Legislative Council

Tuesday, 20 June 1995

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

PETITION - YAKAMIA PRIMARY SCHOOL, ALBANY

Hon Bob Thomas presented a petition signed by 135 residents of Western Australia requesting the Government to take urgent action to rectify all problems existing at Yakamia Primary School in Albany.

[See paper No 412.]

PETITION - AGRICULTURAL PRACTICES LEGISLATION, REVIEW

The following petition bearing the signatures of three persons was presented by Hon Bob Thomas -

> We the undersigned citizens of Western Australia respectfully request that the Legislative Council reviews the laws relating to agricultural practices in order to ensure modern farming techniques are properly controlled and do not have a detrimental effect on neighbouring properties and roadways.
>
> We specifically refer Parliament to an example where chemical spray drift from an intensive horticultural enterprise in the Manjimup district is damaging the pasture of an adjacent grazing property thereby reducing that neighbour's income.
>
> A further example is where prescribed weeds, such as doublegees and wild radish, are being introduced to neighbouring properties through water wash from infested adjacent lands.
>
> The undersigned believe Parliament should take into account the potential economic loss to neighbours, international trade such as live sheep exports, the vegetable processing industry and its workers.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 413.]

PETITION - SENIOR CITIZENS CENTRE OF MEALS ON WHEELS ALBANY INC, PREMISES CHARGE

The following petition bearing the signatures of 1 224 persons was presented by Hon Bob Thomas -

> We, the undersigned citizens of Western Australia wish to protest against the State Government's decision to charge the Senior Citizens Centre of Meals on Wheels Albany Inc. $100,000 for the current WA Dental Clinic premises in Grey Street West, Albany.
>
> We also draw your attention to the fact that it is our belief the land on which this building is sited was acquired free of charge from the Albany Town Council about 40 years ago and respectfully urge the Parliament to require the State Government to sell it to the Senior Citizens Centre of Meals on Wheels Albany Inc. for a more reasonable price.
>
> This we feel, should be done as a community service obligation to the seniors residing within the Albany district.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 414.]

MOTION - URGENCY

French Consulate, Fire Bomb

THE PRESIDENT (Hon Clive Griffiths): I have received the following letter -

> Dear Mr President
>
> Under Standing Order 72, it is my intention at today's sitting to move that the House, at its rising, adjourn until Sunday December 24, 1995 at 8.00 am to discuss the fire bombing of the premises of the French Consulate in Perth on Saturday June 17, 1995.
>
> Yours sincerely,
>
> Hon. Derrick Tomlinson, MLC
> MEMBER FOR EAST METROPOLITAN REGION
> June 20, 1995

In order for this matter to be discussed, it will be necessary for at least four members' indicating their support to rise in their places.

[At least four members rose in their places.]

HON DERRICK TOMLINSON (East Metropolitan) [3.39 pm]: I move -

> That the House at its rising adjourn until 8.00 am on Sunday, 24 December.

I thank members for the demonstrated support from both sides of the House. I sincerely hope that that represents not merely bilateral but multiple level condemnation of this act of terrorism perpetrated in West Perth in the early hours of Saturday morning. It was as obvious as night follows day that when Jacques Chirac was elected as the President of France, that country would resume nuclear testing. It had been speculated on during the whole of the presidential electoral campaign in France. Even though some commentators gave Jacques Chirac only a remote chance of becoming the President of France, he pulled it off. At first it was believed that 10 nuclear tests would be undertaken over five years. On 13 June it was announced that eight tests would be undertaken in less than a single year, after which France would sign the nuclear non-proliferation treaty. That announcement was met with universal condemnation. Even before the announcement was made protests or expressions of concern to France were made at the highest levels of government in the sincere hope that the French would not press on with that intention. However, Jacques Chirac merely shrugged off those protestations and announced that France would go ahead with those tests.

That was immediately followed by universal condemnation, which expressed itself in a variety of ways. The Commonwealth Parliament, again, in a multilateral condemnation passed a resolution opposing the tests. The Japanese Prime Minister is visiting France to express Japan's condemnation. The Australia Minister for Foreign Affairs, Gareth Evans, is visiting France with a delegation of the South Pacific Forum to express the condemnation not merely of Australia but also that of all South Pacific nations. At the simplest level people have expressed their concern, some by symbolically emptying French champagne into Sydney Harbour, others by cancelling their Bastille Day celebrations, and others by demonstrating silently and peacefully outside the French consulates throughout Australia.

Action against the French decision is absolutely essential to the wellbeing of the international community. In Australia it is absolutely essential to the wellbeing of the Australian democratic system. Protest is an essential part of democracy; without it democracy loses its vitality and becomes oligarchy. Oligarchy leads to a system of government that does not represent any of the values we in Australia appreciate. I do not merely support, but also encourage any citizens of Australia to take a genuine protest to whatever legitimate means is available to them. I also support those people who made their legitimate protests against the French decision. Unfortunately, there is a fine distinction between legitimate protest and unlawful display. There are times when legitimate protest seems to go unheard and it provokes unjustified behaviour on the part

of individuals who become frustrated simply because they feel that their protest is not being heard. On Saturday night we found that, following a peaceful and legitimate protest outside the French Consulate in Perth, an individual or individuals transgressed their right to legitimate protest and firebombed the premises of the consulate. On Sunday the Press, both television and newspapers, condemned that as an act unprecedented in Western Australian history. I wish that were so.

In July 1976 the Bunbury woodchip terminal was bombed. People who had a genuine environmental concern had protested long and vigorously against companies engaged in woodchipping in the forests of the south west. I think those people have contributed to a change in community attitudes towards the utilisation of our natural forests. However, one individual decided that was not good enough, that the pace of change was not rapid enough, and he took it into his hands to bomb the Bunbury woodchip terminal.

Hon Doug Wenn: Have you seen his record prior to and after that?

Hon DERRICK TOMLINSON: I think his record before and after that is irrelevant. What he did at that time is what was condemned at that time. It arose from a legitimate expression of concern and a legitimate objection to government action. Irrespective of whether one agreed with the protest and took his side or was opposed to those protesters, they had a legitimate protest. However, that individual decided that the legitimate protest was insufficient and, therefore, resorted to the unlawful protest. At another level, we have a gentleman by the name of Jack van Tongeren whose protest was of a different kind, not inspired by concern about the environment or the wellbeing of Western Australians, but motivated by unjustified, racial hatred. That individual did not merely take the law into his own hands, but also gathered around him a group of similarly deranged supporters - individuals on the lunatic fringe who then set about firebombing Chinese restaurants.

