WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Thursday, 25 March 1999

Legislative Council

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

NORTH WEST CAPE

Petition

Hon Giz Watson presented the following petition bearing the signatures of 303 persons -

To the Honourable the President and members of the Legislative Council in Parliament assembled.

We the undersigned residents of Western Australia request that the Council -

recommend that the Government apply for World Heritage Listing for the whole North West Cape area including Commonwealth and State Sea territories, and the terrestial and estuary ecosystems, to safeguard this precious environment for future generations.

reject any proposal which could harm the fragile ecosystem of the North West Cape including any further development on the West Coast.

support increased funding to CALM and other agencies to upgrade and maintain management resources for the North West Cape.

Your petitioners as duty bound will ever pray.

[See paper No 910.]

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Inquiry Into Management of Western Rock Lobster Fishery - Motion

Resumed from 24 March on the following motion -

That the Standing Committee on Ecologically Sustainable Development inquire into the management and sustainability of the western rock lobster fishery having regard to-

(1) The accountability of the Department of Fisheries and its rapid rate of expansion.

(2) The potential conflict of interest of the department in being a regulator and having involvement in projects and marketing.

(3) A proportional redirection of better interests development funding to the Western Australian Rock Lobster Fishers Federation to enable it to better represent the interests of lobster fishers.

(4) The ability of Western Australian fishers to store, feed and sell their product anywhere within Australia.

(5) The establishment of a seafood exchange in Fremantle.

And that the ESD Committee report its findings and recommendations to the House on or before 2 June 1999.

HON DEXTER DAVIES (Agricultural) [11.04 am]: As I began to say yesterday, I was somewhat astounded that the fishing industry was targeted for an inquiry into its sustainability and management. It is probably one of the agencies that is well managed. Conservation groups and others worldwide recognise it especially for its sustainability, to the extent that it is probably the first fishery in Australia that is likely to be accredited internationally. That is a real feather in the cap of the people concerned with managing that fishery. As many other members have said, and as happens with many primary industries, disputes will exist in such an industry which covers such a wide geographic area from the north to the south and which contains many different communities. Individuals and boat owners have very firm views on how the fishing industry should be run, but the industry overall has been brought together and managed in a particularly good way over a long time. The industry is to be congratulated for that.

As they present the opportunity to consider disputes, coastal tour fishing meetings are organised. The timing of those meetings has been criticised because those responsible introduced new times during the fishing season this year. The meetings were not particularly well attended, but meetings held at other times were not particularly well attended either. Members will find that is the case within many farming organisations, such as the Western Australian Farmers Federation and the Pastoralists and Graziers Association. People have many other things to do. If there were strong grievances in the industry, one would think that people would attend those meetings to put those grievances forward, but they tend not to.

The sorts of people who are referred to as "everyone in the industry", in my experience never materialise. They are at a front bar consulting with their peers, when they could take the opportunity to put their grievances to a well-organised and structured system that allows feedback into the management of the fishery.

People might say that some aspects of the fishery are not as good as they should be. However, anyone who thinks that he has everything running 100 per cent in his life is kidding himself. Disputes will always exist with collective management and the management of a resource that must be shared and sustained, as is the case with the fishing industry. I believe I made the point that if we were to inquire into the fishing industry, it would be irresponsible for this House to embark upon such an inquiry when the Auditor General is conducting an inquiry which is due to report in June. It will inquire into the very matters that have been referred to in this motion. Such parliamentary inquiries into an industry are not held without enormous cost to the industry, to this House and to the committees involved. The National Competition Council policy review is inquiring into the fishing industry and is due to report soon after June. It is investigating many of the matters that Hon Jim Scott mentions as disputes in management, such as pot numbers and restrictions.

It would be irresponsible for the committee system of this House to go over exactly the same ground during the fishing season. Hon Jim Scott made the observation that it is very difficult to get people to attend meetings in the middle of the fishing season, let alone come forward and give evidence to inquiries. We would be placing an imposition on the industry which it does not need at this time. Most of the information will be available for all members of this House to scrutinise. The National Competition Council inquiry should be independent from the national competition policy and the Auditor General's report. It is an across-the-board inquiry into most of the areas members have suggested should be inquired into. The industry pays for most of the expansion of the staffing of Fisheries WA through its self-funded nature. The agency must justify any expansion to the Parliament and to the industry through the relative boards before it is imposed. Stringent controls are placed on the management of staffing. The agency has dealt with the potential conflict of interest of being both the regulator and marketer by successfully separating itself from the marketing. It has allowed itself to become involved in providing opportunities for developing markets as opposed to actually marketing the fish. That is appropriate and I do not think the agency intends to become involved in that marketing in any way. Other schools of thought believe it should; however, at the meetings I have attended, the fishermen expressed a view that it should not. That is the view of the people involved in the industry. These options have been put forward in the coastal tour meetings and through other means, newsletters, etc, and the feedback from the industry and management boards suggests that the majority of the fishermen do not want that involvement. It will not go ahead.

A system is in place to reassess the problems Hon Jim Scott referred to in the overall management of the industry. The current debate about the 150-pot rule is a valid issue which is being discussed. It is a credit to the management that the opportunity to discuss the issue exists. The question will be argued through the industry and the available facilities. At the end of the day, 100 per cent of the people involved will not be satisfied. I have been through many such arguments, as Hon Kim Chance referred to, at the Western Australian Farmers Federation and the Pastoralists and Graziers Association, and as long as we are on this earth, there will be different opinions about the best way to achieve things. If any member thinks that one can get 100 per cent of participants to agree in any primary industry, he might also have fairies at the bottom of his garden. It is a good for people to debate issues; having the opportunity to debate issues is part of a healthy system.

Fisheries WA should not fear an inquiry or be concerned about one being held. It should be well prepared for one; it is in the process of two trial runs at the moment. It is more a question of whether we in this place believe that it is responsible for us to initiate another inquiry into the fishing industry when two are underway. I have not heard any member of this House suggest that the fishing industry is not sustainable or that the industry's management of sustainability needs to be inquired into. That speaks for itself.

The fishing industry has developed a very successful process of estimating catches. Even this year with the panic at the start of the season and people thinking the catch would be down and nowhere near the estimate, I believe that at the end of the day the estimates will again be shown to be extremely accurate. It was great to see the price rise the other day from the Doomsday price forecast at the start of the season to a beach price of $19.

Hon Jim Scott interjected.

Hon DEXTER DAVIES: Yes, but the price is back to $19 now.

Hon Jim Scott interjected.

Hon DEXTER DAVIES: No. With very good domestic marketing of lobster at Christmas and other aggressive means of marketing, the industry has coped with the catch so far. The season is not finished yet, but the price is heading in the right direction. The rock lobster industry is in a very healthy state.

Hon Murray Montgomery: That is market forces and production coming into play.

Hon DEXTER DAVIES: Absolutely. That will control the outcome at the end of the day. I cannot say a lot more than other than anybody can pick on any industry at any time and suggest an inquiry. I repeat, it would be irresponsible for this House

to initiate another inquiry during the fishing season when there are already two in progress and due to report by or soon after 30 June.

HON B.M. SCOTT (South Metropolitan) [11.18 am]: As members would know, for six years I have represented a large proportion of the crayfishing industry in the Fremantle region. I have also been closely involved with its organisations. A Standing Committee on Ecologically Sustainable Development inquiry into the western rock lobster fishery is not only unnecessary but also an inappropriate use of time. I have had close association with a number of very successful rock lobster fishing organisations in Fremantle. A divergence of opinion about how an organisation operates is not unusual in any business enterprise or industry. Indeed, this surfaced to a degree some years ago, when a group of women who owned and operated their own lobster business lobbied me. They were concerned that their voice was not being heard by the Western Australian Fishing Industry Council. That issue was taken to the board and, as a result of my lobbying, a woman representative was appointed to that council. At the time, my secretary would often tell me that the fishwives wanted to speak to me. It was a very forceful group of women. They have regular meetings at a restaurant in Fremantle, which I usually attend. I have met with both groups currently involved.

Hon Kim Chance: Was that the group opposed to home porting?

Hon B.M. SCOTT: Yes, they were. They had to go up and down the coast to join their husbands, leave their husbands behind or take their children up to Jurien Bay and so on.

I understand that there is often a divergence of views on how an industry should be run. However, we should consider the rock lobster industry, answer the questions put to us by the Standing Committee on Ecologically Sustainable Development and ask what would legitimise an inquiry at this time.

Hon J.A. Scott interjected.

Hon B.M. SCOTT: As I said, it is not unusual in any industry to have dissatisfied splinter groups. However, it is important to look at the record of the current body and the industry. We should broaden our perspective in recognising and acknowledging that the western rock lobster industry in Western Australia has an extremely high profile, it has maintained incredibly sustainable fishing zones, and it has a high level of research and development. I have had occasion to visit the site at Fremantle which has the latest technological facilities to export live lobster around the world in pristine condition and which is able to service the market either in live or cooked lobster.

In respect of the sustainability of the rock lobster industry, we have in Western Australia organisations that, in cooperation with Fisheries WA, are probably the most accountable in the world. Those involved have been able to sustain a significant commercial fishery that is profitable for everyone.

Given that this motion has been moved, we must look at the committee system and ask whether we are redoing work that has already been done. It is evident to me that Fisheries WA is already accountable to the Parliament through the annual reporting process. The individual rock lobster fishermen, through the Rock Lobster Industry Advisory Committee, have a mechanism to voice their concerns. I know that at a federal level Western Australia has always been extremely well represented by very high calibre people. The Western Australian Fishing Industry Council has been well represented and has negotiated with federal ministers for a long time, and its members are highly regarded. The Federal Parliament recognises that the Western Australian fishery is well managed.

There will always be concern in any industry that things need to be different. My mail yesterday contained the official newsletter of the Aquaculture Council of Western Australia - *ACWA News*. A brief glance indicates extensive outstanding research being done here in Western Australia. The results of that research are passed on to the industry so that we preserve our fishery zones. Research is being carried out in genetics, aquaculture and, in particular, the rock lobster.

As I said, I have been fortunate through my connections in Fremantle to see this at firsthand. The newsletter contains an article headed "The culture and capture crayfish fisheries in Europe - a short summary", which refers to the fact that there are only five native crayfish species in Europe and they are all susceptible to the crayfish plague fungus *Aphanomyces asticii*. My information from the fishing industry is that the record in Western Australia for up-to-date research and investigation is extremely good. That is the sort of thing that the crayfish industry needs to recognise.

The accountability processes of this Parliament should ensure that there should not be a repeat of what is being done already. As members know, the Office of the Auditor General is currently conducting a performance examination of Fisheries WA.

I return to my initial comments: We must always examine the work of the committees of this Parliament. While they are a very important part of it, I do not believe we can justify redoing an investigation that has already been done by another agency that must answer to this Parliament, as this standing committee will be required to do. We will then need to consider two sets of recommendations from two agencies. That does not make sense; our time is very valuable and we should not be required to do that. If there are questions about the cost of the management of the industry, they will come up in the Auditor General's examination. I am satisfied with that.

I said in my initial remarks that I represent a range of people involved in the rock lobster industry, and I have been fortunate to be closely involved with the industry organisations. From my experience, they are highly regarded and efficient, and they reflect the concerns of a wide range of industry participants. It is unnecessary and inappropriate at this stage to ask for a further detailed inquiry into the fishery. Therefore I do not support the motion.

HON RAY HALLIGAN (North Metropolitan) [11.30 am]: I too have some concerns about the motion, and they relate not so much to its integrity but to whether there is a need for it at this time and whether the committee should be requested to undertake such work. Fisheries WA is a large government agency and the aquaculture industry is large and diverse. I wonder whether Hon Jim Scott had in mind that some accountability is required for the department or just for the western rock lobster fishery.

Let us consider what "accountability" means. I am not sure that all people consider that word in the same light. In one dictionary "accountability" is defined as accountable to the public, especially to persons affected by an agency's operations. That is the normal use of that word, but there are many synonyms, some of which are relevant, and they are "answerability", "chargeability", "culpability", "liability", "responsibility", "explainability" and "understandability". It may appear to be drawing a long bow, as some might say, but the meaning of that word is all-encompassing. Accountability is a matter of being transparent and ensuring that those who are affected by decisions can see what has been done. They might not agree with those decisions, and more often than not such motions come forward because a certain number of people - I believe that they are in the minority - are unhappy with them. Of course, that does not mean that they should not have the opportunity to express their dissention from those decisions, but I am not sure whether this is the right process.

Hon Jim Scott mentioned that at least 30 per cent of a certain group of fisherfolk formed a federation because they were dissatisfied with certain decisions by people within Fisheries WA and/or other organisations attached to or associated with that government agency. If the number is as large as that, they might be expected to make sufficient sound to be heard. I am aware that Hon Jim Scott is trying to assist them in that regard, but if there are more than 30 per cent of them I wonder why they were unable to make their voice heard within the government agency. Of course more than 30 per cent is a considerable number. There are several other associations and/or federations; I have no idea of their exact number, but members may call them what they will. Hon Jim Scott mentioned the Western Australian Fishing Industry Council. It was established as a collective voice for 48 fishermen's associations. That is a large number of associations, and one may ask whether there are too many.

Hon J.A. Scott: They are not at the same level.

Hon RAY HALLIGAN: It seems to be very complex; they operate in different parts of aquaculture as well.

Hon J.A. Scott interjected.

Hon RAY HALLIGAN: As I have said, it appears to be a diverse group. I am not sure whether other organisations such as the ministry or public servants have created a divide-and-rule situation or whether that group has created its own situation. I suggest that such people should look inwardly at themselves and the situation that they have created and ask why they cannot have their concerns heard and what they might need to do to restructure themselves to place themselves in a far better position.

Hon J.A. Scott: That is exactly what they are doing.

Hon RAY HALLIGAN: I do not suggest for one moment that Hon Jim Scott's motion will achieve that. Those people need to do it themselves. Governments should never be placed in a position in which any industry group with such a concern should immediately come to Parliament and expect Parliament to create a committee to sort out its problems. That is not a function of Parliament. It is only when people have gone down a certain path - to the majority of members that is only logical and rational - and found that they definitely cannot go further, for a variety of reasons, that Parliament should step in. At this time absolutely nothing that has been presented to me suggests that we should follow that path.

I again refer to the wording of the motion. According to Hon Jim Scott, answers must be given as to the accountability of Fisheries WA and, as has been mentioned, its rapid rate of expansion. I admit that I have not read all the debate on the issue, but I am yet to find any mention of the justification for requesting a committee, let alone the Standing Committee on Ecologically Sustainable Development, to examine Fisheries WA with regard to its "rapid rate of expansion". I have had a quick look at the budget papers, although I have not referred back over any number of years. However, from a monetary point of view there does not appear to be a rapid rate of expansion. I would dearly love to know what the mover of the motion had in mind when he included that in the motion.

In his contribution Hon Kim Chance said that industry participants and stakeholders would be in a position to put forward their point of view on how the future of the industry should be addressed. With those sentiments, the stakeholder should be able to do that. However, I reiterate that it would be best done from within their industry prior to ever coming to Parliament. As was mentioned earlier, the minister decides who are to be the 14 members of the Rock Lobster Industry Advisory Committee. However, it has not been explained that candidates apparently come from a list provided to the

minister. Is there a suggestion that 30 per cent-plus people from all these organisations and associations who have formed the Western Australian Rock Lobster Fishers Federation cannot get their names put forward and added to this list?

A suggestion was also made that information appears not to be disseminated. In fact, it was said that because RLIAC meetings are not open to public scrutiny there is no accountability. I cannot agree with that, although I do not know exactly what is meant by public scrutiny. Does it mean scrutiny by all and sundry?

Hon J.A. Scott: I will tell you about that.

Hon RAY HALLIGAN: It needs more clarification. As Hon Jim Scott told this House, RLIAC comprises 14 persons made up of eight professional fishermen, two processors, one community member and two Fisheries Department officers and is chaired by the Executive Director of Fisheries. Presumably none of the eight professional fishermen is among the 30-plus percent who have formed the federation. They may have decided not to become part of that process - they may have spat the dummy, possibly because they could not form a majority on that committee. Who knows? That is one of the matters that should be investigated. How can a committee of 14 comprising professional fishermen, processors, a community member and departmental members not be accountable? Surely the information would be disseminated in some way.

Hon J.A. Scott interjected.

Hon RAY HALLIGAN: I accept Hon Jim Scott's offer. From what I have read and heard to date that position is not clear to me. It has certainly not encouraged me to change my views about whether this motion should be supported.

Early in the debate, reference was made to inquiry into the management and sustainability of the industry. I do not think too many people would have problems with the word "management" and its meaning, particularly in this context. Surely everyone will accept that it is the administration. However, even administration can have grey areas.

A number of speakers have indicated that not a great number of people are concerned about the sustainability of the rock lobster industry. What does "sustainability" mean to people? It can mean many things. The dictionary says that to sustain something can be to suffer.

Hon J.A. Scott: That is the old meaning.

Hon RAY HALLIGAN: There are a number of meanings, not just the one Hon Jim Scott decided it should have. To sustain something is to give strength to it; to get behind it. It can be to substantiate or to corroborate. Sustainability can be endurance, to stand or bear up against. One might imagine that what Hon Jim Scott has in mind is another meaning; that is, to maintain or keep. That is fine.

Hon J.A. Scott: I mean it in ecological terms.

Hon RAY HALLIGAN: In that case a little more clarification is required. It is no good the member using a word which can have a number of meanings in the belief that it will mean the same to everyone else.

Hon Ken Travers: Are you usually this pedantic?

Hon RAY HALLIGAN: I am not being pedantic.

Hon N.D. Griffiths: The member is sustaining an argument!

Hon RAY HALLIGAN: I will push that argument yet again. Point (1) of the motion is double-barrelled. I could be being pedantic, but Hon Ken Travers knows that we should not ask double-barrel questions when we want questions answered.

Hon Ken Travers: You could put a lot of questions on notice to Hon Jim Scott.

Hon RAY HALLIGAN: I could possibly do that. Hon Jim Scott also said that some of the fisherfolk are concerned about forecasting.

Hon Ken Travers: What do you mean by forecasting - weather forecasting?

The PRESIDENT: Order! Hon Ken Travers will be putting questions on notice shortly, because he will not be in the Chamber. Hon Ray Halligan has the floor.

Hon RAY HALLIGAN: Hon Ken Travers may wish to clarify which forecasting Hon Jim Scott means. In any sense, forecasting is an inexact science. It is based on a multitude of general information and specific information over a period. It requires a considerable amount of analysis. Even after the information has been analysed it requires conclusions to be drawn. If the analysis is flawed often the conclusions will be flawed.

Hon J.A. Scott: They are complaining about the use of information, not the accuracy in particular.

Hon RAY HALLIGAN: There should be change. If the information changes, one's direction will change. Last night we

were told a function would be held in a certain place. The forecast was that it might rain and a change had to be made. Was anything wrong with that change, with the process? There may well have been something wrong in the information.

Hon Ken Travers: If only the Opposition had been listened to.

Hon RAY HALLIGAN: I have been told Hon John Halden had all the information that was required. One would hope the right change is in place and that if change must occur, it must be for the right reasons. There is no doubt there will be change. This is what Hon Jim Scott wants. He wants us to change what we are currently doing; to change our way of thinking to his way of thinking. Change is occurring all the time; hopefully, for the right reasons. I am not completely sure this motion was moved for the right reasons. Forecasting is an inexact science. One would hope those who do not accept that fact would like Fisheries WA to go the way of crystal ball gazing, tarot card reading or listening to the general predictions that are often made by a minor party in this House. It all comes down to science. Science and experience are all important.

Hon Greg Smith: The Greens will not accept science in the forest.

Hon RAY HALLIGAN: I hope they use science more. It should not be left to gather dust. Experience will tell us what has happened. Hindsight is a great thing. Supposedly many people have all the answers, 20-20 vision, after they have had the benefit of hindsight. Science will tell us why something has happened, not that it has happened. That is in the past; it is history. Science will tell us why and what we can do to overcome the problems that have been identified.

I can but concern myself with the fact that it seems in an industry, such as aquaculture, a number people believe that there should be no regulation, that we should have a laissez faire situation. Many industries are quite happy for the Government to step aside, and for the industries to go out and do their own thing. It then becomes survival of the fittest. There must be regulation of some description for everyone to survive in a fair and just manner. Regulation means a number of things, including control by rule, being subjected to restrictions, and adaptation to requirements. Who sets the rules? Who sets the restrictions? Who determines the requirements? That is where the Government comes in. It is particularly important that there be an understanding that the industry must identify its problems and, preferably, come forward with some solutions if it is to convince this House and this Government certain regulations should be put in place that will benefit the whole industry, not necessarily a minor part of it. For that reason, I cannot support the motion.

HON GREG SMITH (Mining and Pastoral) [11.55 am]: I oppose the motion, particularly the part that the inquiry should be conducted by the Standing Committee on Ecologically Sustainable Development. I am a member of that committee. It started an inquiry into the forests nearly two years ago, and is currently dealing with only the second term of reference out of six or seven. I would guess that this committee has another two years of work ahead of it on that inquiry. The sustainability of the rock lobster industry has never been in question. Many questions have been asked about the management of this industry on ideological grounds. In fact, most of this debate has been about the ideology of how the industry is being run. Some fishermen would like to see 180 pots per boat. Under the 150-pot maximum rule, after the 23 per cent reduction, they currently have 128 pots. For others, the minimum number of pots - this is not exact - is between 60 and 65. Hon Kim Chance might be able to help me out.

Hon Kim Chance: It is 64.

Hon GREG SMITH: About a $1.12m investment is required to get into the rock lobster industry, and that does not include the purchase price of a boat. Some people could have only 20 pots and a small boat and make an income of some sort, if they wanted to.

Hon Kim Chance: I agree.

Hon GREG SMITH: The concern in this motion is about the administration of the rock lobster industry. Fisheries WA must manage the sustainability of the resource; that is, how many pots should be in the water. That will govern how many crayfish - whether that involves setose crayfish or whatever - come out of the water. Some fishermen have told me they are happy with the number of pots they have. Others are not. This is an ideological argument, not one that can be settled through an inquiry investigating how the industry is being managed

Hon J.A. Scott interjected

The PRESIDENT: Order! I cannot hear the interjections; therefore, if they are not recorded, the responses will not make much sense.

