM KELLY: I appreciate the Minister's comments. I prefer the term "sloppy" rather than "stupid". I appreciate any constructive idea on how to reword this amendment in view of the fact that the Minister said he can understand what I am trying to achieve. I am concerned that the Bill will pass without an amendment to this effect. The Minister suggested that this issue should be referred to the Public Administration Committee. It is important that this amendment apply to all statutory authorities. I would be willing to make the amendment tighter in this regard, but I would not be happy about dropping the amendment altogether.

Hon MARK NEVILL: I gather Hon Norm Kelly agrees that the Bill be referred to the Public Administration Committee.

Hon N.F. Moore: The generic question - the idea contained in the amendment. We could work up a reference to the committee, not through this Bill but through a substantive motion, requiring it to investigate the whole issue of appointments to boards.

Hon MARK NEVILL: There could be some problems with the wording of this clause, particularly if it is to be used across government. Some statutory organisations probably do not need such a clause attached to their legislation. It would probably not be appropriate for an Aboriginal corporation advertising in a major newspaper. Some benefit could be gained by referring this to the Standing Committee on Public Administration. The amendment has been moved by a member of the Democrats, and there is a member of that party on the committee who can keep an eye on the amendment.

New clause put and a division called for.

Bells rung and the Committee divided.

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

The division resulted as follows -

Ayes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon Christine Sharp
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens
Hon N.D. Griffiths	Hon Mark Nevill	Hon Giz Watson
Hon John Halden	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon Tom Helm		

Noes (13)

Hon E.J. Charlton	Hon Barry House	Hon Greg Smith
Hon M.J. Criddle	Hon Murray Montgomery	Hon W.N. Stretch
Hon Max Evans	Hon N.F. Moore	Hon Derrick Tomlinson
Hon Peter Foss	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan		

Pairs

Hon Cheryl Davenport	Hon Simon O'Brien
Hon E.R.J. Dermer	Hon M.D. Nixon
Hon Ken Travers	Hon B.K. Donaldson

New clause thus negatived.

Postponed clause 5 put and passed.

Title put and passed.

Bill reported, with amendments.

MOTION - DISALLOWANCE

West Coast Purse Seine Management Plan Amendment 1997

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

> That the West Coast Purse Seine Management Plan Amendment 1997 published in the *Gazette* on 27 June 1997 and tabled in the Legislative Council on 19 August 1997 under the Fish Resources Management Act 1994, be and is hereby disallowed.

HON KIM CHANCE (Agricultural) [5.47 pm]: I will first address in passing some of the comments made by members on the other side of the Chamber about the role of the Opposition in this place and, specifically, its use of the disallowance process. I fully appreciate that the Government of the day has a right to carry out its legislative program and to provide for the efficient administration of the State. However, I find it difficult to accept the sometimes quite explicit questioning of the right of this House to function as an effective House of Review. There may be some debate about whether this House has that function, and that perhaps is a debate for another time. Nonetheless, it is an aspiration of this House that it shall act in a review function.

I am sure I do not need to remind members of this place that it is one of the few mechanisms available to us for the scrutiny of the actions of the Government, its Ministers, and the broader Executive. I am certainly not suggesting that debating a disallowance motion on the floor of the House is always the best mechanism for such scrutiny. Indeed, I believe, as I am sure most members present believe, we need to examine other options for particular issues or debates, including disallowance motions. It certainly is not my preferred option to debate this particular disallowance motion in this forum. A point made by the Minister for Transport in a similar debate relating to the south coast purse seine regulations, is one with which I agree wholeheartedly. I thought about what he said, which was essentially that this is not the right forum. I had to agree with him because the Minister for Transport and I were debating a matter of a fairly technical nature on which neither of us would ever claim to be experts. However, at the time, the very people who were able to debate that issue were in the Public Gallery and in the President's Gallery. Indeed, the experts on that issue were allowed to observe the Minister for Transport and me, both acknowledged non-experts in the issue, debating the matter while they remained on the outer, unable to contribute.

It was my view after considering what the Minister for Transport had said that at least the meat of such debates should be conducted in a format provided, for example, in the standing committees where the experts, the players and the people affected by the decision have the right to put their case and, if they choose, to contradict the case of the other side. For that reason I moved motion No 4 on today's Notice Paper that this disallowance motion be referred to the Standing Committee on Environmentally Sustainable Development. Unfortunately we have not been able to deal

with that motion; therefore we find ourselves in the situation we are in today. We can only try to do our best in the shortest amount of time we can reasonably devote to an extremely serious issue.

Having said that, I move on to the issue before us; that is, the reasons a set of regulations, referred to in the motion, recently issued by the Minister for Fisheries for the west coast purse seine managed fishery should be disallowed by this House. Although some of the issues involved in this matter are relatively complex, I can best illustrate the effect of the change in regulations by painting a picture of how the Minister's actions have impacted on businesses involved in this fishery. I will refer particularly to the Fremantle Sardine Co, owned and operated by the Mendolia family.

As far as I understand the matter, the Fremantle Sardine Co recognises and approves of the need for this fishery to be regulated. It is not an issue of the principles. This company has a direct interest in the preservation of the biological resource to the point where exploitation remains commercially viable for all stakeholders. It is only by the achievement of that objective that the Fremantle Sardine Co will be able to further develop its market potential and processing capacity.

The company has spent the past nine years developing both domestic and export markets and the processing capacity necessary for the successful sale of sardines and anchovy-like products. The company has recently established Australia's only plant for the production of canned sardines, with the assistance of a grant from the Federal Government in the order of $500 000.

The company employs 30 full and part time staff and expects this number to grow if it can secure access to product from the fishery. In the past 12 months the company has concentrated on increasing the rate of acceptance of its products by participation in the 1997 Sydney Fine Food Festival by conducting negotiations with all the large supermarket chains in Australia and establishing new product lines such as marinated sardines and smoked fillets. In addition the Fremantle Sardine Co has played a pivotal role in the promotion of the sardine resource and very much so in a tourism context by the establishment and running of the Fremantle Sardine Festival, which is a major tourist event attracting up to 100 000 people to Fremantle each year.

All that has been put in jeopardy by what seems to be a basic lack of effective management on the part of the relevant authority in the handling of the regulation of this fishery. I mean, of course, the Fisheries Department of Western Australia. I, too, recognise that the west coast purse seine managed fishery must be regulated in the interests of preserving a biological resource and for reasons relating to the efficient use of that resource to productive commercial ends. However, what the Fisheries Department has not done is produce a suitable regulatory framework which ensures both the conservation of the resource and the creation of a regulatory environment which provides the certainty necessary for the involvement of all commercial stakeholders.

The importance of the need for stakeholders such as the Fremantle Sardine Co to have every confidence in the regulation of this resource is particularly salient if we consider that Australia imports $26m worth of canned sardines and sardine products annually. I believe the efforts of the company to establish an enterprise which adds value to what is a finite biological resource should be not only recognised but also encouraged by the State Government to the extent it should provide a stable and effective management plan for the exploitation of this resource. That is what the State Government has failed to do.

I will now outline why I believe the implementation of these regulations represents something less than a stable and effective management system that businesses such as the Fremantle Sardine Co require. At this stage, it is not the Fremantle Sardine Co alone which is affected by this. It forms a very useful icon, if we like, because the Fremantle Sardine Co is doing exactly what we should be doing with more of our resources. We are talking about the fishery resource, but we could be talking about any finite resource we use, including those in the mining area.

When we refer to the way we regulate the management of a wild fishery, the businesses that operate within the regulations of that wild fishery are businesses like any other business. They have costs, outgoings, income and regulations to adhere to; they are affected by market fluctuations and changes in input costs for their consumables and overheads. They are a business in the same way as a mine, a farm or a retail store is a business.

However, one cannot run a business in that environment as effectively as it should be run if somebody moves the goalposts halfway through the game. Fundamentally, that is what these regulations do. Members should make no mistake that, even though these regulations have been published in the *Government Gazette* under section 55 of the Fish Resources Management Act, which deals with minor and urgent amendments to regulations, this is neither a minor nor an urgent change to the current management system for that fishery.

Nobody can argue that a fisheries management system amendment which changes the fishery from an input controlled fishery to an output controlled fishery is a minor change; it is a fundamental change. We once had a fishery controlled by the units permitted to be used in the fishery. The Government is proposing a fishery where individual, transferable quotas will be the system of management.

I believe I know why the section 64 arrangements were not used. It is probably not appropriate for me to cover that. However, I support the use of the section 65 arrangements for a number of reasons. However, in opting to use the section 65 arrangements, there is no reason for the Minister not to have said, "But the major components applying to section 64 - that is, the requirement for a management paper and the two month consultation period - could be picked up even though we have chosen to use section 65."

Sitting suspended from 6.00 to 7.30 pm

Hon KIM CHANCE: Before the dinner suspension, I indicated my views on why the mechanism of the section 65 arrangement rather than the section 64 arrangement had been used. I will expand on that matter later. That chosen mechanism by the Fisheries Department and the Minister had the overall effect of reducing the ability of the fishery to analyse the effect of the changes and to advise the Government on the effect of those changes prior to their application. This relates to the consultative process provided for in section 64 of the Act.

In summary, in no way on earth can a business operate as effectively as it should operate if the goalposts are shifted. The cost to the Fremantle Sardine Co of shifting the goalposts is very large indeed. I am sure that every member strongly supports such initiatives as those pursued by this company which are producing not only an export commodity, but also an import replacement commodity. We import $26m worth of the commodity into Australia annually.

The product use is in two parts: One, it is used at the high end of the scale as bait fish. I will not try to quote the current price as I have not brought myself up to speed in that regard; however, it is relatively low. The second use is an even lower return use as food for tuna farms, principally in South Australia. Both returns prices are very low in comparison with any form of human food use.

It is not only the Fremantle Sardine Co which is affected by this regulation. Any fishermen competing in the industry needs to know what will happen in the industry some time before changes take effect. That is one of my key concerns with this regulation, and it applies to other fisheries. My understanding of the WA Fishing Industry Council's view of the management changes, at least in respect of the rock lobster industry, is that the industry should be structured on a four or five year time scale. We should be talking about the changes to occur at the end of that five year period, and bringing the changes forward so industry has a chance to cope with the changes. It is completely unacceptable for change to occur too quickly, as has occurred in the period of Governments of both persuasions; I am not shielding the former Labor Government from blame. Fishermen were entering a new season not knowing what the rules for that season would be. In this case it is even worse: We are trying to introduce a change mid-season. The west coast purse seine fishing year begins on 1 April. Therefore, even if the regulations were disallowed, the only effect will be that we stay with the same regulations until 31 March. It is not a major change we seek.

I understand from Mr Mendolia that if the regulations were disallowed, by 1 April he could expect to have a supply line organised from alternative suppliers. It is fair to accept as the truth that he cannot reorganise his supply lines between now and that date. Certainly, he cannot get through to the end of this production year with change in that time scale. Anybody who has ever operated a business would have sympathy for that situation. One cannot cope with such changes without reasonable notice. To the extent that reasonable notice was provided, I shall go through the detail in my comments.

The next issue in considering the process of this regulation is the procedures the Fisheries Department utilised in arriving at this set of recommendations; that is, the lack of a thoroughly effective consultative process with fishery stakeholders. I do not suggest for a moment that the Minister has not properly complied with section 65 of the Fish Resources Management Act. That section clearly outlines the Minister's responsibilities in relation to the processes of consultation which must be followed before a management plan can be amended.

Section 65 of the Act provides that a properly managed process of consultation must occur with all relevant stakeholders before a management plan is amended. Section 65(2) specifies that the Minister must consult with the relevant management advisory committee before amending a management plan.

The problem is with the structure of the management advisory committee in question. Only one management advisory committee applies for all purse seine fisheries and stakeholders. From a total of eight members, only one person represents the west coast purse seine fishery. Fundamentally, two purse seine fisheries operate in Western Australia; that is, the south coast and the west coast purse seine fisheries. We are aware from an earlier debate that the south coast fishery effectively works out of Albany, Bremer Bay and Esperance. It was initially based in Albany and the other zones have grown out of the exploitation of the industry in Albany.

The west coast fishery runs roughly from the capes as far north as Dongara. It is a very significant fishery. I will expand on that matter when we go into the sustainability question a little later. I understand that the argument has been put that the costs involved in the operation of a management advisory committee necessitate that we have only

one management advisory committee for all purse seine fishers and end users. Looking at the various problems which appear to be inherent in this set of regulations, which I will shortly outline, it seems that a lot of the uncertainty and dissatisfaction that we have seen could have been avoided if the consultative process had been handled in a planned and systematic manner.

It might be helpful to members if I outline the chronology of the consultation process which occurred in this case. It is important for members to remember that there is a sharp distinction between the make up of the management advisory committee and the membership of those involved in the west coast purse seine fishery. That is perhaps best represented by the West Coast Purse Seine Association. The association has provided me with a chronology of events. I received this facsimile from Mr Graeme Stewart of the West Coast Purse Seine Association. He gives his view of the chronology of the consultation which occurred. On 27 August - I take that to mean 27 August 1996 - a meeting was held at Western Australian Fishing Industry Council at short notice. It consisted of an overhead display with some thoughts being floated within the Fisheries Department. This is the first time that west coast fishermen were introduced to the real possibility of quota management. There was no two-way discussion; it was a lecture. The next day, 28 August, there was a meeting of the management advisory committee at which Jim Mendolia, the one representative on the committee from the west coast fishery, opposed the proposal as he understood it to be at the time. As he said, one voice against seven south coast voices would probably not have much influence. In the view of west coast fishermen, it was a south coast decision to eliminate a competitor from the marketplace because west coast quotas were suggested at a much lower proportion of the biomass than exists on the south coast. In November 1996 the small pelagics plan, which I am told was similar to the overhead lecture of 27 August, was circulated for comment. It suggested the introduction of quota management.