On Saturday morning the bombing of the French Consulate in Perth was of the same dimension. That is, individuals on the lunatic fringe took the law into their own hands and, in the process of doing so, violated the very principle that they themselves were upholding - the right to disagree. Who are the victims? I suggest that the victims of the burning of the French Consulate are not the French; it is not Jacques Chirac who is damaged. Certainly, Dr Robert Pearce's practice was severely harmed. All his records and medical equipment was destroyed, so he suffers personal hurt and loss. All the patients whose records were destroyed suffer personal loss. But more important than that, the people of Western Australia suffer personal loss because the very democratic principles for which we stand and which we uphold, the very belief in a fair go, were defiled by the act of that individual or individuals on Saturday morning. Most important of all, the people who were damaged by that unlawful protest on Saturday morning were those who had engaged in lawful protest. The rights of those people - that is, every citizen of Western Australia and every citizen of Australia - to say no; their right to demonstrate against those things which they believe to be wrong; and their right to say to the French, "Take your bomb and explode it elsewhere if you must, but certainly not in our backyard, and preferably not at all," were defiled by that act. The net result is that every genuine protester against French nuclear testing must now be regarded with suspicion. Which of them is not on the lunatic fringe? Which of us is not on the lunatic fringe? Those rights to civil and lawful protest will now be monitored and scrutinised by those who no longer trust that right of freedom of expression.

I condemn the decision of the French to resume nuclear testing in the Pacific. I support the right of every citizen to object to that decision. I support the decision of the Australian Government to take action at the highest level to object to France and, in particular, to the French President, against that decision. But most of all, I regret that the privilege of disagreement in our community has been violated by that single act of violence.

HON GRAHAM EDWARDS (North Metropolitan) [3.53 pm]: I have no hesitation in supporting the mover of the motion and joining with him in his condemnation of the decision to resume nuclear testing and of the firebombing on the honorary French

Consul's premises, which is a doctor's surgery. I regret that this matter has not been brought before the House as a substantive motion. I put it to the Opposition's party room today that we should negotiate with the Government to move a substantive motion so that at the end of the day we have something we can send to the French Ambassador which fairly represents the views of elected members of Parliament in this State, because it is obvious to me that there is a strong bipartisan position on this matter - and so there should be.

The decision to resume nuclear testing confirms for me so much of that which I have come to believe in recent decades about the arrogance of the French Government when it sets its mind to something which is generally out of its backyard. We need look only at the history of France in its involvement in Vietnam, its treatment of people in that country and in its arrogance in previous decisions over this question of nuclear testing to confirm that. I am concerned because I do not know what it will take to convince the French that what they are doing is not acceptable.

Hon Derrick Tomlinson said that condemnation of the French decision was universal. I do not know that it is as universal as he suggests. We should have some cause for concern that the Americans themselves may have been a little limp wristed in their approach simply because they have some intention to resume testing before the treaty is agreed to in the near future. My understanding of that treaty is that it will not prevent testing, but will limit testing of nuclear devices to a certain size. At least the Americans have a history of doing it in their own backyard. In my substantive motion I was going to move to encourage those citizens of this State who want to protest to do so, but to do so in a peaceful and orderly manner. That is their right, and it is a right which should never be taken away from them.

I heard the honorary consul interviewed on radio on, I think, last Thursday. I cannot say that I have ever met the bloke, but he struck me as a man of some character. He stood up in the face of a lot of criticism and identified himself as the honorary consul, and pointed out a few things. For instance, he said that if he was going to lose his job because he had spoken out, it was a job he did not want to have anyway. However, he made a plea to the people going to the honorary consul's premises to protest to respect his patients and the fact that it was a doctor's surgery, and to treat it and his patients accordingly. He indicated also that he was preparing a petition and invited people who attended the peaceful protest to sign it, and assured them that he would forward it to the French authorities. It is a great pity that that peaceful protest was followed up by the firebombing. It was of great concern to see people in our society say that if that is what protests are about, they do not want anything to do with them. There is no room in our society for the type of violence we saw through the exploding of that device and the firebombing of those premises. I say that because if we are to turn to violence to put across our point of view, the people who are generally most vulnerable are often politicians and their families.

One of the really great things about this country is that we have generally had the capacity to put our views and argue political points without having to resort to violence. Our great history shows that we have managed to avoid the violence which has occurred in so many other parts of the world. We need look only at what happened recently in America and Japan when people failed to protest in a balanced way and resorted to violence as a first response. I would hate to see that happen in Australia. I hope the police will be vigorous in their endeavours to track down the people responsible for this act and that any person in the community who has evidence will not hesitate to put it before the police. One person who contacted my office said, "I hope the police will check out whether there were any French operatives in the State at the time of the firebombing." When I first heard that, I thought he was being cynical, but he reminded me of the *Rainbow Warrior* and said that so far as he could see, the only people whom this firebombing would help were the French. Perhaps the police could consider that, if only to exclude that possibility.

I join with Hon Derrick Tomlinson and members on both sides in supporting the motion and in condemning the decision to resume nuclear testing and condemning this act of

violence which has done so much to undermine the history of peaceful protestation in this State. I hope the people who perpetrated that firebombing are brought to justice.

HON B.K. DONALDSON (Agricultural) [4.02 pm]: I, too, join my colleagues in this House in condemning the action taken in the early hours of Saturday morning and in condemning the decision of the French Government to resume nuclear testing at Mururoa Atoll. I heard a story the other day - I do not know whether it is correct; if not, perhaps someone can correct me - that the word "Mafia" was first used a few hundred years ago when a French soldier sexually assaulted a girl in a church in Sicily and the mother who was nearby cried out "Ma fia, ma fia!", which means "My daughter, my daughter!", and the Mafia commenced operations when it took retribution against that French soldier. I liken the arrogance that was obviously present in that soldier's mind to what the French Government is doing to the South Pacific and the world in, firstly, continuing with nuclear testing outside its own region, and, secondly, continuing with nuclear testing at all.

I do not want to be flippant, but page 4 of *The West Australian* of Monday, 19 June is headed "France Under Fire" and contains several stories about French nuclear testing, and at the bottom of the page is a clever advertisement by Bob's Shoe Store, which states -

> Bob says,
>
> "If you're going to walk over everyone, make sure your shoes look good."