Hon GREG SMITH: A concern raised by some of the larger rock lobster fishermen is that they cannot have more pots on their boats. It appears to me that we have socialist policy here which is trying to socially engineer the industry by keeping a certain number of boats in the water. I thought members of the Greens (WA) would be happy with that. It sits very comfortably with their socialist leanings. I thought they would be happy to have something which is highly regulated; that is how they want things to be done. I cannot understand why they want to change those things in the industry. I do not believe Fisheries WA should be involved in marketing rock lobster and I do not believe it is. The Geraldton Fishermen's

Co-op Ltd is one of two cooperatives which do a very good job of marketing rock lobsters. As we found in the wool industry, if we try to control the price on the world markets artificially, we end up falling flat on our face.

The price has reduced obviously because of supply and demand. Anyone who thinks that by keeping rock lobsters in tanks, feeding them up, and then trickling them onto the market will create an artificial control of the price of rock lobsters is away with the fairies. We do not produce enough rock lobsters to control the price. As with the wool industry, major trouble with the industry will arise as soon as we start to try to control prices. Prices fluctuate. Unfortunately, the price has reduced this year and the catch has increased, as was predicted by the Fisheries Department.

Hon Derrick Tomlinson: It related not to supply, but to demand.

Hon GREG SMITH: That is right. Market forces made the changes. Questions were never raised about the sustainability of the industry. A complaint I have received is that some people believe representatives on the Rock Lobster Industry Advisory Committee should be elected. However, these people have a million excuses when asked why they do not attend meetings.

Debate adjourned, pursuant to standing orders.

WEAPONS BILL

Report

Report of Committee adopted.

TITLES VALIDATION AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had disagreed to amendments Nos 1 to 5 made by the Council now considered.

Committee

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

Amendments made by the Council, to which amendments the Assembly had disagreed, were as follows -

No 1

Clause 7, page 8, lines 15 to 20 - To delete the paragraphs and substitute the following -

(a) where the act comprising the grant of a freehold estate or lease, apart from this Act, extinguishes native title rights and interests, the native title rights and interests are extinguished in relation to the land or waters covered by the freehold estate or lease concerned; or

(b) where the act is -

(i) a conditional purchase lease in force as at 23 December 1996 in Agricultural Areas in the South West Division under clauses 46 and 47 of the *Land Regulations 1887* which includes a condition that the lessee reside on the area of the lease;

(ii) a conditional purchase lease in force as at 23 December 1996 in an Agricultural Area under Part V of the *Land Act 1898* which includes a condition that the lessee reside on the area of the lease;

(iii) a conditional purchase lease in force as at 23 December 1996 of cultivatable land under Part V, Division (1) of the *Land Act 1933* in respect of which habitual residence by the lessee is a statutory condition in accordance with the provisions of that Division;

(iv) a perpetual lease in force as at 23 December 1996 under the *War Service Land Settlement Scheme Act 1954*; or

(v) a previous exclusive possession act under section 23B(2)(a), (b) and (c) (ii), (iii), (iv), (v), (vii) or (viii) of the NTA (including because of section 23B(3)), provided that -

(A) in the case of any lease described in subparagraphs (iii), (iv), (v), (vii) or (viii) the lease concerned is in force as at 23 December 1996; and

(B) in the case of any lease described in subparagraph (iv) the terms "exclusive agricultural lease" and "exclusive pastoral lease" have the meanings respectively given to them by section 247A(a) and 248A(a) of the NTA,

the act extinguishes any native title in relation to the land or waters covered by the lease concerned, and the extinguishment is taken to have happened when the act was done; or

(c) in any other case, the non-native title rights and interests prevail over the native title rights and interests to the extent of any inconsistency, but do not extinguish them, while such non-native title right or interest made under the act, and any valid renewal, remaking, re-granting or extension of the non-native title right or interest, is in force.

No 2

Clause 7, page 9, line 11 - To delete "and is".

No 3

Clause 7, page 9, line 11 - To insert after "State" the following words -

and the public work to which the act relates still existed on 23 December 1996

No 4

Clause 7, page 9, line 12 - To insert after "title" the word "only".

No 5

Clause 7, page 9, line 15 - To delete "was or".

Points of Order

Hon N.F. MOORE: Five amendments are before us. Amendment No 1 is a separate entity from the other four, which deal with the same issue. I proposed that the Chamber should not insist on the amendments. Shall I deal with them collectively or individually?

The CHAIRMAN: If the minister puts the motion to deal with them collectively, I can put the questions separately.

Hon N.F. MOORE: I will argue the case regarding Amendment No 1. Amendments Nos 2 to 5 relate to the same issue. Shall I argue them collectively?

The CHAIRMAN: They can be debated together.

Hon TOM STEPHENS: I also seek clarification. In reference to the handling of the two parts of the message from the Assembly, in order to ensure that a reply is sent to the Assembly indicating that the Council insists on the amendments, is it necessary to amend the motion to be moved by the Leader of the Government? Is it simply a question of defeating the motion?

The CHAIRMAN: If the motion were moved to not insist on the amendments, and that were defeated, the Committee would insist on the amendments. A defeat would be sufficient.

Debate Resumed

Hon N.F. MOORE: I move -

That the amendments made by the Council be not insisted on.

The Native Title Validation Amendment Bill was discussed by this Chamber at some significant length towards the end of last year. On 22 December the Council returned the Bill to the Legislative Assembly with amendments, which were unacceptable to the Government. The Assembly considered the Bill again on 23 December, and further consideration was made an order of the day for the next sitting of that Chamber. On 9 March this year the Assembly considered the Council's amendments, and disagreed to them. It formed a committee to draw up reasons for not agreeing to the amendments. Those reasons are before us in message No 69. I will read out those reasons for disagreeing to amendment No 1, to proposed part 2B of the principal Act, as we have a responsibility and an obligation to deal with these important matters -

The amendment is disagreed to as it creates uncertainty as to the status of some 1 300 Western Australian leasehold grants in respect to native title. It also leaves in doubt the status of leasehold grants which expired, were forfeited or surrendered prior to 23 December 1996.

The amendment would mean that native title claims could be made over those titles and it would then be left to courts to decide on a case by case basis whether or not the native title rights still exist or co-exist with the land in question. The purpose of the Bill was to remove the uncertainty and the need for litigation in accordance with the provisions that were passed by the Federal Parliament that permit States to make such laws.

Amendments No 2 to 5 were disagreed to for the following reasons -

> These amendments are disagreed to as they limit the way in which the extinguishing effect of a public works is applied - such that extinguishment only occurs where a public work has actually been constructed and was still in existence as at 23 December 1996. This differs from the Commonwealth Native Title Act which provides for extinguishment in relation to the land or waters on which the public work was or is situated.
>
> The amendments would create major problems for the future upgrading or development of public infrastructure where land has already been acquired or reserved and has not yet been fully developed.

Amendment No 1 relates to the certainty regarding leasehold grants. Amendments Nos 2 to 5 relate to the extinguishment of native title on public land. The Committee should not insist on these amendments. A long debate was held on the matter in December of last year in which I explained that the Opposition's amendments were unacceptable to the Government and to the people of Western Australia. If accepted, these amendments would leave a significant degree of uncertainty concerning leasehold land. The public works amendment is ludicrous and could not be tolerated.

In moving that we do not insist on the amendments I give the Labor Party, particularly, and other parties the opportunity to assess their position on the two matters which will affect six clauses of the Bill.

We have an obligation and a responsibility to let the 1 300 leaseholders who are affected by this Bill know where they stand. Their position on native title is uncertain as a result of the Labor Party's amendments to the Bill.

I will add a couple of arguments to what was argued before; I will draw some comparisons with Queensland because it has a Labor Party which has legislated and sought to deal with the issues and opportunities that the Wik legislation has created. The Queensland Labor Party passed a validation and confirmation Act which has exactly the same effect, in my view, as the legislation we are debating. The Queensland Act had a far greater impact than the proposed Western Australian legislation. In Queensland 22 000 leases are covered by the confirmation of extinguishment provisions, which cover a massive area, 22.3 per cent, of Queensland, compared with Western Australia, in which this Government's Bill would involve 2 100 leases, less than 0.4 per cent of the State. When the Leader of the Opposition was presented with these figures he replied that what had happened in Queensland was different from what is happening in Western Australia, but that is not correct. A quick look at the Queensland schedule shows that it covers the same type of leases that are on the Western Australian schedule which the Leader of the Opposition is seeking to delete. When it comes to the scheduling of non-agricultural leases, which the Opposition is refusing to do, 10 000 leases are covering 0.2 per cent of Queensland compared with 1 300 leases covering 0.01 per cent of Western Australia.

What can we learn from this? Quite obviously it is acceptable to the Labor Party that the rights of leaseholders can be guaranteed in Queensland and New South Wales. Is that because they have a Labor Party and we do not? What has been done in Queensland and New South Wales is what we are seeking to do here, and which the Labor Party is seeking to prevent us from doing. I find it inconsistent, at least on the part of the Opposition, to accept a set of circumstances in other States in which the Labor Party happens to be the Government and to argue that it is not acceptable in Western Australia.

I put it to the Leader of the Opposition, whom I presume is the person handling this Bill for the Opposition, that he must explain to the people of Western Australia why he thinks the schedule interest in Western Australia should be different from the schedule interest in Queensland and New South Wales. He might also explain, for example, why he is prepared to accept that conditional purchase leases should have native title extinguished whereas a whole range of other leases should not.

We have a very simple choice - a choice of legal certainty by not insisting on our amendments, or a choice of legal uncertainty, which is what we will get if we persist with the amendments that were agreed to by this Chamber. I think I referred to the clause which is the subject of amendment No 1 as the "Megan Anwyl clause"; that was in the heat of the occasion when we were previously discussing this. I am sure she would not make any money out of this personally, but I know that when legal uncertainty exists, the only winners are the lawyers. That is what we have a choice of doing here - creating a bonanza for lawyers or providing certainty for those people who have leasehold properties and who are caught up by this degree of uncertainty.

The Opposition's amendment guarantees uncertainty for 1 300 leaseholders. Some of them are already caught up in claims. The Opposition effectively says it is their problem, but it says it has an answer; its answer is for the leaseholders to go to court and prove that their leases extinguishes native title. Those leaseholders who have had the benevolent gesture of having their leases excluded from title claims must worry only that their properties remain claimable at some future time. Why should these people be put through some sort of litigation lottery? The Labor Party's response to these people who have uncertainty over their leases is that they do not have a problem until such time as somebody puts a claim on them and then they must argue in a court that the claim should not succeed. We all know that courts are not cheap. I emphasise again that we are not talking about huge areas of land. We are talking about quite a small area of land; that is, 0.01 per cent of the State. These 1 300 leases are very important to the people who are using them. I repeat: This is all about looking after the interests of lawyers.

When we were debating this Bill last year, the Opposition claimed that the Aboriginal people would not make claims over residential, commercial or agricultural leases and that the Government was scaremongering to suggest that they would. That was more than three months ago. A number of claims have now gone through the registration test and have been accepted for registration by the National Native Title Tribunal. Contrary to the assurances of the Opposition, the claims that have been accepted for registration still include some of the 1 300 leases that the Labor Party is refusing to confirm. I give an example of the Wongatha claim WC94/8, which covers some 22 000 square kilometres in the goldfields. It excludes previous exclusion possession acts as defined in the Native Title Act, but only where the State has passed a law to that effect. This means, thanks to the Labor Party, that no such law exists in Western Australia and therefore all leasehold tender is now open to claim.

he claimants have provided that certain specific leases will be excluded. They are residential and commercial leases of less than 5 000 square metres upon which a dwelling or building has been constructed. Little under half of the scheduled interests are less than 5 000 square metres, so those leaseholders will not have to go to court on that claim. The others whose leases are more than 5 000 square metres will be required to become parties to the claim and defend their interests in the Federal Court, which determines the outcomes. This means that many commercial leaseholders and even a number of residential leaseholders in the towns of Leonora and Laverton are now subject to a native title claim unless their lease has extinguished native title. It can all be easily resolved immediately by the Opposition not opposing the Government's Bill and not insisting on its amendments.

Hon Mark Nevill: That claim now overlaps three desert claims and it was done without any consultation with the previous claimants, so we have a new registration test. We now have overlapping multiple claims without any consultation by the registrar.

Hon N.F. MOORE: Hon Mark Nevill makes a lot of sense and what he says is right. Any commitments that might be made by any claimants as to what they will or will not claim in future lasts only as long as that claim lasts. Nothing can stop some other claimants from lodging a claim and ignoring any assurances that might have been given about 5 000 square metres. What we could easily do here today - again, we are not dealing with vast areas of land, but with just 0.01 per cent of Western Australia - is agree that those 1 300 leases will not be subject to this native title problem on the land which many of the leaseholders have used for a very long time and used for very legitimate purposes.

Hon Mark Nevill: Have you gone through those 1 300 leases and examined them to see whether any may not be exclusive possession leases?

Hon N.F. MOORE: Yes, the native title unit has gone through every lease and tried to work out what would be the circumstances. I can give the member some examples of the problems that are likely to arise as a result of the Opposition's amendments. I will give some examples of scheduled leases. Because the amendment gets rid of the schedule and these leases are not put back in, native title is not extinguished. One example is Bulara location 42, which was a lease that was specifically raised by the Opposition in the other place as an area that should be claimable. It is a 21-year lease granted to a Mr James Savage in 1985 for a slaughterhouse and associated holding paddock. It is located on the outskirts of Halls Creek in the Kimberley.

A Department of Land Administration report in late 1987 described the lease improvements. A slaughterhouse has been constructed which the lessee plans to expand but for which he needs a bank loan. There is also a house, power and water supply, which was described by the DOLA inspector as being of good standard. The property is boundary fenced and has a number of internal fences for holding areas. The lessee would like to convert the developed area - that is, the house and the slaughterhouse - to freehold so that bank finance could be obtained. Rather than assisting Mr Savage by securing his title, the Opposition wants his property to be claimed and for Mr Savage to spend his money on legal fees rather than on a development which would create much-needed employment in Halls Creek.

Another example is Esperance location 2046. This is a lease for special agriculture covering an area of 290 hectares. The lessees are Dennis and Norma Madgen. To date, they have fenced the property, established a rabbit breeding operation, built sheds, put in bores and planted large numbers of trees. The lessees currently live in one of the sheds but are proposing to build a house.

Hon Mark Nevill: With due respect, they sound to me like exclusive possession leases. I asked you were any of those 1 300, on close examination, thought to be not exclusive possession leases?

Hon N.F. MOORE: I am advised that of the list that was prepared by the Government to give some indication of the sorts of leases we are talking about, about five on that list probably should not have been there because they were not exclusive possession leases. We are still talking, in broad terms, of 1 300, and that is as a result of an in-depth analysis of each lease. Bearing in mind there are 1 300 of them, it takes a lot of energy and work to look at all of them to see how they are being used. I am giving some examples of particular leases where a great deal of work has been done to identify what is happening on them and to indicate the effect of the amendments we passed in this Chamber.

As to this particular lease in Esperance, will we leave it to the lessees to try to prove in court that native title no longer exists? Would it not be better if they spent the money that would go to lawyers on the development of their property? We could satisfy their problem today by simply not insisting on our amendments.

Another lease is Jaurdi location 32. It is held by Mr McKay and is used for the purpose of a camel farm. It has a total area of 2.8 ha on the Great Eastern Highway west of Coolgardie. The DOLA inspection report states that this lease contains all fixed improvements and is being used for a tourist shop, camel rides, museum and camel farms. The improvements are sufficient for a freehold title to be issued. A residence has been constructed on the lease, as permitted under condition 10 of the lease. Again, the Opposition would deny the lessee the right to have the lease upgraded to freehold title and force this lessee to negotiate with the native title claimants to prove his case in the Federal Court of Australia.

There are two circumstances in which the holders of these leases get into difficulty. The first is when a claim is lodged over their area of land, and we have referred to that already. However, if they want to upgrade to freehold, as I mentioned in the previous example, the changing of the title from leasehold to freehold necessitates going through the native title process. Again, we can solve that problem by simply agreeing to not insist on our amendments.

Another example is Malcolm location 51. The lease is held by a Mr G. Barker. It is near Leonora and covers an area of 81 ha. The lessee has fenced the property, built a house, planted native trees, developed the water supply and constructed dams on the lease. He has also established and built an office and two large sheds for the storage and maintenance of mining machinery used in his business. Again, with respect to that lease, why could we not confirm that native title has been extinguished?

Another example is Nabberu location 25. This is a lease issued in 1989 over 200 ha in the Wiluna area to B.J. and N.C. Sherlock for residence and agriculture. The DOLA inspection report of May 1997 states that the improvements to the lease consist of two residences in good condition. The original old homestead is no longer in use. There are five steel-framed sheds. There is a 32 metre by 13.5m cement floor with one cool room fast chill and one holding cool room for the storage of grapes. There is a 20m by 7m shed and a 23m by 11m shed, and a 46m by 7m poultry shed, with 1 100 hens on the property. The lessee supplies eggs to the district and mining companies. There is one large man-made water hole dug with an excavator in steps to 15m, an electric pump to move water around the property, two bores complete with pumps, and a boundary fence. It has been subdivided. No stock are being run. That is not feasible as the lease would run possibly five head of stock only. There are six demountable units for pickers and five hectares of grapes which have been trellised and are now producing grapes for the Perth market. It is triple irrigated. This lease is very well developed and maintained. Two families live on the property. The lessee was in the process of moving other improvements on to the property from the adjoining emu farm which had closed down.

This is another example of people who have made a significant investment in a property. I find it difficult to argue that people with that sort of title and development should be treated differently from somebody who is a conditional purchase leaseholder, which the Opposition appears to say extinguishes native title, or a person who holds a freehold title. Many farmers would have that sort of development on a freehold block, and we have already agreed that freehold title in fact extinguishes native title. Therefore, the argument I am trying to put forward today is that there are people in genuine circumstances who may be significantly disadvantaged by the amendments passed by this House. I will give a couple more examples because it is important to bring this down to the individuals involved.

Another example is Hampton location 143 and 144. A lease was granted in 1984 to S. Day and S. White for 21 years. The purpose is residence and grazing, and the area is 16 ha. It is located near Kalgoorlie. According to the DOLA inspection report, there are two residences as well as quarters built on the lease. The area is fenced and well maintained. It is used for grazing horses. Again, why should we require these people to defend their lease in the Federal Court? In fact, this location is already the subject of a number of native title claims.

Another example is Lyons location 9. A lease of 11 ha was granted for a homestead and tourist facilities to provide services to tourists visiting Mt Augustus in the upper Gascoyne. The DOLA lease inspection report in 1997 states that it is used for the purpose of tourism and accommodation. There are four demountable units on the lease used for accommodation and ablution. There is an office, restaurant and living quarters for the lessee. The leased area is landscaped around the units, and the balance of the area is taken up with bays for caravans and a camping area. A small portion remains as natural bushland. The lease was well utilised by tourists at the time of inspection and is being maintained in accordance with lease conditions. Power to the units is supplied by a generator. Water is supplied from the underground basin. Again the question needs to be asked: Why is this individual, who has invested a significant amount of money in this property, being subjected to this native title process?

The final example is King location 539. I could find many other examples, but I use these to try to emphasise that we are talking about properties that are well developed and are not simply bits of land that somebody might have leased which are not being used in any productive sense. A lease over this location on the pack-saddle plain at Kununurra was granted to Mr and Mrs Leaver in 1981. It covers an area of 4.4 hectares and is for the purpose of cultivation and grazing. When it was inspected in September 1998, the Department of Land Administration inspector reported that the lease had been fully

developed to a high standard with mangoes and bananas and all the necessary infrastructure. The inspector found that the level and standard of development was sufficient for the lease to be converted to freehold. The Leavers are attempting to sell the property but cannot because the Labor Party is not prepared to give them security of title and protect them from native title claims.

Hon Mark Nevill: I think that place has a fruit packing machine shed on it as well.

Hon N.F. MOORE: It might. I am arguing to the best of my -

Hon Tom Stephens: You have quoted a number of examples from a booklet. Are you prepared to make that booklet available to the Chamber?

Hon N.F. MOORE: These are my speech notes. I will contemplate making them available to the Leader of the Opposition when I have examined the whole booklet. I have used only parts of it and it may contain things which are not of interest to Hon Tom Stephens. It may be confidential. Off the top of my head, I do not have a problem with making the booklet available to him. These examples were provided to me by officers from the native title unit in consultation with DOLA.

I return to the fundamental issue at stake. The Bill put forward by this Government, the Titles Validation Amendment Bill, sought to extinguish native title over a range of titles. The Chamber agreed that freehold state should extinguish native title and the Government sought to have the Chamber agree that the scheduled interests, as listed in the schedule of the federal legislation, would apply in Western Australia. The intention was to provide certainty to people with a range of different interests in the land. The Opposition amended the provision by effectively removing the scheduled interests and inserting what Hon Tom Stephens referred to as a "mini schedule". The mini schedule, if I can use that term, excludes a range of leases of the sort I have described. It creates unnecessary problems for many people. Apart from removing the list of scheduled interests, the Leader of the Opposition inserted this mini schedule which extinguished native title on some different types of leases. I cited conditional purchase leases the last time we argued this and asked the rhetorical question of was this just a straight-out political decision. Some people would be offended by conditional purchase leases not extinguishing native title. The Labor Party might get away with a few of those out near Kalgoorlie, but this does not relate just to Kalgoorlie. Even though I specifically referred to a few examples in Kalgoorlie last time we debated this matter, the examples I have quoted today demonstrate that this is an issue right across Western Australia. It does not involve huge areas of land, but rather small plots of land, very small in the overall scheme of things when compared with Queensland where we are talking about 22 per cent of the State. The Queensland legislation was whizzed through the Parliament by the Queensland Labor Party in the wink of a eye; I think it was a 23-minute debate as both sides agreed. That happened in Queensland under a Labor Government, yet here where we are talking about vastly smaller areas of land, I cannot persuade this Labor Party to take the course of action taken by its Queensland colleagues.