On 13 December 1996 another management advisory committee meeting was held. Again the thoughts that had been floated took some shape. Jim Mendolia, the one west coast representative, was not present, so Mr Grant McLeary attended as an observer. As an observer he could not participate in the discussion. He also felt that he could not report on the proceedings of the meeting, which was held in camera. The conclusion was drawn that the value of that meeting was negligible. This is supposedly where the decision was agreed by industry to introduce a quota. I will restate the date: It was 13 December 1996. On 17 January 1997 industry responded to this small pelagics plan. Most comment was aimed at what appeared to be a very conservative level of total allowable catch and the lack of consultation with west coast fishermen. There was then apparently a series of meetings held between the Minister and south coast operators which specifically excluded the west coast operators. West coast operators accepted that, because the south coast fishermen fish a different fish stock and so management in one area ought not to involve management in another. A special MAC meeting was held in Albany on 10 March which also excluded west coast fishermen. I believe that at that stage they were dealing with a peculiarly south coast problem. On 3 February a further submission was put forward by the west coast purse seiners but no mention apparently is made of it.

On 11 March the west coast fishermen wrote to the Minister, noting the consultation occurring on the south coast and, although not wishing to participate in south coast negotiations, asking for some consultation with the west coast fishermen, as there had been no consultation with them since before the 13 December MAC meeting. The letter noted that a 7 000 tonne total allowable catch was proposed for the south coast, where there is overfishing, though the total allowable catch for the west coast would be only 3 000 tonnes, where there is no overfishing. On 18 March the Fisheries Department called a meeting at Fremantle and advised that the quota would be introduced, as agreed by the MAC on 13 December. Remember that there was no real west coast participation at the 13 December meeting and the west coast response to the November small pelagics plan was not sent until 17 January.

On 7 April the Minister wrote to all west coast purse seiners advising that a quota would commence on 1 June with a total allowable catch of 3 000 tonnes. On 11 April the executive director of the Fisheries Department wrote to west coast purse seine fishermen complimenting them on the submission of 17 January and proposing that there had been adequate consultation because the matter had been discussed at the MAC. The letter neglects to mention that the west coast fishermen were not represented at two of the three MAC meetings and in the one at which they were represented they opposed the proposition. The decision having been made, a number of meetings were held on 13, 15 and 21 May to try to work out the mechanics of the system.

On 30 May an industry meeting was called at 48 hours' notice to try to explain how the quota system would work as of 1 June; that is, the next day but one. At the meeting it was clear that there was total confusion among the Fisheries Department enforcement officers, whereby they contradicted the Fisheries Department legal officers and the management officer trying to hold the process together. As correctly pointed out by the legal officers, there was no legislation in place to support the proposed processes. After this meeting WAFIC sent a letter to the Minister dated 3 June.

On 25 June the executive director wrote to all west coast purse seine fishermen advising that the plan had been put back to 1 July rather than 1 June as a result of representations to the Minister. The plan had to be put back in any

case because the notice to give force of law to the system did not appear in the *Government Gazette* until 27 June.

I concede that was a fairly detailed process. As I have said, it was outlined from only one side. Nonetheless, claims are made that there certainly had not been sufficient consultation in the industry about the introduction of the process. The differences between the south coast fishery and the west coast fishery are great enough for me to raise the question of why there is not a separate management advisory committee for the two different fisheries. If my facts are incorrect, I am sure that I will be advised later, but as I understand it, scientifically the two fisheries are quite different biomass units and also differ in some of their performance aspects. For a start, the south coast fishery relies on recruitment of juvenile stock from somewhere else - we are not too sure where. The west coast fishery does not rely to any quantifiable extent at least on external recruitment; in other words, it is self-supplying with juvenile stock.

The west coast fishery extends from the capes to roughly Dongara. It is a very big fishery and we do not know how many tonnes of fish exist in it, although there is a wide parameter of numbers. All that is fished of that huge fishery is the area within a 25 kilometre radius of Fremantle. I ask members to consider the scope of that fishery from the capes to Dongara. I cannot say how far out to sea it extends, but I assume it is a fair way. It is difficult to say when one is taking what is effectively a bite sized nibble out of a fishery of that scale that one is in danger of overfishing that area. It might be argued that the area within a 25 km radius of Fremantle is being overfished, but it is difficult to say, in the absence of some very scientific knowledge, that the west coast fishery is at risk.

I agree with members who are inclined to say that where there is any doubt we should err towards the conservative end of the scale. I ask members to apply their logic to that huge lump of fishing ground and the tiny bite out of that ground that fishermen are currently working.

It is very clear from what I have read to the House that a number of shortcomings have arisen from the process of consultation. The Fisheries Department did not seem to be able to either recognise or contemplate the manifold concerns that the west coast purse seine fishers were presenting to it.

I shall now outline some of the problems that the lack of consultation presented for those fishers in respect of their commercial operations and why these regulations have failed to provide the certainty necessary for the conduct of business in the fishery. The first difficulty that these regulations present for stakeholders is that the amendments will alter the mechanisms for regulation from a regime based on input control - the size and number of boats and net type - to a series of mechanisms based on output controls, or quotas, and a requirement for fishers to reconcile cash reports with processors' receivals.

The implications of this change are fairly wide and I will summarise the difficulties they present for operators in the west coast fishery. Firstly, the change from an input control to an output control fishery may be interpreted by the Commissioner of Taxation as a change in the nature of the licence or authorisation as an asset. Therefore, an authorisation may now be deemed an asset subject to capital gains tax disposal. I recognise this is a problem that does not lie within the province of the Fisheries Department, but I mention it so that members can gain some understanding of the complexities involved for the stakeholders when substantive changes such as these are made to management plans.

Secondly, the proposed method of output control that relies on the reconciliation of the fishers' catch reports with the processors' receivals assumes that all fish are sold to fish processors. Earlier I mentioned that the Fremantle Sardine Co had made considerable progress towards developing niche markets in both Australia and overseas. I understand that already supply channels have been established with high value markets in Singapore and Hong Kong. If fishers are forced to sell to fish processors they will lose the benefits of the markets they have developed. It is difficult for me to understand the reason that issue has not been addressed in the amended management plan members are considering. Again, it points to a lack of effective consultation. These issues have simply not been thrashed out between the Fisheries Department, the Minister's office and the people who have a stake in the industry.

Thirdly, there is the issue of whether the requirements of amended clauses 13C, 13G and 16B, which require and/or assume that fish can be consigned only to fish processors, are in breach of the provisions of the competition policy reform legislation. I am not in a position to offer advice on whether this is the case, but I understand the West Coast Purse Seine Association has forwarded these regulations to the Ministry of Fair Trading for its comment. Again, it is an issue which should have been addressed prior to the stage that we are at today.

I will now address those issues which go to the impact that the regulations have had on the sustainability of the fishery. It is in the interests of stakeholders that this fishery be exploited at a sustainable level, and there is no argument about that.

Two issues arise as to how the amended management plan deals with the question of sustainability. Firstly, there is a lack of hard data in the scientific knowledge of the pilchard biomass in this fishery. Secondly, I have a difficulty with the methodology that has been used in the determination of the total allowable catch for the fishery. I understand

there are a number of problems in the gathering of the data; therefore, we do not have the hard data we would like at our disposal. I am not critical of that because I understand that gaining that data is a long and expensive process. We rely upon the available data to determine the total allowable catch. I understand that the data which have been collected have had a number of limitations, including the fact that only four days of sampling were conducted for the entire west coast purse seine fishery.

Given the paucity of the available data for the whole fishery, a considerable range of estimations have been used as to the extent of the biomass. The range of estimates lies somewhere between 15 000 tonnes and 55 000 tonnes. That is a big range when we are talking about what is essentially a scientific guestimate of the scale of the resource.

The portion of that wide variety of estimates which it is assumed we can take safely from the biomass without threatening its sustainability, is also a variation. The figure has been put at somewhere between 15 and 25 per cent. The way this total allowable catch has been estimated is to assume that, of that range of 15 000 to 55 000 tonnes, the figure is 20 000 tonnes, which is at the lower end of the estimated total available, and the figure that has been chosen as the sustainable percentage take of that biomass is 15 per cent. That is, the range was 15 to 25 per cent and we have taken the lowest figure. Fifteen per cent of 20 000 tonnes is 3 000 tonnes. That is the figure that has been churned out of the process.

I will not say that the Fisheries Department's data are wrong, but I can reasonably say they are highly questionable, and that is confirmed by the very wide range of estimates of the size of the biomass. I will not argue with the Fisheries Department about what is a safe percentage of a biomass to take, but I ask members to apply common logic to the fishery. Those figures churned out a result of 3 000 tonnes but we already know that that catch is taken out of an area within a 25 kilometre radius of Fremantle.

We know the fishery extends from the capes to Dongara. Does logic suggest to anyone in this Chamber that if more than 3 000 tonnes were taken from that tiny area of the fishery being used, it might threaten the sustainability of the fishery? I cannot accept it logically. I will not argue with Fisheries Department on the basis of its science, but it would be the first to say its science is shaky. If the figure decided upon had been 3 500 tonnes, rather than 3 000 tonnes, we probably would not be debating this matter tonight because we would have solved the problem in the way the 3 500 tonnes was broken down. However, we will battle through and try to crunch the numbers at the end, although I do not know which way they will go. We are debating the fine detail of whether it should be 3 000 tonnes or 3 500 tonnes, based on a range of scientific knowledge that is so small as to be dangerous, and in my view - it is an arguable view - is not a sustainable scientific argument.

In summary, the business decisions and the effect of these regulations on the fishing industry and the fish processing industry in Western Australia, particularly the Fremantle Sardine Co, are poor decisions. Making such decisions of this nature at this stage of the season is a poor decision. Making the decisions without consultation is a poor decision. The sustainability arguments are, at best, highly questionable. The process that has been followed, using section 65 for what amounts to a major change in the management of the fishery, was a poor decision. I could go on for some time suggesting that these regulations are not deserving of the support of the House.

I close with a comment I have already made; that is, the season begins on 1 April and there is time between now and then to put together regulations that reflect the realities of the fishery. If we disallow these regulations, that will provide time for the Fremantle Sardine Co to organise alternative supplies of stock for the coming year and it will be no tragedy to anybody if the regulations fall over. The season begins on 1 April, and at least the industry will have some chance of organising its business planning for the coming year. I urge support for the motion to disallow.

HON M.J. CRIDDLE (Agricultural) [8.04 pm]: I have great difficulty with these issues brought before the House and, to some extent, such action undermines the research that goes on right across these fishery areas. My mind goes back to 1993 when an 18 per cent pot reduction was introduced in the rock lobster industry. At that time the industry was down to a biomass of 20 per cent of the breeding stock and the scientists put before us a package that would quite clearly assist the industry. Those who were close to the rock lobster industry and had those industries in their electorates went through a deal of pain at the time. However, I am sure those in the rock lobster industry would now agree that the scientists with their knowledge were quite correct, and the industry is now flourishing to the extent that the prospects for the next three or four years are very good after excellent puerulus settlements.

Hon Kim Chance pointed out there may be some doubt in his mind about the scientific background, but I am keen to see the management of the fisheries in the hands of these people. One of my reasons for this is that in 1994 the fishery took 1 600 tonnes, in 1995 it took 3 300 tonnes, and it progressed to 3 900 tonnes. Those catches were during periods of no restrictions. With some restrictions in place for part of the year leading to 1 April 1998, the take so far is 3 500 tonnes. It is the old story; those in business will catch as many fish as they can although that may not be in the interests of the fishery. The take is growing rapidly. Everybody is aware of the technology now available. These people have advanced technology in many areas. It has happened in the lobster industry and I am sure it is

happening in this industry. These decisions are very difficult and it is up to Fisheries Department and the Minister to take account of the advances in technology because we need the industry to last over the long term.

Hon Kim Chance pointed out there is a big variation in the fishery. I understand that it extends from Lancelin to Cape Bouvard. He expressed the opinion that it goes further. It does not matter whether it is 25 kilometres or further from Fremantle, fish are still being taken from the fishery. It must be understood that it is reducing the fishery, regardless of how far out people fish. Next year they will go further, and further in the following year, and in the end it will be diminished to such an extent that there is limited breeding stock to replace the fishery.

Also, some confidence must be shown in the researchers. A bits and pieces approach will not do any good, and this recommendation goes back to the purse seine management advisory committee of December 1995. It was first brought into focus and discussed then, and at that point the total allowable catch was put before the West Coast Purse Seine Association. That expertise has been around for some time, and we must bear in mind the earlier figures I quoted which indicated the expansion of the fishery was going ahead and there was some danger in the way the take was increasing. This is all about sustainability and conservation of the fishery, and I am concerned that those who talk about conservation for other industries are seemingly talking about not supporting this management plan. If this plan is thrown out the window this evening, the catch by a fleet of only eight boats, although another six have a minimal impact, will be the only restriction in the fishery. That must be borne in mind.

With regard to the commercial opportunities for processors, as applies to many people in business there is an opportunity for the processors to purchase fish from other sources apart from their own and that may well be best settled in the commercial field. I realise the Fremantle processor has a very good business, and I have seen some products from that fishery. We all want it maintained in the long term, but we must recognise there are commercial ways of purchasing fish for that process.

Hon Kim Chance: Only if they are for sale.

Hon M.J. CRIDDLE: They are for sale at a price.

Hon E.J. Charlton: Only if you pay enough to encourage them to sell to you.

Hon Murray Montgomery: I think you need to do some more research.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order!

Hon M.J. CRIDDLE: Thank you for that protection, Mr Deputy President. We must preserve this fishery for the long term. We must listen to our researchers who put these propositions to us. There is a real danger in bringing these issues before the House every time there is a conservation package put to the test. We must organise ourselves around that point and take notice of the researchers. I am very concerned about bringing these issues before the House every time there is a discussion about conservation matters.

HON HELEN HODGSON (North Metropolitan) [8.10 pm]: I have three basic issues in this matter: The extent and the quality of the research, the consultative process and the impact this regulation will have on a new value added industry, the likes of which we are trying to support in this State.

It is my understanding that over the past couple of years considerable efforts have been spent on trying to find out more about the way the pilchards are spawning, the biomass and all the studies that have been done. As a non-marine biologist I must accept what I am told in these matters. Much of the focus has centred on activity in the south coast aggravated as a result of disease. The combination of that, the resources and weather conditions meant that much of the research was not as extensive as everybody involved in that fishery would have liked. For example, I understand from studies that a plankton survey of the west coast took four sea days to complete, but this was shown to be the bare minimum time required. Any future research would require six sea days to better cover this region. The study indicates that ideally 11 sea days should have been spent on research. We are working on a study which admits that the researchers have not been able to spend as much time in the region as they would like.