I guess Bob was trying not only to promote the sale of shoes in his store but also to give the French Government the subtle message that it is walking over everybody by its decision. We all accept, as Hon Derrick Tomlinson said, that people have the right to protest in a way which does not contravene the laws of this land. However, in the early hours of Saturday morning, one person, or perhaps more, destroyed that principle and moral position. France last conducted nuclear testing in July 1991, and from a farmer's point of view, I know that the erratic weather patterns in the Eastern States and the prolonged drought in Queensland can be blamed on the El Nino effect of changing sea temperatures and currents, but I do not think any scientist has given us a compelling reason for that effect, so the consequences of that nuclear testing might be greater than we think.

Hon Sam Piantadosi: The French have islands to the south west of Western Australia, and three or four years ago there was some talk of using those islands.

Hon B.K. DONALDSON: It is true that when the French looked like being ousted from the South Pacific, they planned to move to the Indian Ocean, and I remember that there was quite a debate in the media and everywhere about that. I am not an expert, but I would like to know whether nuclear testing does cause atmospheric changes which affect our weather patterns.

I notice that David Lange, the former New Zealand Prime Minister, in an article headed "Gallic nation 'second-rate'", castigated the French by saying that the most absurd thing about France is its defence policy and the most malignant evil within it is its military establishment. He was saying, in other words, that the French treat the world with contempt and arrogance. I guess that has been inherent in their make-up for many years.

Hon Derrick Tomlinson said that a number of establishments around Australia which normally celebrate Bastille Day on 14 July plan to dump the Bastille Day celebrations but continue with the events associated with those celebrations which raise money for charity - in the case of Brisbane, for the Red Cross - because while they want to show their contempt for what the French Government is doing, they do not want to hurt the people for whom the event was set up. I feel a bit ashamed to be an Australian when people within our society want to take the law upon themselves, and it is unfortunate that that has happened.

Hon Sam Piantadosi: That has yet to be proved.

Hon B.K. DONALDSON: Yes, and I hope that act of violence was not done by an

Australian or Western Australian. However, it does not matter who it was within our society; we are all part of that society, and it is pretty disappointing because it reflects upon the other 99.9 per cent of people in Australia who rightly view this event with great dismay. I am sure they must view this with great dismay.

Hon Sam Piantadosi: I guess the New Zealand experience teaches us a number of things and before we start pointing to things we need to clarify them.

Hon B.K. DONALDSON: That is true, but we must not forget the premises of our ambassadors and consuls overseas. We would be the first to be outraged if either individuals or establishments were subject to damage or assault. I agree with Hon Graham Edwards, in that I would like to think the perpetrators will be caught within a short time, and that the full weight of the law will be applied and they will be made an example of. The general condemnation in all media outlets indicates that every normal thinking person in Western Australia is absolutely disgusted with what happened in the early hours of Saturday morning. I add my condemnation and I reiterate the comments by Hon Graham Edwards, that perhaps a substantive motion should have been moved to allow the views of this Parliament to be clearly indicated to the French Government.

HON KIM CHANCE (Agricultural) [4.11 pm]: I am very pleased to support Hon Derrick Tomlinson's motion. It is indeed a multilateral matter and, as Hon Graham Edwards said, the Caucus agreed this morning to move the motion to suspend standing orders in order that this matter may be discussed as a substantive motion. That could not occur, but we have an agreement with the Government that this debate can be extended. At the appropriate time the House will make a decision. Nothing that has been said in condemnation of the French Government's actions can excuse the incident that took place in West Perth on 17 June. It is a form of action that has been correctly and properly described as terrorism. It is a form of terrorism that no straight thinking Australian could possibly support. Having spoken to some French Australians on this subject, I have some sympathy for them. Those to whom I have spoken personally and those I have seen in the media tend to adopt a position opposing the French Government's decision.

Hon Doug Wenn: They have a rally on the Esplanade tomorrow.

Hon KIM CHANCE: They oppose the actions of the French Government in testing nuclear weapons in the South Pacific. I hasten to add that, although I may have a French surname, it is necessary to go back several generations to trace a Frenchman in my ancestry. However arrogant and irresponsible the French nuclear testing program might be, that does not excuse the cowardly and criminal attack that took place on 17 June. It was an attack against an innocent person, albeit a representative of the French Government and, of course, none of us would describe that Government as innocent. Terrorism is almost always a cowardly act. It is not cowardly in all cases because there have been terrorist heroes. However, to sneak into an undefended private residence in the dead of night and set fire to it, regardless of the lives that may be threatened by that action, can be described in no other terms than despicable. I am not one to condemn direct or even strident protest against forms of oppression. I have expressed sympathy for the aims of organisations which some people would label terrorist, but it does not mean for one moment that I condone this stupid and senseless act.

Some would say there is a rough justice in the offence which occurred at Mr Pearce's home. The French Government violated the territory of a friendly country, New Zealand, and bombed the Greenpeace vessel *Rainbow Warrior*, causing the death of a crewman. That awful incident was made worse by the French Government's actions following the bombing, which bombing was generally regarded as an act legitimised by the French Government. After New Zealand authorities arrested a pair of ham-fisted terrorists, the level of trade discrimination in France against New Zealand was bullying, intimidatory and a threat to every free country. The degree to which the French Government sought to intimidate - and succeeded in its attempt - the New Zealand jurisdiction to gain custody of the convicted terrorists was almost as brutal as its trade discrimination. Having gained custody of those two murdering terrorists, the French Government on the flimsiest of pretexts released them, effectively without penalty.

I am pleased also that we have the opportunity to comment as a Parliament, because it means we can give an independent view of the issue as it affects the people of Western Australia. I understand the point of view that it is a commonwealth issue because it relates to foreign affairs, but at the same time the people of Western Australia are entitled to their say on this matter through their own Parliament. Even though I wholeheartedly agree with Hon Derrick Tomlinson that the multipartisan support for condemnation of the French Government's action in the national Parliament should be applauded, the decision of the Federal Government and Federal Opposition was weak-kneed and lily-livered. The action in the national Parliament - by the Government and the Opposition together - should have been designed not only to strongly reinforce in the minds of the French Government and the French people that this kind of action in the South Pacific will not be tolerated by Australia, but also to indicate, by taking the lead on behalf of countries throughout the South Pacific and elsewhere, that this kind of action will not be tolerated in the future.

In closing, it should be said that my comments are not intended to excuse the bombing in West Perth to any extent - it is difficult to find the right words - but I believe that the terrorist actions in this matter were certainly begun by the French Government's actions in New Zealand.