These comments relate to amendment No 1. I apologise for taking so long, but I thought I would put all the arguments on the table so people can come back at them and we can have an argument if necessary. I hope we do not need to argue about this, but rather that members will agree with the logic of what I am saying and simply go along with it. In respect to amendments Nos 2 to 5, the Bill initially sought to have native title extinguished over land on which public works are located. To give the Chamber a simple example, if a local hospital, a public work, is located on a couple of hectares of land with a fence around it - I believe I have used the Kununurra hospital as an example - the proposition the Government put forward was that the area of land inside the boundary of that fence would extinguish native title. The Opposition amended that provision to provide only that the land underneath the actual buildings extinguished native title. I could not for the life of me then, or now, understand the logic of that, unless Hon Tom Stephens believes the Government will set up future public works on huge areas of land to avoid native title problems.

Hon Tom Stephens: That is how you argued in the court.

Hon N.F. MOORE: How I argued in court?

Hon Tom Stephens: Your Government did in the Miriuwung-Gajerrong case - it argued that the positioning of a public work on the corner of a block was sufficient to extinguish native title over the entire reserve.

Hon N.F. MOORE: I was not in the court.

Hon Tom Stephens: It was not successful, like many of your arguments.

Hon N.F. MOORE: Everybody who knows anything about the Miriuwung-Gajerrong decision argues that it must be tossed out. That is just ridiculous. The Bill the Government put forward is all about saying that if an area of land is or has been set aside for a public purpose, native title should be extinguished. The Government does not intend to convert all of the millions of square kilometres of Western Australia into one public reserve for public purposes. That would be ludicrous. What the Government is arguing is that if one has a school, the school grounds should extinguish native title. If a Government wants to build a new building at a school or a hospital, under the Opposition's proposal it would be required to follow the native title process because the land upon which the building would be built would not have had native title

extinguished. It does not make any sense. Hon Tom Stephens should look at all the schools throughout our electorate. They all have fences or boundaries around them. That is the area of land set aside for a public purpose; it is a school. If one looks at a map, one sees the boundaries of the property. The Government is arguing that native title should be extinguished on the total area of that land so that in future when one wishes to further develop the land, one does not have to follow this difficult process of having native title extinguished. Again I say to the Opposition, commonsense should prevail here and we should not require Governments of any persuasion to go through a native title process when they want to extend a building. The Labor Party has said that if one has a freehold block, native title is extinguished and if one has a conditional purchase block, native title is extinguished. However, if one holds some of these other leases, native title is not extinguished and if it is a piece of land set aside for a public purpose, native title is only extinguished underneath the buildings. I suggest to the Chamber that there is a significant degree of inconsistency in that position. By his interjection, Hon Tom Stephens is somehow suggesting that the Government will be devious about this.

Hon Tom Stephens: It has been.

Hon N.F. MOORE: I do not agree with that. The Government has tried to find a balanced position on this matter. It has acknowledged that native title exists, it would like to put in place a process to resolve the issues surrounding that native title, and it introduced legislation which the Opposition so emasculated that it is not worth looking at again. The Government has put up this Bill in good faith. It is based on the federal legislation and the Opposition is seeking to change what the federal legislation convinced the States to do. The federal legislation came about as a result of a huge amount of debate and consultation around the country. For those reasons I argue that the Chamber should not insist on its amendments, that we should return the Bill to its original form, we should pass it today and send it back to the Legislative Assembly and tell it that we do not insist on our amendments. The Bill can then be proclaimed and the people who hold these leases will have certainty restored.

We can then contemplate the extension of public works without waiting for native title clearances. That would be a simple thing for this Chamber to do. We are not talking about huge areas of land, but about individuals who have committed large sums of money to a variety of leases. We could save those people the pain of defending themselves in the Native Title Tribunal, of going through the native title process if they wanted to upgrade their lease to freehold - many of whom want to, and should. We could save all of that pain by agreeing to the motion I have moved today.

In all sincerity I urge the Labor Party to reassess its position. I also urge the Australian Democrats and the Greens (WA) to do the same, although, if I recall the debates of last year, I suspect we have less chance with the Democrats and Greens than with the Labor Party. However, that may have changed; one can live in hope. I argue as strongly as possible that these amendments are unnecessary. They have caused significant problems for many Western Australians and, if not rejected, will continue to do so. I strongly argue that we should accept this motion and not insist on the amendments made last year.

Hon TOM STEPHENS: The Labor Opposition will oppose the motion moved by the Leader of the House. The reasons that we will oppose the motion have already been well and truly articulated in both Houses of the Parliament when the Bill was originally debated. When this message was proposed in the other place the Leader of the Opposition and the Deputy Leader of the Opposition well and truly went through the arguments as to why the Labor Opposition was resolute in insisting upon the amendments that were carried in this place. In the wider community the Labor Opposition has consistently argued the case in public debate for the necessity to pursue the course upon which it has embarked. I will canvass some of those arguments.

I will go quickly through some of the arguments advanced by the Leader of the House, who finished his remarks with reference to the public works reserves. That problem arises by virtue of the decisions that have been made by the Federal Court in reference to the Miriuwung-Gajerrong case, which is now the subject of appeal.

The first phase of the Government's appeal to try to bypass the Full Bench of the Supreme Court has already been unsuccessful. The Government's endeavours to try to bypass that full bench and to head off directly to the High Court have been thwarted at considerable cost to the taxpayer.

Hon Mark Nevill: That was only on some issues.

Hon TOM STEPHENS: I thank Hon Mark Nevill for his help; I will be able to manage.

Hon Mark Nevill: Is it correct?

Hon TOM STEPHENS: It is.

Hon N.F. Moore: The vast majority of Western Australians would support the Government if they understood what the Miriuwung-Gajerrong decision does, and they would be happy for the Government to defend its position.

Hon TOM STEPHENS: I was cautious not to interject upon the Leader of the House and I am not seeking interjections on my contribution. I want to take the opportunity to deal with the presentation of the Labor Party's arguments without further interjection, please.

I do not believe that the taxpayers of Western Australia were satisfied by the misuse of their funds in the legal challenges that were mounted and struck down 7:0 in the Government's unsuccessful arguments before the courts of this country. The commentary is that the same fate awaits the comprehensive appeal process that the State Government has advanced in reference to the Miriuwung-Gajerrong decision. A comprehensive defeat of that judgment is considered to be most unlikely.

I will go back to the particular issue that was advanced by the government leader on the public works reserves. He illustrates that he, and presumably his Government, is under a misapprehension that there will be an opportunity for native title to be successfully utilised to prevent those public works reserves being used for the purpose for which they have been reserved. If a reserve has been made for the purpose of providing educational facilities there is no opportunity for a native title claimant to frustrate the extension of those facilities. If there is a public works reserve for a hospital facility nothing will stop the Health Department continuing to expand the facility and moving out beyond the existing footprint of the building to the rest of that reserve. What the Government endeavoured to do in the Miriuwung-Gajerrong case was to argue that, by virtue of a vast public works reserve having been created, the existence of a public works facility on a tiny section of that reserve had somehow or other succeeded in extinguishing native title over that vast tract of land. That was found by the court not to be a sustainable argument at law. If the Government wishes to expand the public works on any of its reserves in accordance with the purposes for which those lands have been reserved, no native title argument, right or claim can in any way frustrate the will of the Government.

That leads to another misunderstanding that presumably the minister and his Government appear to be under. The minister has said that somehow or other there is a need on the part of leaseholders across Western Australia to defend their leases from native title. Nothing could be further from the truth. The reservation of a lease by a leaseholder has given to that leaseholder all of the rights at law that are pursuant to that lease. There is nothing that a native title claimant can do that would in any way frustrate the rights of that leaseholder under his lease. The minister is creating a public mischief to argue that somehow or other the rights of, for instance, leaseholders to establish residences on residential leaseholds is in any way in conflict with the existence and operation of the Native Title Act or of native title claims or rights that might exist across this State. All of the rights pursuant to the leases granted validly by government across Western Australia can in no way be challenged through the native title process. We need to keep in mind also that the Labor Opposition supports this Bill, which seeks to validate the granting of all of those leases and to ensure that the rights that flow from that validation are protected at law by the passage of this Bill as amended. To persist in trying to create a false impression, as the Leader of the House has done, is to display the fact that the Government is not so much interested in understanding the reality of the situation but is committed to a path of misconstruing that reality and thereby compounding the problem that exists in the wider community.

Hon Mark Nevill: Are you saying we do not need to consult or negotiate if we want to extend Kununurra Hospital?

Hon TOM STEPHENS: I have indicated to the Leader of the House, and I indicate to the Chamber, that I am very keen to complete my presentation of the Labor argument.

Hon Mark Nevill: You will not answer that question. I found your comments unclear.

Hon TOM STEPHENS: I would like to complete my presentation. If Hon Mark Nevill has any questions about anything that I have said, we will have the opportunity in a few moments to talk during the luncheon recess -

Hon Mark Nevill: I want it on the record.

Hon N.F. Moore: We would like to know the answer too.

Hon TOM STEPHENS: If any of my colleagues have any questions, we will have the opportunity in a moment of discussing those issues.

Hon Mark Nevill: I did not understand your comments, and I thought an example would make it clear on the record.

Hon TOM STEPHENS: I hope I have made it clear that we will break in 10 minutes for lunch and I look forward to the opportunity of speaking with Hon Mark Nevill then; and I will come back to the Chamber with any clarification that is required.

Hon Greg Smith: We would all like to hear that.

Hon TOM STEPHENS: The Leader of the House said in response to an interjection that the Government had analysed all of the leaseholds across the State. I call on the Government to make that analysis available to all of the parties to this debate, and to the wider community, to enable them to determine whether that analysis would support any subsequent amendments that the Government might wish to move.

Hon N.F. Moore: I will also give you an analysis of all of the ones in the sea -

Hon TOM STEPHENS: I did not interrupt the Leader of the House. I have asked, Mr Chairman -

Hon N.F. Moore: You asked me a question. I have just given the answer.

Hon Mark Nevill interjected.

Hon TOM STEPHENS: I thank my colleague for his advice.

The CHAIRMAN: Order, members!

Hon TOM STEPHENS: I want to complete my presentation. The Labor Party believed when it presented its amendments to the native title legislation that it was important not to go beyond the common law as it had been determined by the courts with regard to the extinguishment of native title. It was for those reasons that in our assessment of where the courts had found native title had been extinguished, we were prepared to put into the statute the opportunity for statutory extinguishment of native title. It was for those reasons that we compiled a smaller schedule, which has been dubbed the mini-schedule, on the basis of our understanding of where the courts stood -

Hon N.F. Moore: Where did the courts ever consider a conditional purchase or war service lease?

Hon TOM STEPHENS: The legal advice was that a conditional purchase was as close as is possible -

Hon N.F. Moore: Legal advice or a court determination?

Hon TOM STEPHENS: The legal advice was that it comes as close as is possible to being equivalent to freehold title; and where the courts had determined that freehold title had extinguished native title, it was on the basis of that advice considered to be a reasonable assessment that the courts would find similarly with regard to conditional purchase blocks.

Hon N.F. Moore: You said you had made your decision based on a court determination.

Hon TOM STEPHENS: Yes, and on our understanding of the implications of that court determination, which is better than what the Government and its advisers have been doing on these questions. Although some players in the field are not interested in the resolution of these issues, because they will be kept in work forever if there is no resolution of this matter, for those of us who are committed to finding a resolution, it is a matter of making our best assessment of what the courts have determined.

Hon N.F. Moore: That is the most outrageous thing I have ever heard you say in this place! That is appalling!

Hon TOM STEPHENS: The Government put on record that it had identified within that long list of titles at least five leaseholds that are in the list by mistake. I would appreciate it if at some stage that first group that has now been conceded to have not necessarily extinguished native title -

Hon N.F. Moore: What do you mean by "first group"?

Hon TOM STEPHENS: That is the first time I have heard that concession made.

Hon N.F. Moore: I thought you were suggesting there might be a second and third group.

Hon TOM STEPHENS: I am sure that if all these issues were eventually left to determination by the court, the Government would find that native title had not been extinguished on all of these forms of lease across Western Australia.

Hon Barry House: That is not consistent with the report of our select committee. Are we going to leave the resolution of every single thing to the courts?

Hon TOM STEPHENS: That brings me to another point. The situation in Western Australia can be contrasted with the situation in the Labor-administered State of Queensland. When the Queensland Government put its legislation through the Queensland Parliament, it displayed its bone fides in dealing with all of the parties involved in the native title issue, and it committed itself firmly to the indigenous land use agreement process, recognising, as we recognised in our committee, that to go down the path of enacting legislation that would provoke further litigation would guarantee that these issues would never be brought to agreement.

Hon Barry House: That is what you are doing now by opposing this motion.

Hon TOM STEPHENS: Not at all. The process of ensuring that agreement is struck in this State is best achieved by not rushing in to extinguish native title on land unnecessarily where it is not, in the view of the courts, automatically extinguished.

Hon N.F. Moore: Or in your assessment.

Hon TOM STEPHENS: Our assessment is based on our appreciation of what is the most likely finding of a court with regard to conditional purchase blocks. That is our assessment of it. The Leader of the House has extrapolated well beyond that into vast quantities of public reserve and public works land, and wants to have that included in the schedule. The Labor Party finds itself in the middle in this argument, between the Democrats, the Greens and the Government.

Sitting suspended from 1.00 to 2.00 pm

Hon TOM STEPHENS: I was not proposing to speak at great length in reference to this debate. However, as I have gone back through the various issues that have been canvassed in the introduction of the motion that the Leader of the House has asked this Chamber to support, I am hard-pressed to see therein any new or additional argument that has not already been made both in the debate in the other place and in the public arena. I do not see the point in constantly redebating the same case when the argument has been made and about which there is strong disagreement. The Government is determined to try to achieve a package of extinguishment and a package of validation. The Opposition has said it will not move beyond its understanding of where the common law has taken the native title debate. We are prepared to accommodate the validation which the Government has sought and we are prepared to accommodate some extinguishment on some blocks of land that we feel would be provided for adequately by an interpretation of what the courts may decide, extrapolating from their current position on conditional purchase blocks and the like.

The Labor Opposition urges the Government to put beyond dispute those blocks that are on offer and not to further delay this legislation but rather enact it as it has been amended. If, through tabling the analysis that the Government has indicated has been done already - although the Government has given us only a small number of examples from that analysis - the Government were subsequently to indicate that it has gone through an extensive consultation process with leaseholders and other parties with native title interests and put on display the valid support for further extinguishment, those arguments could be put to this Chamber.

As a bush member of Parliament, I have gone through the list provided by the Government on the schedule leases across Western Australia. One of the things that comes from serving the remote areas of this State is that when I look at a list like this I find that about 20 per cent of the names and locations are blocks with which I am familiar. I was not comfortable to see native title being extinguished en masse on some of those land tenures; for instance to see the inclusion of land held by the Aboriginal group of people from the Strelley community and that their native title will be extinguished by virtue of having a lease that is provided for under native title legislation. I also found on the list the name of an Aboriginal friend whose family's block in Kununurra will have its native title interests in that land extinguished. I do not find any comfort in seeing those blocks contained in the land upon which native title will be extinguished by virtue of the Bill unamended.

Hon Mark Nevill: Aren't the Strelley blocks of land of benefit and use to Aboriginal people? I think you will find they are and therefore they cannot be extinguished.

Hon TOM STEPHENS: I say to my friend and colleague from the mining and pastoralist region, Hon Mark Nevill, that perhaps I have been a little precious in not handling the interjections as well as I might have and I apologise for any difficulty that I may have presented him in not responding to his earlier questions.

Hon Greg Smith interjected.

Hon TOM STEPHENS: I am sorry, do I have to answer two interjections now?

The CHAIRMAN: Order! The Leader of the Opposition has to address only one interjection - mine. He should address the Chair.

Hon TOM STEPHENS: My understanding is that the Government indicated that native title will be extinguished on all those lands on the list of tenures it provided to me which includes the Strelley community land.

Hon N.F. Moore: The Government has written to the Leader of the Opposition on 22 March informing him that it is not on the list.

Hon TOM STEPHENS: I have not yet received that list. I have a letter dated 19 March which I just picked up.

Hon N.F. Moore: There is that letter and one on 22 March which refers to the Strelley leases.

Hon TOM STEPHENS: Therefore this is a moving feast that the Government is putting the Parliament through.

Hon N.F. Moore: No, you are talking about 100 leases and the letter relates to about half a dozen.

Hon TOM STEPHENS: The Government puts these parcels of land through scrutiny, analysis and commentary by the various parties and then comes back to the Parliament and presents all of that information. What we are saying to the Government is: Take what is on offer and do not try to hold to ransom, as it is doing, the people who can have the titles to their land validated. I refer to the people whose blocks of land on which extinguishment is now offered by virtue of the amendments that were considered to be consistent with the decisions of the court - or extrapolations from those decisions - as to what a reasonable man or woman might expect the court to find in circumstances in which native title would be extinguished.

I will respond to another issue that was raised by way of question. I recognise that in this debate one's understanding of the implications of native title is for all of us a moving reality. A finding that was alluded to in the report of the Select Committee on Native Title Rights in Western Australia was how difficult it is to get a handle on the circumstances governing native title because it is a changing situation. My appreciation of these issues continues to be refined by virtue of further

information as it becomes available. I accept that some of the arguments that the Government has embarked upon in reference to public works reserves have taken up themes that I first alluded to in this place in the initial debate when I suggested that Governments should consult with native title holders before they proceed to extend specific public works on public reserves. However, legal advice that we subsequently received verbally - and we have cross-examined a range of people on these questions - was that our understanding was wrong, that a reserve that has been vested for a public work, such as education purposes, will not require consultation or negotiation with native title holders if it is to extend an educational facility on that reserve that has been vested for that purpose. Likewise for a hospital; it would not be necessary to go through any future acts process for the expansion of that facility. However, if there was an intention by the Government to move whole sections of that land into different purposes altogether, the requirements of the future act process would have to be embarked upon and to that extent - to attempt to extinguish native title through that process in order to avoid the future act procedure - would go beyond what is in our view an acceptable limit.

The Queensland Labor Government certainly did not accommodate all the Aboriginal people's aspirations on native title in that State. The framework of its legislation contained more specifically a commitment to advancing the interests of Aboriginal people towards the agreement process, which the Government of Western Australia has not offered. This Government has not displayed the same bona fides as have been displayed in that State and also, I might add, in the State of New South Wales where these questions have been handled with skill, dexterity and goodwill.

Hon N.F. Moore: They had the numbers. You know what you are saying is absolute garbage.

Hon TOM STEPHENS: That is not the case. The Queensland Government did not have the numbers because it was a minority at the time it enacted its legislation.

Hon N.F. Moore: Our side supported it, so it was unanimous.

Hon TOM STEPHENS: The Queensland legislation from memory came in advance of the Miriuwung-Gajerrong decision. We have the benefit of that decision. However, if the appeals were to change one's understanding of the common law position, in the unlikely event that the State Government of Western Australia had a comprehensive win in its appeals process through the Full Bench of the Federal Court and then the High Court, the Government would have a good argument to come forward with amendments to the statute book of Western Australia. It does not yet have that argument in its weaponry. I commend to it the path of accepting the resolution to these issues that the Australian Labor Party is offering at this stage. To go down any other path is simply to indicate the Government is not interested in pursuing resolution but is determined to keep this as a problem. Why, might one ask, is this Government keen to keep this issue as a problem? The reason is self-evident. The issues have about them the smell, as the coalition has always detected -

Hon Greg Smith: We are trying to remove the problem.

Hon TOM STEPHENS: The member's party has never shown any interest.

The CHAIRMAN: Order! The Leader of the Opposition will address the Chair and ignore interjections.

Hon TOM STEPHENS: Those opposite have not shown a commitment to resolving these issues. They detect with the problems a chance to cement themselves into office by relying on the politics of misunderstanding, distrust and race, which have in the past been fertile hunting grounds for people on the other side of this Chamber.

Several members interjected.

The CHAIRMAN: Order! The Leader of the Opposition should address the amendments at hand.

Hon TOM STEPHENS: The Government should take the amendments that have been supported by the majority in this Chamber and put them into the statute book. We will then have the opportunity of seeing resolved a substantial number of issues which the Government purports to want to have resolved. If it does not display its bona fides in that regard and subsequently comes back to us with whatever additional issues need to be resolved and supportive arguments for them, we will see how the Government should be judged in the marketplace of the politics of Western Australia. The motion moved by the Leader of the House should be defeated. That would then provide the opportunity for this Chamber to say that it insists upon the package of amendments that were previously carried in this Chamber.

Hon GIZ WATSON: The position of the Greens (WA) has been very clear throughout the debate on the Bill. We do not support the Bill at all. We consider that statutory extinguishment of native title is racist. We call for an end to any continued attempts by this Government to push through these racist Bills. The Government must return to some sort of sense and look at a resolution that involves negotiation with all parties. The Government is pursuing the politics of division. It continues to advocate for the big end of town - the mining interests and pastoralists.

For those who might have missed it, I bring to members' attention an article entitled "Native title racist: UN" which appeared in *The West Australian* of Saturday, 20 March. The article is very significant, bearing in mind that this Bill, as one of three Bills, is a follow-on from the amendments to and further erosion of native title rights at federal level. The article reads -

> Australia faces unprecedented international criticism over the Federal Government's native title law after a United Nations committee said elements were racially discriminatory.
>
> The UN Committee on the Elimination of Racial Discrimination yesterday called for the amended Native Title Act to be suspended and for the Government to reopen talks with indigenous people . . .
>
> In criticism previously reserved for under-developed or war-torn countries such as Rwanda, Burundi and Bosnia-Herzegovina, the UN committee said indigenous Australians had long been subjected to a range of discriminatory practices but that land practices had acutely impaired their rights.
>
> It said that four elements of the Act were discriminatory: the provisions to validate certain title; -

That is exactly the content of this Bill -

> - provisions to confirm extinguishment of title; -

The same again -

> - provisions on the upgrade of primary production; and restrictions on indigenous title holders' rights to negotiate land uses.

The federal Attorney General disputed the findings. I find myself in good company with the United Nations Committee on the Elimination of Racial Discrimination.

Hon Ray Halligan interjected.

The CHAIRMAN: Order! We are straying from the amendment under consideration.

Hon GIZ WATSON: There is no point in adding any more to my comments, other than that the Greens (WA) will continue to oppose all attempts to legislate to remove people's rights.

Hon HELEN HODGSON: The Australian Democrats also believe that this Chamber should insist on amendments made to the Bill last December. At the time I expressed the opinion that I felt that even the amended form of the Bill was grossly inadequate to protect the rights of indigenous people in this State. Be that as it may, it is at least a part-way position that is necessary to protect what rights are still available to them. I thank Hon Giz Watson for drawing to the attention of this Chamber the article that appeared in *The West Australian* last week on the United Nations' criticism of the native title regime, as amended last year.