The research data includes a paper that was presented to a management advisory committee meeting in December 1995 which indicated that the figure of 18 000 to 20 000 tonnes biomass presented to that meeting was a crude estimate based on catch data and opportunistic plankton tows only. We find that for reasons beyond the control of people involved in the industry, the research is not as extensive as everybody would like.

Hon Greg Smith: Any better than the one on homosexuals?

Hon HELEN HODGSON: Perhaps if we were given notice of questions we would be able to come up with the research data in the same way as I have here.

The DEPUTY PRESIDENT: Order! We will deal with questions without notice at the appropriate time.

Hon HELEN HODGSON: We found that the impact of specific research directed towards disease in the fishery, and weather conditions, had a negative impact on the reliability of the data provided. A recommendation was made that quotas should be based on the range of 15 per cent to 25 per cent of the total spawning biomass. I understand that recommendation was subsequently forwarded to the Minister and noted. However, the figure was cut back in subsequent meetings. We keep finding reference to conservative estimates of 15 per cent. On the limited research data available we have a conservative estimate of the biomass and between 15 per cent and 25 per cent of this conservative estimate can be taken. However, the department keeps erring on the side of the bare minimum, being 15 per cent of a poor estimate in the first place. That estimate is very conservative in respect of both the biomass and the amount that can be taken from it.

The second issue concerns consultation. There is no question that this matter has been discussed in the industry since about 1995. I have been provided with various data that support the fact that some level of consultation took place. I thank the Minister for making that information available to me. However, the consultation that occurred at various stages was sometimes on different plans. For example, the initial plan referred to a six-zone area with both the south coast and the west coast fisheries being within the one fishery, but with zoning differences and quota issues.

All these matters have been thrown about a fair amount. It is not until the last 12 months or so that we have seen a definition of the outcome the Fisheries Department is working towards. Obviously, the fishers working in the fishery find it very difficult to make decisions based on a process that does not tell them exactly to which they are trying to relate and on which to decide. Therefore, I can understand that, although from one side the department might say that it has consulted and referred to a number of dates when it has provided information, on the other side the fishers claim that much of what was provided was not relevant because things change and they did not have time to examine the information properly. The fishers have specific concerns and the department has not been able to address those concerns.

There is a fundamental difference in the matters on which consultation was made. I do not deny that the minutes and the meetings reflect the conversations and discussions. However, that discussion did not address the concerns brought to the people affected by the change. The other issue is that these research results, to which I have referred as very conservative, were taken as a fait accompli and there was no discussion of whether the research was sound enough to base these conservative estimates on - at least not that I could find in the records I was shown.

We pay experts for advice and we rely on their information. However, where such differences exist between perceptions of the maximum and minimum surely we should hear more debate on where we should fall within the two parameters - the bottom, the top or somewhere in the middle. We would expect some degree of consultation rather than simply, "We recommend between 15 per cent and 25 per cent; we note your recommendation and we will go to 15 per cent." That seems to be the extent of consultation on that issue.

The third matter concerns the effect this could have on a new export industry. I understand that most of the fish taken out of the west coast fishery is used for the pet food market and tuna farms in South Australia. However, a new export company, the Fremantle Sardine Co, is trying to develop an export business. It will be value adding and we are trying to support that industry. Although it has received grants, all of a sudden it is facing a hurdle because the rules are being changed midstream. The problem is that because there was no real lead time to this, all the forward purchase contracts and so on are in place and it is very hard to access supplies from other areas.

Hon E.J. Charlton: How much did they think they would catch this year if they made all those forward sales?

Hon HELEN HODGSON: I am not talking about their forward sales; I am talking about the fact that they could not set in place forward purchase contracts from other fishermen. For example, they could not try to access fish that were being caught on the south coast, because everybody had locked in their catch for the year.

Hon E.J. Charlton: That is totally wrong.

Hon HELEN HODGSON: As I understand it, a short term problem exists for this new industry, which has the scope to add significantly to the prestige of the State. It is the first industry, of what may turn out to be many industries, value adding and processing fish in this State. At this stage it is the only one doing that. By sheer virtue of the timing, it is being faced with a problem that it could not possibly have planned for, because it did not know this would happen when it did. I raised a suggestion with the Minister to try to address this issue. I suggested the Government find a way of allowing extra catch when that catch was for human consumption, regardless of who caught the fish. I will be interested to hear the Minister's response to that. There could be a way of making that option available to everybody so it did not favour a particular fisher, but at the same time giving support to a new industry that could develop.

This is a difficult issue. It is a major problem to change the rules in the middle of the fishing season. It would have been far preferable if this matter could have been brought to a head now, but taken effect from the next fishing

season. At the moment we are in the middle of the season. I appreciate that fishers are not necessarily fishing out all their quotas, and that that would depend on the seasonal variations, which fish they were catching at any one time and their own commitments. However, if the rules are changed in the middle of a season, it is difficult to plan. It is difficult to make arrangements with another fisher to access certain fish if that fisher has already locked away his total catch for the year.

For those reasons, the Government should give careful thought to whether this plan is appropriate at this time. I would prefer that we were not dealing with something that will take effect now, as this regulation will do, but something that will take effect from the next fishing season.

HON J.A. SCOTT (South Metropolitan) [8.22 pm]: I find myself in a difficult position in this debate. On the one hand I am aware of the need to ensure that fisheries in this country are sustainable. Many fisheries around the world have collapsed and many have uncertain futures. That is the very last thing I want to see. On the other hand, I recognise that the industry that will be most affected by this regulation is the one industry in the State that is doing the value adding, and that is important to the city in which it is located. I live in that city; therefore, I am aware of the effect that company has. That effect goes beyond providing value adding at just a local level, to the whole outlook the community wants for Fremantle. The community wants to see those sorts of industries established alongside residential Fremantle so the ability for people to live and work in the same place is not lost. It is an environmental question in itself: It is about reducing the level of transport.

Hon E.J. Charlton: Do you mean that if we have this, we will not need the Fremantle eastern bypass?

Hon J.A. SCOTT: The Minister hits exactly on the point. If we have many of these sorts of industries, we will not require the bypass.

This is a very important industry. I am concerned about the fight between these two important needs; first, conservation and, second, support for a fledgling industry that promises much for the city. People have already mentioned the tourism angle, the sardine festival, that attracts many people to Fremantle.

The area that worries me is the sustainability. How realistic are the figures provided by the Fisheries Department? Information I have read suggests that the initial testing on the biomass was done during August and that there was a feeling that that was past the highest level of spawning. What account was taken of this factor in arriving at the figures? I note the difference between the situations at Albany and Fremantle. Twenty-two boats are operating in Albany, which is down from 36. That fishery is in trouble, but it still takes 41 per cent of the biomass. In Fremantle the figure is 15. Perhaps there is a reason the Albany fishery can recover faster than the Fremantle fishery and is able to have a higher reproduction rate. Is that the case? Forty-one to 15 is a big jump.

Considering that excess catch is rolled and that those fish die, if 22 boats are in Albany compared with four working boats in Fremantle, the level of rolling in Albany must be significantly higher than it is in Fremantle. What percentage of that fish stock is being wasted in rolling in Albany compared with Fremantle? The Minister for Transport indicated in the corridor that the Minister for Fisheries said the Government would undertake a biomass survey in January. How long will that survey take? Why will it take place in January? Is there an optimum time for that to occur? Will it be for all types of fish that are caught in the west coast purse seine? The last study involved only pilchards. The west coast purse seine catches different types of fish, as opposed to the Albany fishery, which catches only pilchards. Is January the optimum time for those fish as well?

My understanding is that it is urgent the Fremantle Sardine Co is able to supply its markets. I do not know whether that is due to its being overoptimistic and taking too many orders. Apparently it is unable to fill its current orders - getting enough fish is proving very difficult. Will the fact that this is to take place in January assist the company in getting sufficient fish to see it through until the end of the season, which is March? Of course, that begs the question that has already been raised: Why has this been introduced halfway through the season making these people rearrange their operations when most operating boats already have orders for their catches in place? It makes it hard for someone to break in and get the fish they need.

I was not going to raise the issue of payments but the Minister raised it by interjection. What evidence does the Minister have that there is a problem with payment for sardines by the Fremantle Sardine Co? If we are supposed to take that into account, the Minister should provide proof. It is a reflection on the company.

Hon Kim Chance: I would like to know the source.

Hon J.A. SCOTT: I would like some proof. If it is not correct, it should not be taken into account in this debate.

Hon Kim Chance: It is defamatory.

Hon J.A. SCOTT: It would show that the arguments do not stand up.

HON MURRAY MONTGOMERY (South West) [8.32 pm]: I oppose this motion. We should be looking at the management of the fishery. It has been interesting to listen to this debate because members have been talking about the west coast fishery in relation to pilchards, the south coast fishery and the Fremantle Sardine Co. We should be looking at the preservation of the west coast fishery, its sustainability and whether we want to see it go the way of some fisheries in the world, such as those on the North American coast, which have been decimated -

Hon Bob Thomas: They were completely obliterated in the 1920s; there is not one left.

Hon MURRAY MONTGOMERY: The member can go back to the 1920s if he wishes - he was probably born then.

We are looking at the west coast fishery and what we want to see happen to it. The Government wants to see it in place for the next generation, the one after that and so on.

The south coast fishery could supply fish to anyone who wished to buy it. High quality stock is there, it has a price and it could be processed and exported. That is a commercial reality: If someone wants to buy it at Fremantle they can, but obviously they must pay the going price.

Hon Kim Chance: Why should they when that resource is being exploited to 41 per cent and this resource will be exploited to 15 per cent? Why should they have to go to the south coast?

Hon MURRAY MONTGOMERY: The south coast fishery comprises one fishery from east of Esperance to Augusta. It has been identified as one fishery; it is a biomass. The total catch out of that area is 15 per cent; that is, the catch is 41 per cent in one area but it is less than 15 per cent over the whole biomass.

Hon Kim Chance: How many tonnes is that?

Hon MURRAY MONTGOMERY: About 5 000 to 6 000 tonnes.

Hon Mark Nevill: Why have you allowed fishing in the other zones?

Hon MURRAY MONTGOMERY: That is a question of policy and I am sure it will be answered at another time. The management plan for the south coast purse seine fishery was defeated and it is being discussed at the present time with the people involved in fishing in those areas.

Hon Mark Nevill: They have never answered any of my questions.

Hon MURRAY MONTGOMERY: I will not answer either; that is for the member to find out.

There are some greedy people and those who say that they want all the fish from the fishery today. If it is not there tomorrow, that is bad luck. I look at this from the point of view of conserving the fishery now and sustainability in the long term.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [8.38 pm] Obviously this is a very serious issue for all concerned, including the Fisheries Department, the members who have spoken on the issue tonight and, most importantly, the people involved in fishing and the processing of fish.

It appears that the whole thrust of this debate has been directed to two areas: First, the problems being imposed on the Fremantle Sardine Co in relation to processing, sales and development of a processing industry; and, second, the data and the capacity of those advising the Government and the credibility of their recommendations.

I have been in this place for 13 years. One of the very early issues in which I was involved as a member representing the agricultural region, which took in the coastal areas that Hon Kim Chance and my other colleagues from that region now represent, was a move to allow a foreign importer to be involved in the processing industry in Western Australia. I fought that vigorously. One thing that I have seen happen over the years to some people's financial detriment is for someone to be in a position to set the price at both ends - that is, the price paid to fishermen and the price paid by the export market, because it is stitched up at the other end. This nation should not allow that to happen if at all possible. That is one reason that we want to see the Wheat Board and the Grain Pool maintain their positions. We want to see people who produce a commodity that is developed and produced in this nation have some control over how the commodity is marketed around the world.

Some time ago I introduced a private member's Bill into this House to amend the Fisheries Act. That Bill was passed in this House and the then Government agreed to bring in a Bill of its own to do the same thing; that is, to amend the Act so that a licence could not be transferred from one processor to another without the necessary set of conditions and approvals being in place. The current Act contains those safeguards to stop that from happening. It does not matter that it is not written in the record book, but it is something of which I am proud. I took on a group which I considered had a vested interest in what it was doing. They could not have cared less about the lobster industry. They wanted to make a quid for themselves. Members opposite might think that is a bit peculiar coming from

someone with my philosophical viewpoint, but I wanted to keep the industry sustainable. Not long before that I had visited the United States, where I had seen the demise of a fishery on the west coast because foreign interests were allowed to fish that industry out. I am not suggesting that is what will happen with this industry. I am giving members some background to my point of view and why I want to maintain the good management of fisheries in Western Australia.

Members might become upset with the Fisheries Department and consider that its scientific research lacks depth. However, we should err on the side of caution in this industry. Members understand that this industry could easily and quickly be destroyed and it would take a long time to get it back.

Members have referred to the salinity problem in Western Australia. If we all had our time over again we would clear the land differently. My family is in the fortunate position that until recently it has only farmed land that we took up. For one reason or another my family was conservation minded and left a lot of natural bush on properties in Tammin and Eneabba. I appreciate the efforts of my family. As a young fellow I recall people asking why we did not clear more bush. I was passionate that we would not. That is a practical reminder that we need to conserve the pristine and natural aspects of our State. That is the background to my discussions with the Minister for Fisheries.

The Minister has received advice from people within the industry who are responsible for the wellbeing of the industry. Research is ongoing. The management advisory committee has been recommending since December 1995 that this action should be taken. I find the arguments put forward tonight by the Opposition that this regulation is an overreaction very hard to accept. The fact is that if the fishery had continued to take the catches that it had in previous years we would not be here debating this issue - there would be no industry. If we go back 20 years 682 tonnes were taken; 10 years ago 1 547 tonnes were taken; and last year 3 300 tonnes were taken. That demonstrates two fundamental factors: First, the catch has doubled in the past 10 years; and second, the proposed catch of 3 000 tonnes is 10 per cent less than last year. I cannot for the life of me see how knocking 10 per cent off the top of last year's catch will destroy an industry. The Minister said today that he is keen to receive additional data to ensure that the plans for next year and the years ahead are based upon the best information possible. The Minister would be the last person to impose a restriction if it were not needed.