HON DOUG WENN (South West) [4.20 pm]: I, too, thank Hon Derrick Tomlinson for bringing this motion before the House. As Hon Graham Edwards said, it could have been more substantive and condemned the French Government for reintroducing testing on the Mururoa Atoll. We can only condemn those people involved in the bombing last Saturday. I believe that they are a bunch of thugs who took advantage of a situation in which people stood before the consulate and protested in a peaceful manner. I know that the police have spoken to a number of the people at that protest to get some lead in order to bring the people who did the bombing before the courts. Hon Derrick Tomlinson made a point and I thought that he would oppose my interjection about the record of the person who did the bombing in relation to woodchipping in Bunbury. However, he went on to agree with me that there is a lunatic fringe that takes advantage of situations such as this.

A group has claimed responsibility. I cannot believe that it is part of this community; one would expect that sort of behaviour to occur in the Middle East or somewhere else. It really brings us back to the real world here in Australia: We are not as protected as we think. If these people are dinkum in their protest, and if they are ever arrested, I am sure that they will claim instantly that they were protesting against the reintroduction of atomic testing by the French.

I spoke in this House in 1987 or 1988 about such testing. It has been proved emphatically that the Mururoa Atoll is split in a number of places because of continual testing of atomic bombs on the atoll. The French have said that they will do only eight tests. So, I have a box of matches with only eight matches and one after the other they are lit. What good will come out of this? At the end of the day, what will the French prove? Is it that they can build a bomb that will explode and make a big bang? The fallout from the radiation levels will be absolutely horrendous. I am very concerned about the effect that these extra tests will have on the atoll itself. As I have said, it has already been proved that the atoll is now split. What will happen at the end of the day? The French will find - and this is where I agree with Hon Bruce Donaldson - that they have done so much more damage that they will have to go to Kerguelen Island, which is 2 000 kilometres south west of Western Australia.

Testing has shown - and I hope I still have the maps to show Hon Bruce Donaldson - that our major prevailing winds come from the south west, which is in line with Kerguelen Island. Pollution from testing there would drift to cover an area from Mandurah through to Esperance. That is what will happen; they will not settle in the atolls. The damage is horrendous already and any further testing and bombing in that area will only make it worse. Just 10 years ago we saw in Russia the collapse of a nuclear powerhouse and the horrendous effect that had on the economy and neighbouring countries. We have had the Chernobyl experience and the testing at Three Mile Island. I can go on about the effect it

has overall. I am very concerned that what I have just outlined may happen. At this stage, the top part of Australia, New Zealand and many of the Pacific areas will be affected by the renewal of testing of atomic weapons. A program on television last Sunday documented what happened in Fiji. Many men were taken to work on the islands during the testing. Many of those men are now dying and are riddled with cancer.

Hon Cheryl Davenport: Not to mention the birth defects.

Hon DOUG WENN: We have seen that with other testing. However, a couple of these men decided speak out. The commentator made the point that not long after those people were interviewed they lost their jobs and any means of making a living. When asked why they went there they said that it was a job and that they did not understand the impact of that testing. We have seen it here in our own country. Hon Sam Piantadosi made the point very clearly: America tests nuclear weapons in is own backyard, as does China. However, England tested in our backyard and France tested in the Pacific Ocean.

Hon Derrick Tomlinson: The problem is that there is no such thing as our own backyard on this planet.

Hon DOUG WENN: That is true, the after-effects can be felt anywhere in the world, not only because of the drifting airflows bringing nuclear material into other countries but also because of the underground impact that can be felt. I thank Hon Derrick Tomlinson for bringing this matter to the House. As Hon Graham Edwards said, I think it could have been more substantive; we could have moved a motion condemning the French Government for its actions in reintroducing testing in the Mururoa Atoll. I hope that I am wrong at the end of the day and that they do not go down to Kerguelen Island to test because the impact in the south west of Western Australia would be horrendous.

HON J.A. SCOTT (South Metropolitan) [4.28 pm]: I am also very pleased that Hon Derrick Tomlinson raised this issue today in this motion. The similarity of these two acts has struck me; that is, the firebombing of the consulate office and the resumption of the nuclear tests - they are both acts of thoughtless violence and both should be condemned. The major differences in these two things are the reason they are being done and the scale of the explosions. In one case, luckily, no-one was hurt or killed. In the case of the French tests, the likelihood is that many people will die before their time, and when we consider these acts we should remember that.

The other thing that Hon Derrick Tomlinson said was that the firebombing diminishes the protests of all those speaking out about the nuclear tests. That is also correct and it is a terrible shame. The huge scale of anger in this country about the tests certainly will mean that it will not stop the protests, and I certainly hope it does not. However, it should definitely be condemned because it is a thoughtless and stupid act. The anger in the community is probably enhanced by the fact that the reason for resuming the nuclear tests can only be for the purpose of making money. Everybody knows that we are living in a time when the nuclear threat is supposed to have diminished by the deliberate run-down of the nuclear arsenals of the major powers on this planet. We need to look at what has caused the level of anger to bring about the firebombing of the French Consulate. Partly it is because of a very cynical move by the French Government and partly because people feel unable to do anything about what is going on.

[Resolved, that debate be continued until no later than 5.45 pm.]

Hon J.A. SCOTT: They are powerless to do anything about a government from another hemisphere which is imposing on people in the south seas islands, New Zealand and the east coast of Australia conditions which will mean a diminishing of their lives, and death to some. I am concerned about the effect on the thyroid in young children which has been documented following nuclear testing to be many times greater than that which occurred prior to the tests.

Hon Derrick Tomlinson: Even though they were underground.

Hon J.A. SCOTT: That is right. We should take on board the powerlessness that people feel because the Australian Government has not come out strongly enough on this issue. Many people would have hoped that its condemnation would have been more swift and

much more powerful, rather than the Government trying to put things in a nice diplomatic way. In my view it is a mealy-mouthed effort.

The major problem with this bombing is that it has taken the focus away from the action of the French Government, and we need to return our focus to that. We need to look at our role in all of this. Is the French Government looking to use these tests to enrich itself through the sale of weaponry and technology to other countries? It is not for defence purposes for itself. There is no chance that any sensible nation would explode nuclear weaponry in Europe. I have heard a number of debates about the nuclear arsenals in Europe and it has always been said that a nuclear war in Europe would not be conducted because countries would wipe themselves out. The fallout from the weapons would be such that it would not be worthwhile. It is a totally senseless exercise.