I also did a little web searching to obtain details of the United Nations' decision. Although I was unable to access a copy of the report, I have a copy of a press release that the United Nations issued on 18 March 1999, which was last Friday afternoon. Part of it has already been quoted, as it was used in the article in *The West Australian*, to which Hon Giz Watson referred. It reads -

> In a decision adopted without a vote, the Committee recognized that within the broad range of discriminatory practices that had long been directed against Australia's Aboriginal and Torres Strait Islander peoples, the effects of the country's racially discriminatory land practices had endured as an acute impairment of the rights of Australia's indigenous communities. . . . The Committee expressed concern over the compatibility of the Native Title Act, as currently amended, with Australia's international obligations under the Convention. While the original Native Title Act recognized and sought to protect indigenous title, provisions that extinguished or impaired the exercise of indigenous title rights and interests pervaded the amended Act.

I emphasise the words "extinguished or impaired" because that is what the state legislation will do. Although I appreciate that the federal regime is not before us, the legislation with which we are now dealing is directly consequential and a part of the arrangements put in place last year under the Wik legislation. The document continues -

> The Committee called upon the Government of Australia to address the concerns of the Committee as a matter of utmost urgency. It also urged Australia to suspend implementation of the 1998 amendments and to re-open discussions with representatives of the Aboriginal and Torres Strait Islander peoples with a view to finding solutions acceptable to the indigenous peoples and which would comply with Australia's obligations under the Convention.

The minister said we have a choice, and I agree. He outlined the choice as being between legal certainty and legal uncertainty. I can list many choices that are far more realistic given the situation facing us. We have the choice of the international criticism that is bound to follow. This is an early warning procedure; further procedures will follow. Our legislation will continue to be held up to scrutiny and we will come out badly. Even the amended version of this Act, which we are now discussing, will not be in line with our obligations under international treaties. We have the choice of facing up to international criticism or of taking steps to ensure the rights of indigenous people in this country. We have the choice

of paying attention to big business interests, mining interests and pastoral interests or of standing up for the rights of indigenous people who over 200 years have been dispossessed.

The amendment passed last year that we should now insist upon is based on the common law as it is understood following the Miriuwung-Gajerrong decision. I accept that that decision is under appeal, but at this stage it is the best interpretation of what comprises Aboriginal or native title.

It is also interesting to see the way in which the economic situation in this State is being used in this debate. People are saying that native title is the reason for the economic downturn in the State. If that is the case, it will be a prolonged downturn. However, the Minister for Employment and Training, Mr Kierath, was asked a question on Tuesday about apprenticeships and the resources sector. His answer indicated that in the medium to long term there will be no problem in the resources sector. A downturn has occurred in the short term, but there is plenty of optimism. On the one hand we are saying native title is the cause of our ills; on the other hand we are saying that it will be sorted out in 18 months because it is a short-term downturn. On the one hand we have the Premier speaking about native title as the cause of our problems; on the other hand we have the Minister for Resources Development saying that some problems have occurred as a result of the Japanese economic situation, but that we will ride through them. The Minister for Mines spoke about the problems greenfield exploration is experiencing as a result of native title. The provisions of the Bill as amended will deal with the bulk of those problems. To say that native title is causing all the problems in the Western Australian economy is doing a disservice to the state of the economy as a whole.

Hon N.F. Moore: This does not have much to do with the clause.

Hon HELEN HODGSON: We are discussing the clause dealing with the leases. I believe that that clause must stand because as drafted it adopts the principle of common law. I know this Parliament has the right to overrule common law but, if it is thought that doing so will create certainty, people must think again.

As I have mentioned a few times previously, my experience prior to coming into this place was in tax legislation. I am sure the Minister for Finance is as well aware as I am that we cannot legislate away all our problems. As soon as we pass legislation that is supposed to create certainty, someone will find a way around it. Certainty will not result from legislation; it will result from a system of agreements between people. We need a system in which Aboriginal people and the developers who want access to land can reach an understanding that binds them to grant access on certain terms and conditions.

The word "certainty" has been misused abominably in this debate in the past 18 months to two years. It does not give any guarantees; that occurs only through cooperation. We will not develop a cooperative approach to native title while we extinguish people's rights without providing proper consultation and giving them a say in how the system is set up. This Chamber should insist on the amendment.

Hon GREG SMITH: I cannot believe we are having such a lengthy debate on this Bill. It is a Bill designed to validate titles that were issued in good faith to people who believed they had exclusive possession.

The Australian Labor Party caucus has developed its mini schedule. I draw members' attention to the report of Select Committee on Native Title. The one conclusion in the report suggests that the evidence included in the committee's report be considered during the debate on these Bills in the House. Appendix A goes into how that schedule was developed. It involved the examination of 600 pieces of legislation over numerous months to determine what leases would fit into the schedule. If we pass the one schedule across Australia, we will have some uniformity as to where native title does and does not exist. The minister said it has been passed in Queensland and I believe New South Wales has also passed it.

The other issue that is upsetting me in this debate is the question of removing people's rights. In any effort to give one group of people rights over land to which someone else thinks they have rights, we will diminish someone's rights. The people who have these leases believe they have exclusive possession.

Several members interjected.

Hon GREG SMITH: I have just returned from Exmouth.

Hon Tom Stephens: How did you get there?

Hon GREG SMITH: I flew. I was sitting with people near their destroyed homes. Their life has just been blown away. The people who own these leases have the same feeling. They have invested in infrastructure on those leases and the ALP has decided that they do not have exclusive tenure. Members opposite do not think it is worth validating those leases. The ALP is prepared to leave them open, subject to native title and with a big question mark hanging over them. The only way the Labor Party will sort it out is in the courts. If the ALP is comfortable with that decision, it must live with it. We are well aware of what the numbers will be when a vote is taken. We will stick with the mini schedule that the ALP has come up with and the ALP will have to wear it. I will not say anymore, but I hope some members consider coming to this side of the Chamber.

Hon N.F. MOORE: The attitude of a committee of the United Nations is not relevant to this debate. As members would know, we are constrained to the six clauses on which we are asking the Chamber to change its mind. Whether or not the United Nations agrees with native title is irrelevant to this debate. If members must rely on the United Nations and some of its committees for their source of inspiration and knowledge, I suggest they start looking elsewhere. The federal Attorney General has adequately and appropriately dealt with that report.

Hon Cheryl Davenport: In your view.

Hon N.F. MOORE: Yes, in my view. If it is not the member's view, I suggest that some of the legislation passed by her federal colleagues would have the same fate as the Wik legislation under the views of the United Nations. I do not know anywhere else in the world - perhaps the United Nations' supporters can tell me - where over 90 per cent of the landmass of a State can be claimed under a native title regime. In Western Australia 82 per cent of land has been claimed. It is all very well for people in the United Nations to tell Western Australia how to run its internal affairs, but they have not acknowledged the significance of the issue to this State and how much land is involved. Had past Governments given pastoral leaseholders in Western Australia freehold title, and they made a deliberate decision not to, vast areas of Western Australia would not be claimable. However, decisions were made when granting pastoral leases to contemplate the requirements of the Aboriginal people. If that had not been done, there would be far less land to claim now.

I will raise some of the arguments put forward by Hon Tom Stephens. He referred to Queensland and New South Wales. Because they are Labor-controlled States, they negotiated their way through the titles validation questions, and because they were nice to everyone, their legislation is somehow preferable to our legislation. I suggest to Hon Tom Stephens that the words in the legislation in New South Wales and Queensland are almost identical with those in the Western Australian Bill.

Hon Tom Stephens: The New South Wales Government leaves out the western pastoral leases.

Hon N.F. MOORE: I am referring to the two clauses we are discussing now. To save the time of the Chamber, the member should look at the New South Wales law that was passed by the New South Wales Parliament, the Queensland law that was passed by the Queensland Parliament and the Bill we introduced, which we wanted passed by this Parliament, and he will find that they are almost identical. There are a few different words; New South Wales combined previous exclusive possession acts, which includes acts other than public works, and public works in one clause; whereas we separated it into two clauses. What the Parliaments of those States have done is virtually identical; the words are almost identical to what we were seeking to do in Western Australia. For some strange reason which is yet to become clear to me, the Labor Party wants to change the words in such a way that 1 300 leaseholders will be hung out to dry.

Hon Mark Nevill: The Commonwealth constrained the New South Wales State Government because it wanted the leases in the western part of the State included in the schedule. The Federal Government said it could not because it was not sure that it extinguished native title.

Hon N.F. MOORE: That figures. I will bring this back to a very simple proposition. As Hon Tom Stephens said, the Labor Party is somewhere in the middle of this; the Greens (WA) and the Australian Democrats are some way over to the left; and we are way over to the right. Sometimes when a person is in the middle of an argument, he will compromise himself of necessity and become inconsistent. By allowing, for example, conditional purchase leases or war service perpetual leases in the mini schedule - and it has been agreed that those leases should extinguish native title - and not allowing a number of other cropping and grazing leases to extinguish native title, the Labor Party is subjecting itself to an extraordinary contradiction. In that situation we could have a conditional purchase lease which is used for cropping and grazing purposes and alongside it could be a lease which is used for cropping and grazing purposes, both of which could be changed to freehold title in due course if the holders wanted to do so. If we went past these two blocks, we would see no difference; they are both used for cropping and grazing. However, one block, because it is a CP lease or a war service perpetual lease, has had native title extinguished, but the cropping and grazing lease has not.

Hon Tom Stephens: What did Justice Lee find in the case of the cropping and grazing leases?

Hon N.F. MOORE: I do not know what he found off the top of my head. I cannot recall all the details of his finding. The Leader of the Opposition has an opportunity now to assist us in making legislation in Western Australia which is consistent. If a person has a cropping and grazing lease and is using it for cropping and grazing, and the person next door has a CP lease and is using it for cropping and grazing, they should be treated equally. What is wrong with that? The Labor Party's middle-of-the-road position, its compromise, is creating crazy circumstances in which people living next door to each other, who are doing the same thing with the same expectation for themselves and their property, are being treated differently. If the Leader of the Opposition had been dinkum, he would have gone down the same path as the Australian Democrats and the Greens (WA) and just thrown it all out and not bothered to try to legislate to solve a problem initially created by the Mabo decision. The members of the Labor Party have tried to somehow ingratiate themselves with some people in the community - war service leaseholders and CP leaseholders - but have decided that some other people are dispensable. As I mentioned last time we argued about this matter, many of them are in my electorate and that of Hon Tom Stephens. A person could drive down a street in Kalgoorlie and find a residential block which is a leasehold with a house on it which is

next door to a freehold block with a house on it. People have similar expectations, but the Labor Party is creating different circumstances for them. It is no good to say that the native title claimants have said they will not claim anything under 5 000 square metres, because that will last for the duration of that particular promise. It will not affect anyone else who may make a claim. Hon Tom Stephens said we should grab what the Labor Party is prepared to offer and be satisfied.

The process of this Parliament is that Bills can go back and forth between the Houses in the hope that we will reach a situation in which all parties agree. This Bill was amended in our Chamber in December, late in the parliamentary sitting. When the Houses resumed in March, the Legislative Assembly went through the Bill and decided it could not accept the amendments of this Chamber. It has now been returned to this Chamber. A couple of weeks were set aside for members to reassess their positions on it and now it has been brought on. It is not being dragged out; it is being dealt with as expeditiously as possible. If members do not change their minds as a result of my final summing up, we may finish up with a conference of managers on the Bill, because the Government is adamant that we cannot treat people the way the amendments treat them. People are entitled to certainty and consistency. Regrettably, the amendments do not provide consistency.

On the other issue of public works, the Australian Labor Party's position is just unbelievable - it is nonsense; it makes no sense. Anybody who thinks about the matter comes to the same conclusion. I will not go through the arguments again. Absolute nonsense has been foisted upon us. The Labor Party has another opportunity to fix part of the mess it created when we debated native title last year. These are two simple amendments to the first Bill, the Titles Validation Amendment Bill. We have a long way to go with other matters, but one can only hope that commonsense will prevail ultimately. Anybody who thinks that native title is not causing a problem in Western Australia - as I said the other day, it is not causing problems to existing mines because they already have title - should read what Sir Arvi Parbo is reported as saying in this morning's edition of the *Kalgoorlie Miner*.

Hon Mark Nevill: It is causing trouble to infrastructure leases in existing mines -

Hon N.F. MOORE: I acknowledge that, but in terms of actual production from a mine it is not causing a problem. Sir Arvi Parbo, who is highly regarded across the political spectrum in Australia, said that one of the serious problems facing the mining industry is native title. His company is now taking its money somewhere else - overseas. If Greens (WA) members think that that is a good idea - I suspect they do, because they do not like seeing holes being dug in the ground or people getting jobs -

Hon Giz Watson interjected.

Hon N.F. MOORE: The sort of jobs that the Greens talk about are hugging trees and sitting under a bush contemplating the meaning of life. They do not get realistic about what must be done to create jobs in Western Australia.

It is a serious problem. The matter does not relate to the debate, but, as it was mentioned, I thought I would refer to it in passing. Again I urge the Committee to get rid of the crazy amendments and not insist on them so that the Bill can be passed and everybody will have certainty in respect of their lease.

Question put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
Hon Dexter Davies	Hon Murray Montgomery	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan			

Noes (14)

Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Norm Kelly	Hon Christine Sharp	Hon Giz Watson
Hon E.R.J. Dermer	Hon Mark Nevill	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Ljiljanna Ravlich		

Pairs

Hon Peter Foss	Hon Kim Chance
Hon B.K. Donaldson	Hon John Halden
Hon M.D. Nixon	Hon Tom Helm

Question thus negatived.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

PETROLEUM SAFETY BILL

Second Reading

Resumed from 14 October 1998.

HON MARK NEVILL (Mining and Pastoral) [2.46 pm]: The Opposition supports the Petroleum Safety Bill. I shall welcome any interjections or comments while I make my speech. If members have questions, I will do my best to respond. The Bill is a good piece of legislation. It relates to an aspect of the safety law that I have said has been inadequate. It has taken longer than it should have taken to bring together the material. The Bill consolidates regulations relating to safety in several Acts and it pulls together conditions in respect of occupational health and safety that are attached to the grant of a petroleum tenement and it draws them into a coherent form. It also follows the scheme of the Mines Safety and Inspection Act, which is another good piece of legislation, and the Bill embraces the safety case regime which evolved out of the inquiry into the *Piper Alpha* disaster in the North Sea. The results of the inquiry found that it is not effective to control safety in such situations by publishing reams and reams of regulations; one should go through a process of identifying hazards and developing plans to manage those hazards. Virtually all members will be aware of the circumstances surrounding the major disaster on the *Piper Alpha* rig, so I will not go into the details.

Over recent years there have been safety problems in the petroleum industry. The need to overhaul and upgrade the petroleum safety function in the Department of Minerals and Energy has been recognised by the Government because there have been serious shortcomings within the branch.

A number of consultants have reviewed certain problems that have occurred off our coast particularly with the *Griffin Venture*. Dr Tony Barrell from the United Kingdom came out and reported extensively on that. I have read those reports and I am satisfied that the industry has moved forward; nonetheless, there is always room to improve. Advances in technology in the petroleum industry have been breathtaking over the past 10 or 15 years. We now produce oil from depths offshore that were not contemplated years ago and the technology used on floating barges and platforms is amazing. There is no way that an inspector from the petroleum division would have the skills to cover the whole range of technologies that could impinge on safety in our petroleum industry; therefore, this Bill provides for the appointment of a special inspector, as is the case in the Mines Safety and Inspection Act, so that a specialist can be called on to examine the structural strength of offshore platforms or sophisticated equipment that controls blowouts, etc. Consultants can be made special inspectors and can provide competent, professional advice on whether safety standards are adequate.

Like the Mines Safety and Inspection Act this Bill has a general section on the duty of care to cover title holders, the operators of rigs, employees, contractors, manufacturers, and so on.

I examined this Bill closely last year. I cannot see any weaknesses in it; it covers all areas. I offered to deal with this Bill, I think some time in the latter half of last year, but for some reason it did not reach the top of the Notice Paper. Recently I had my office in Parliament House carpeted and to facilitate that many of my files were boxed up with those of the member with whom I share the office. Since then I have not been able to find my file on this Bill so I have had to start from scratch. That is what happens when we prepare for Bills and they sit around for six months. It irks me when the Government says the Opposition is delaying legislation -

Hon N.F. Moore: I share your concern and I apologise. I will speak to the Leader of the House next time!

Hon MARK NEVILL: The Opposition supports the Bill.

HON HELEN HODGSON (North Metropolitan) [2.53 pm]: I do not miss the nice little irony about the delay in bringing on this Bill when just last night I was commenting that exactly the opposite situation had occurred to me.

Hon Max Evans: You cannot win them all.

Hon HELEN HODGSON: That is right. I was in a similar situation as Hon Mark Nevill, because I did quite a bit of work on this Bill late last year. As I could see what was happening with the Notice Paper, my research came to a grinding halt for a little while. Unlike Hon Mark Nevill, I found my file with my notes.

The Australian Democrats support the Bill in principle. We support any Bill aimed at improving safety in an industry. Safety in the petroleum exploration industry is particularly problematic. In the course of the briefings I had late last year, the minister's adviser made available to me a videotape containing footage relevant to the *Rankin A* North Sea oil disaster.

Hon Mark Nevill: Are you sure it was *Rankin A*?

Hon HELEN HODGSON: It was the *Piper Alpha*. This is what happens when we do not refer frequently to copious notes! The video contained footage on the *Piper Alpha* oil disaster and the consequential loss of life.

Hon Mark Nevill: You do not have my notes do you?

Hon HELEN HODGSON: Offshore oil and gas rigs are unique work areas because they are established in an isolated environment. If a safe working environment cannot be ensured and an accident occurs which strands a group of employees they cannot do much about it other than follow the appropriate safety procedures. Our safety record in Australia is good. We have not had anything like the scale of the *Piper Alpha* disaster. Ultimately, this legislation is for the benefit of employees, because we are looking for a safer workplace, which in turn will improve relationships between the employer and the employee.

I will refer later to areas in the Bill that could be refined. I have received amendments which I will check and circulate quickly for members participating in the debate. I apologise for not circulating them previously due to circumstances beyond our control. They involve some fairly minor procedural points that will strengthen the Bill. They apply to land-based and offshore petroleum operations. Any operation that is offshore is subject to the difference between commonwealth and state jurisdiction. Usually we can legislate only around the state territorial waters, but in this case the Bill will apply to the commonwealth-controlled waters off the coast of WA which are referred to in the commonwealth legislation as being adjacent areas. This scheme is covered under section 8C of the Bill and sections 9(1) and 140H of the Commonwealth Petroleum (Submerged Lands) Act 1967. This means that if the State passes certain health and safety laws, the Commonwealth extends those same laws into the adjacent commonwealth areas.

Land-based operations tend to be safer than offshore operations because of the offshore environment. For example, on an offshore platform, living quarters are on the same platform as drilling and production areas, whereas on a land-based operation they can be separated. Operations on land can be more widely spread so that if there are any leaks or fires they can be more easily contained to one area of the production unit. On land, workers can more easily escape through a safe route if a problem cannot be contained immediately. For these reasons, for the remainder of the discussion on safety I will focus on the offshore operations where the possibility of multiple fatalities are far greater.

Hon Mark Nevill: Not to mention helicopters and the inability to confine oil spills at sea.

Hon HELEN HODGSON: All those factors are included. One of the features of the *Piper Alpha* disaster was that a proportion of the workforce was rescued because of the excellent evacuation procedures that came into play. The tragedy was that they were all too late because many people could not escape or, in the process of trying to escape, got themselves into even more danger than that which they were leaving. Those are examples of why the offshore working environment is extremely dangerous.

I should not overplay the disasters because they are the extreme cases. The typical safety issues relevant to any industrial site are much more common, such as falls, dropped objects, helicopter travel, handling of heavy steel pipes, electrical faults or chemical contamination. Some risk relates to drilling into high pressure hydrocarbon reservoirs, but it is fairly unusual, particularly in Western Australia, because the pressures here are reasonably predictable. They rarely contain hydrogen sulphide gas, according to my briefing notes; I am sure the geologists in the Chamber can confirm that is so.

Safety issues surrounding production operations include all of those issues. There are hazards in the production phase as a result of having a large inventory of high pressure oil and gas in a very confined space. I do not say that to downplay the fact that petroleum operations have elaborate safety systems in place, which include medical expertise, gas leak detectors, water deluge firefighting systems and evacuation procedures. In managing risk, the safety principle is that it should be as low as is reasonably practicable, so long as the risk is acceptable. Many of these safety-related issues also have a serious impact on the production facilities and can cause damage to equipment that can be worth millions of dollars. My notes say that the figure can be up to $2b. It can interrupt production activity which generates daily revenue of between $1m and $5m; therefore, it is in the interests of the producer, if only for purely economic reasons, to make sure there are as few interruptions as possible.

Basically this Bill puts in place safety-case systems; that is, the employer will be responsible for establishing safety practices and making sure there is appropriate consultation which is followed through at all stages. It is putting a lot of responsibility onto the employer and the people who are part of the overall facility, including the subcontractors, contractors and self-employed persons. I asked myself how appropriate it is to put all this back into the hands of employers and whether that would impact on the safety regime; and given that the government departments will be inspecting the site, how that relationship will work. One of the unique features of the petroleum exploration and production industry is that it is dominated by a relatively small number of companies that are dealing in very large amounts of capital and very large projects. Because of that, it is workable to have a system wherein much of the responsibility is placed on the employer. I draw a contrast with other industries in which there may be a lot of undercapitalised, small businesses that have a lot of casual workers coming and going. The people involved may not have the same vested interests in the safety of their employees because it is not high up in the way that industry is structured. In saying that, I hope nobody would articulate it in that way because it sounds very cold and callous.

The more organised the employer, the more he will be able to focus on establishing a proper safety case. Others may

not be so well organised and will, through sheer oversight, need more regular inspections. The department, whichever one is involved in that industry - it could be Department of Minerals and Energy if the mining industry is involved; or WorkSafe - may need to adopt a more interventionist role in inspections. The profile of the petroleum industry is such that the safety-case regime should work reasonably well.