During my 13 years in this place I have been involved in a number of discussions relating to the fishing industry. For most if not all of that time the issues that were discussed in this place related to the political and economic aspects of the industry, not conservation issues. At the end of the day Western Australians can hold their heads high; we have the best managed fisheries in the world. No-one will dispute that.

My strong representation to members tonight is to call for all the information that can be procured about what research needs to be done from here on in and the sorts of investigations that need to take place so they can be totally satisfied with the plans for the future. However, they should not support this disallowance motion because of pressure that is being applied because a company will not have the same tonnage as was available to it last year. If people believe that this decision to manage the catch at 10 per cent less than last year's tonnage will result in their ruination they must have projected a catch of 4 000 or 5 000 tonnes or more. Do members opposite want to promote increased catches? That will be the result of passing this disallowance motion.

Member opposite raised a number of points. They asked why only one management advisory committee has the responsibility for the entire Western Australian industry. We could have two separate councils, but that would not be the right solution from an industry point of view or the total stock point of view. Two committees would need to liaise with each other on the overall industry situation. The MAC will comprise one representative from Geraldton, one from Fremantle, three from the south east coast, one processor, one community representative, one departmental representative and an independent chairman. I do not think anyone could say that that recommendation was not made by a representative group.

We can ask whether the area is too small. Hon Kim Chance said that this catch was made over a small area. That is correct. However, nobody knows whether that was because that was where the catch could be more easily obtained. He is right: We do not have the full knowledge of the reason for that. However, that is where the catch has taken place. Hon Murray Criddle also made reference to that.

It has been suggested that there may have been a lack of consultation. That is always debatable. The industry said that it talked to many people over a long time. Hon Kim Chance ran through the dates of the various meetings and said that some people were at some meetings, in particular, but not at others. He said that some from Fremantle were not represented. That situation will always exist. Again, we should concentrate our energies on making sure from here on in that there will be proper consultation, that we tick off the information we want and that we are kept up to date about it. I am as interested as those opposite are to ensure that that is done. I asked who were the processors involved. Tonight we have decided that only one processor seems to be pretty much up against the wall as a consequence of this decision. Yet, that processor has never filled his quota. We must then ask what the problem is

now. If there is another reason for this processor's complaint, we have not heard about it. I also understand that the Minister for Fisheries and the department are consulting continually with the processors involved in this fishery to try to ensure that this processor's business stays viable and that he remains in business. Nobody wants to see this business go under; however, we cannot do that at the expense of the whole industry.

If the department, the Government or the Minister has it wrong, we must wear that. The Minister told me today that there would be another count in January. The spawning times are January and July and the best times to do the count are in those months. If the figures demonstrate that this catch is too low, a recommendation will be made to increase it. I do not think people can ask for any more than that, other than whether more resources can be put into getting the proper data.

Hon J.A. Scott: How long will it take?

Hon E.J. CHARLTON: It will take up to a week, which is considered to be an appropriate time. It is not beneficial to take any longer.

Hon Helen Hodgson commented about the research and the days of evaluation. That is fair comment. It could have taken longer. We can all do things a lot better on every occasion. We must remember that this occurred over two years. It did not happen by slipping out to the locations for three or four days and then saying that we thought we had a problem. The advisory committee has been getting this information for a long time.

The estimate of the catch was raised. I invite members tonight - they could do it within the next few weeks or even months - to ask whether we should change the process of evaluation and whether the department should do it differently. It is very possible that we could involve ourselves in that process. As Hon Jim Scott has just asked, we should question whether six days is long enough or whether it should be conducted over a longer period. We should check that out. There should be no secrets in all of this. From the Government's point of view, there are not. Hon Jim Scott also asked why the count occurred in January. It is because the spawning time is in January as well as in July. Members have asked what types of fish will be included. It will involve pilchards. I think the catch of all the others is only 300 tonnes. Some members are saying that this catch is not big enough; however, we must remember that 2 200 tonnes is still available in the catch to be filled. As I understand it, the catch takes place in the spring and autumn. There is not much left of spring. The winter and summer months are not the best times to catch these fish. I wonder how many more tonnes would have been caught even without this provision. That is a valid point.

If I were a bush lawyer defending the situation in the court, I would feel that the circumstantial evidence that I have available to present would suggest that we should not disallow this regulation because, firstly, there are 2 200 tonnes of fish left to catch; secondly, the fishing months are the spring and autumn months and spring is nearly over; and, thirdly, 3 000 tonnes are available and 3 300 tonnes were caught last year, the highest catch ever. If we increase the total catch to 3 500 tonnes, it is not a conservation action at all. We will impose a limit set at 10 per cent more than it has ever been before.

Hon Kim Chance: You are still doing it mid-year.

Hon E.J. CHARLTON: As I said, people can make some criticisms. However, I sincerely invite members to get busy and put the pressure on the Government and on me as the representative of the Minister in this place about the process they want to put in place from here on in. We will get a lot further in this matter and we will be able to help the processor in Fremantle much more if we do this. Nobody is gunning for the processor in Fremantle. We want to see him not just survive, but prosper. We should all be bending our minds to how we could help that to happen. There are ways of doing that. I have been advised that those discussions take place from day to day to ensure opportunities are available. In fact, I have been advised that consultation has taken place with other fishers to make their catch available to be purchased by the Fremantle operator, although he must pay a fair price. Perhaps Hon Kim Chance, Hon Helen Hodgson and Hon Jim Scott should find out the price that is being offered. We would then be fully informed whether he can do business with those other people, or not. We are all trying to get a successful outcome to the situation.

I appeal to members not to disallow this regulation. We would face being called irresponsible if we did so. The sustainability and long run of this fishing industry should not be affected when we are talking about a 10 per cent reduction in the catch of last year. That is based on the best evidence we have. This doubling in the catch over the past couple of years cannot be sustained. Unless any members in this place can prove that is not right, there are no grounds whatsoever to disallow the regulation.

I am surprised that we are debating this issue. In our wildest dreams we would not think a fishery has caught the maximum that has ever been caught of 3 300 tonnes, or whatever it was, last year. Yet we are saying that based on the best research we have - we have been speaking about it for two years - we should peg it at 3 000 tonnes for the rest of this year so that we can gather more information and take it from there. I cannot add anything further.

Hon J.A. Scott: I asked whether you had any information about what was lost.

Hon E.J. CHARLTON: I do not have that information, but that is a valid point that we should examine.

This has been a good debate, and the problems about consultation and about changing the rules part way through the game have been well aired. I would now like us to see how we can work together to ensure that following this January count, we get a quick decision about the recommendations that will be made for the future, because if we leave it as open slather, we will probably go down in history as the House that made one of the worst decisions in the history of the fishing industry. I have seen motions come into this place and I have heard foolish debates in this place over the years about not reducing the number of pots in the crayfishing industry and about not reducing the size of the crayfish that can be caught, but each time, thankfully, commonsense has prevailed and we have allowed those people who had the best information to make the judgments. We have the greatest lobster industry in the world. The only major problem in the lobster industry is that the value of the pots is so high that the value of the catch has been maintained simply because they have been able to control the market. The cotton industry in the south of the United States was devastated, for a number of reasons. The cotton industry in Australia produces only enough to meet the market. We can see many situations around the world where if a quality product is developed and marketed properly, we end up with happy people and a solid environment, but if we mess around with an industry, we lose that opportunity.

I suggest that none of us in this place has the qualifications to make a judgment about this issue. Therefore, we should err on the side of caution for a few months, have a fresh look, and work with the Fisheries Department. I give an undertaking on behalf of the Minister that we will invite the Opposition to be involved in the count in January. Let us base next year's decision on the best information that we can get and that we are comfortable with, rather than on the knee jerk reaction in which we are involved tonight.

HON GIZ WATSON (North Metropolitan) [9.02 pm]: The Greens (WA) members have thought about this matter long and hard and we find it difficult to reach a conclusion. We support the position of the industry that the catch needs to be at least contained, and 15 per cent appears to be a reasonable proposal. We support the need for more research, and we believe that the licence holders should contribute towards the cost of that research, because I understand that at the moment they do not. The problems are the timing, the lack of a transition period before the change to these regulations will take effect, and the problems that are being encountered by the Fremantle based business. There are also some unanswered questions about the relative business advantage that may occur if this change is introduced immediately.

A bigger problem is that the reason for the vast increase in the catch of pilchards is the need to supply the South Australian tuna farms. The use of pilchards and other so-called trash fish to feed tuna or cats is an outrageous waste of a resource, particularly when the efficiency ratio is between 10:1 and 22:1 with regard to the tonnes of protein used to produce a tonne of tuna. That is a nonsense. The reason that the pilchards fishery collapsed in the Americas is that that fish was used for the lot feeding of cattle. This situation is not dissimilar. The Greens support a value added industry and want to see whatever resources are taken out of the ocean put to best use. We also support a local industry with high employment in Fremantle. We appreciate the problems with fisheries research. The underlying problem is that the research data is scant and we need to make a decision based on that lack of information. We support a precautionary principle. However, we do not believe - this is similar to the decision that was made about the south coast purse seine fishery - that a disallowance motion is the best way to resolve these problems. We need to have better consultation, the introduction of quotas, and more research.

I have also mentioned the need for a non-fisheries representative on the management advisory council. Hon Charlton said that there is a community member on the MAC. I am not sure whether that community member is a representative of the recreational fishing community or a non-extractive representative. It is important to have a person or persons on the committee who understands marine biology and is able to present a neutral position. That will go a long way towards addressing some of the concerns that are raised consistently about the operation of MACs.

Our preferred position to resolve this matter is that the management of this fishery be referred to the Standing Committee on Ecologically Sustainable Development. Unfortunately, this disallowance motion has come on ahead of a debate about whether this matter should be taken to the SD committee, so we do not have that option and must make a decision about the disallowance.

We have an unresolved concern about the fairness to licence holders and the prevention of unfair competition. Our preferred outcome is to have an interim measure to ensure the supply for that operator. We support the introduction of quotas, but we ask for some breathing space so that this operator is not in danger of going under in the interim.

Hon E.J. Charlton: The Minister has advised me that he and the Fisheries Department are doing everything they can to ensure that what you want in that regard does happen. They believe that it is better to do that by day to day

consultation than by adopting this option.

Hon GIZ WATSON: If we had that clear assurance, perhaps the decision would be easier to make. We have nothing concrete at this stage.

Hon E.J. Charlton: It would also be a good idea if I recommend that your committee take up this issue from today.

HON KIM CHANCE (Agricultural) [9.08 pm]: One can almost say after listening to the debate from both sides that we do not disagree on very much, because we all support the concept of good business practice and of sustainability. However, there are disagreements, and they are not all that subtle. Those members who do not vote to support this disallowance will be giving a vote of confidence to the kind of consultation processes which led to the imposition of this management plan amendment on the west coast fishermen.

The consultation process was, in a word, lousy. We might argue about whether it was adequate or inadequate, but the only people who can make that judgment are the west coast fishermen. If they say it is lousy, as far as I am concerned it is lousy, on the basis that the customer is always right. Do they feel as though they have been given adequate consultation and time to put their case, adequate information on which to base their judgments, and adequate numbers in the representation they have received? If the answer to any of those questions is no, the consultation process is lousy. For example, are they happy that we have gone through using section 65 of the Act, which removed the requirement for the consultation processes as laid down in section 64 of the Act? If any one of those fishermen answers no, we have that wrong as well. The differences are not that subtle. Can we be assured that the one person in this State who is using the pilchard resource for its maximum economic return and benefit to the community will not be the one person who ends up being kicked out of the fishery as a result of these changes? Unless we are certain the answer to that question is that we are sure that company will not be the loser, we will have made a bad blue. We are talking about something that will be fixed by 1 April next year. That is all Jim Mendolia is asking for. He is asking for time to organise his lines of supply, because that is what this regulation is all about.

A number of things have happened in Fremantle. I have not raised them. I am thankful other people have not raised them either because they relate to business competition in that industry. It is not something we should talk about it. Suffice it to say that it is extremely difficult at this stage for the Fremantle Sardine Co to organise its lines of supply. It needs time to set up its lines of supply from the south coast or from some other point. Everything the Government has said about that is right; I agree with it. Jim Mendolia can buy fish from the south coast or perhaps from another Fremantle supplier. However, the Government should give him a bit of time to put that process in place. If somebody said to members that as farmers their supply of fuel would be shut off, although it was seeding time, and that come harvest time they could buy some fuel, but the problem was they could not have the fuel now to get the crop in, that situation would not be much different from this situation. The fundamental consumable the sardine company is using is not available to it in the form it can use. No discussions with the Minister will make that come good before next season. All we are asking for is a pause; for the Government to say, "This is what we would prefer to do; come 1 April, this is what we will do." Come 1 April the Government will have had the benefit of the knowledge it has been able to gain from the January research. Good on the Government for getting on and doing that. I support that fully. If at the end of that process it comes down with the view that a 3 000 tonne total allowable catch is what is required, I will be the first to support it. However, the Government should give that one industry that is trying to do something with the potential of this finite commodity a chance to get to that point. That is not a great deal to ask for.

Hon Murray Montgomery: When you were farming and you were feeding lambs, and you knew you were running out of grain or hay, what did you say? Did you say that that was it, or did you buy some more from the marketplace?

Hon KIM CHANCE: First I made an assessment of whether the price I could buy that commodity for was worthwhile my continuing production. That is an assessment the Fremantle Sardine Co must make. Two factors are involved: First, can I assure my supplier if I try to source it from another point? If the product is not there, I will not continue production, because I cannot access that product. Second, is the price being asked for the product a price at which I can produce my product at a profit? If the answer is no, I probably will not try to buy it. However, if I found myself in that situation, I would try to put in place contracts for the next crop so I could access supply, should that happen next year. That is very much what I am asking the Government to do now.

Hon Murray Criddle and the Minister for Transport mentioned the rock lobster industry. Hon Murray Criddle went through it in a little more detail than the Minster did. He drew our attention to a time when we were looking at the controls necessary in the rock lobster industry and when it was down to 20 per cent of its original breeding biomass. We knew the science of that fishery. In scientific terms, the rock lobster fishery is probably the best understood fishery in the world because a vast amount of human and financial resources have been devoted to understanding that fishery. We have a significant pay off from the way we have been able to manage that fishery, based on that scientific knowledge. However, nobody has defended the amount of scientific knowledge that I and others have claimed exists about the manner in which we are able to make judgments on the west coast purse seine fishery.