Hon Derrick Tomlinson: Unfortunately the French do not think that.

Hon J.A. SCOTT: The French are probably not on their own in that regard. There is a growing awareness among the civilian population of Europe that nuclear war is a hopeless situation. The only conflict from which people could gain anything would be very limited forms of warfare. There is a great push in Australia to provide the core substance for this nuclear weaponry through the sale of uranium. Although we are complaining about the French doing what they are doing to make money or to have power and influence, we should be very careful that we are not condemned ourselves for the sale of uranium which is enriched for plutonium for nuclear weaponry. The price of electricity which is taken from nuclear powered stations is very expensive compared with many other methods of providing electricity. The main purpose for those units in many countries, including some which are proposed for Indonesia in the future about which I am concerned, is to create plutonium for nuclear weaponry for killing people, and not for supporting them. As I say, we should be very careful to look at our role in all of this and ensure that any uranium that does go from this country - I believe we should stop exporting it altogether - does not go to countries like France, which is to continue along the nuclear weaponry path. I support the motion.

HON A.J.G. MacTIERNAN (East Metropolitan) [4.36 pm]: Although much has already been said, I will add my comments. I endorse the comments of Hon Jim Scott. Of course we do regret and condemn absolutely the firebombing of the French Consulate. We do not support this resort to violence in our community when in a democratic society we have a forum for the peaceful resolution of disputes. We agree with the comments made by Hon Derrick Tomlinson that it is particularly unfair in this instance because the consul had joined the voices that had been protesting against this outrageous decision of the French Government to resume nuclear testing. However, it is important that we do not let our disgust over this stupid and misguided act overshadow the conduct of the French Government. This is an act of violence of much greater severity than that perpetrated by the firebombers of the French Consulate.

Those people who are the first and most obvious victims of the violence of the French Government will be the defenceless group of Polynesian people surrounding Mururoa Atoll. The action of the French Government is nothing less than a cowardly act of violence against them. They have even been denied any right by the French to self-government. We have seen the ultimate arrogance of the French who, when asked why they do not detonate these explosions in their own backyard, said that they are doing just that because Polynesia is part of France. As the Prime Minister said, "Tell that to the marines." Not many people would give any support to these imperialist pretensions of the French. Far from justifying the French conduct, it is just another example of outrageous arrogance of the French Government.

In this debate we need to make reference to the nature of this violence which has been perpetrated against the people of Polynesia. Most of us would have listened to the evidence of the increase in the incidence of cancer and birth defects among people in the area surrounding the test sites. Some people I know are taking comfort from the fact that there will be only another eight tests and that will be the end of it. Some say that is better than the situation we had before, where the French had not made any commitment to end

testing. What will another eight tests do in addition to the 200 the French have conducted in this area?

Hon J.A. Scott: Until the French election.

Hon A.J.G. MacTIERNAN: Exactly. What is the credibility of that undertaking? It is important to understand that one of the problems of the Mururoa Atoll is the enormous quantity of stored radioactivity. Because these have been fundamentally underground tests, radioactivity is stored in the rock formations in the Mururoa Atoll. A real and substantiated concern is that these additional tests will accelerate the fissuring that is occurring in those rock formations, leading to the unleashing of the radioactivity that is stored. It has been estimated that the amount of radioactivity already stored at the site, which potentially will be unleashed by these additional explosions, is the equivalent of several Chernobyls. The capacity of that to exacerbate the health problems of the atoll people is beyond compare. It is not just the direct health effects of cancer and birth defects, but also this unleashing of radioactivity will create major contamination of all food stocks within the area and basically cut off the food supplies of fish.

Hon J.A. Scott: It is their staple diet.

Hon A.J.G. MacTIERNAN: Yes, their staple diet of various seafoods will be grossly contaminated, exacerbating the direct health problems people will experience. As an act of violence, it is quite extraordinary and extreme. It is important that in expressing our outrage about the bombing of the consulate we take into account this extraordinary violence perpetrated by the French Government on the people of French Polynesia.

[Leave granted for the member's time to be extended.]

Hon A.J.G. MacTIERNAN: I want to comment on some of the broader implications for the rest of the globe. The French have been arguing that they need to run this last series of tests before the comprehensive nuclear test ban treaty comes into play next year, so that they can improve the reliability of their computer simulation. A number of French scientists have disputed that claim and said that it is quite clear they are testing a new missile or warhead and that these tests are not designed to deal with the reliability and safety of their existing stockpile but are part of a program of expanding and introducing new weapons.

It also needs to be understood that the nuclear test ban treaty proposed for next year is just stage one of a much larger program towards nuclear disarmament, in which most of the major nuclear powers have already agreed to participate. Therefore, the idea that the French need to improve the capacity of their computer simulation really runs very much counter to the whole concept of disarmament. If we are to disarm and get rid of our nuclear stockpiles, which is the supposed intention of the test ban treaty - the test ban is there not just to ban tests but as stage one of a much broader program of disarmament - why would one need to have an improved and upgraded capacity for computer simulation? It is quite inconsistent with the whole aim of disarmament. We need to see this action of the French as a massive undermining of the disarmament process; indeed, it was predicted over the last week by many of the environmental groups which are committed to disarmament that the action by the French would unleash the demands of those forces in other nuclear powers who are for nuclear testing, the pro-nuclear lobby in each country. There is no doubt that in all nuclear powers, particularly in defence circles, there are those who are very much committed to maintaining the nuclear arsenal. We saw in *The Australian* an article showing clearly that the action by the French is being used by the United States defence department and its defence secretary as a lever for the Americans to follow the same path.

Putting aside all those other factors, even if it is just to improve computer simulations, why do we need computer simulations and what does it say in the long run about the commitment of those with whom we are now allied to nuclear disarmament? The conduct of the French must be seen as the act of ultimate violence, because it is undermining that whole move around the world towards nuclear disarmament.

HON SAM PIANTADOSI (North Metropolitan) [4.47 pm]: I join my colleagues on

both sides of the House in condemnation of what has occurred in Western Australia in the last few days and also the actions of the French that led to it by their resuming experiments of exploding nuclear devices in the Pacific. By way of interjection on Hon B.K. Donaldson earlier, I mentioned my concern about the Kerguelen Islands. If history does not teach us lessons about the long term problems that nuclear experiments have delivered globally, we are slow learners. It is sad that we have a man who upon being elected president of his country tries to cement his place in history, and I guess his position with the French people, by deciding to reactivate nuclear experiments.