I have some concern about serious property damage which is referred to in clause 3. Obviously this refers to plant and equipment. I feel in some situations damage to the environment should be given the same priority as damage to plant and equipment and property. We can probably address that matter a little more in Committee. There does not seem to be a specific obligation for an employer to act on a safety complaint from an employee. The employee is obliged to report, but there is no obligation for the employer to act upon that report. Given that the employees are at the coalface of the operations and come into daily contact with the workplace and what is going on, they are most readily able to see a situation as it is developing. The Bill does not impose any obligation on self-employed persons to report a safety hazard that they might see.

I am particularly conscious of this because my husband is an occupational health and safety officer at his workplace. We cannot go anywhere without checking it out for safety hazards. If we walk down the street and he sees something that is not where it should be, he will immediately say that that safety hazard should be reported to somebody. That safety culture must be developed in the workplace, where all people on the work site are looking for potential hazards and reporting them to the appropriate authorities so they can be dealt with. A regime in which employers and employees are responsible ignores the fact that currently many self-employed people come into neither category of employer or employee and they also should have a responsibility to report a hazard, even if it is not of their own making. We might see a hazard created through a natural incident or the negligence of somebody else, which is not our fault or responsibility, but we should have a responsibility to report it so it can be dealt with.

We must allow people who have a stake in the safety of the site to become a part of the inspection process. Although they should not become actively involved in the inspection, they should be there to see what is going on. That is part of the communication process among the workforce, the employer and safety inspectors. It is important that information about safety issues examined by an inspector can be shared in the appropriate circumstances with the appropriate people. It may be appropriate for health and safety representatives to have information to ensure steps are taken to rectify safety hazards. Other employees who work with the identified hazards must be notified to ensure their safety. Safety and health committee members must be alerted to safety problems.

Family members grieving for workers who have been killed on the job should be entitled to information surrounding the relevant incident. That requires some serious thought by this place. At the moment we hear of many incidents in which people are involved in coronial matters and do not have access to basic information about what happened to their workmates or their loved ones. The widow of the Western Australian police officer who was killed in South Australia has been assisted by the Government to attend the coronial inquiry in South Australia so that, at least, she is a part of what is going. That is an extreme example because it is interstate and she was not in the same place at that time of the incident. The principle is that people who have been affected when a family member has been injured or killed in an industrial accident deserve the right to be informed fully about what is going on. That flows to people who provide support to the families, either the unions or the solicitors, to enable them to have access to information. There are a couple areas of the legislation which I am not sure are totally consistent with the Occupational Safety and Health Act 1984. Regarding the election of occupational health and safety representatives, the requirement to give the director notice of his or her election is not incorporated in this legislation. That might seem to be nitpicking; however, it makes life easier if a proper register is maintained. The best way to do that is to notify people of changes when elections occur.

A consistency issue arises. In this place last year an amendment was passed to the Occupational Safety and Health Act related to the length of time taken to deal with an offence. I was briefed on the Petroleum Safety Bill last year prior to its consideration by the House, during which I asked whether the 12-month provision in the Bill was sufficient to deal with offences. I was told, "Probably not, but it is consistent with the Occupational Safety and Health Act." It will not be consistent following the passage of this measure. That should be addressed.

Hon Mark Nevill: Some areas of the Mines Safety and Inspection Act are better than the Occupational Safety and Health Act.

Hon HELEN HODGSON: The Occupational Safety and Health Act has a three-year requirement, and I propose that such time should apply in this measure as well. Differences in industries require differences in management. It would be easier to administer safety regimes throughout industry in Western Australia in its generic sense if as many provisions as possible were consistent. People dealing with several industries would then understand that the rules were the same. People would then not be caught out with unnecessary problems. I understand different provisions are needed for different industries on occasions - I have no difficulty with that. When the difference has no basis, it would be simpler to have measures as consistent as possible. Although the Australian Democrats support the Bill, we question why we have different Bills for different industries; for example, mining and petroleum. We have the Occupational Safety and

Health Act. Perhaps historic reasons apply for separate legislation for different industries. Nevertheless, efficiencies could be gained in the regime as a whole if industries were brought under one umbrella. Different provisions could apply when needed, rather than applying a set of legislation for each industry.

The petroleum industry has diversity. Different inspectors have different skills and experience in inspecting safety hazards. That is relevant when looking at the role of an inspector. It is important, without being too prescriptive in the legislation, that the qualifications and skills of an inspector - allowing for diversity - be relevant to the safety hazard in question. For example, a person may be experienced in the production side of the petroleum industry, yet may be required to inspect a drilling safety hazard. That person may not have the necessary experience and background to inspect that hazard. Similar concern has been raised in other industries, such as the construction industry. An incident occurred about 18 months ago when a question was raised whether an inspector had experience on the equipment that was inspected. The difficulty was resolved by way of a manufacturing certificate. In protecting the rights of employees who believe a situation to be unsafe, we must ensure in the legislation that the inspector is appropriately qualified for the hazard involved.

I have covered my key concerns. I will discuss other issues in more detail in committee once my amendments are available for circulation. At that stage, I will be able to answer questions on the issues raised. Anything to help improve the safety of employees in industry in this State, particularly in an industry as significant as the petroleum industry, requires our special intention. The Australian Democrats support the Bill.

HON J.A. SCOTT (South Metropolitan) [3.16 pm]: The Greens (WA) supports the Bill. I am pleased about a few of its measures to improve safety, which reflect some of the concerns I have raised in this House in the past, such as those relating to the *Griffin Venture* issue. A number of my concerns may arise because I have not full absorbed this Bill. I was extremely busy prior to consideration of it. I anticipated handling the planning Bill, and I was only halfway through my consideration of this Bill when it came on for discussion. I may have missed some points.

First, I am pleased to find responsibilities and duties of persons who engage others under contract defined in this Bill. Certainly on oil vessels at times it is unclear who is responsible for companies hired to drill. Defining who is responsible is important. The number of contractors working on board these vessels needs to be protected under such a regime as well. Many people do different jobs, with underground testing and all sorts of seismology carried out by companies like Schlumberger Oilfield Australia Pty Limited. Mud companies charge for their services, although that is not the case on some rigs. Often mud companies drive the mud into the hole to prevent it collapsing, and to carry material to the surface.

I hope the minister will address one matter which has arisen in my examination of the Bill so far. Provision is made to define responsibilities regarding equipment on board vessels. When one is working on a vessel for an oil company on a contract basis, operators come on board with a plan for drilling a hole. Every company has its own plan, usually based on the formation one is drilling. Frankly, some companies have ridiculous plans which can be dangerous for people onboard, regardless of the quality of equipment.

If they are trying to drill too fast the blocks can jump off the floor. I have even seen in England the situation where the blocks have been welded to the rotary table. Little pieces of metal were flying off because the rotary table was spun faster in order to drill faster. It is a very dangerous situation which comes about from very bad drilling plans. I wonder whether there will be some ability to look at these drilling plans as part of the safety process. They can be highly dangerous especially when a foreign company comes in which does not understand the local formations and thinks it can do things much faster in some areas. There are other reasons that it can be unsafe because of the types of formation that are being drilling through. When poisonous gases are in the formation, drilling plans must be properly put in place to ensure the safety of everybody on board. From my superficial study of the Bill, I cannot see anything that covers the drilling plans. The safety inspectors with some experience should be able to view these plans and ensure they fit within those areas. This State has a wide bank of knowledge in many people on how to drill in different zones in the State.

When we consider the duties of the employees, I understand that an employee should take reasonable care to ensure his own safety or health at work, but one wonders how far one can take such a provision. Does that involve eating the right foods and all sorts of things? Health must be defined in some way to link it to the job that a person is doing because, clearly, various chemicals and stuff on board may be used by a person in respect of his own health and that of other people as well. I suppose it is how it is interpreted, but a fine of $20 000 is involved, and if a person is not looking after his own health, he can incur a fine of $20 000. I think many people in this place would suffer from that fine, too.

Hon Mark Nevill: I heard they were pretty well paid.

Hon J.A. SCOTT: I suppose that is it.

Many people with a vast amount of experience work offshore and know how to look after themselves and others. However, when new people are on those vessels - they are very confusing places because of the amount of noise and movement occurring on the drill floor and sometimes it is incredibly chaotic - they could easily do something silly and cause harm to themselves. I wonder about the enforceability of that provision.

I am pleased about the requirement on the manufacturers to provide proper plant and ensure that it is properly constructed and properly used, because that is important. One of the matters that arose on the *Griffin Venture* incident was the use of the wrong equipment to measure the gas inside a tank. Instead of using the tank scope, workers used outdoor measuring equipment that was not approved for that purpose and was not calibrated for the gas. It is important to ensure that relevant information is provided for the use and testing of the equipment and plant. I do not know whether that is covered in the Bill. It would have been very helpful to have some information freely available. I know that Tim Fischer, who blew the whistle in that case, knew what equipment should be used, but it would be handy to have the requirement for adequate and fully explained literature showing the limitations of the plant that one is using and to provide all the relevant information for the use and testing of the plant.

In terms of the administration of the Act and the appointment of inspectors and so on, I think there is little change from the previous Acts, the Petroleum (Submerged Lands) Act and other Acts covering this area. It concerns me that some very good provisions are being put in place for the industry to ensure safety offshore, but from my knowledge of the *Griffin Venture* incident and from investigations into other incidents, there appears to be no matching improvement in how the department administers the Act. Clearly in the *Griffin Venture* case very significant failures were occurring in the way the department administered the Act. Answers were provided in this place that an inquiry was carried out and a Senate inquiry was told that the department had carried out an inquiry, but it turned out it had not carried out an inquiry and no notes were available from such an inquiry. Clearly either extremely bad procedures were followed within the department or there was a cover-up. Having spoken to the investigator, he said it could have been either of those; I prefer to think it was very bad procedures within the department. That area must be addressed so that we do not have either bad procedures or cover-ups. I think good procedures will prevent that.

Hon Mark Nevill interjected.

Hon J.A. SCOTT: I am not fully aware of how they did that and I would like to know how that overhaul has occurred and what has happened. I was not at all satisfied with the department's supervision of the Act in that incident. It is not much use having the best Act in the world if it is not regulated. I have not looked at this issue in the Act, but the Bill states that provision is made for exemption from personal liability for officers of the inspectorate and members of statutory boards and committees. This parallels provisions in the existing Occupational Safety and Health Welfare Act and Mines Safety and Inspection Act. I am a bit worried about that aspect because I believe that the officers in the case to which I referred were negligent and something should have been done about it and they should not be made exempt from any liability. We are dealing with a dangerous industry. It must operate according to the highest safety standards.

Hon N.F. Moore: I am sorry, I did not hear the first part of that last comment. Could you repeat that? What is your concern?

Hon J.A. SCOTT: My concern related to the fact that the second reading speech stated -

> Part 10 - Miscellaneous: Provision is made in the Bill for exemption from personal liability for officers of the inspectorate . . .

In the *Griffin Venture* incident, problems were experienced with almost equivalent officers, and we were given information in this Parliament which was, quite frankly, laughable.

Hon N.F. Moore: Not everybody agrees with your point of view on this, so stop making out as though what you are saying is the truth. I have a very strong point of view to the contrary.

Hon J.A. SCOTT: The international expert, Dr Barrell, sat in my office and said that either the procedures in the department were poor or there was a cover-up. He said that he preferred to believe it was bad procedures.

Hon N.F. Moore: You prefer to believe it was a cover-up.

Hon J.A. SCOTT: Yes, I believe there was a cover-up.

Hon N.F. Moore interjected.

The PRESIDENT: Order! The Leader of the House can respond in due course.

Hon J.A. SCOTT: There is clear proof that there was a cover-up. A departmental officer stated to a Senate inquiry that he had gone on board a vessel and carried out an inquiry into a reportable incident. However, he subsequently resiled from that statement and said that he did not actually carry out an inquiry; he just went there and asked a few questions. The real reason he went there was to carry out the annual audit, which had nothing to do with the inquiry at all. That is not something that gives me much confidence in the regulation.

Another aspect to that issue is that the Minister for Mines accepted that it was a reasonable proposition that one of those officers might have taken notes on his laptop during that inquiry. Unfortunately, according to a statement from the Department of Minerals and Energy that the minister tabled in this place, that officer is no longer with the department,

and because he is no longer with the department, it cannot access the notes. That is total nonsense. I do not think anybody would believe that. If the minister believes that, he probably needs an incredulity test. The minister and I both know that information relating to any inquiry carried out by officers of the department is the property of the department. If that information existed, it would be available. The only reason it was not tabled was because it never existed. I have also ascertained that that particular officer had not left the department; he had only been seconded to another area and could have easily been contacted. That is the reality. Clearly, problems existed in that department, and they were not just as a result of bad processes. I am sure that good processes could have prevented that happening. That is one of my concerns. These inspectors need to take some responsibility. If they are not carrying out their jobs properly, they should not be free from any liability for anything that occurs because of their laxity. Pressure should be put on them to perform, and there should be proper safety standards.

I commend the minister for including the reporting provisions relating to incidents which have the potential to cause serious injury or harm to health. It is better to prevent the occurrence of accidents rather than deal with the consequences. I commend the minister for including those provisions in the Bill. Overall, I commend the minister for a good Bill. As Hon Mark Nevill said, if procedures within the department have changed, perhaps these provisions are now unnecessary. If procedures are anything like they were during the *Griffin Venture* incident, changes should also be made in the Department of Minerals and Energy's petroleum division in order to obtain a high level of safety in the petroleum industry.

In conclusion, I have not yet examined a number of areas. I will address those during the other stages of this Bill. However, the Greens (WA) will support this Bill, and we commend the minister for bringing it before the House.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.37 pm]: I thank members for their contribution to this debate. This is clearly an important Bill and, as Hon Mark Nevill said, it has been around for some time. I take all the blame for that. However, circumstances were such towards the end of last year that the legislative program did gum up, and this Bill was one of the casualties of that. As members have said, this is an important Bill which relates to safety in probably the biggest industry in Western Australia. From memory, petroleum is now our number one export. This industry will grow in the future. Regrettably, as members are aware, at the moment the price of oil is about as low as we hope it will go. That is putting some constraints on the potential drilling activity in which companies will engage in the near future. As an aside - members may be interested - we have a system of allocating petroleum tenements in Western Australia which requires certain conditions to be met. It is a bidding system, in a sense, for territory. We will be doing all we can to ensure that tenement holders carry out the requirements of the bid and that we do not simply say that because prices are down they can avoid their responsibilities under the requirements of the tenements.

I thank Hon Mark Nevill for his support. I am sorry he lost his notes on this matter. It might speed up the committee stage, but I doubt it. I am sure he will understand what each clause says anyway. The member clearly understands the importance of this legislation, the importance of the Mines Safety and Inspection Act, and the importance of having different pieces of legislation for different parts of industry. Hon Helen Hodgson asked why we do not have one piece of legislation for the whole of industry and one organisation in charge. If we suggested that in Western Australia we would have a riot in the mining and petroleum industries. There are historic and political reasons that the petroleum and mining industries are not enamoured of being part of the occupational health and safety legislation. Now is not a good time to have that argument because I do not think there is a lot to be gained in the context of this debate.

I thank Hon Mark Nevill for his informed support and indicate that the Government appreciates his understanding of what has been done and his general support of the mining and petroleum industry. Hon Helen Hodgson raised a number of issues, most of which we can deal with during committee. I am often on the receiving end of criticism in respect of the processes of the Chamber, most of which I wear. However, this Bill has been on the Notice Paper since 14 October last year and prior to that it was debated in the Assembly, so it is not as though the Bill is fresh in this Chamber. I find unacceptable to receive Hon Helen Hodgson's amendments during the second reading debate.

When I heard Hon Helen Hodgson was contemplating amendments to this Bill my office contacted her office immediately to indicate that if she required any support or assistance on the Bill or in drafting amendments - I understand the problem with drafting for private members - I would make officers available to help. I have had no response to that request which has been made twice. It would have been easier if Hon Helen Hodgson had sat down with the departmental officers involved with this Bill and worked through her concerns with them prior to our debating the second reading. If we were able to reach agreement I would have been able to acknowledge her contribution. If we could not agree we would know why and we could have a debate without my having to do what I will do shortly, which is to make the committee stage an order of the day for the next sitting of the Chamber, so I can read her amendments. I am not trying to score points other than to make the point that I get criticised from time to time for the way in which the Notice Paper proceeds, so when other people do things that I think are not as conducive to good management as they can be I feel the need to make that point.

Hon Mark Nevill: I am not in a position to comment on the amendments at this stage.

Hon N.F. MOORE: I understand that a lot of what Hon Helen Hodgson said will be the subject of amendments and discussion during the committee stage, so I will not go into any detail other than to again repeat the strong view of the mining and petroleum industries that they want their own legislation for their own safety requirements. As Hon Helen Hodgson indicated the safety case regime is an important innovation in the petroleum industry. The *Piper Alpha* disaster in the North Sea created a situation where the industry around the world realised the need to improve its safety performance. Out of that we got away from the old regulatory system that the member seems to think we might need more of to a system where a safety plan is developed in respect of particular workplaces so that managers, employees, owners and governments, through their regulatory departments, are involved in the determination of processes that will apply to ensure safety is paramount in this industry. As somebody said, offshore platforms are relatively dangerous places and it is vital we have in place proper safety procedures. I am adamant as the Minister for Mines that we ensure safety is the most important aspect of the mining and petroleum industries. I have taken a pretty strong course of action in respect of the mining industry as a result of the number of fatalities last year and a lot of work has been done to improve the culture in the mining industry. I am pleased to say - and I touch wood emphatically - that there has been a significant improvement over the past eight months.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon N.F. MOORE: A matter raised by Hon Helen Hodgson related to self-employed persons having certain responsibilities for safety and reporting. I have had a brief discussion with the departmental officer in charge of this. We may be able to consider an amendment which might satisfy her requirements. As I indicated before, we could have sorted this out earlier, but we will work on that issue. An amendment may be possible for that matter.

Hon Jim Scott supports the Bill and even though he was prepared for the Planning Legislation Amendment Bill he nevertheless made a good contribution to this legislation. He raised a number of issues which I suspect will arise in the committee stage. He talked about drilling plans. I indicate that drilling plans are reviewed under the requirements of other petroleum legislation, namely, the Commonwealth's Petroleum (Submerged Lands) Act and the State's Petroleum (Submerged Lands) Act. I also indicate that all plans and procedures which operate within the petroleum industry are open to review under the safety case system. I believe his concerns about the way in which companies go about doing their business are covered by the processes that are provided for in this legislation.

Unfortunately he was rather scathing in his attack on public servants. That is not unusual for the member. He knows it is very difficult for them to defend themselves. He talked at some length about the *Griffin Venture* and there is a significant difference of opinion about that. The allegation of a cover-up or, indeed, that anything was done improperly with respect to the *Griffin Venture* matter is not accepted by the departmental officers. I do not recall the details, but I shall obtain them between now and when we go into committee. The departmental officers in the Department of Minerals and Energy vigorously defend their position on this matter. It is unacceptable for the member to continue to talk about cover-ups and to make disparaging remarks about departmental officers who go about their business to the best of their abilities.

The Bill also provides that departmental officers are not subject to personal liability with regard to matters that they undertake. That is fair, bearing in mind that some of the damage that could occur on these ventures could involve very large sums of money. He must understand that inspectors who do not do their jobs properly will be disciplined, and if they continue to fail to do their jobs properly they will soon find themselves without jobs. We are adamant that inspectors who work for the Department of Minerals and Energy, whether it be in the mines or the petroleum sector, must do their work diligently, properly and impartially. I am adamant that is the way in which they should undertake their duties.

I thank members for their support of the Bill. It is an important piece of legislation and one can only hope that as a result of this Bill and its enactment in the future, the very good safety record in the petroleum industry will continue and will improve, just as the safety record in the mining industry is also beginning to improve substantially. I will be dealing with the committee stage when the House resumes after the recess so I will be in a position to deal with the amendments that have been put on the Notice Paper by Hon Helen Hodgson.

Question put and passed.

Bill read a second time.

ACTS AMENDMENT (MINING AND PETROLEUM) BILL

Second Reading

Resumed from 18 November 1998.

HON MARK NEVILL (Mining and Pastoral) [4.39 pm]: The Opposition supports this Bill. It amends three Acts; the Mining Act, the Petroleum Act and the Petroleum (Submerged Lands) Act. A number of amendments relate to the

Mining Act. The first provides that when the holder of a mining tenement transfers that tenement, any lease application previously made in substitution for that tenement will remain in force in the name of the incoming party. There are delays in obtaining grants of tenements, particularly due to native title, and when a tenement is transferred, it will allow the new joint venturers to put their name on that application.

The second amendment relates to the area which can be granted for a general purpose lease. Currently the standard is 10 hectares. This Bill will allow a larger area to be granted for a general purpose lease. Therefore, a large project will have one general purpose lease instead of having 40 or 50 of these 10-hectare general purpose leases. Another amendment provides that general purpose leases may be reviewed for a period of 21 years beyond the initial 42 years. That brings it into line with a mining lease. Another amendment provides that conditions may be imposed on the grant of a mining tenement or at any subsequent time requiring the lodgment of a bond. I thought the lodgment of a bond was already a condition, but obviously that is not the case. That bond will be lodged to ensure environmental work and reinstatement of the lease is achieved. I am surprised that that bond is not already part of legislation, although I thought it would have been a condition of the grant of a mining lease. Another amendment to the Mining Act provides that conditions may be imposed on the grant of a retention lease requiring the holder to carry out a specified work program. That will allow the minister or the department to ensure that proper resource evaluations and investigations are undertaken and that people are not just sitting on deposits without doing some evaluation work.

The amendments to the Petroleum Act provide for a three-year term for drilling reservations with a 12-month renewal. At present it is a 12-month term with 12-month renewals. Basically, that is an improvement in the process, 12 months being a rather short period. It will allow people to complete drilling programs that are outlined. Often 12 months is inadequate. Another amendment to the Petroleum Act allows reserved land to be included in the definition of crown land, and it provides that no entry onto reserved land for the purpose of exploring or recovering petroleum may occur without the written consent of the minister. That is a strengthening of the current provision. Another provision restricts access to parts of a petroleum title, with the restriction being allowed to be varied or cancelled by the minister. That will restrict access into sensitive areas. Another amendment requires the holders of access authorities and special prospecting authorities to also obtain the consent of the owner or the trustee of the land affected prior to carrying out petroleum activities. That brings it into line with petroleum leases.