People have suggested we should take the scientific advice. What is the scientific advice? The estimates of the biomass range from 15 000 tonnes to 55 000 tonnes. It is a little like asking the Whip how many votes he thinks he can deliver me on the next division and he replies that he can deliver between four and 18. That is not a scientific assessment. I would ask the Whip whether he could do a little better than that. I am not critical of fisheries research for not knowing with more definition what the answer is, because I acknowledge it is something that requires time and money. We have not been able to devote the amount of time and money to it that we would want to. Having made an assessment that in the range of 15 000 tonnes to 55 000 tonnes is available, how can we say we are basing our decisions on scientific knowledge? That is not a scientific answer. The outcome of 3 000 tonnes was exceeded marginally in the catch last year of 3 300 tonnes. However, we are still talking about only a tiny part of the fishery; that part of the fishery that is available to be caught in a 25 kilometre radius.

If members do not support this motion of disallowance, they will be supporting not only the failure of the kind of consultation that should have occurred in this fishery, but also a quasi-scientific decision, based on scientific information that is lacking. They also will endorse a decision that may put the Fremantle Sardine Co at dire risk. Apart from that, I am happy with everything else the Minister said. I would be delighted to play a part in planning for next year, as I am sure all members would. However, I make it clear that what the Opposition proposes in this disallowance motion is not an open slather situation. It is exactly the same management system as that used last year, the year before, and the year before that. It is still a managed system. It will change to the new system on 1 April in the new season. If members disallow this regulation tonight, there is nothing to stop the Minister gazetting a new regulation tomorrow. If there is some other system that has been discussed by the Minister and the Fremantle Sardine Co that could fix this problem - I wish to hell there were - that can still happen. Disallowing this regulation does not stop that.

I discussed a proposition with the executive director of the Fisheries Department some time ago - the date eludes me, but it was the day of the coastal tour meeting at Dongara. Since then I have had a meeting with a member of the Minister's staff, during which we went into detail about how an alternative proposition could be put in place. I outlined what I believed could form the basis for a compromise and made an offer that the Opposition would be the first to make public its view that that should happen - so the Minister could have some assurance that he would not be left out on a limb - but I have not heard anything from the Minister. That is not an implied criticism; obviously he has had to take advice and that advice may well have been negative. That is not an issue of concern. However, I gather from that that there is a very slim possibility that this issue can be solved in another way. In order to do all the things the Minister has suggested we should do, and I agree with most of them -

Hon E.J. Charlton: We have to wait until January.

Hon KIM CHANCE: Yes. I agree with most of them, but none can be achieved without disallowing this motion tonight.

Question put and a division taken with the following result -

Ayes (13)

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

Noes (11)

Hon E.J. Charlton	Hon Barry House	Hon Greg Smith
Hon M.J. Criddle	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Peter Foss	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon M.D. Nixon	

Pairs

Hon Cheryl Davenport	Hon B.K. Donaldson
Hon E.R.J. Dermer	Hon W.N. Stretch
Hon Ken Travers	Hon Max Evans
Hon Tom Stephens	Hon Simon O'Brien

Question thus passed.

ELECTORAL AMENDMENT (CONSTITUTIONAL PROVISIONS) BILL

Introduction and First Reading

Bill introduced, on motion by Hon J.A. Cowdell, and read a first time.

Second Reading

HON J.A. COWDELL (South West) [9.25 pm]: I move -

That the Bill be now read a second time.

The Electoral Amendment (Constitutional Provisions) Bill 1997 is the second Bill designed to give effect to the report of the Joint Select Committee on the Constitution. The joint select committee stated -

> The Constitution Acts Amendment Act 1899 contains a number of sections on the disqualification of members. The provision for the qualification of members required that he or she be an elector. The lengthy provisions for entitlement of an elector are contained in the Electoral Act. The Committee considered both the possibilities of moving certain Electoral Act provisions into the Constitution and alternatively moving these provisions for the disqualification of members out to the Electoral Act.
>
> It was decided that the disqualification provisions were better placed in the Electoral Act for a number of reasons:
>
> 1. These provisions require a degree of detail which is somewhat out of place in a Constitution.
> 2. Such details have been frequently changed in the past and are likely to be in the future. It is not appropriate to be regularly amending the Constitution.
> 3. It is not appropriate for a Constitution which is about fundamental, long-term principles to contain detailed, frequently changing provisions.
> 4. There is some convenience in having connected matters all together in the Electoral Act.
> 5. The problems raised by section 73(1) of the Constitution Act 1889 . . . are lessened. Schedule V to the Constitution Acts Amendment Act contains some 15 pages of offices which are referenced in provisions for disqualification of members. This should also be transferred to the Electoral Act for the reasons given above.

Circumstances in the intervening six years since the joint select committee reported have not eroded that argument.

Those sections referred to in the 1991 report are sections 31, 32, 34, 39 and 42 of the Constitution Acts Amendment Act 1899 as well as schedule V of that Act. Section 31 defines the relevant applicable terms such as "member" and "member of the legislature". Section 32 sets out disqualifications by reason of bankruptcy or convictions. Section 34 sets out disqualifications by reason of holding certain offices or membership of another Chamber or Parliament. Section 35 declares that the election of an unqualified or disqualified person is void. Sections 36 and 37 define certain offices and places that must be vacated before a member can take his or her seat. Section 38 defines certain circumstances - that is, becoming of unsound mind or declaring allegiance to a foreign prince - under which a parliamentary seat must be vacated. Section 39 provides for relief in certain circumstances. Section 42 allows for the amendment of schedule V, the list of office holders prevented from holding legislative office, by an Order in Council.

The following sections are embodied in the Bill before us as a new part V of the Electoral Act: Parliamentary membership requirements. They are -

Section 31 becomes section 174A - Interpretation.

Section 32 becomes section 174B - Disqualification by reason of bankruptcy or convictions.

Section 34 becomes section 174C - Disqualification of certain officeholders and members of other Parliaments or Houses.

Section 35 becomes section 174D - Election of unqualified or disqualified person void.

Section 36 becomes section 174E - Certain offices and places must be vacated before member can take seat.

Section 37 becomes section 174F - Office or other place vacated in certain cases.

Section 38 becomes section 174G - Seats in Parliament vacated in certain cases.

Section 39 becomes section 174H - Provision for relief.

Section 42 becomes section 174I - Power to amend schedule 4.

Schedule V of the Constitution Acts Amendment Act 1899 now becomes schedule 4 of the Electoral Act.

The Electoral Act contains sections dealing with the qualification and disqualification of electors as well as the qualification and disqualification of candidates. It is appropriate that all qualifications and disqualifications of candidates or requirements to take a seat in Parliament should be set out in the Electoral Act. There should be no need to refer to the Constitution as well. Those sections pertaining to the disqualification of sitting members may be contained in either the Constitution or the Electoral Act. I propose to refer this Bill to the Standing Committee on Legislation so that the whole question of those clauses pertaining to qualification and disqualification for the Legislature may be considered.

The current 19 page schedule V of the Constitution Acts Amendment Act 1899 should not be in the Constitution. However, I am not sure that it should be in the Electoral Act either. There must be an easier way of doing things.

I note that this Bill may proceed independently of any greater constitutional change. There is merit in having a full set of candidate qualifications and disqualifications in the Electoral Act. This Bill puts these provisions into the Electoral Act without taking them out of the Constitution. However, the passage of this Bill will obviously facilitate constitutional change. I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

STATEMENT - ATTORNEY GENERAL

Metropolitan Region Scheme Amendments

HON PETER FOSS (East Metropolitan - Attorney General) [9.33 pm] - by leave: I wish to make a ministerial statement about amendments to the metropolitan region scheme concerning the road reserves review and the Henderson industrial estate that was tabled last week.

At Henderson, this Government will rezone two lots in Cockburn Road from the parks and recreation reservation to the industrial zone. This will allow a much needed expansion of our important shipbuilding facilities at Jervoise Bay. Currently Western Australia contributes 70 per cent of the total annual value of Australian ship exports. Shipbuilding in this State is valued at $616m a year and provides employment for more than 5 000 people. This amendment will help Western Australia maintain its competitive edge in the shipbuilding industry.

During the public comment period some concerns were raised about the loss of a public beach and a lack of strategic planning. The Fremantle Rockingham Industrial Area Regional Strategy study is examining the strategic development of the Fremantle Rockingham industrial area. That will allow for public comment on the shipbuilding industry and other strategic matters when it is released soon.

As far as the condition of the beach area is concerned, the Department of Environmental Protection has advised that the area does not form an integral part of the Woodman Point Reserve and it offered little recreational value. Given the value of the shipbuilding industry to the State's economy, changing the zoning to industrial will not have a major impact upon the area.

On the matter of regional roads, this Government will move to further improve road safety, enhance streetscapes, reduce the impact on private property and provide protections for heritage buildings and existing trees through the road reserves review, which began implementation in 1993.

The review has identified eight roads across the metropolitan region that further reduce the amount of land set aside for future road building works. Having identified that some reservations are wider than required, the Government will reduce the amount of land set aside for future roadworks to allow for valuable inner city development, to lessen government liability and to allow for road enhancement along our streets.

Parts 1 and 2 of the road reserves review have already been completed successfully when similar changes were made to 19 roads in the metropolitan area. Part 3 will affect Broun Avenue, Beaufort, Main, Sevenoaks and William Streets, Claremont Crescent, Shenton Road and Albany Highway in Cannington. I commend these amendments to the House.

MOTION - DISALLOWANCE

Control of Vivisection and Experiments Amendment Regulations 1997

Pursuant to Standing Order No 152(b), the following motion by Hon Norm Kelly was moved pro forma -

> That the Control of Vivisection and Experiments Amendment Regulations 1997 published in the *Gazette* of 1 August 1997 and tabled in the Legislative Council on 19 August 1997 under the Prevention of Cruelty to Animals Act 1920, be and are hereby disallowed.

HON NORM KELLY (East Metropolitan) [9.35 pm]: This disallowance motion relates to the Prevention of Cruelty to Animals Act, in particular to the control of vivisection and experiments which are allowed under section 61 of the Act. Regulation 4 of this set of regulations applies to the application for authority to perform vivisection experiments. Subregulation (6), which is subject to amendment, states -

> Every authority granted after the commencement of this subregulation shall remain in force for a period of twelve months from the date of the granting thereof unless sooner withdrawn pursuant to regulation 6 of these regulations.

The amendment which has been gazetted is to delete "twelve months" and substitute "three years" so that each authority remains in effect for three years.

I will run briefly through the process to apply for an authority to perform the experiments as outlined in the regulations. First is the requirement for an applicant who wishes to conduct such experiments to submit a form to the Commissioner of Health. This form contains details of the proposed experiments, and must outline such facts as where the experiments will take place, the nature of the operations, what methods will be put in place to prevent pain to animals, types of animals, their accommodation, disposal of carcasses etc. The Commissioner of Health receives these applications. This procedure has been in place for about 30 years. At that time it was placed in the hands of the Police Department. The authority to receive these applications has had a long history of being moved around from department to department. At the moment the Prevention of Cruelty to Animals Act comes under the authority of the Minister for Local Government, yet these regulations are more pertinent to the Health Department, in particular the Commissioner of Health.

A requirement is in place for two character testimonials to be attached to the application. Once the application is received by the Commissioner of Health it is delivered to the Governor, who has the right to either grant or refuse the authority. When the authority is granted it is the duty of the applicant to display the authority where experiments are being conducted. Those requirements are outlined in the regulations. However, in reality those requirements are not carried out. I will run through some of the differences.

In more recent years institutions that carry out these types of experiments or vivisections have established animal experiment ethics committees that are based on the Australian code of practice for the care and use of animals for scientific purposes. The latest edition of that code was published in 1990. This code is applied uniformly by all institutions. In reality the applicant submits a request to the AEEC and that committee decides on the merits of the application. The committee then passes on the application to the Commissioner of Health. At that point there is no checking of the application. It is considered that the checking has been done by the animal experimentation ethics committees. It is almost automatically passed on to the Governor to sign the authority. With both the Commissioner of Health and the Governor there is no checking or scrutiny of the proposal. We are looking at between approximately 800 and 1 200 authorities being granted in Western Australia each year. As I stated, there is no checking procedure, except at the institution.

I will just run through the make up of these animal experimentation ethics committees to give an understanding of the sorts of people and scrutiny being done in assessing these applications. There are four categories of people on the committee. Category A carries a requirement for a person whose qualifications are in veterinary science which must be relevant to the activities of the institution. Category B has a requirement for a person with substantial recent experience in animal experimentation. Category C requires a person who has demonstrated a commitment to the welfare of animals. Ideally this person is a representative of an animal welfare organisation. The final category covers an independent person who is not involved in the conduct of experiments on animals and is not part of the institution carrying out those experiments and basically is someone off the street who will assess whether these experiments are necessary and done in a humane way. I do not have a problem with the work that these committees do.

When I researched this motion, I looked at a couple of institutions, namely Princess Margaret Hospital for Children and Murdoch University, to ascertain the work they do. It was made quite clear that their work was done entirely by the AEEC and not further down the line by the Commissioner of Health. The proposal for the future empowerment of these committees is that their work and their powers be incorporated in legislation. Eventually there will be no need to require people to apply to the Commissioner of Health and, in turn, the Governor for such approval. It will all be done by the institution.

These institutions could be licensed. Although the conduct of the institution is checked, it will be relied on to make

the correct decision for the treatment of animals. We are still waiting to see legislation which will incorporate such empowerment of the AEECs to do their work. At the moment there is no compulsion or an honorary code to carry this out in practice. This is one reason animal welfare groups are concerned about the amended regulation that has been published in the *Government Gazette*. They have been waiting a long time, since the animal welfare advisory committee made recommendations for new legislation, and they are yet to see anything come from the Government in that regard.