Members may recall that some four years ago after the French finished in Mururoa some discussions took place about the utilisation of the Kerguelen Islands where the French have naval and fishing bases. They are very close to home. Hon Doug Wenn stated clearly that our weather patterns emanate from that direction. New Zealand is basically a primary producing country and because of these experiments many of its primary products were in question, as a result of which sales dropped. On Sunday I had a conversation with a friend who had recently been to Russia. We have all heard the expression "In our own backyard". Over the past few months we have heard continually of the environmental devastation in Russia both by the Chernobyl accident and by oil spillage. However, another factor is that the Russian Government is trying to pick up its economy and is looking at its export potential. One resource that would enable it to achieve that is the timber industry. The Russians have a lot of timber to exploit. However, that timber is being rejected. Buyers take Geiger counters to Russia to check the timber and whole shipments have been rejected because of high radioactivity contamination. Therefore, one source of income for Russia has been ruined by its past activities. That natural resource would have generated considerable income for Russia.

That is the last thing we would like to see happen here. God forbid that France should take the same sort of interest in the Kerguelen Island that it has in the South Pacific. I am glad of the support for this motion by members of this House. What the French are doing now does not augur well for the future. One would have thought that we would learn from our mistakes, particularly from what happened in the Monte Bello Islands. Tests were carried out there 40 years ago. That area was a popular fishing ground. However, I guess the fish in that region are still highly contaminated from the radioactive fallout after 40 years.

Those small island states in the South Pacific rely wholly on their primary resources for their existence. Very little information is forthcoming from the French about what their tests are doing to those natural resources. I have referred already to our experience in the Monte Bello Islands which, as all members know, is one of the few island chains off our coast. Those islands would have been a popular location for our expanding tourist industry and would have generated income for Western Australia. However, people will not be able to enjoy those islands for many years, if at all. Generations of Western Australians will not be able to enjoy them as generations of people throughout the world will not be able to enjoy many parts of our globe if the actions of the French and other countries are not stopped.

I urge the strongest protest to the French Government through its ambassador while condemning the actions that took place here at the weekend. As the consul is an honorary consul, the bombing of the consulate is very sad. However, it is yet to be proved, as I said in an interjection. I question whether the froggies were involved in it. The New Zealand experience is an indication to me that one way of deflecting criticism is for those who are being criticised to undertake certain actions. People are then put on the back foot. There had been peaceful protests at the consulate; Dr Pearce had initiated some of those activities and he should be commended for them. I hope the authorities catch the culprit and, if it turns out to be a French emissary, we should urge the Federal Government to send home all French representatives. Only in that way will we deliver the ultimate message to the French that we do not want them in this country.

HON B.M. SCOTT (South Metropolitan) [4.55 pm]: I join with my colleagues in condemning the French decision to resume nuclear testing and to express my abhorrence of the firebombing in Perth last week. Most of us would be familiar with the term

"liberty, equality and fraternity". Those words are synonymous with the spirit of France. However, the sense of camaraderie engendered by our appreciation of things French has been shattered by the announcement by President Chirac that eight underground nuclear tests will be carried out on Mururoa Atoll between September 1995 and May 1996 before the signing of a test ban treaty banning nuclear weapons. The irony of this appears to have escaped the Federal Government's initiatives.

The outrage expressed by the Australian public in all facets of the media needs to be taken into account. Like my colleagues, I am sure that the peaceful demonstrations held at the honorary French Consulate last weekend indicates the depth of feeling that people have on this issue. With my colleagues, I also condemn the deplorable actions of those responsible for the firebombing of the consulate office. Thankfully, there was no loss of life. However, the brutal execution of this act is as reprehensible as the French act of continuing its tests. It threatens our peace and stability and our Australian way of life perhaps more than the French nuclear testing.

Historically in Australia, there has been very little to lead us to believe that acts of international terrorism would threaten us or touch us so closely. This act of sabotage together with the linking of the Western Australian property to the perpetrators of the Japanese underground railway gas poisoning has brought home to us the responsibility we must take on the world stage to deny these groups power. That can be done only by fostering understanding and respect of, and above all trust in, other countries. How can the French President expect this when he intends carrying out such tests, even though they are in a French colony so very far from France? Other speakers have expressed their outrage about the results these tests will have on the residents of those Pacific islands. Media reports have also indicated that the French people harbour grave doubts about the testing and possible repercussions from world opinion at a time when the world is close to an agreement on a comprehensive test ban treaty which is currently being negotiated in Geneva. President Chirac's announcement is a strike against the hope and expectation for a non-nuclear world order. He has indicated to Senator Evans that there is no way that he will reverse his decision to carry out these tests and stated at the United Nations in New York that the tests would have "absolutely no ecological impact".

Because there is concern that the French decision could prompt other nations to carry out nuclear tests endangering the hard-won nuclear nonproliferation treaty, the European Parliament has urged France to reconsider its decision. My colleagues have referred to the dangers to its neighbours and the people in the Pacific region where the testing was done in the past during 1966 and 1974 when above-ground nuclear tests were carried out and between 1975 and 1991 when 131 underground tests were carried out at the atoll. One member said that scientists were divided about the effect of these tests. France's Atomic Energy Commission said that insignificant traces only of radioactive tritium had seeped through into the environment after the underground tests. However, there are deeper fissures in the coral reef caused by the jolts and there is a fear that the volcanic basalt rock foundation of the atolls in the Mururoa group may crack, spilling out radioactive particles. It should be noted that no independent scientific mission has been allowed unrestricted access to Mururoa Atoll, so the effects of years of underground testing are quite unclear. According to France, international scientific teams in 1982, 1983 and 1987 gave Mururoa a clean bill of health.

[Questions without notice taken.]

Hon B.M. SCOTT: Before question time, I was commenting that according to French scientific teams no radiation level was recorded or damage done as a result of the original nuclear testing. Many people in the world doubted that view and serious doubts have been posed about the safety of any further nuclear testing. I join with my colleagues in strongly decrying the decision by the French to pursue nuclear testing. However, as other people have already stated, the firebombing in Perth poses an even greater threat to our peace and stability and the Australian way of life than the actual French testing. That is a very sad thing. I concur with the ex-New Zealand Prime Minister, David Lange, that France is a second-rate power and we must not lower ourselves to the level of such a nation, which only pretends at democracy and respect for human rights.