The final amendment is to the Petroleum (Submerged Lands) Act. The amendment to section 127 makes it clear that no other party has any rights to petroleum recovered by a permittee, which brings it into line with the federal Act.

The Bill seems straightforward to opposition members and is relatively non-contentious. It has our support.

HON HELEN HODGSON (North Metropolitan) [4.45 pm]: Once again I was fortunate to receive a briefing from the minister's staff on this Bill about October of last year. The Bill contains some measures which have been seen as necessary within the mining industry for some time. It is almost like an omnibus Bill for the mining and petroleum industry because it is tidying up a few loose ends that have been observed in the past.

Hon Mark Nevill has dealt with most of the issues that were raised in the briefing. I agree that most of them are straightforward. In the original discussions on this Bill, there were some suggestions of changes to be made with respect to some aspects concerning native title. However, I notice that they have not been incorporated in this version of the Bill for several reasons. One of them was considered to be so urgent that it was dealt with separately last July. That concerned the as-of-right renewal of existing licences. Others concerned the progress of the native title legislation at the federal level.

One remaining issue caused me some concern because I felt it may have an impact on native title, and that is the provision in the Petroleum Act 1967 dealing with the definition of crown land and the inclusion of reserved land in the crown land. Therefore, I sought some further comment on that from people who are more versed in the subject than I am. Some tenements encompass both crown land and reserved land. At the moment they are subject to different regimes, and in the conversion process it may trigger the right to negotiate twice on the reserved land because a conversion is involved as well as the original right to negotiate on the acquisition. This amendment will streamline that and ensure, because the definition will include the reserved land, that only one event will trigger the right to negotiate.

I am always nervous of anything that looks like a backdoor mechanism of dealing with native title, as I am sure members recognise following the debate we have had over the last few months. However, in this instance it seems that this is a product of the way in which the different types of land are defined in the Petroleum Act. I did a comparison between the definitions provisions in the Petroleum Act and those in the Mining Act, because it seems that it is quarantined to the Petroleum Act. It is purely a product of the definitions. On that basis, it is reasonable to accept that that is being done purely for the purposes of streamlining processes and procedures and, if anything, it is correcting an anomaly which in this instance was working in the other direction. That was the only provision about which I had any reservations. I have satisfied those reservations. However, if the minister has any specific comment on that which would allay my concerns, I would appreciate hearing it.

The other matter upon which I want to comment specifically is the strengthening of the environmental bond procedures. By making an amendment to the procedures under the Mining Act we will be improving the existing regime. I commend the Government for that alteration. The Australian Democrats support the Bill.

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [4.50 pm]: I thank members for their support of the Bill. As Hon Helen Hodgson said, it is almost an omnibus Bill of amendments to the mining and petroleum legislation. Members may be aware of the Mining Industry Liaison Committee which comprises all of the organisations involved in the industry. MILC regularly reviews the Mining Act and petroleum legislation to see what changes need to be made in the context of changing circumstances. We collect those and put them into one Bill and hopefully every few years we can get minor changes to the Mining Act to keep it relevant and up to date on the basis of support from across the industry. This is another of those Bills.

Hon Mark Nevill asked about the bond situation. I had always assumed the bond was already in the legislation. Apparently it is not; it is practice and rules rather than part of the legislation. It has been necessary to confirm that is a requirement. Essentially it means that companies that wish to undertake any exploration or mining activity are required to enter into a bond to ensure that they rehabilitate the site when they finish. When that was first brought in by a former Labor Government a number of years ago - I do not know who was the minister - I was not a great supporter of it. I thought it would be a burden on industry. However, it has turned out to be a successful process that ensures mining companies rehabilitate their sites. The quality of rehabilitation over the years has improved dramatically, and very few bonds have been called upon. The system is working well and it is important it become entrenched in the legislation.

Hon Helen Hodgson talked about the definition of crown land. She is quite right. The Government is seeking to eliminate one requirement to go through the native title process. It is only fair that we should try to arrange our administrative processes to avoid unnecessary duplication. Changing from one title to another invokes the native title process. The Government is seeking to remove one of those requirements. However, it will not in any which avoid the native title issue. It still must be resolved and heard. This is just an attempt to speed up the process, but in no way will it have any consequential effect on the impact of native title. Hon Helen Hodgson also mentioned environmental bonds, and I thank her for her comments and members for their support of the Bill.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

ADJOURNMENT OF THE HOUSE

Special

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

> That the House at its rising adjourn until Tuesday, 20 April 1999.

Ordinary

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.54 pm]: I move -

> That the House do now adjourn.

Nuclear Waste Disposal - Adjournment Debate

HON GIZ WATSON (North Metropolitan) [4.54 pm]: I want to bring a couple of matters relating to the proposed nuclear waste dump in Western Australia to the attention of the House. Last weekend I attended a national conference in Canberra which brought together people from Australia and the United States to discuss the issue of nuclear waste worldwide. I was particularly interested to hear from the American speakers about the situation in the United States. As members will be aware from other matters I have raised in this place the suggestion is that Western Australia become a dump for international nuclear waste. The United States would be one of the countries that would be looking to dump its nuclear waste in Australia.

The situation in the United States is dire. It has hundreds of thousands of tonnes of highly radioactive nuclear waste currently stored in what are described as "swimming pools" adjacent to nuclear power plants. There are 105 nuclear power plants still operational in the United States. All of those have adjacent to them these swimming pools which contain spent fuel rods. In the 1950s the Department of Environment in the United States made a commitment to the nuclear utilities that it would provide a site for the dumping of American nuclear waste. The department has been unable to do that, and has been set back for many years in its attempt to find a site within the United States in which to store long-term nuclear waste. I will quote from a document titled *The Nation*. An editorial on the transportation of nuclear waste dated 8 February 1999 reads -

> By the DOE's calculations a realistic, but not even worst-case, scenario that includes a high-speed crash and fire emitting a relatively small amount of radiation in a rural area would contaminate forty-two square miles and take 462 days to clean up at a cost of $620 million.

This is one of the reasons the US department is having enormous problems persuading people in America they should transport this waste to a repository in Nevada. The article continues -

> . . . In the fifties, the government pledged that the public would pick up the tab for disposing of the waste. In 1982 a nuclear waste disposal fund was set up with money from ratepayers, but according to a study commissioned last year by the Nevada Agency for Nuclear Projects, the fund will cover only half the estimated $54 billion it will take to dispose of the nation's growing mountain of nuclear waste. Taxpayers are expected to fork over the rest. The Nuclear Waste Policy Act of 1982, which created the fund, set a January 1998 deadline for the DOE to start picking up the waste. In 1995, when the DOE officially stated it would not be ready to accept the waste, the nuclear industry and about thirty-five public utility commissions responded with lawsuits demanding compensation for their inconvenience. So far the courts have sided with the nuclear industry, even though the DOE has no place to put the waste. Damages - which the nuclear industry says could cost the public up to $100 billion - have yet to be decided.
>
> Without consent or knowledge, the citizens and future generations of this country have been shafted by the Faustian bargain the government made with the nuclear industry. If all our nuclear reactors run until the end of their licenses, we will have 85,000 metric tons of high-level nuclear waste to babysit, essentially forever. Nuclear power provides about 20 percent of US electricity.

The other aspect of the nuclear power industry in the United States is that in the past 25 years no new order has been placed for a nuclear reactor, and none has been built. This is the industry that is supposed to be the saviour of the future and booming overseas.

It was estimated that nuclear reactors would have a lifetime of approximately 40 years. It has been found that they are becoming radioactive much more quickly than was originally estimated. This has led to what is described as a stranded cost of approximately $US600m of the investment originally put into these nuclear power plants that will not be realised because they will be shut down in half the time that was originally estimated. We can see that the United States has an enormous problem on its hands.

It is interesting also that the company that was involved in looking for a final repository site in the United States, Golder and Associates, is also behind Pangea Resources, which is looking at Western Australia as a potential site. We know that Pangea Resources started talking to politicians in 1992, and that date coincided with the final decision in America that its proposed disposal site in Nevada would not work. Since 1992 the nuclear industry and its representatives have been looking for an overseas alternative. We need to be clear what we are up against in terms of the nuclear mafia. It has enormous influence and money and it will work long and hard to find an offsite, out-of-sight, out-of-mind dump for toxic waste out of America.

It has come to my attention that a well-known Western Australian company is now working hand in hand with the proposer of the nuclear waste dump, and that is Clough Ltd. I received a copy of a statement today which was provided to *The Geraldton Guardian* by Clough Ltd on 17 March 1999. The statement reads -

> The Managing Director of Clough Limited, Dr Brian Hewitt, said today that the company had been engaged by Pangea Resources Australia to develop a scheduling outline for the Pangea proposal.
>
> "This is a normal preliminary in the decision-making process and does not indicate any intention or commitment," he said.
>
> "Clough does not have a position on the politics of nuclear waste disposal in Australia - that is a matter for government to decide.
>
> "Our job is engineering and construction. From that viewpoint this is an interesting challenge and one for which we are confident the engineering solutions can be found without great difficulty."

That is an indication that all the groundwork is being prepared for the technical preparation of a site in Western Australia, and we are expected to believe that the Government has no knowledge of the proposal other than one meeting at which the Deputy Premier has had with Mr James Voss from Pangea. It is extraordinary. People in companies such as Clough Ltd have strong connections with the Government and are healthy donors to the Liberal and National Parties. Two people stuck up their hands today to promote the idea of a nuclear waste dump in Australia - Senator Lightfoot and Mr Tuckey.

Hon N.F. Moore: Be accurate. What did he say?

Hon GIZ WATSON: I will see whether I can find the quote. I certainly heard Senator Lightfoot on the radio this morning saying clearly that he thought it was a jolly good idea.

Hon N.F. Moore: He may well have, but you mentioned Wilson Tuckey. Be a little bit accurate. You don't have to be, but it helps.

Hon GIZ WATSON: I cannot tell the Leader of the House exactly what Mr Tuckey said. I do not wish to make any further comments. I thank members for their attention.

A New Tax System (Commonwealth-State Financial Arrangements) Bill 1999 - Adjournment Debate

HON JOHN HALDEN (South Metropolitan) [5.03 pm]: During question time this afternoon I asked the Minister for Finance about the Bill entitled A New Tax System (Commonwealth-State Financial Arrangements) Bill 1999. I drew to the minister's attention clause 9, which allows for the relativity factor - that is, the amount of money that the States will receive as a percentage of the goods and services tax to go to each of them - to be determined by the Treasurer, not by the Grants Commission or a Premiers' Conference, but in a process that requires no more than consultation - presumably the federal Treasurer telephoning the state Treasurers and advising them of the outcome of his deliberations. No matter what fears or concerns we may have from our respective sides of politics about the Grants Commission process, it is relatively open - it has transparency. However, I do not think that a Treasurer of either political persuasion would necessarily want the openness or transparency of the Grants Commission when deciding, perhaps on political grounds - I speculate that it would be considerably on political grounds - how the GST will be divided among the States.

I can imagine a situation in which the current Government might not be particularly well disposed towards a new New South Wales Labor Government; it might be disposed towards the Victorian Government. That may suit the Government's political purposes at the moment, but be under no illusion: The situation could change. Be that as it may between the political niceties of the situation, I do not believe that either major political party should allow such a situation to develop in legislation which clearly will not assist the process of openness or the requirements as to how much money the States should get. We are not talking about an insignificant amount of money. The federal Treasurer's own supplementary documents with the Bill suggest that in 2000-01, $27b will be allocated by the Federal Government under the Act - that is, assuming that it becomes an Act. Under the one-tenth rule, that means approximately $2.7b will go to Western Australia. I would have thought that we would want to guard jealously our rightful share and the rightful and due process of how the money is divided up. I would have thought, bearing in mind the Premier's perpetual position on the issue of state's rights, that he would have been a guardian of our interests. The federal Treasurer's second reading speech states -

> The Prime Minister and I met with all premiers, chief ministers and state treasurers last November to discuss these new arrangements. An historic agreement was reached at this Special Premiers Conference, covering principles that will guide the implementation of far-reaching reforms to Commonwealth and state taxation and to federal financial arrangements.

Presumably, in his gusto, the Premier forgot about his eager and much-publicised support of States' rights - I would have thought of all of our rights. I do not believe that it has been an appropriate position for the Premier to take. Before the Minister for Finance says that the transition arrangements guarantee that no State or Territory will be worse off in the first three years, I know that; I understand that -

Hon Max Evans: We have an extension past three years.

Hon JOHN HALDEN: Yes, but if, as the federal Treasurer says, the GST will be the highest growing tax base, anything above what was expected and what is actually raised will be distributed. That then places all that power in the hands of the Treasurer.

There is another interesting aspect. Members might recall that during the election period the Government sold its GST on the basis that nine state taxes would be abolished to support the GST. Interestingly, the legislation contains no reference to that whatsoever. The second reading speech states that the matter will be addressed by intergovernmental agreement. I read the second reading speech with some interest. I refer to page 3539 of yesterday's *Hansard* report of Federal Parliament, which states -

> At the same time, it -

meaning the Bill -

> will allow the states and territories to abolish bank transaction taxes, a number of stamp duties and accommodation taxes.

It will allow them. What will happen if they do not want to do so? We seem to have moved from a central premise. The GST meant that nine state-sourced taxes were out. It was a guarantee, I thought.

Hon Ken Travers: There is also payroll tax.

Hon JOHN HALDEN: There seems to have been a shift by the Federal Government on its position here. I thought that the taxpayers of Western Australia and of this nation were to have fewer taxes. It was guaranteed that they would have nine fewer state taxes. I do not see the guarantee in legislation nor in the words the Treasurer spoke yesterday.

Hon J.A. Scott: They won't do that.

Hon JOHN HALDEN: I do not know. It seems to me that we have a situation in which section 9 allows for gross manipulation of commonwealth-state financial relationships on the whim of the Treasurer of Australia; more than likely, a political whim that will change from time to time depending on the political complexion of State Governments, not something from which we could probably expect to benefit more than on a 50/50 basis.

In the last section is the guarantee about the reduction of state-sourced taxes, seemingly now becoming very wobbly, if existent at all. It would have been incumbent on the State Government to ensure that state revenue was guaranteed by a fair process, even if we do not agree with the outcome, and that the tax base reduction that was guaranteed, through the number of taxes, will occur. That has not occurred by virtue of this legislation. I am sure the Senate - I understand people such as Senator Lightfoot, a knowledgable man about everything; just ask him - will oppose this matter because it will not be in the interests of the States, particularly this one. I hope members opposite will influence their Senators to play their dutiful role in representing the State rather than the political party. They have announced they would do that many times. I look forward to their conservative and fellow Senators crossing the floor so that the State's interests are protected in this vital matter.

Homosexual Anti-discrimination - Adjournment Debate

HON HELEN HODGSON (North Metropolitan) [5.12 pm]: I rise to offer comments on the report of the Standing Committee on Legislation handed down on 10 September on the Acts Amendment (Sexuality Discrimination) Bill introduced by me into the House some time ago.

The PRESIDENT: Order! Is Hon Helen Hodgson referring to Order of the Day No 17 on the Notice Paper in her name?

Hon HELEN HODGSON: It is in my name.

The PRESIDENT: The orders of the day show that at the next sitting, or whenever, we will deal with Legislation Committee report No 45 and the addendum. The rules say members cannot anticipate debate already on the Notice Paper. If Hon Helen Hodgson does not refer to that report and does not anticipate debate on the Bill, but makes some comments on the general matter, she will be in order.

Hon HELEN HODGSON: I will make sure my comments do not go further than the standing orders permit.

I will refer a matter to the Standing Orders Committee because I understand it is in order for the Government to respond to a report of the Legislation Committee; yet the standing orders apparently do not permit private members to make such a response even when the Bill is brought forward by them and stands in their name on the Notice Paper. I was hoping to make a few comments that will assist members at some time in the future, but I understand I must be fairly careful with how far I go. However, I will ensure that members with an interest are able to obtain some comments from me about the issues that I will skirt around very carefully in the next few minutes.

The PRESIDENT: Without my instructing her, Hon Helen Hodgson can urge members to read the report and the Leader of the House to bring it on. She can do all sorts of things.

Hon HELEN HODGSON: In that case I urge members to read the report and to contact me for my comments on some of the issues in the report.

There was a bit of irony in the date that the report was handed down. It was handed down on 10 September which was the fiftieth anniversary of the Universal Declaration of Human Rights. As most members will be aware, a large campaign was held last year to remind people of the situation regarding human rights. A human rights issue exists in this State because of the continued criminalisation of consenting sex by gay adults. The preamble to the Criminal Code and some of the sections contained within it condemn all homosexual people.

There is some disagreement about whether community attitudes have changed significantly enough to warrant the removal of those provisions. I remind members that as long ago as 1989 opinion polling showed support in the community at 74 per cent in favour of removing all discrimination against gay and lesbian people. It is worth noting that community attitudes are framed by legislation and by parliamentary attitudes as much as by changes in the community. We can hardly expect community attitudes to change towards homosexual people while the Parliament continues to treat young gay men as criminals, refuses to protect all gay and lesbian people with anti-discrimination laws and condemns them through anti-gay amendments and preambles.

For as long as state Parliament treats gay and lesbian people as second-class citizens, criminals, and social pariahs with no protection under law from discrimination and harassment, we can hardly expect the general community to go beyond the standards that Parliament sets. The existence of anti-gay laws fosters and encourages anti-gay prejudice, some of which manifests itself in anti-gay violence. Community attitudes will be greatly helped when Parliament takes a lead. Having said, that I remain firmly convinced that community attitudes are already light years ahead of existing legislation.

Some interesting comments were made in the report that members should read, particularly about adoption and IVF and partnership recognition. I refer people to the comments in my second reading speech and matters that I will not address at the appropriate time. I will not address them now either. There are limits to how far we can go with amending some of the discrimination laws in Western Australia at this time.

On 8 December last year Tasmania unanimously repealed all its anti-gay laws and extended anti-discrimination laws to protect gay, lesbian and trans-gender people. Tasmania, which has long been condemned throughout the world as having the worst anti-gay laws in the world and is a reason that federal legislation was introduced to deal with same-sex relationships, is now ahead of Western Australia in two respects: The age of consent is 18 compared with 21 in Western Australia and it has given equal opportunity protection to gay and lesbian people. Those are the two areas that Western Australia should address in gay law reform.

Western Australia must throw off its mantle as the most homophobic and discriminatory anti-gay State in the nation and join all other States and Territories. We must decriminalise consenting sex between adult males. We must protect lesbian, gay and trans-gender citizens with the same laws that apply to every other citizen in the State. These reforms are overdue. Mr President, is it in order for me to table a document that refers to some of these matters?

The PRESIDENT: No; because that would be exactly the same as anticipating debate on the Bill. Hon Helen Hodgson has observed the standing orders.

Hon HELEN HODGSON: Thank you for your assistance, Mr President.

Mitchell Freeway Extension to Hodges Drive - Adjournment Debate

HON KEN TRAVERS (North Metropolitan) [5.20 pm]: I bring to the attention of the House that after the answer I received from the Minister for Transport this afternoon about the extension of the Mitchell Freeway to Hodges Drive, it became clear to me that the Government has a surplus of between $10m and $13m from the money that has been allocated by the Federal Government to extend the Mitchell Freeway, but that it is not willing to give any commitment about how it will spend that money. I refer members to the press release put out by the Premier on 13 November 1996, which states that the Federal Government has provided a $25m grant to extend the Mitchell Freeway north of Hodges Drive. I have asked a number of questions in this House over the years. I asked in question 192 of 15 September 1998 whether the Eddystone Avenue bridge would be included as part of the project to extend the freeway north of Hodges Drive, and I was told that that was not possible. One of the reasons given was that -

> As current project funding is fully committed, it would not be possible to bring forward construction of the bridge without delaying high priority works.

The contract price to extend the freeway north of Hodges Drive is around $12m, according to the answer that I received today. If design and other costs were added to that, which I assume would be in the order of $3m, that would leave a surplus of $10m out of that $25m grant. The people of the northern suburbs want to know how the Government will spend that money. I asked the minister to give a commitment about that matter, and I received the usual answer that we get in this place, which was as follows -

> Any surplus funds from this project would be applied to the Mitchell Freeway and candidate works would include freeway widening, the Eddystone bridge and the extension of the freeway further north.

Hon E.R.J. Dermer: The usual evasion!

Hon KEN TRAVERS: Yes. I thank Hon Ed Dermer, and I am sure he shares the concerns of the people whom we represent in the northern suburbs. It is clear that the Government has received that money, but it will not give a clear commitment about how it will spend it. There is a crying need in the northern suburbs for roadworks, and, more importantly, for the railway extension to be brought forward. I would like the Government, if it could, to use that money to extend that railway to Clarkson and Merriwa, because that is the absolute priority for the public transport system in the northern suburbs. However, if that money must be spent on roads, it could be spent in a number of areas. The Eddystone Avenue bridge is a necessity. Once the freeway is extended north of Hodges Drive, people who are trying to get out of Heathridge to the north will have only the one exit from Caridean Street, and there will be massive traffic jams at the intersection with Hodges Drive. The Eddystone Avenue bridge would relieve this pressure. The minister has said in the past that the modelling shows that will not be a problem. It is already a problem. At around 7.00 am, lines of cars are banked up trying to get out onto Hodges Drive. The freeway extension will increase the traffic on Hodges Drive. I asked today whether the Government was planning to install traffic lights at the intersection of Hodges Drive and Caridean Street as part of the project to extend the Mitchell Freeway to Hodges Drive, and I was told no. There will be a major problem where people who want to travel north will not be able to get out of the suburb of Heathridge. There is also a burning need for the freeway to be extended through to Burns Beach, but an extension to at least Shenton Avenue would be a start. It is interesting that the minister said at the time of his press release that the extension of the

freeway further north would alleviate some of the problems that have been experienced recently on the Wanneroo Road extension. That would be right, so long as the freeway was taken through to Burns Beach Drive. That is another area in which this money could clearly be spent.