From the latest correspondence it looks as though the responsible Minister is planning to introduce a Green Bill in the second half of 1998. We would not see that legislation come into effect until 1999 at the earliest. The department's reason for amending this regulation is to reduce the amount of paper work it has to deal with. The three year period has been implemented to allow for the time until the new legislation will be in effect. If this regulation is allowed, the authority will cover these institutions only until the new legislation is in place.

My reasons for moving this disallowance motion are many. First, it is about consultation and the fact that there has not been any in introducing this amended regulation. Considering the input and the role of the animal welfare advisory committee in revamping the existing Prevention of Cruelty to Animals Act into new legislation, it is a serious concern not only for me but also for those groups that are not notified of any changes, even though some of those changes may seem to be insignificant on the surface. It sends a wrong message to those groups about the Government's commitment to ensure scrutiny of experimentation. This experimentation is quite often subject to very heated debate among these groups and government bodies about whether it should be allowed in the first instance and, when it is allowed, to what extent it should be allowed. That is one reason those groups are very sensitive to any changes that may come about.

My second reason for this motion for disallowance relates to public scrutiny and what occurs with these animal experimentations. Even though the information that is provided by authorities in the applications is quite limited, it is one way in which the Health Department can look at any increase or fluctuations in animal experimentation, the reasons for experimentation and the number of deaths involved. In that sense, even the current regulations do not allow sufficient scrutiny of such experimentation. As I mentioned before, the need for the animal experimentation ethics committees and the Australian code of practice does not have any legislative backing at this stage. Until the new legislation is introduced, I believe it would be quite wrong to relax any forms of scrutiny that currently exist. This is one area where it may only be a minor form of scrutiny, but it is in place and should be maintained.

Extending the period of authorities from 12 months to three years also has the effect of reducing the quantity of the information contained in the application and the detail of it. People would be required to outline what they might be proposing for the next three years. By doing that the quantity of information that came to the department would be reduced; therefore, it could not maintain a pulse on what was occurring in institutions. The committees would still keep the power to request information from institutions. If they had that information in the first place, it would be a far better way to go and that information would be available at a much earlier stage.

With regard to this type of subordinate legislation and the wider area of making changes to regulations, I refer members to the sixteenth report of the Joint Standing Committee on Delegated Legislation, which was presented in November 1995. That report suggested a number of changes that should be made to the scrutiny of regulations, which included having public consultation periods before the introduction of regulations in order to avoid many of the problems before reaching the stage of moving a disallowance motion, and giving notice to affected persons, which in this case would make the animal welfare groups aware of the proposed changes and any possible problems before we reached the stage of moving a disallowance motion. The report referred also to regulatory impact statements that would outline the impact of any changes to regulations.

I will not deal with the findings of that committee in detail because that is for another time, but I mention that because of the failings in the system that have led us to move this disallowance motion. It is unfortunate that we have reached this stage months after the amended regulation has been gazetted. It is not an ideal situation for the animal welfare groups, and it certainly is not an ideal situation for the departmental officers who need to enforce these regulations, to be put in a state of limbo where a disallowance motion is on the books. I am aware that about 35 applications have been prepared for presentation to the Governor in early November. Once again, to have to go through this procedure is not ideal, but to allow this amended regulation to go through unchecked would be an even greater travesty.

What we are seeing here is the introduction of an animal welfare Bill by default. We are amending regulations rather than making the effort of introducing a full blown Bill to address the concerns of animal welfare groups in this State. It is inappropriate to make these changes when new legislation has been proposed and hopefully is not too far away.

If the department wished to reduce its bureaucratic workload, this could be done easily by amending section 6(1)(f) of the Act, which requires referral to the Governor, by deleting references to the Governor and throwing it back to the department to make the decisions.

In order to highlight this usurping of the powers in the Act and of the enforcement of the Act and the regulations, I refer members to subregulation 4 of regulation 4 of the Control of Vivisection and Experiments Regulations, which states that all applicants who have been granted an authority shall have their names published in the *Government Gazette*.

It has been brought to my attention that this has not occurred in the past 11 years, so clearly the department has made no effort to delete this subregulation from the regulations but rather has decided to ignore that subregulation. Even though the department may have a valid motive for doing this, and apparently the original motive in 1986 was that the people who were conducting these experiments were being harassed and threatened by extremist animal welfare groups, it should delete that subregulation from the regulations rather than ignore it altogether. Animal welfare groups have told me that they know that these authorities are meant to be published but they have not seen them for years, and they are not sure why that is the case and why this regulation is in place when it is being ignored.

That outlines my reasons for moving this disallowance motion. In effect, it could be argued that it would have minimal effect if this amended regulation was allowed. However, to allow it would send the wrong message to not only departmental officers but also animal welfare groups about the Government's commitment to animal welfare in this State.

HON TOM HELM (Mining and Pastoral) [9.56 pm]: I am happy to second the motion. The Labor Party agrees with the motion and has charged me with the task of explaining to the House the reasons that it has adopted that view. The best way of doing that is to repeat the last few comments that were made by Hon Norm Kelly with regard to the message that should be sent from this place. It has been said often enough that, contrary to what may have taken place when a Labor Government was in power in this State, we believe that because the election led to a change in Government, this upper House should pursue its responsibility to review, but by the same token it should also give the Government the opportunity of governing, as it was mandated to do by the people of this State. We may not agree with what the Government is doing, but we should accept the situation for what it is and get about the business of being members of Parliament.

One of the things that has been getting up my nose for some time, as you would be aware, Mr President, is the usurping of the Government's responsibility by bureaucrats.

Hon N.F. Moore: I would not describe you as a bureaucrat.

Hon TOM HELM: Who?

Hon N.F. Moore: You and your colleagues.

Hon N.D. Griffiths: He is not a usurper either, but members opposite are.

Hon TOM HELM: I did not understand the interjection, but I repeat what I said, in case it was misunderstood by the Leader of the House when he made that unruly interjection. I am the last person to condemn bureaucrats outright, but I object strongly to bureaucrats usurping the Government's responsibilities. I thought that was what I said.

Hon N.F. Moore: You did, and I was making the point that I did not think you were a bureaucrat, in the sense that because you have just knocked back one regulation and you are about to knock back another, you are usurping some of the Government's responsibilities.

Hon TOM HELM: I will explain the reason. This regulation is government by the bureaucracy rather than by the Minister. I suspect that the Minister who is responsible for this regulation, who I assume is the Minister for Local Government, does not have the foggiest idea of what the regulation is about or why it is there. I suspect that the Minister for Local Government is well aware of the concerns that have been raised by people in his party about what delegated legislation should do and what it is there for, but that the bureaucrats do not. The Labor Party has tried to defend the position of bureaucrats for a long time.

Debate adjourned, pursuant to standing orders.

House adjourned at 10.00 pm

QUESTIONS ON NOTICE

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

CONSULTANTS - MR BRUCE ATKINSON

Payments

468. Hon MARK NEVILL to the Leader of the House representing the Premier:

(1) What consultancy work has Victorian MP Bruce Atkinson undertaken for the State Government since it was elected in 1993?

(2) What payments have been made to Mr Atkinson, and when were these payments made?

Hon N.F. MOORE replied:

Subiaco Redevelopment Authority

(1) The Atkinson Group undertook:
(a) Evaluation and comments in 1995 on proposed retail development in Subiaco; and
(b) Retail development consultancy associated with formal public consultation in 1996.

(2) The following payments were made to the Atkinson Group:
(a) $700 in August 1995; and
(b) $4 876 (includes airfares and accommodation) in September 1996.

Police Service

Financial records have been checked from 1 January 1996 to 30 May 1997, with no payments evident to Mr Atkinson.

Records between 1993 and 1995 are not retained electronically by the Police Service. To check the remaining three years and compile the requested information will require a manual search of records, an extremely resource intensive activity and I am not prepared to authorise the resources necessary for this request. Mr Bruce Atkinson has not undertaken any other consultancy work for any other departments/agencies since the Government was elected in 1993.

MINISTERS OF THE CROWN - ATTORNEY GENERAL

Visit to Japan - Official Duties

891. Hon CHERYL DAVENPORT to the Attorney General:

Further to question on notice 641 of 1997 -

(1) On what date or dates was the official meeting held?

(2) Who was the official meeting with?

(3) What business was conducted on the days other than when the official meeting was held?

(4) Why did Dr Shea travel to Japan two days later than the Attorney General?

(5) What business did the Attorney General conduct prior to Dr Shea's arrival?

(6) Apart from one meeting with Japanese officials, what other duties did the Attorney General and his staff have?

(7) On what dates were these other duties performed?

(8) What type of accommodation is -

(a) Ryozenji; and
(b) Isaku Ryokan?

(9) In what towns, cities or places are the above two accommodation places?

(10) What official duties had to be carried out in each place?

Hon PETER FOSS replied:

(1)-(10) I understand the answer to this question is no longer required.

HOSPITALS - YARLOOP

Budget

908. Hon J.A. COWDELL to the Minister for Finance representing the Minister for Health:

(1) What was the budget for Yarloop Hospital for 1996/97?

(2) Has the budget for Yarloop Hospital for 1997/98 been finalised?

(3) If so, what is the budget for 1997/98?

(4) Have funding levels decreased in real terms?

(5) If so, by how much have they decreased and in what areas?

Hon MAX EVANS replied:

(1) $1,043,688.

(2) Yes.

(3) $1,060,000.

(4) No.

(5) Not applicable.

HOSPITALS - HARVEY

Budget

909. Hon J.A. COWDELL to the Minister for Finance representing the Minister for Health:

(1) What was the budget for Harvey Hospital for 1996/97?

(2) Has the budget for Harvey Hospital for 1997/98 been finalised?

(3) If so, what is the budget for 1997/98?

(4) Have funding levels decreased in real terms?

(5) If so, by how much have they decreased and in what areas?

Hon MAX EVANS replied:

(1) $1,829,212.

(2) Yes.

(3) $1,761,500.

(4) No.

(5) Not applicable.

HEALTH - ABORIGINAL AND TORRES STRAIT ISLANDER HEALTH AGREEMENT

Implementation

919. Hon TOM HELM to the Minister for Finance representing the Minister for Health:

(1) What steps is the Minister for Health taking to implement the Agreement on Aboriginal and Torres Strait Islander Health between the State of Western Australia and the Commonwealth of Australia?

(2) With reference to item 3.1(a) of the Agreement, what extra resources have been allocated or earmarked by the State to improve health outcomes for Aboriginal and Torres Strait Islander people in Western Australia?

Hon MAX EVANS replied:

(1) Work is underway in the Health Department of Western Australia that addresses the following key clauses of the Bilateral Agreement through:

- convening of the Joint Planning Forum
- establishment of a WAACCHO Secretariat
- improved coordination of Commonwealth - State programs
- development of a joint funding agreement including reporting and accountability requirements between Commonwealth and State for purchase of health services from community sector
- Intersectoral Collaboration Policy and Program
- development of Performance Indicators and reporting mechanisms for Aboriginal Health

(2) In 1996-97 the government allocated an additional $4m to Aboriginal health. Further proposals for the allocation of additional resources are to be considered in the light of the joint planning process established by the agreement.

HEALTH - KEMERTON INDUSTRIAL PARK

Public Health Impact Assessment

920. Hon CHRISTINE SHARP to the Minister for Finance representing the Minister for Health:

Is a full public health impact assessment part of the final draft report into the proposed expansion of the Kemerton Industrial Park?

Hon MAX EVANS replied:

The Health Department of Western Australia has not been asked to provide a public health assessment on the proposed expansion of the Kemerton Industrial Park.

HEALTH - GREAT SOUTHERN

Palliative Care Team - Funding

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

(1) Is it correct that the Government received an application for funding from the Palliative Care team in the Great Southern Region?

(2) Is it correct that the Health Department of Western Australia agreed to fund the Palliative Care Team in the Great Southern Region for only one third of the amount which they requested for the 1996/97 financial year?

(3) For what reasons has the State Government not allocated the full level of funds sought by the Palliative Care Team in the Great Southern Region?

Hon MAX EVANS replied:

(1) Yes.

(2) The Great Southern Palliative Care Service submission requested funding which included the provision of inpatient services at the Albany Hospice. The Health Department is continuing to fund the inpatient palliative care through the Albany, Denmark and Plantagenet Hospitals. Consequently, the additional palliative funding provided for the balance of services is one third of the submission price.

(3) The Health Department of WA is funding a comprehensive palliative care service with funds made available to the three hospitals as well as the Great Southern Palliative Care Service.

LEGAL AID - COMMISSION

Review - Report

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

I refer to the review of the Legal Aid Commission of Western Australia -

(1) Has the Review Steering Committee completed its report on the review?

(2) If so, when did that occur?

(3) If not, when is it anticipated it will complete its report?

(4) Will the Attorney General table the report?

(5) If so, when?

(6) If not, why not?

Hon PETER FOSS replied:

(1)-(6) The Commonwealth/State Committee established on 25 August 1995 to review the operations of the Legal Aid Commission reported to me on 9 September 1997. The Review Committee recommended to me that the review be discontinued due to the significant changes which have occurred this year and are planned for 1998 in respect of legal aid. I have written to the Commonwealth Attorney General, the Hon Darryl Williams, AM QC MP seeking his formal agreement to the joint Commonwealth/State review of the Legal Aid Commission being discontinued.

SCHOOLS - PRIMARY

Illawarra - Transfer of Dental Patients

978. Hon N.D. GRIFFITHS to the Minister for Finance representing the Minister for Health:

With respect to Illawarra Primary School children -

(1) Did the Western Australian Health Department transfer the school's dental patients from Ballajura Dental Therapy Care to the Koondoola Dental Therapy Centre?

(2) If so, why?

(3) Were the parents of Illawarra school children consulted before the decision was made to send their children to the Koondoola Dental Therapy Centre?

(4) If not, why not?

(5) Will this decision be reviewed?

(6) If not, why not?

(7) If yes, when?

Hon MAX EVANS replied:

(1) Yes, a decision has been made to transfer Illawarra Primary dental service clients to the Koondoola Dental Therapy Service. It will come into effect in 1998.

(2) Due to uneven growth in the school population feeding into dental clinics in the northern suburbs it has been necessary to readjust service arrangements.

(3) The parents were not consulted directly.