Finally, it could be alleged with disappointment that the media tried to stir up and demand more extreme action after the announcement about the nuclear testing, contributed to extreme action. I think the editorial in the *Sunday Times* was particularly reprehensible. When a responsible newspaper would have condemned the firebombing and called for public calm, that newspaper's editor continued to attack the French decision as though it mattered in the face of such an incredible assault on our democracy. The media should take cognisance of its actions and be aware of its impact on people by suggesting that extreme action or reaction is acceptable, because in this society it is not. As a consequence of this terrible bombing and the media's abuse of its very privileged position, we are now faced with a range of scenarios which are arguably worse than the original problem. Those situations are that the lives of Australians overseas have been put at risk; Australians of French origin and staff of French embassies and consulates in Australia are living in fear; and Australia's reputation as one of the world's foremost democracies and peaceful nations has been badly sullied. I support the motion.

HON DERRICK TOMLINSON (East Metropolitan) [5.36 pm]: I thank members for their support. I agree with Hon Graham Edwards that a substantive motion should be carried by this House and communicated to the French Ambassador in Australia. I also note his reservation about my claim that there was universal condemnation of the decision of the French Government to resume nuclear testing at Mururoa Atoll.

I also note that the United States has foreshadowed that it might resume its own underground nuclear testing program. That answers the rhetorical question posed by Hon Alannah MacTiernan when she pointed out that the purpose of the eight tests to be held at Mururoa Atoll is to establish a database for computer simulation. She queried the purpose of the computer simulation. The answer is that computer simulation creates or enhances the capacity to create nuclear weapons. The demonstration, through computer simulation, inevitably demands a test to demonstrate the truth of the theory derived from mathematical formulation. That is indicated by the foreshadowed resumption of tests by the United States of America.

Hon James Scott, in comparing the explosion at Colin Grove in Western Australia and the explosion which will occur 1 200 metres below Mururoa Atoll, indicated that the principal difference is their type and magnitude. In terms of the moral violation, they are equal; both are deplored. Some members suggested that if France wanted to persist with nuclear testing, it should do so in its own backyard. As I pointed out by interjection, what we know of the consequences of nuclear testing is that there is no such thing as our own backyard. The fact that the United States carried out its tests in Nevada, and China carried out its tests in Mongolia is no less deplorable and no less harmful than the conduct by the French in their tests at Mururoa. It is something we should have learned that we do not need to do again. France stands condemned: Those who firebombed the honorary French Consulate in West Perth stand equally condemned.

Motion, by leave, withdrawn.

MOTION - NUCLEAR TESTING, FRENCH GOVERNMENT DECISION

HON DERRICK TOMLINSON (East Metropolitan) [5.41 pm]: I seek leave of the House to move the following motion without notice and have the question determined forthwith without amendment or debate -

That this House -

(a) condemns the decision by the President of France to resume testing of nuclear devices at Mururoa Atoll;

(b) deplores the terrorist attack on the premises of the honorary consul for France in Western Australia;

(c) calls on the Government of France to revoke its decision and abide by the international agreement that has ensured, until now, the suspension of nuclear testing by the nuclear powers, China excepted,

and that the text of this resolution be forwarded to the French Ambassador to Australia.

[Leave granted.]

Question put and passed.

ABORIGINAL HERITAGE AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Leader of the House), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [5.45 pm]: I move -

That the Bill be now read a second time.

The purpose of the Aboriginal Heritage Amendment Bill 1995 is to transfer responsibility for the administration of the Aboriginal Heritage Act 1972 from the trustees of the Western Australian Museum to the Minister for Aboriginal Affairs and the Aboriginal Affairs Department. The Bill introduces minimum legislative changes to the Aboriginal Heritage Act to effect the above transfer pending the outcome of a comprehensive review of the Act. As members will be aware, the Minister recently initiated such a review. The Bill will also make consequential amendments to the Control of Vehicles (Off-road Areas) Act 1978, the Financial Administration and Audit Act 1985, and the Litter Act 1979.

The current convoluted legislative arrangements under which the Act has been administered have led to a number of difficulties. The Aboriginal Heritage Act currently gives responsibility for the administration of the Act to the trustees of the Western Australian Museum. The trustees are responsible for advising and assisting the Minister for Aboriginal Affairs in the exercise of his functions under the Act and are accountable to the Minister for Aboriginal Affairs for the general administration of the Act and the financial administration of the Aboriginal material preservation fund. However, the trustees are accountable to the Minister for the Arts for the administration of the Museum Act 1969, under which the staff of the former Department of Aboriginal Sites were employed.

The recent establishment of the Aboriginal Affairs Department and the transfer of staff of the Department of Aboriginal Sites from the Western Australian Museum to the department has further complicated this arrangement and increased the urgency to amend the Act. Since the establishment of the Aboriginal Affairs Department, the trustees are reliant upon staff from another department to assist them in fulfilling their responsibilities under the Act. The Registrar of Aboriginal Sites is also required by legislation to still be an employee of the staff of the Museum. Understandably a number of financial reporting difficulties arise under the current arrangements.

The Aboriginal Heritage Amendment Bill seeks to resolve these difficulties by removing references to the trustees of the Western Australian Museum and, therefore, the responsibility of the Minister for the Arts under the Act. As I have mentioned, this is an interim arrangement pending the rewriting of the legislation following a review of its provisions currently being carried out by Dr Clive Senior.

Clause 12 of the Bill establishes the Minister for Aboriginal Affairs as a body corporate responsible for the administration of the Act. Generally, references to the trustees of the Western Australian Museum in the principal Act have been replaced by references either to the Minister, the registrar - for more administrative functions - or to the Aboriginal Cultural Material Committee, as the statutory advisory body. It is these substitutions which account for much of the bulk of the amendment Bill. I will therefore refrain from going into detail about each clause of the Bill. I would, however, like to draw to the attention of the House the following clauses.

Clause 7 will amend section 6 of the Act which deals with the application of the Act to Aboriginal objects. A new subsection (2a) has been inserted in order to ensure that the new administrative arrangements put in place by this Bill do not have the effect of transferring responsibility for artefacts currently held by the Museum from the Museum to the Minister for Aboriginal Affairs. Such artefacts relate more specifically to the development of anthropology and Aboriginal history in Western Australia and appropriately fall within the ambit of the Museum and its continuing role with Aboriginal communities relating to management, development and interpretation of cultural heritage. The amendment thus clarifies the intention of the Bill which is to as far as possible retain the present status quo.