Urgent roadworks are needed in the northern suburbs. I do not think anyone in this House would be game to say that is not the case. The Government clearly has a surplus of between $10m and $13m that it could spend on the extension of the Mitchell Freeway, but we cannot get a commitment from the Government about how it will spend that money. I wonder why we cannot get that commitment. How does the Government intend to use that surplus money, which was given to it by the Federal Government, and which it is now not spending? What worries me is that if that money is not spent on extending the Mitchell Freeway north, the feds will say that we cannot have that money. I hope that will not be the case, because there is a crying need for roadworks in that area for that freeway extension. I am flabbergasted that some of those important roadworks that are part of the extension to Hodges Drive are not being done when this Government clearly has the money. If there was the opportunity to transfer that money to extend the railway line to Clarkson and Merriwa, that would be great. If it cannot be transferred, the Government must give the people of the northern suburbs a commitment that the money that was provided by the Federal Government and announced prior to the last state election will be spent on the roads for which it was intended.

Hon E.R.J. Dermer: Perhaps the Minister for Finance could answer that question this afternoon.

Hon KEN TRAVERS: It is a disgrace that we have had to wait this long to get the announcement about the extension of the freeway to Hodges Drive. It is already long overdue, and any delay by the Government to announce how it will spend the remainder of this money on the road system to the northern suburbs will be an even greater disgrace. I urge my colleagues from North Metropolitan Region on the other side of the House to make sure that pressure is put on Cabinet to make that announcement so that this money will be spent where it is desperately and urgently needed.

A New Tax System (Commonwealth-State Financial Arrangements) Bill 1999 - Adjournment Debate

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.26 pm]: I want to take some of the political emotion out of Hon John Halden's comments about the second reading speech on the Federal Government's A New Tax System (Commonwealth-State Financial Arrangements) Bill 1999 in respect of the GST and the abolition of state taxes. There have been a lot of anomalies in Grants Commission funding. A new Grants Commission has now been set up, but up until 1998, in six years the Western Australian Government had its grants reduced by $778m, which has gone to the other States, which is a lot of money to come from royalties, etc. The new GST will compensate for the loss of state taxes, but we will still have a Grants Commission, which will still leave us with a few problems, because the Grants Commission will have a larger cake to deal with to compensate for the taxes that will be removed. The amount of taxes that will be taken away will not be equal in every State. The first problem that will need to be considered by the Grants Commission is the fact that Queensland does not have a financial institutions duty - it would get only about $300m if it had a FID - and that will not be adjusted in the GST payment. Also, Queensland does not levy an extra tax on petrol - it lost out on that - so it is trying to get that balance. The Grants Commission is very rigid and has no room to manoeuvre. At the Premiers Conference, there is a lot of talking but no voting; the money has been determined beforehand. I believe the Federal Treasurer would, if he had a bit of flexibility, have a greater chance of bringing out a better deal than is presently available under the Grants Commission.

Hon E.R.J. Dermer: What will you do to make sure?

Hon MAX EVANS: I am certain the Grants Commission will not give us what we want, with the way it is set up at the moment and the way we are losing from it. We have been given a guarantee that we will be no worse off for three years. That has now been extended to five years, because our mix and match of state taxes is different from that in the other States and we could be worse off in years four and five.

I could not understand why Hon John Halden was worried about having an intergovernmental agreement about state taxes. The Government will have no say at all about which of the nine state taxes will be removed. An intergovernmental agreement will decide whether to remove one, two, seven or nine of those taxes. It may not remove the whole lot the first time. It has been left open. If the GST does not bring in as much revenue as the Federal Government wants, it may need to leave in one or two taxes to get the same amount of money, otherwise every State will be worse off and the money will have to come from elsewhere. That is why it has been left to an intergovernmental agreement to decide what taxes all the States will agree to remove, and they will pass the legislation accordingly. No Federal Government can do that, and Hon John Halden should know that. The question of which taxes will be removed must be negotiated among the parties, based on what they think they will get out of the goods and services tax. We have talked about one big sum. The way I see it, if the Treasurer handles it properly, forgetting about the politics, he will be able to iron out many of the problems in the present system involving the Grants Commission. The Queensland Government was not happy with what it got from the Grants Commission. It lost out on the financial institutions duty and the petrol taxes because they do not apply in that State. It is very hard to balance the system by giving that State an amount of funding which under its present taxing regime it is not getting. We will just have to wait and see what comes

out of this process. Hon John Halden raised this question only yesterday, and members of the Press have been asking the same question of the Premier; they probably got it from him. We must discuss with the Federal Government what are its intentions. This is news to me, and that is why I am unable to give an official answer. The Grant Commission is talking about $778m. Western Australia will lose $90m this year, which will be taken from its income and given to the other States.

Professor Patrick Holt - Adjournment Debate

HON B.M. SCOTT (South Metropolitan) [5.30 pm]: Unfortunately the adjournment debate very quickly dissolves into a criticism of the Government, but I will end this session on a positive note, very quickly and briefly. This week I had the opportunity to attend the TVW Telephone Institute of Child Health Research at Princess Margaret Hospital for Children for the launch of the vaccines trials program which is being piloted by the institute. I want to pay credit to that institute for its ongoing good work in Western Australia. We are very fortunate to have the institute here and for it to be funded by various groups in the community and the Government. The vaccine being trialed is a para-influenza vaccine and will be trialed on children aged between three months to 18 months. The institute is looking for young babies to use in this trial. I congratulate the institute for that trial.

More importantly, I take this opportunity to remind the House that the Institute for Child Health in Western Australia has produced in an award of international significance a winner of the King Faisal International Prize for Medicine (Allergic Diseases) - Professor Patrick Holt. This prize of $US1m is awarded amongst a group of awards in five categories - science, medicine, service to Islam, Islamic studies and Arabic literature. Three winners of this prize have gone on to win the Nobel prize. The awarding off this honour to our very own Professor Holt has gained a large amount of coverage in eastern States newspaper but, unfortunately, that is not the case in Western Australia.

Professor Holt's pioneering studies on the respiratory immune response to inhaled allergens have major implications in understanding asthma. All members will be aware that Perth has a very high incidence of asthma sufferers. We have in our institute a professor who has gained recognition internationally. The experimental work he is undertaking paves the way for the development of vaccines for the prevention of asthma. That must be great news for asthma sufferers, particularly parents of small children and babies who suffer asthma. Professor Holt's research has focussed on asthma as an inflammatory disease. His research on asthma has also included the role of viral infections, fibrosis and genetic predisposition to allergic diseases. As we all know, the institute is headed by Professor Fiona Stanley, who has also gained world recognition. I pay tribute to her for her leadership role of this institute, for putting Western Australia on the map and for continuing to produce scientists of international standing, and now recognition. I congratulate Professor Holt on attaining this award.

Question put and passed.

House adjourned at 5.34 pm

QUESTIONS ON NOTICE

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

MANDURAH HOSPITAL, COUNCIL RATES

969. Hon J.A. COWDELL to the Minister for Finance representing the Minister for Works:

(1) Will the new hospital at Mandurah, which is leased to a private company, attract Council rates?

(2) If not, why not?

Hon MAX EVANS replied:

I am advised that:

(1) No.

(2) It is exempt under the Local Government Act.

CONTRACTS, RFT71798

987. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

With regard to Contract and Management Services ("CAMS") Request for Tender RFT71798 for the provision of a company reporting and appraisal service -

(1) Will the contractor provide a financial appraisal of tendering company directors and shareholders in addition to the tendering companies themselves?

(2) If not, why not?

Hon MAX EVANS replied:

I am advised that:

(1) Yes, the contractor when requested by CAMS provides a Comprehensive Report on the preferred tenderer. The report includes the following:

- Basic company information
- Dynamic Risk Score
- Dynamic Delinquency Score
- Financial ratios on the subject and its industry
- Listing of trade details from selected suppliers
- Collections, court actions and registered charges
- Most recent available financial information
- Current investigation with authorised spokesperson
- Banking information
- History of the subject, registration and shareholding details
- Executives - principal antecedents and any adverse information
- Operational information

(2) Not applicable.

CONTRACTS, TENDERS

988. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

(1) How many companies tendered for Contract and Management Services (CAMS) contracts in-

(a) 1996/97;
(b) 1997/98; and
(c) from July 1, 1998 to December 31, 1998?

(2) On average, how many companies does the Minister for Works expect will be appraised by the contractor each month?

Hon MAX EVANS replied:

I am advised that:

(1) Contract and Management Services' (CAMS) Tenders Management System and Tenders Registration System reports that the following number of tender submissions were received from companies during:

(a) 1996/97 – approximately 4,390

(b) 1997/98 - approximately 6,480

(c) 1/7/1998 – 31/12/1998 - approximately 3,320

(2) I am not clear on the question. What contractor is the member referring to?

CONTRACTS, RFT71798

989. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

With regard to Contract and Management Services ("CAMS") Request for Tender RFT71798 for the provision of a company reporting and appraisal service -

(1) Did the successful tenderer submit the lowest tender price for this contract?

(2) What is the minimum value of a tender for which a tendering company will be financially appraised by the contractor?

(3) Under the contract, what is the cost for a complete report on a company's financial situation for-

(a) 1-10 applications per month;
(b) 11-50 applications per month;
(c) 51-100 applications per month; and
(d) 100+ applications per month?

(4) Are the tendered prices firm over the life of the contract or are they variable?

Hon MAX EVANS replied:

I am advised that:

(1) Yes.

(2) There is no minimum value, a comprehensive report is requested on the preferred tenderer based on the level of risk associated with the tender.

(3) The contract award is based on an estimated monthly usage of 50+ reports at a tendered price of $110.50 per appraisal. (Estimated total contract value of $198,000 over a period of three years)

(4) The tendered prices are firm for the initial contract period (12 months).

CONTRACTS, INTELLECTUAL PROPERTY RELATED SERVICE PROVIDERS

991. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

With regard to the Contract and Management Services (CAMS) register of intellectual property related service providers -

(1) How much was paid to the following providers for the financial year July 1, 1997 to June 30, 1998 -

(a) Access Intellectual Property Services ("AIPS");
(b) Automated Office Technology Pty Ltd t/a AOT Consulting;
(c) Clayton Utz;
(d) Corrs Chambers Wesgarth;
(e) Deacons Graham and James;
(f) First Corporate Pty Ltd;
(g) Gilbert and Tobin;
(h) Griffith Hack;
(i) Harper Holdings Pty Ltd t/a Focused Management;
(j) Ian Tait;
(k) Jackson McDonald;
(l) Lord and Company;

(m) Market Equity Pty Ltd;
(n) Minter Ellison;
(o) Price Waterhouse;
(p) Silks Technology;
(q) Solomon Brothers;
(r) Technology and Innovation Management Pty Ltd;
(s) Watermark Patent and Trademark Attorneys;
(t) William Buck, Chartered Accountants & Business Strategists; and
(u) Wray and Associates?

(2) How much was paid to each provider for the period July 1, 1998 to December 30, 1998?

Hon MAX EVANS replied:

I am advised that:

(1)-(2) This information is not maintained by CAMS as:

The CAMS website states:

> This register is not in any way associated with any other contracting initiatives and is intended solely as reference guide to intellectual property related service providers. CAMS does not accept any responsibility for the information provided. Any public authority seeking to obtain intellectual property related services from an organisation listed in the register would still be required to comply with State Supply Commission procurement processes before accessing those services.

CONTRACTS, EOI130297

992. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

With regard to the Contract and Management Services (CAMS) Expression of Interest EOI130297 for inclusion on a register of intellectual property related service providers -

(1) How many companies submitted an expression of interest?

(2) How many companies were appointed to the register?

(3) On what date was the register established?

(4) What credentials were required for appointment to the register?

Hon MAX EVANS replied:

I am advised that:

(1) Twenty.

(2) Seventeen.

(3) February 1998.

(4) Acceptance to be added to the register is managed by the Department for Commerce and Trade.

SCHOOLS, EATON

999. Hon BOB THOMAS to the Minister for Finance representing the Minister for Works:

With regard to the proposed construction of the Eaton Primary and Eaton Secondary Schools -

(1) Have any architectural drawings or specifications been tendered out for the proposed schools?

(2) If yes, who was the successful tenderer?

(3) What is the configuration of each school in terms of age of attendance?

Hon MAX EVANS replied:

I am advised that:

(1) No.

(2) Not applicable.

(3) Unknown at this stage.

GOVERNMENT CONTRACT, ESPERANCE SENIOR HIGH SCHOOL

1052. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Jaxon Construction Pty Ltd for Esperance Senior High School alterations and additions valued at $1 361 427 -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No, as formal risk management as a policy was not in place at the commencement of this project.

(2)-(3) Not applicable.

(4) Yes. Risk monitoring is being applied to the normal contract process.

(5) Not applicable.

(6) Ongoing monitoring of the contract is applied through contract administration and site inspections.

(7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, MT BARKER SENIOR HIGH SCHOOL

1055. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to M & J Wauters Nominees Pty Ltd for Mt Barker Senior High School alterations and additions valued at $2 252 600 -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No, as formal risk management as a policy was not in place at the commencement of this project.

(2)-(3) Not applicable.

(4) Yes. Risk monitoring is being applied to the normal contract process.

(5) Not applicable.

(6) Ongoing monitoring of the contract is applied through contract administration and site inspections.

(7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, BALLAJURA COMMUNITY COLLEGE

1056. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department of WA contract awarded to Pindan Constructions for Ballajura Community College Stage 3A - Middle School valued at $1 924 700 -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No, as formal risk management as a policy was not in place at the commencement of this project.

(2)-(3) Not applicable.

(4) Yes. Risk monitoring is being applied to the normal contract process.

(5) Not applicable.

(6) Ongoing monitoring of the contract is applied through contract administration and site inspections.

(7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, CLOVERDALE PRIMARY SCHOOL

1058. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Universal Construction Pty Ltd for Cloverdale Primary School demolition of existing school and construction of new school valued at $3 450 000 -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No, as formal risk management as a policy was not in place at the commencement of this project.

(2)-(3) Not applicable.

(4) Yes. Risk monitoring is being applied to the normal contract process.

(5) Not applicable.

(6) Ongoing monitoring of the contract is applied through contract administration and site inspections.

(7) Yes, as requested relating to specific issues.

GOVERNMENT EMPLOYEES HOUSING AUTHORITY, NINGALOO AREA

1076. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

(1) In reference to the following Ningaloo population centres -

(a) Meekatharra;
(b) Cue;
(c) Mt Magnet;
(d) Sandstone;
(e) Yalgoo;
(f) Mt James/Burringurrah;
(g) Onslow;
(h) Exmouth;
(i) Carnarvon;
(j) Shark Bay/Denham;
(k) Gascoyne Junction;
(l) Useless Loop;
(m) Newman; and
(n) any other Murchison, Gascoyne or Ningaloo population centres,

what number of Government employee houses are currently located in each centre?

(2) What number of Government employee houses have been provided in each of the last six State budgets in each of the above centres?

(3) How many additional GEHA houses are being provided in each of these centres during the current financial year?

(4) How many additional GEHA houses are to be provided in each of these centres during the 1999/2000 financial year?

Hon MAX EVANS replied:

The Minister for Housing has provided the following response:

(1) The following list includes all centres listed in (a) to (m) and includes other centres within the Murchison, Gascoyne or Ningaloo population centres as requested in (n).

Binnu	2
Carnarvon	127
Cue	7
Denham	13
Exmouth	38
Gascoyne Junction	1
Jigalong	6
Kalbarri	8
Kiwirrkurra	3
Marble Bar	13
Meekatharra	50
Mt James/Burringurrah	nil
Mt Magnet	18
Newman	81
Northampton	8
Nullagine	7
Onslow	20

Pannawonica	1
Paraburdoo	20
Sandstone	1
Tom Price	48
Useless Loop	1
Yalgoo	5
Yandeyarra	4

(2) The following list includes all centres listed in (a) to (m) and includes other centres within the Murchison, Gascoyne or Ningaloo population centres as requested in (n).

Town	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
Binnu	2	2	2	2	2	2
Carnarvon	116	114	115	121	121	127
Cue	6	6	6	8	7	7
Denham	9	9	10	10	10	13
Exmouth	34	34	34	40	43	38
Gascoyne Jctn	3	3	2	1	1	1
Jigalong	5	5	5	6	6	6
Kalbarri	8	8	8	8	8	8
Kiwirrkurra	2	2	3	3	3	3
Marble Bar	12	11	13	11	12	13
Meekatharra	39	41	46	49	50	50
Mt James/Burringurrah	0	0	0	0	0	0
Mt Magnet	18	19	19	19	18	18
Newman	79	1	79	79	79	81
Northampton	9	97	8	8	8	8
Nullagine	5	6	7	6	6	7
Onslow	15	13	15	18	19	20
Pannawonica	3	3	3	2	1	1
Paraburdoo	20	20	20	20	20	20
Sandstone	1	1	1	1	1	1
Tom Price	48	48	48	47	48	48
Useless Loop	1	1	1	1	1	
Yalgoo	4	4	5	5	4	5
Yandeyarra	3	3	4	4	4	4

HOMESWEST, AIRCONDITIONING CONTRACT IN KALGOORLIE

1135. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

Further to the answer given to question without notice 603 asked in the Legislative Assembly in relation to Homeswest's contract with five contractors in Kalgoorlie worth approximately $1.085m for Government Employees Housing Authority housing airconditioning program, can the Minister for Housing advise -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

The housing airconditioning project was managed on behalf of the Government Employees' Housing Authority by Contract and Management Services who engaged a Project Manager, engineers and contractors to arrange the works.

(1) No formal risk management plan was prepared for this project. An informal process was adopted. This project commenced in April 1997 prior to the implementation of Contract and Management Risk Management Policy.

(2) Low risk.

(3) No, a formal risk management plan was not prepared.

(4) Yes, via the Project Manager.

(5) No formal record of the risk monitoring was prepared.

(6) Yes, by the Project Manager.

(7) No formal record of the contract evaluation was prepared.

GOVERNMENT CONTRACTS, NOTEBOOK COMPUTERS

1152. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 1121 in relation to the Contract and Management Services contract worth approximately $2m per annum for provision of portable notebook computers, can the Minister for Works advise -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No. The CAMS Risk Management Policy was not operational when the contract for the provision of portable notebook computers was awarded. However, risk management is being applied to the contract management.

(2)-(3) Not applicable.

(4) Risk monitoring is being applied to the contract management.

(5) Yes. As requested on specific issues.

(6) Yes. The performance of this contract is being evaluated through formal monitoring and reporting under the terms and conditions of this common use contract.

(7) Yes. As requested on specific issues.

GOVERNMENT CONTRACTS, PERSONAL COMPUTERS

1154. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 1121 in relation to the Contract and Management Services contract worth approximately $10m per annum for provision of personal computers through purchases or lease agreements, can the Minister for Works advise -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Minister table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

(1) No. The CAMS *Risk Management Policy* was not operational when the contract for the provision of personal computers through purchases or lease agreements was awarded. However, risk management is being applied to the contract management.

(2)-(3) Not applicable.

(4) Risk monitoring is being applied to the contract management.

(5) Yes. As requested on specific issues.

(6) Yes. The performance of this contract is being evaluated through formal monitoring and reporting under the terms and conditions of this common use contract.

(7) Yes. As requested on specific issues.

LIBRARY AND INFORMATION SERVICE OF WESTERN AUSTRALIA, CROSS-GOVERNMENT IMPROVEMENTS IN EFFICIENCIES

1226. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

(1) What cross-Government improvements in efficiencies have been achieved by WALIS?

(2) What further potential is there for cross-Government improvement in efficiency by using WALIS?

(3) What efforts are being made by senior management of agencies to realise these efficiencies?

Hon MAX EVANS replied:

(1) A 1988 report identified $18m benefits, primarily from improved land tax collection and avoidance of data capture duplication. A similar 1990 report identified a further $4.8 m pa in benefits in improving government efficiencies. A 1995 study estimated a benefit/cost ratio of 2:1 because agencies were cooperating in the management and sharing of their information. There have been improvements in Government efficiency due to the reduction in the duplication of data capture, allocation of accountability for different datasets to specific agencies and increased interagency co-operation in joint projects. This has improved data quality, data management and led to the development of data transfer policies that encourage use. The WALIS data directory product Interragator allows all users to quickly identify available data. Examples are:

- Electronic Advice of Sale between DOLA State Revenue and Water Corporation
- Establishment of a maintained Property Street Address Dataset by DOLA with the financial support of many WALIS agencies.
- Production of the Blackwood Catchment Atlas for Integrated Catchment Management by AgWA with support from DOLA, DME, WRC, CALM
- Salinity Action Plan between DOLA, AgWA, CALM and WRC.
- Coordinated data capture program between all WALIS agencies to quickly and efficiently meet their information needs.
- Development of the data directory product Interragator by the WALIS Office with the support of all WALIS agencies. This CD has been distributed widely in WA
- Production of satellite mosaics over most of WA for land use management by DOLA with the support of many WALIS agencies.

(2) Further efficiencies will be achieved through the:

- development of a data gateway on the WALIS Website to provide all users with access to land information,
- production of simple customised maps on the WALIS Website,
- allocation of a street address to all rural properties, and
- production of a single statewide road centreline dataset.

(3) WALIS agencies all sign a Memorandum of Understanding to clearly define roles and responsibilities for

advancing the objectives of WALIS. Senior management further supports WALIS through the development of enabling policies and business plans.

LIBRARY AND INFORMATION SERVICE OF WESTERN AUSTRALIA, MEMBERS' ON-LINE ACCESS

1227. Hon MARK NEVILL to the Minister for Finance representing the Minister for Lands:

(1) Which of the 25 State Government agencies which are members of WALIS have on line access?

(2) Which of the 25 State Government agencies which are members of WALIS do not have on line access?

(3) What are the impediments to gaining access by those listed in (1) and (2) above?

Hon MAX EVANS replied:

WALIS is a consortium of WA State Government agencies and local authorities working together to share and integrate their land information for the management and development of the State. WALIS is not a single database, but comprises standards, policies and cooperative arrangements to support this integration and sharing. Some agencies are data producers and users whilst others are only data users.

(1) 16 agencies are directly on-line to the WALIS Office servers for data management and sharing. Aboriginal Affairs, Fire and Emergency Services, CALM, Agriculture WA, Environmental Protection, Minerals and Energy, Land Administration, AlintaGas, Planning, Main Roads, Transport, Valuer Generals, Electoral Commission, Water Corporation, Western Power, Water and Rivers Commission. All WALIS agencies have an Internet website as well with some ability to provide information to users.