(4) The Illawarra Primary School Principal was advised in July 1997 of the changes to come into effect in 1998. At that time, it was agreed a strategy would be developed to advise parents. The children of the Illawarra Primary School do not receive an on site service and are currently required to travel to Ballajura. With the new arrangements, they will need to travel to Koondoola. The children of Illawarra have previously attended the Koondoola Clinic for services.

(5) The decision has already been reviewed and is to remain unchanged. A further review of school dental therapy enrolments will occur in approximately 2 years.

(6) Not applicable.

(7) Not applicable.

FREEDOM OF INFORMATION AMENDMENT REGULATIONS - REASONS FOR INTRODUCTION

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

What are the reasons for the Freedom of Information Amendment Regulations 1997?

Hon PETER FOSS replied:

The *Freedom of Information Act 1992* provides that the regulations may declare that an office or body is to be regarded as part of a specified agency. This is desirable in the interests of efficiency, as there are various administrative processes prescribed by the Act, and the processes established by another agency can then be utilised when dealing with FOI requests.

An amendment to the regulations was necessary in order to remove two agencies formerly related to the Ministry of Justice, but which are no longer affiliated with the ministry because of changes of ministerial responsibilities. In addition, various Courts and Tribunals have been declared related agencies of the Ministry of Justice. This was requested by the Chief Judicial Officer in each case, and enables the Ministry of Justice to deal with any Freedom of Information applications which may be received by the Courts and Tribunals concerned. The Information Commissioner forwarded the Parliamentary Joint Standing Committee on Delegated Legislation an explanatory memorandum when the amendment regulations were made, as is usual practice. The Information Commissioner may be contacted direct if the member has any further queries about the regulations.

HEALTH - NORTH WEST

Detailed Analysis of Health Care Needs

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

I refer to the recently announced 'detailed analysis' of the health care needs of North-West residents, cited in the Minister for Health's media statement of August 10, and ask -

(1) What process is the Government using to perform such an analysis?

(2) Does the analysis involve out sourcing of any of the functions of the review?

(3) If so, when will tenders be called for, and if it has been called, who was the successful tenderer?

(4) What will be the make-up of the service plan reference group and the project steering group?

(5) How will members of these groups be nominated or appointed?

(6) Has any decision been made as to the composition of these groups?

(7) If so, what are the names of chosen members?

(8) What involvement, if any, will members of the Aboriginal Medical Services have in this process?

(9) What process is to be followed for the appointment of a person to head the steering group?

(10) What will be the total cost of this 'detailed analysis'?

Hon MAX EVANS replied:

(1) The North West Health Planning Process will involve extensive community consultation and involvement along with analysis of existing Commonwealth and State health, demographic, economic and other relevant data.

- Regional Development information such as industry infrastructure, social issues and development opportunities including tourism and associated trends which impact on health service provision will be reviewed.
- Analysis of specific health service utilisation and referral patterns.
- Key health consumer issues and groups that currently service the health needs will be consulted to identify gaps and service delivery opportunities.
- A stocktake of capital works and equipment will be undertaken.

(2) This is not yet determined.

(3) Not applicable - see 2.

(4) The project steering committee will be made up of key North West Health Service delivery managers and senior Health Department of Western Australia (HDWA) personnel and be chaired by a prominent North West Community Leader.

The project reference group has more extensive and widespread representation from HDWA, North West Health Service Managers, Aboriginal Medical Services, Remote Health Reference Group and other key professional and North West Government and Non Government organisations.

(5) Relevant organisational and professional bodies will be requested to nominate their representatives: Other representatives will be identified from current HDWA position holders eg North West Health Service Managers and relevant health reference groups.

(6) Decisions regarding the compositions are currently being finalised.

(7) Refer to 5 above.

(8) Aboriginal Medical Services will be asked to nominate a representative to the Reference Group. HDWA Office of Aboriginal health will also be represented. The planning process will incorporate extensive liaison and consultation with North West Aboriginal Medical Service.

(9) By invitation from the Commissioner of Health, HDWA.

(10) Approximately $200,000.

QUESTIONS WITHOUT NOTICE

SHIPPING - *PINE TRUST*

Grounding - Ownership

905. Hon TOM STEPHENS to the Minister for Transport:

(1) Was the *Pine Trust*, the ship that ran aground near Denham last week, owned by the same company, Sanko Steamship Pty Ltd, which owned the *Sanko Harvest*, which ran aground near Esperance in 1992?

(2) Was the ship sailing under a Panamanian flag, even though Sanko Steamship Pty Ltd is a Japanese Sydney based company?

(3) What steps is the Minister taking to implement the 1992 House of Representatives select committee report "Ships of Shame", especially with reference to ships sailing in world heritage listed areas?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) The ship's agent advises that the vessel is owned by Eastern Shipping on behalf of Grand Slam Enterprises.

(2) The vessel is under the Panamanian flag.

(3) The prime responsibility for the standards of international ships lies with the Commonwealth Government and the Australian Maritime Safety Authority. The ships of shame initiative dealt with safety issues arising from substandard ships. I have been advised that this incident was not the result of the vessel failing to meet prescribed safety standards. The incident is being investigated by the Federal Government's marine incident investigation unit and the report will not be available for some time.

Following the question asked last week, I made inquiries and was advised that no danger was envisaged as a consequence of the problem and a full investigation will take place. However, there is no environmental or ships of shame comparison between this vessel and previous problems.

SHIPPING - *PINE TRUST*

Grounding - Dumping of Salt

906. Hon TOM STEPHENS to the Minister representing the Minister for the Environment:

(1) Is the Minister aware of reports that the ship *Pine Trust*, stranded off Denham last week, dumped salt to enable it to refloat?

(2) Did the State Government or any of its officers authorise this dumping of salt and did that dumping occur?

(3) Is there an approved emergency plan for ships carrying salt through or near environmentally sensitive areas, particularly those carrying from Useless Loop?

(4) If yes, does the plan provide for the dumping of salt?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Minister is aware of a rumour in circulation that salt was dumped from the MV *Pine Trust* to enable it to be refloated. There is no truth to this rumour. The vessel was successfully refloated in the Denham Channel at 11.45 pm on Thursday, 16 October 1997. No pollution occurred as a result of the grounding of this vessel, the successful operation to refloat it or subsequent to its refloating.

(2) Not applicable.

(3) Any ship foundering or running aground in state waters is subject to the WA marine oil pollution emergency management plan. A noxious substance - that is, hazardous chemicals - plan is being developed.

(4) Not applicable.

PORTS AND HARBOURS - OAKAJEE

Uranium Industry Usage

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

In relation to the proposed industrial site and port at Oakajee north of Geraldton, I ask -

(1) Has any consideration been given at any time to the proposed use of these facilities by uranium mining and processing industries?

(2) Has any discussion been held between the Minister or the Department of Resources Development and any company that has interests in uranium mining about the proposed use of any of the proposed facilities associated with the establishment of the Oakajee port and industrial facilities?

(3) If so -

(a) with whom were any discussions held;

(b) when were discussions held;

(c) what were the outcomes of any discussions?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) No.

(3) Not applicable.

ALINTAGAS - EMPLOYEES

North West Shelf Gas Pipeline Sale - Entitlements

908. Hon HELEN HODGSON to the Leader of the House representing the Minister for Resources Development:

In respect of AlintaGas employees who will be affected by the sale of the north west gas pipeline -

(1) What provision has, or will, the Government make for the preservation and continuity of these employees' entitlements to superannuation, whether by way of lump sum or pension?

(2) Will employees who choose to continue to work for the new owner of the pipeline be forced to leave the government employees superannuation fund?

(3) Is the Government considering amending the Government Employees Superannuation Act or schedule 1 of that Act that lists employers who may contribute to the scheme to allow employees to retain coverage with the fund?

(4) Under the current rules of the fund, if these employees wish to transfer their entitlements to another fund, will a discount be applied to the contributory service component?

(5) Is the Government considering waiving this discount in this case?

Hon N.F. MOORE replied:

In view of the time required to compile the information to answer this question, I ask that it be placed on notice.

TOURISM - BRAND WA ADVERTISING CAMPAIGN

Selection Process - Short List

909. Hon KEN TRAVERS to the Minister for Tourism:

With regard to the selection process which saw the advertising company Marketforce involved with the Brand WA advertising contract -

(1) Was a panel set up to analyse the expressions of interest submitted for this contract?

(2) If yes -

(a) did this panel develop a short list from the eight companies which expressed an interest in this contract;

(b) what were the names of the companies on this short list;

(c) which company from this short list was eventually recommended to the commissioners of the Western Australian Tourism Commission?

Hon N.F. MOORE replied:

(1) Yes, the panel members were -

Mr S. Crockett, Deputy Chief Executive Officer;
Mr M. Rees, Acting General Manager EventsCorp;
Mr S. Walsh, General Manager National Sales and Marketing;
Mr R. Thomas, General Manager International Sales and Marketing;
Ms A. Ferguson, General Manager Perth Convention and Incentive Unit;
Mr I. Johnson, Manager National Marketing;
Mr M. Dalgleish, Marketing Director EventsCorp.

Please note that Mr M. Dalgleish withdrew from the panel following the first assessment phase due to his resignation.

(2) (a) Yes.

(b) 303, Marketforce and Mojo. Mojo later made the decision to withdraw due to its conflict with another client and Marketforce and 303 made presentations to the selection committee and the board of commissioners.

(c) Following a general advertisement for expressions of interest for the development of the WATC's national and international advertising, submissions were received from eight advertising agencies and the panel selected three short listed candidates to receive the restricted tender document. The short listed candidates - 303, Marketforce and Mojo - were recommended by the board of commissioners and later approved by the State Supply Commission.

The selection committee recommended to the board of commissioners that 303 be appointed to the business on the basis that it achieved the highest score in the selection process and provided a detailed analysis of each agency's performance against the weighted evaluation criteria. At a meeting on 17 November 1995 the board noted that while 303 achieved the highest score there was little difference between the two agencies based on the scores, and requested further analysis be completed on the fee structure of the two agencies prior to the final decision being made.

It should be noted that, as part of the original tender document, the selection committee encouraged agencies to consider a flat fee structure, a practice that is common in other parts of Australia and overseas, as a means of saving money. With a flat management fee, it would be possible to achieve a minimum saving of $104 000 compared with the previous agency fee structure, regardless of which agency was selected.

On 2 December 1995 the additional cost analysis was circulated to the board of commissioners and, in a telephone meeting, the commissioners recommended to the State Supply Commission that

it appoint Marketforce. As there was only a 4.45 per cent difference between the two agencies' weighted scores, the board made its final decision on the cost advantages offered by Marketforce in the sample campaign costings provided in the cost analysis. The State Supply Commission endorsed the commission's recommendation on 14 December 1995.

PRISONS - BANDYUP

Number of Prisoners and Strip Searches

910. Hon LJILJANNA RAVLICH to the Minister for Justice:

Further to question without notice 891 dated 16 October 1997 relating to strip searches at Bandyup Women's Prison -

(1) What was the average daily population of prisoners at Bandyup Women's Prison in 1995-96 compared with 1994-95?

(2) Will the Minister provide details of -

(a) what the 10 items of contraband detected in 1995-96 were; and

(b) what the eight items of contraband detected in 1994-95 were?

(3) On what grounds or suspicions are the women strip searched at Bandyup?

(4) Does Bandyup have a policy relating to strip searching prisoners?

(5) If yes, will the Minister provide a copy of the policy?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) 1995-96 - 88.
1994-95 - 73.

(2) Yes.

(a) Cannabis and/or other illegal substances, 10.

(b) Cannabis, six; heroin, one; and jewellery, one.

(3) This applies where persons are suspected of possession of contraband article/s or substance - where a prisoner displays suspicious behaviour, or upon information obtained; where change in prisoner's physical appearance is noted; upon entry to and exit from observation or punishment cell; and prior to court and upon return.

(4) Yes. Bandyup's standing orders Nos 4.7.1 and 8.18.1 determine delegated authority and procedure, as provided for by regulation 78.

(5) Yes. I seek leave to table the relevant papers.

[See paper No 905.]

DISCRIMINATION - INCONSISTENCY IN ORDERS OF THE DAY

Intentions of Leader of the Opposition

911. Hon GREG SMITH to the Leader of the Opposition.

In relation to Orders of the Day Nos 27 and 39 -

Hon Tom Stephens: What might they be?

Hon GREG SMITH: In Order of the Day No 39, the Leader of the Opposition calls for the Legislative Council to -

(1) Recognises that Tuesday, May 27, 1997 is the 30th anniversary of the referendum that amended placitum 51 (xxvi) of the Constitution which gave the Commonwealth the power to make special laws for any race, in particular Aboriginal and Torres Strait Islanders. . . .

(3) Recognises that the referendum was passed with the intent that the power conferred on the

Commonwealth should only be used for the benefit of the Aboriginal and Torres Strait Islander peoples.

In Order of the Day No 28 the Leader of the Opposition asks that this House -

(a) reaffirms its commitment to the right of all Australians to enjoy equal rights and be treated with equal respect regardless of race, colour, creed or origin;

Given the inconsistency between the two orders, which of these matters does the member intend to pursue?

Hon TOM STEPHENS replied:

I thank the member for the question. I see that he is confused about some of the numbers, but I am sure we have worked out the member's references.

Hon N.D. Griffiths: He should not be confused by numbers as he is a Crichton-Browne man!

The PRESIDENT: Order!

Hon TOM STEPHENS: Indeed. Nevertheless, I get the gist of the question. The member made reference to the most important part of the first motion. He referred to the Commonwealth's head of power in reference to the handling of Aboriginal questions before this nation. The member referred to the precise reasons for this nation facing some difficulties if certain courses of action are pursued. I refer to adopting strategies which are not in accordance with the Commonwealth's head of power.

These issues I hope will come before the House by virtue of the report of a select committee, upon which a number of us have the pleasure of serving. The question the member asks is a good one.

Hon Derrick Tomlinson: Your answer is even better!

Hon TOM STEPHENS: The answer is that the people of Australia have decided how these issues should be determined; that is, they gave powers to the Commonwealth to be used only for the benefit of Aboriginal people. In relation to the notion of discrimination, the people of Australia have come to terms with the notion of positive discrimination to deal with the question of disadvantage. Whether it is on the basis of race or sex or whatever form of discrimination, positive discrimination is not a breach of this constitutionally enshrined provision available to the Commonwealth. The member will understand more about this matter when he reads, as I hope he will, the report of the Select Committee on Native Title.