(2) Those agencies who are not directly on-line to the WALIS Office:(Commerce and Trade, Museum, Police, CAMS, DRD, Health, Kings Park Board, Fisheries and State Revenue) have Internet access for users via their websites.

(3) The principal impediment is the telecommunications cost. The Office of Information and Communications is addressing this with the Government's telecommunications strategy.

LAND, ILLEGAL CLEARING

1376. Hon CHRISTINE SHARP to the to the Minister for Transport representing the Minister for Primary Industry:

Following my question on illegal clearing I ask -

(1) How many cases in total have been inspected or are undergoing investigation?

(2) How many hectares of illegal clearing is involved in the total of these cases?

(3) Have any prosecutions occurred?

(4) If not, why not?

Hon M.J. CRIDDLE replied:

(1) Since February 1998, sixty (60) land clearing complaints have been inspected and/ or under investigation or assessment.

(2) The estimated areas involved in 2534 ha.

(3) Yes.

(4) Not applicable.

QUESTIONS WITHOUT NOTICE

WESTERN POWER, OUTSOURCING OF FUNCTIONS

1033. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

I refer to the recently proposed new staffing levels for Western Power and ask -

(1) Does Western Power intend to outsource its water management, local handling and plant maintenance functions?

(2) If yes, what effect will this have on staffing levels within Western Power?

(3) What is the estimated annual cost of having these functions provided by a service provider?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Western Power is continually reviewing its operations to improve performance and reduce costs as part of best practice initiatives. No work has been done on water management, local handling and plant maintenance at this stage.

(2)-(3) Not applicable.

EDUCATION DEPARTMENT, PERSONNEL 2000 REVIEW REPORT

1034. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

Concerns have been expressed about the Education Department's payroll system. Will the minister table the independent review of the P2000 project conducted by Auburna Consultants? If not, why not??

Hon N.F. MOORE replied:

I thank the member for some notice of this question and I seek leave to table the Personnel 2000 Review Report.

Leave granted. [See paper No 912.]

PANGEA RESOURCES AUSTRALIA, NUCLEAR WASTE STORAGE

1035. Hon N.D. GRIFFITHS to the Minister for Mines:

What involvement has the minister or his department had in the Pangea Resources Australia proposal to store nuclear waste in Western Australia?

Hon N.F. MOORE replied:

Personally I have not had any involvement at all. To my knowledge nobody in the department has talked to anybody about it.

PORT KENNEDY RESORTS

1036. Hon J.A. SCOTT to the Leader of the House representing the Minister for Planning:

(1) Has the minister been informed about the financial problems Port Kennedy Resorts is having funding its project?

(2) If yes, what are the details of the financial problems?

(3) What impact will this have on the resort?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(3) The developers of the Port Kennedy Resort have advised the Minister for Planning that they are in the process of restructuring the financial arrangements for delivery of the project to meet the expectations of the Port Kennedy Development Agreement Act.

TOURISM DEVELOPMENT FUND, FUNDING

1037. Hon NORM KELLY to the Minister for Tourism:

I asked this question on Tuesday and the minister asked me to repeat it.

(1) How much money has been allocated to fund the tourism development fund for -

(a) 1998-99; and

(b) 1999-00?

(2) How much money has been granted from the tourism development fund this financial year?

(3) How much government money has been spent in the 1998-99 financial year for the Heineken Golf event and the World Rally Championship?

(4) How much government money has been allocated in the 1999-00 financial year for these two events?

(5) Will the minister table the details of how the claimed economic benefits for the Heineken Classic of $7.1m and Rally Australia of $21.2m were calculated?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) (a) The Western Australian Tourism Commission allocated $1m for 1998-99 in its approved current financial year budget;

(b) The Western Australian Tourism Commission 1999-00 budget is still to be finalised.

(2) The amount allocated from the tourism development fund for this financial year is $1 126 772. The additional $126 772 is a result of carryovers from 1997-98.

(3) The Heineken Classic was allocated $500 000 and Rally Australia was allocated $2 001 231. That is the year-to-date figure expended from a budget of $2.452m.

(4) The Western Australian Tourism Commission 1999-00 budget is still to be finalised.

(5) The economic impact research for the Heineken Classic and Rally Australia was conducted by independent research companies David Hides Research and Right Marketing respectively. The full reports can be obtained from EventsCorp and I seek leave to table the executive summaries of these reports.

Leave granted. [See paper No 913.]

RAIL SALE TASK FORCE, RECOMMENDATIONS

1038. Hon W.N. STRETCH to the Minister for Transport:

Can the minister advise if the rail sale task force has reported back to him and provided its recommendations on the sale of Westrail's freight business?

Hon M.J. CRIDDLE replied:

I advise the House that the State Government has accepted the task force's recommendations, thereby continuing the reform of land transport in Western Australia. The major recommendations are -

The land corridor and the railway track will be leased for 20 years with a 15 and 14 year renewal option.

The freight business will be offered as a trade sale.

Compliance by the new owner with the access regime and the rail safety legislation.

The new operator will be required to retain the grain network identified by the grain logistics plan until 2005.

The new operator will be required to complete the five-year $126m upgrade of the grain network.

The new operator will be required to undertake the $32m re-sleepering program on the Kalgoorlie-Esperance line subject to Koolyanobbing Iron continuing to export from Esperance.

The State Government is looking for a strong private rail operator to continue the reform process begun by Westrail and to deliver a world-class competitive freight service to Western Australia. It expects the operator to maintain downward pressure on freight rates, improve the service and invest in the rolling stock. Westrail's freight business staff will be offered the opportunity to transfer to the new owner. The task force is currently considering the best and fairest way to achieve that.

The Commissioner of Westrail and the chairperson of the task force have been asked to give an address to a major conference of rail owners, including class 1 operators, in Dallas next week. They have been asked to discuss the subject "Railroad industry privatisation: What is on the horizon down under - the Westrail sale." I take this opportunity to table a document which will be distributed at that conference and my press release to enable members to gain a full appreciation of the issue. The sale will require legislation to come before the Parliament and I look forward to a healthy and vigorous debate.

I seek leave to table the document and media statement.

Leave granted. [See paper No 911.]

WESTERN POWER, GENERAL DIVISION STAFF

1039. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Energy:

(1) Has the minister received advice from Western Power stating that reductions to general division staff will not leave it unable to sustain its power station operations or asset management functions?

(2) If yes, who within Western Power provided that advice and what was the thrust of that advice?

(3) Will the minister table that advice? If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes. Asset management is based on improving performance, the more effective use of resources and a reduction in costs.

(2) The Managing Director of Western Power, Mr D. Eiszele, provided the advice.

(3) No. Direct verbal advice was provided.

MANDURAH RED CROSS

1040. Hon J.A. COWDELL to the minister representing the Minister for Health:

(1) What funds were provided to Mandurah Red Cross in each of the 1996-97, 1997-98 and 1998-99 financial years?

(2) What component of these funds, if any, was provided as special assistance to Red Cross transport following the exclusion of Mandurah residents from the patient assisted travel scheme in 1995, for each of the financial years in question?

(3) Will the Government provide a further top-up grant to maintain the Mandurah Red Cross transport service in this financial year?

(4) Does the Government anticipate a reduction in grants to this service next financial year in view of the increasing availability of medical services locally?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) In 1996-97, $51 500 was provided; in 1997-98, $51 500; and in 1998-99, $71 600.

(2) All funds are provided as special assistance for the Mandurah Red Cross transport service following the exclusion of Mandurah residents from the patient assisted travel scheme in 1995.

(3) On 10 March 1999 the Health Department of Western Australia provided an additional $30 000 to the Mandurah Red Cross. The total allocation for 1998-99 is now $71 600, an increase of $20 000 from previous years.

(4) The Health Department is currently establishing a working party with all key stakeholders in the Peel region to review the availability of transport services and determine the future needs of the Peel region. The outcome of the working party will inform the department of the future purchasing requirements for transport services in the Peel region. The commissioning of the $38m Peel Health Campus represents a significant commitment and investment in the health services in the Peel region. The replacement of the old 30-bed Mandurah hospital with a hospital with 110 public beds and 20 private beds offers an increased range of services, including rehabilitation, renal dialysis and increased surgery.

COMMONWEALTH-STATE FINANCIAL AGREEMENT BILL 1999

1041. Hon JOHN HALDEN to the Minister for Finance:

(1) Will the minister confirm that the new tax scheme set out in clause 9 of the Commonwealth-State Financial Agreement Bill 1999, read for the second time in the Federal Parliament yesterday, states that the relativity factor as to how much money the States will receive from the Commonwealth will not be determined by either the Grants Commission or the Premiers Conference, but by the federal Treasurer?

(2) Will the minister further confirm that the Bill does not abolish the nine state-based taxes that were supposed

to be removed as a condition of a goods and services tax, but leaves this matter to be resolved by an intergovernmental agreement, if one can be finalised?

(3) Does the minister support these changes to commonwealth-state financial arrangements?

Hon MAX EVANS replied:

(1)-(3) I ask the member to put that short question on notice.

WATER AND RIVERS COMMISSION, LOGGING

1042. Hon CHRISTINE SHARP to the minister representing the Minister for Water Resources:

(1) Does the Water and Rivers Commission intend to allow logging on any land vested in it?

(2) Will land clearing for the Potters Gorge development come under the same guidelines as for private land owners in regard to salinity control in the Wellington catchment?

Hon MAX EVANS replied:

(1)-(2) Yes.

POWER STATIONS, ENERGY OUTPUT

1043. Hon HELEN HODGSON to the Leader of the House representing the Minister for Energy:

(1) What is the total energy output that can currently be attained through, firstly, Kwinana power station; secondly, Muja power station; thirdly, Bunbury power station; and, finally, the gas turbines?

(2) What total energy output will be attained from the Kwinana and Bunbury power stations and the gas turbines once Collie power station is on line, Muja power station is closed and the proposed reductions to the output at the Kwinana and Bunbury power stations are implemented?

Hon N.F. MOORE replied:

(1)-(3) I do not seem to have a copy of the question or the answer. I do not know why it has gone astray. I have another question and answer relating to AlintaGas, but not that one.

GERALDTON PORT AUTHORITY, TENDER ASSISTANCE

1044. Hon KIM CHANCE to the Minister for Transport:

I refer the minister to his answer to my question without notice 955 dated 16 March 1999.

(1) Has the minister been able to familiarise himself with the facts of the matter put to him in that question dealing with assistance provided to a prospective tenderer by officers of the Geraldton Port Authority?

(2) If so, does he accept that this assistance has compromised the tender process?

(3) If so, what action will he take to review the probity of the tender process used by the Geraldton Port Authority?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) As the member will be aware, this matter is sub judice; however, I am advised that in his testimony on 15 March 1999 during the Federal Court proceedings - No WAG 101 of 1998, Maritime Union of Australia and Others v Geraldton Port Authority and Others - Mr Brown stated that he sought the assistance of officers from the Geraldton Port Authority with the preparation of a workplace agreement. It is important to note that, at that time, Mr Brown's company had already been conferred the status of preferred tenderer and, as such, discussions of this nature are considered normal.

(2) No.

(3) Not applicable.

ORACLE FINANCIALS VERSION 10.7

1045. Hon E.R.J. DERMER to the minister representing the Minister for Health:

(1) Will the Minister for Health confirm that the Oracle Financials Version 10.7 financials and supply system has now been implemented for Princess Margaret Hospital for Children and King Edward Memorial Hospital?

(2) How much government money was spent on the implementation of this system for these two hospitals?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I also thank him for asking the series of questions relating to this system because it has updated my knowledge. I have found it interesting and most valuable.

(1) The Oracle financials version 10.7 financials and supply system has been implemented for Princess Margaret and King Edward hospitals.

(2) The Government has allocated $908 800, which includes all direct and indirect costs associated with this implementation.

INSURANCE COMMISSION OF WA, LOSS

1046. Hon MARK NEVILL to the Minister for Finance:

(1) Does the minister take credit for the operating loss of the Insurance Commission of Western Australia of $140m for the last financial year?

(2) How did our wonderful Minister for Finance oversee such a poor performance?

(3) What increases in third party insurance premiums can be expected this financial year as a resulting of the operating loss?

The PRESIDENT: Order! The member has been here long enough to know that some of that question - I refer to the word "wonderful" - could invoke argument and debate.

Several members interjected.

The PRESIDENT: Order! Members are making light of a serious matter. If that word is allowed, all members will be entitled to preface their questions by all sorts of spurious comment. As Hon Mark Nevill has been here for a very long time, I will overlook it.

Hon MAX EVANS replied:

(1)-(3) When running any insurance business we must look at the projected number of claims that will come up in the future and what they will cost; for example, it might be 10 000 claims a year. The actuaries work out this figure based on the rates of pay and hospital costs. With the rapid increase in the number of workplace agreements and enterprise bargaining agreements, the take-home pay of employees has gone up quite considerably. The actuaries must use this information to arrive at their projections. Let us consider professional liability. All actuaries want to make certain they are safe from being caught with the wrong figure, so to that extent the figure might be conservative. When this Government came into office, a new actuary was appointed who came up with a very conservative figure of about $200m. It is a paper figure where we debit expenses and credit provisions. No cash factor is involved. With the way it is going, we do not expect the level to reduce. We are waiting for the figures to level out. Members will no doubt remember the 1987 share crash. In that instance, the auditors of the Insurance Commission agreed to write off investment losses over time because they were only paper losses.

The member will also recall that the Labor Government bought shares in SGIO, but the paper value of the shares had reduced by $25m when the result was recorded. That came off the profit. We do not worry about it. The actuaries work on that basis. It is the same as the problem with workers compensation and the superannuation claims. Actuaries work out that the rate of pay will increase at a similar rate to that of the last three years. I do not anticipate a serious problem this year.

CYCLONE DAMAGE, ASSISTANCE TO VICTIMS

1047. Hon GREG SMITH to the Leader of the House:

Have the Prime Minister and Premier reached an agreement on the assistance to be provided to the cyclone victims of Western Australia?

Hon N.F. MOORE replied:

I thank the member for his important question. I am pleased to learn that the Prime Minister and the Premier have reached a decision on a package to assist the victims of Cyclones Elaine and Vance. This package is on top of the existing natural disaster relief arrangements between the Commonwealth and the State. The package comprises the arrangement of a $10m Cyclones Elaine and Vance trust fund, with $5m from the Commonwealth and $5m from the State. This will be used to assist in the reconstruction of community facilities, the provision of temporary

accommodation for homeless residents, business recovery and the restoration of essential services. The Federal Government will also provide ex gratia payments to people whose homes were destroyed or suffered major damage from Cyclone Vance. This will apply to permanent residents of Onslow, Exmouth and pastoral properties. The payments will comprise $1 000 for adults and $200 for each child.

The package is designed to provide some immediate relief and to indicate to people in those three towns that funds will be available to assist their recovery. Yesterday I had the opportunity to visit Exmouth and Onslow, and the devastation at Exmouth needs to be seen to be believed. Something like 114 houses were totally destroyed, 320 were extensively damaged and 500 suffered minor damage. As serious as anything is the breakdown of the power and water systems, which need to be restored as quickly as possible. I understand that the water is coming on stream more quickly than the power. The interior of the power station was under water, and it is impossible to get the generators working again.

I am pleased that the two Governments have reached an agreement on the provision of finance. Recovery will be a long and labourious task, particularly in Exmouth; I have not been to Moora to see the damage. It is regrettable that the devastation has occurred when Exmouth's main industry of tourism was poised to move into its busiest part of the year. It is important to restore accommodation and put the tourism industry back on its feet as quickly as possible.

GREAT EASTERN HIGHWAY, TRIPLE ROAD TRAINS

1048. Hon TOM STEPHENS to the Minister for Transport:

(1) Have any discussions taken place concerning the introduction of triple road trains on the rural sectors of Great Eastern Highway?

(2) Have any new breakup points or assembly areas been considered for these vehicles on the rural sectors of Great Eastern Highway?

(3) If yes to (1) and (2), which breakup points or assembly areas are being considered?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) No.

(3) Not applicable.

GOVERNMENT CREDIT CARDS, ANSWERS TO QUESTIONS ON NOTICE

1049. Hon KEN TRAVERS to the Minister for Mines:

(1) Why does the minister refuse to answer questions on notice 1508 and 1514 relating to expenditure on government credit cards in his office when 11 of his cabinet colleagues were able to answer an identical question?

(2) Is this because the minister operates under a lower standard of accountability?

The PRESIDENT: Forget all the superfluous comment; it seems to be a question as to when the minister will answer a question on notice.

Hon N.F. MOORE replied:

(1)-(2) I do not carry in my head answers to questions on notice 1508 and 1514, although I know I should do so to keep the member satisfied!

Hon Ken Travers: You answered it; you said that you would not answer the question.

Hon N.F. MOORE: I read in the paper today how many credit cards I have in my office. Someone in the media knows; if I did not tell them, I do not know who did.

The Ministry of the Premier and Cabinet made recommendations to ministerial offices about the use of credit cards. It believes that credit cards are a more efficient way to operate than using purchase orders and other means of acquiring goods and services.

Hon Max Evans: It is the best way to go.

Hon N.F. MOORE: I have received that advice. I have five or six credit cards, which does not mean I have a poorer standard of accountability than anyone else - I simply use them for different purposes. My officers are highly responsible people who never spend one cent more than is absolutely necessary.

RESPITE CARE

1050. Hon CHERYL DAVENPORT to the Minister representing the Minister for Health:

In relation to frail aged people and people with disabilities accessing respite care, I ask -

(1) Is it government policy that respite care can only be provided as a public service if the respite is taken in nursing homes?

(2) If so, on what basis has such a policy been made to use institutions, many of which are now viewed, particularly by the frail aged, to be inhumane?

(3) If no to (1), what other options are available?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No. Respite care can be provided in a nursing home, within a person's home and also at centre-based respite in community facilities. To access nursing home respite, an aged care assessment team would normally assess a person. The commonwealth Department for Health and Family Services, aged and community care division, governs requirements for the service, and the service is generally limited to 63 days of respite per client per financial year. Community-based respite is provided through the home and community care program to both the frail aged and people with disabilities, either in the person's home on an individual basis or at a community centre in a group setting.

(2) Not applicable.

(3) The available options include residential care facility-based respite, in-home respite and centre-based respite.

VALUATION COMPLAINTS, POOLED MORTGAGE INVESTMENTS

1051. Hon N.D. GRIFFITHS to the minister representing the Minister for Fair Trading:

The 1997-98 annual report of the Land Valuers Licensing Board refers to three complaints dealt with in that year.

(1) Which of those complaints related to valuations given for the purposes of pooled mortgage investments?

(2) Why was no further action taken in respect of the complaint lodged in 1996-97?

(3) Why was the complaint lodged in 1997-98 dismissed?

(4) In respect of the complaint lodged in 1996-97 still under way in June 1998, why has that investigation taken so long to complete?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) One complaint related to valuations involving pooled mortgage investments.

(2) The complaint which related to an eastern States licensed valuer who conducted a valuation in Western Australia without registering under the Mutual Recognition (Western Australia) Act was not proceeded with. The board did not proceed with the matter because the complainant did not wish to proceed, and when the matter was drawn to the person's attention by the board, that person applied for and was granted a licence.

(3) The complaint which was dismissed related to a matter which occurred 10 years previous to the complaint, and the board declined to act on this matter given the effluxion of time.

(4) The investigation is complex involving a number of matters. Additional matters relating to the valuer were subsequently referred to the board and all matters are being dealt with together. The board's capacity to obtain information is limited by the fact that it cannot require persons to provide information or documents that might incriminate that person. Additional resources have been provided to the board by the Ministry of Fair Trading to assist the board to bring the matter to a conclusion.

LANE BLOCK, CALM EMPLOYEES' ACTIONS

1052. Hon NORM KELLY to the minister representing the Minister for the Environment:

I refer to question on notice 620 asked on 17 November 1998 about improper actions of CALM employees.

(1) Will the minister explain when answers to these questions will be available?

(2) If answers are now available, will the minister table them?

(3) If answers are not currently available, will the minister explain the reasons for this lengthy delay?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(3) I refer the member to *Hansard,* page 5589 of 23 December 1998.

MITCHELL FREEWAY EXTENSION

1053. Hon TOM STEPHENS to the Minister for Transport:

I refer to the minister's recent announcement that a contract for $15.83m has been awarded to extend the Mitchell Freeway to Hodges Drive and to widen it between Karrinyup Road and Hepburn Avenue.

(1) How much of the money for this contract is being provided by -

(a) the Federal Government; and

(b) the State Government's Transform WA program?

(2) Is it intended to install traffic lights at the intersection of Hodges Drive and Caridean Street as a part of this project?

(3) When does the Government intend to -

(a) construct the Eddystone Avenue bridge; and

(b) extend the freeway beyond Hodges Drive?

(4) What does the Government intend to do with the remainder of the $25m that the Federal Government committed to the extension of the Mitchell Freeway in 1996?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The contract value was $16m.

(a) $12m for the extension of the Mitchell Freeway to Hodges Drive under the Federal Government's Road of National Importance Scheme.

(b) $4m for widening the State Government's Transform WA Program.

(2) No.

(3)-(4) Any surplus funds would be applied to the Mitchell Freeway and candidate works would include freeway widening, the Eddystone Bridge and the extension of the freeway further north.

ASSOCIATIONS INCORPORATION ACT

1054. Hon HELEN HODGSON to the minister representing the Minister for Fair Trading:

I refer to the discussion paper released by the minister in May 1998 on the Associations Incorporation Act.

(1) How many submissions were received in response to this discussion paper?

(2) Has the discussion paper been reviewed in light of the submissions?

(3) Will the minister release a response to these submissions?

(4) Will amendments be made to the Associations Incorporation Act in light of these submissions?

(5) If yes to (4), when will the drafting of the amendments be completed?

(6) If yes to (4), when will the Bill be introduced to Parliament?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Fifty-four.

(2) The discussion paper is currently under review.

(3) Yes. It is proposed to release an amended discussion paper which includes these submissions.

(4) Any changes will depend on the outcome of the review.

(5)-(6) Priorities for drafting and introduction will be determined after the review has been completed and any recommendations considered by the Government.

I too will be interested to see the recommendations.

HON M.J. CRIDDLE: I have an answer to a question that was to be asked by Hon Bob Thomas. I seek leave of the House to table the document.

Leave granted. [See paper No 914.]