ROADS - CURTIN AVENUE, COTTESLOE

Widening

912. Hon J.A. SCOTT to the Minister for Transport:

(1) When does the Government intend to widen Curtin Avenue in Cottesloe?

(2) What will be the width of the road reservation?

(3) How many properties along the proposed route will be affected?

(4) How many properties along the proposed route still need to be resumed, and what are their locations?

(5) Will the Government ensure that a social and environmental assessment of the highway be carried out?

(6) How much rail reserve land will be used for the proposed widening?

Hon E.J. CHARLTON replied:

(1) Currently there are no plans to widen Curtin Avenue within the next 10 years.

(2)-(4),(6) A study is being undertaken to review the road reservation requirements. Exact details will be not be known until preliminary plans are developed further.

(5) Yes.

It is important for the member to note that we continually review the road reservations of a number of main arteries around the State. Sometimes, as happens virtually every year, reserves are reduced - we have done that in recent times. I would not want the member to make something out of the answer which is not correct. I do not suggest that

he has a tendency to do these things and lead people up one-way tracks for the wrong reasons; however, I add this comment for members' benefit: Although I advise the member that consideration is given to the width of the reservation, it does not mean it will be increased - it might be decreased.

TELECOMMUNICATIONS - PILBARA

Access to Internet Service Providers

913. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:

I refer to the reference in the May 1997 communications audit report for the Pilbara region to the need in that region for more local Internet service providers and for access to Internet service providers at affordable rates.

(1) Has the Office of Information and Communications assumed responsibility for the development of regional telecommunications plans?

(2) Does the Pilbara regional telecommunications plan address the specific need in that region for more local Internet service providers and for access to Internet service providers at affordable rates?

(3) When is it anticipated that the Pilbara regional telecommunications plan will be available for implementation?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Department of Commerce and Trade has been working with the regional development commissions to develop regional telecommunications plans for the nine regions of the State. Once the Office of Information and Communications is fully operational, it will become more involved in the development of the plans.

(2) When the regional telecommunications plans are being developed, the need for more local Internet service providers and for access to Internet service providers at affordable rates will be considered as a high priority.

(3) The development of a Pilbara regional telecommunications plan and its release will be arranged by the Pilbara Development Commission. A date has not yet been determined for the release.

LIQUOR - LICENCES

Liquorland Australia Pty Ltd

914. Hon NORM KELLY to the Minister for Racing and Gaming:

(1) How many liquor store licences does Liquorland Australia Pty Ltd hold?

(2) How many of these were granted or transferred to Liquorland Australia Pty Ltd -

(a) this year;

(b) in 1996;

(c) in 1995; and

(d) in 1994?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Sixty-two.

(2)

Year	Licences Granted (including relocations)	Licences Transferred
1997	5	Nil
1996	2	1
1995	5	5
1994	2	2

FUEL AND ENERGY - GAS

Goldfields Pipeline - Tariff Setting Principles

915. Hon MARK NEVILL to the Leader of the House representing the Minister for Resources Development:

Further to question 952 of October 1996 in respect of the goldfields gas transmission pipeline, is the Minister satisfied that the tariff setting principles will ensure that the actual costs of construction, operation and maintenance are reflected in the tariffs that apply, and that they represent a fair and reasonable tariff?

Hon N.F. MOORE replied:.

I thank the member for some notice of this question.

Goldfields Gas Transmission Pty Ltd is conducting a review of the tariffs using actual cost of construction, operation and maintenance. This will provide an opportunity for the State to consider all issues relating to tariffs and tariff setting principles. In this review GGT Pty Ltd must satisfy the State that the tariff outcomes are consistent with the tariff setting principles approved by the State. The test as to whether the tariffs are fair and reasonable is one that is left to the marketplace. If a third party is unable to agree to a tariff with GGT, that triggers a determination by the Minister under the state agreement on reasonable tariffs, which must be consistent with the tariff setting principles. The Minister's determination is arbitrable under the agreement.

HOSPITALS - MANDURAH DISTRICT

New Sections - Patient Admissions

916. Hon J.A. COWDELL to the Minister representing the Minister for Health:

(1) When will patients be admitted to the new sections of the Mandurah District Hospital?

(2) How many beds will be available at this time in the public accommodation section of the hospital?

(3) What staffing levels are planned for this public section?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The hospital construction is proceeding ahead of schedule but the handover date for the initial core stage is not yet finalised. Current expectations are that this will occur late in this financial year.

(2) The core stage has 51 beds, which will allow the non-surgical patients in the existing hospital to be transferred to the new facility. The core stage does not have the bed capacity to allow the hospital to offer surgical and obstetric services. These will be provided following the stage 1 and stage 2 handovers later in 1998. The level of patients and services in the new hospital is also dependent on some transfer of obstetric and surgical services from Murray District Hospital at Pinjarra. Peel Health Service staff will shortly be negotiating their transition with the local medical community.

(3) The staffing levels of the new hospital are a matter for the service operator, Health Solutions, to determine in line with patient activity levels.

EDUCATION - TEACHERS

North West - Level 3 Assessors

917. Hon TOM HELM to the Leader of the House representing the Minister for Education:

(1) Why are north west teachers precluded from being level 3 assessors?

(2) Why is there no requirement for some level 3 assessors to be from the north west?

(3) Was the decision that prevented north west teachers from becoming level 3 assessors deliberate?

(4) If there are no deliberate decisions to exclude north west teachers, what action is being proposed to address this discrimination?

(5) Have the Education Department's actions in this regard been examined to ascertain if they contravened

principles in sections 8(c) and 8(d) of the Public Sector Management Act?

(6) If not, why not, and will such an assessment be made, and when?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) North west teachers were not precluded from applying as level 3 assessors.

(2) Assessors were selected on the basis of their ability to meet the level 3 competencies, experience in competency based assessment and peer assessment. Location was not one of the requirements.

(3) No.

(4) Level 3 assessors were not appointed by the Education Department but by the consultant managing the level 3 classroom teacher program. Interested teachers applied to be assessors and were selected on merit. No discrimination occurred.

Several members interjected.

The PRESIDENT: Order, members!

Hon N.F. MOORE: The answer is better than the question.

(5) All applicants were treated fairly and consistently and there was no unlawful discrimination.

(6) No.

EDUCATION - TEACHERS

Remote Areas - Priority Transfer Rights

918. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

(1) Did the Equal Opportunity Tribunal recently grant the Minister's application for a further exemption from the operations of the Equal Opportunity Act on certain conditions and only to 31 December 1997?

(2) How many teachers have accepted country postings on the basis of an undertaking, express or implied, by the Education Department that they would eventually have priority for promotional positions in the metropolitan area?

(3) How many country teachers' transfers or promotions are currently affected by this decision?

(4) What information or responses has the Minister provided to those teachers so affected?

(5) What strategies has the Minister in place to attract and retain teachers to remote and regional schools following the tribunal's decision?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I will refrain from making any personal comments, other than to answer on behalf of the Minister for Education.

(1) Yes, a further exemption to 31 December 1997 was granted by the Equal Opportunity Tribunal on certain conditions.

(2) Teachers in the remote teaching service have, as part of their workplace agreement, priority transfer rights. Twenty-eight teachers in the remote teaching service who substantively occupy promotional positions will be directly affected by this decision.

(3) Teachers holding other promotional positions in country schools would have expected to be guaranteed a metropolitan promotional position after accumulating sufficient years of seniority under the promotional transfer system, which the tribunal has disbanded from 1 January 1998. This decision affects all teachers in promotional positions. Currently there are approximately 850 teachers in promotional positions in country locations.

(4) Information that has been provided includes -

consultation with professional associations; the establishment of a merit selection reference group, including representation from the State School Teachers Union and administrative groups; and an article is to appear in the next edition of "School Matters" and a letter to principals is being circulated.

(5) The remote teaching service workplace agreement remains in place to attract teachers to remote schools. This agreement is being reviewed in the light of the tribunal's decision. In addition, a working party involving the State School Teachers Union and the Education Department has been reviewing the allowances and benefits of country teachers for most of this year. The Minister has also established a human resources consultative forum. This forum will conduct a wide ranging review of workplace policy and practices relating to the way in which government schools are staffed and the differing forms of employment of government teachers.

TOURISM - BRAND WA ADVERTISING CAMPAIGN

Marketforce Advertising - Contract

919. Hon KEN TRAVERS to the Minister for Tourism:

(1) Under what agreement or contract did the Western Australian Tourism Commission pay nearly $400 000 to Marketforce Advertising in April 1996, as listed in the ministerial statement on Brand WA advertising costs?

(2) When was this agreement or contract signed?

(3) Who were the signatories to this agreement or contract?

(4) Does this agreement or contract outline the financial arrangements between the WATC and Marketforce Advertising?

(5) Will the Minister table this agreement or contract?

Hon N.F. MOORE replied:

I am unable to provide an answer in the time available and ask the member to either place the question on notice or ask the question tomorrow.

SCHOOLS - FEES

Failure to Pay - Restriction of Children's Activities

920. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

In reference to questions put to the Minister on 17 June 1997 in answer to which he stated that school principals would be made aware that school contributions are not compulsory -

(1) Is the Minister aware that children at some Western Australian high schools are being -

(a) terminated from classes, including vocational courses;
(b) prevented from attending school social functions;
(c) made ineligible to stand for student council; and
(d) denied access to sporting activities,

by principals because parents have not paid school contributions?

(2) Does the Minister support such actions?

(3) If not, what steps will the Minister take to ensure that such actions cease to occur?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) (a) No.

(b) Yes. Schools reportedly preventing students attending school social functions as a result of non-payment of school charges are notified in writing that this practice is unacceptable.

(c)-(d) No.

(2) No.

(3) An urgent memorandum will be distributed to schools advising them that this practice is unacceptable.

HOMOSEXUALITY - STATISTICS

Source

921. Hon GREG SMITH to Hon Helen Hodgson:

In relation to Order of the Day No 48, the member stated that 33 per cent of men, which is one in three, have had a homosexual experience. Where did these statistics come from?

Hon HELEN HODGSON replied:

That information came from a study, the details of which I do not have with me, because once again I received no notice of this question. Therefore, I again ask that this question be placed on notice.

MINING - ALCOA OF AUSTRALIA LTD

Transport of Mud and Sand - PH Level of Material

922. Hon GIZ WATSON to the Minister for Mines:

(1) What is the pH level of the material being transported by truck between Alcoa of Australia Ltd's mud lakes in The Spectacles to Alcoa's tailing dams?

(2) Do the trucks carrying this mud and sand comply with the Dangerous Goods Regulations 1992 when travelling over public roads, including -

(a) vehicular requirements under sections 1.1, 1.4 and 1.6 of those regulations;

(b) documentation, emergency equipment and protective clothing requirements under sections 3.1, 3.2 and 3.3 of those regulations;

(c) licensing requirements under sections 4.1, 4.2, 4.3 and 4.4 of those regulations;

(d) transport and emergency procedure requirements under sections 5.1 and 5.2 of those regulations; and

(e) any other section of those regulations?

(3) If the Dangerous Goods Regulations 1992 do not apply to these vehicle movements, why not?

(4) Will the Minister detail the processes by which the Government assesses whether goods are classifiable as level 8 dangerous goods?

(5) Has any material transported between Alcoa's mud lakes and tailing dams been tested to ascertain if it is classifiable as level 8 dangerous goods?

(6) If so, who conducted these tests and what were the results?

(7) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The pH of the material varies between eight and 11.

(2) No - see answer to question (3).

(3) In accordance with the Australian code for the transport of dangerous goods by road and rail, wastes are dangerous goods of class 8 only if they have a pH less than 2 or greater than 12.5.

(4) The responsibility lies with the consigner to determine if any goods they consign are dangerous goods. The procedures are prescribed in the Australian Dangerous Goods Code and they mirror those in the United Nations' recommendations for the transport of dangerous goods.

(5) Yes.

(6) The material was tested in Alcoa's environmental laboratories. The results were confirmed by the explosives

and dangerous goods division of the Department of Minerals and Energy which agreed that the product was not dangerous goods.

(7) Not applicable.

HEALTH - COUNTRY DOCTORS

Shortage

923. Hon TOM STEPHENS to the Minister representing the Minister for Health:

(1) What number of communities in rural and remote Western Australia with sufficient population to sustain a medical practice and adequate funding available for the service are currently unable to attract a doctor to work in their community?

(2) What steps has the Minister taken to address this problem?

(3) What further steps need to be taken to ensure that the communities can attract suitably qualified personnel?

(4) Has the Minister made any approaches to his federal counterpart seeking assistance in addressing those factors which are exacerbating the shortage of qualified medical personnel in rural and remote areas?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Nil currently. All towns identified by this question have either a resident or locum medical practitioner servicing the town.

(2) A wide range of strategies have been implemented to address this problem, including -

Funding of the Western Australian Centre for Remote and Rural Medicine to provide direct support, education and coordination of locum services for general practitioners along with a range of other services.

The Minister for Health and the Deputy Premier convened a rural medical work force forum in July 1997 which included over 70 representatives from the medical profession, local council, health service boards, health service managers, the Health Department of Western Australia and other relevant stakeholders. The recommendations from this forum will be circulated and will contribute toward future strategies to address this issue.

The state Minister for Health, Kevin Prince, organised the federal Minister for Health, Hon Michael Wooldridge, to visit rural Western Australia to see and hear firsthand the effects of the restriction of provider numbers on rural communities. This led to the federal Minister for Health providing a commitment to Western Australia to allow overseas trained doctors to continue to be recruited under a special rural placement program.

Western Australia is involved in the Federal Government's review of the general practitioners strategy.

(3) A range of initiatives are being considered by the Federal and State Governments which include -

Continuing to support the work of the Western Australian Centre for Remote and Rural Medicine in association with the Rural Doctors Association and local council initiatives.

Continuing coordination of the Commonwealth's rural incentive program and contributing feedback on how this can be made more locally relevant.

These measures have shown a steady improvement in attracting and retaining general practitioners in rural and remote areas.

(4) Yes.