Clause 19(1) will amend section 18(1) by removing the requirement for applications under section 18 to be lodged by the "owner of any land", and substituting the expression "the holder of any interest in land". An interest is defined in accordance with the definition included in the Land (Titles and Traditional Usage) Act 1993. The purpose of this amendment is to rectify the current anomalous situation whereby the owner of the land, such as the Crown, rather than the proponent of a particular proposal, must apply for consent to use land containing an Aboriginal site. The amendment will therefore simplify existing approval procedures and make them consistent with legislation governing planning and environmental approvals.

I understand that following discussion of this subclause in Committee in the Legislative Assembly the Minister for Aboriginal Affairs and opposition members have agreed to an amendment. I will move this amendment in Committee which will remove references to "holder of any interest in land" and retain the existing expression "the owner of any land" as defined in section 18(1) of the principal Act. This change has been agreed, despite the reasons for the amendment outlined above, in order to aid passage of the Bill and in recognition of the current comprehensive review of the Act. Clause 19(2) will validate the actions of the Aboriginal Cultural Material Committee acting in accordance with powers delegated by the trustees of the Western Australian Museum. The validity of this delegation has previously been the subject of a challenge in the Supreme Court.

Clause 30 provides for the Registrar of Aboriginal Sites to be an officer of the Department of Aboriginal Affairs appointed by the department's chief executive officer. This replaces the existing arrangement where the registrar must be a member of the staff of the Museum appointed by the Museum trustees. Clause 32(c) will insert a new general function for the Aboriginal Cultural Material Committee. The purpose of this paragraph is to ensure that the committee is empowered to perform any new functions formerly executed by the trustees that may have been allocated to it by this amendment Bill. Part VI of the Aboriginal Heritage Act deals with the protection of Aboriginal objects. Many of the powers under this part are available to the Museum under the Museum Act 1969 and as such have never been used in the 23 year history of the Aboriginal Heritage Act. Generally, references to the trustees in this part have been replaced by "Minister" as the corporate body, with the exception of purely advisory functions, which have been allocated to the committee.

Clause 33 amends part VI by inserting four new sections. Section 39A seeks to ensure consistency between the administration of part VI of the Aboriginal Heritage Act and the Museum Act 1969 by requiring consultation between the Minister and the Museum trustees. Section 39B enables the Minister to delegate his powers and duties under this part to the trustees and section 39C empowers the registrar to act on behalf of the Minister in order to carry out many of the more administrative functions required under this part. Section 39D requires the Minister to consult the Aboriginal Cultural Material Committee when exercising his functions under part VI.

Clause 51 repeals the existing financial provisions of the principal Act. The Aboriginal Affairs Department will operate directly against a consolidated fund appropriation, which will include an allocation to fund the administration of the Act. References to the Aboriginal Material Preservation Fund currently administered by the trustees are therefore removed and a trust fund is established to hold gifts, bequests and research and other grants. Clause 51 also provides transitional provisions to deal with the balance of

the Aboriginal Material Preservation Fund at the time of proclamation. Clause 52 simply updates the existing sections 67 and 68, which provide indemnity for those performing a function under the Act and empower the Governor to make regulations respectively. Part 3 of the Bill deals with minor consequential amendments to the Control of Vehicles (Off-road Areas) Act 1978, the Financial Administration and Audit Act 1985, and the Litter Act 1979.

In conclusion, the Aboriginal Heritage Amendment Bill 1995 seeks simply to make a number of necessary administrative changes to the Aboriginal Heritage Act. The Minister has resisted the temptation to make more substantial changes to an Act that is badly in need of updating in the knowledge that a comprehensive review of the Act is currently proceeding and in recognition of the need to pass these minor amendments as a matter of urgency. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

MINERAL SANDS (BEENUP) AGREEMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Minister for Mines), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Minister for Mines) [5.53 pm]: I move -

That the Bill be now read a second time.

The purpose of the Bill is to ratify an agreement dated 22 December 1994 between the State and Mineral Deposits Pty Ltd, which is a wholly-owned subsidiary of the Broken Hill Proprietary Co Ltd. The agreement will facilitate the development of a new mineral sands project in the south coast region of Western Australia, an area that is thought to have considerable prospectivity for further heavy mineral deposits. In order that members may fully appreciate this proposal I shall outline briefly its major elements.

The Beenup mineral sands deposit, situated on farmland 17 km north east of Augusta, is one of the world's major ilmenite occurrences, having been discovered during regional exploratory drilling by BHP in 1988. Indicated resources of heavy mineral sands total 83 million tonnes, sufficient to sustain mining and mineral separation on the site for more than 100 years at the planned rate of production.

MDPL proposes to mine the deposit for ilmenite, zircon and rutile. Annual production is expected to be approximately 600 000 tonnes of heavy minerals, which will be separated on site and transported by public roads to the port of Bunbury for export. The company intends to mine the ore by means of a bucketwheel dredge floating in a pond having an average depth of 44 metres. The water/sand/clay mix will be delivered to a floating concentrator plant connected to the dredge. Heavy mineral concentrate will be pumped ashore to a stockpile prior to being transported by truck to a dry mill on the mining leases, where it will be dried in a rotary dryer before being separated into its constituent minerals. MDPL has received approval from the Minister for the Environment to transport mineral sands from Beenup to Bunbury via Scott River Road, Brockman Highway, Sues Road and Bussell Highway. Environmental approval has been issued for a new road which connects Sues Road to an upgraded section - the Ludlow deviation - of the Bussell Highway west of the new Capel bypass. Main Roads will construct the new roads, for which MDPL will contribute up to $17.5m in 1990 dollars, in addition to paying its share of maintenance for the roads during the life of the project. The new roads will benefit the tourism industry, as they will divert much of the heavy traffic away from the common tourist routes servicing the Capel-Augusta area.

The Beenup project requires the construction of a 132 kilovolt powerline from the Manjimup substation to an electrical substation at Beenup for the secure and reliable supply of electrical power. At present the distribution of electricity in the vicinity of the minesite is via 22 kV lines originating from substations at Margaret River and Busselton.

This system could not support the proposed load of the Beenup mine, which is estimated to be 12.5 megawatts initially, with a possible ultimate load of 17.5 MW. The 85 km powerline route commences at the Western Power Diamond electricity substation, goes through the Love property, and joins Palings Road about 1.3 km north of Channybearup Road. From there it goes over the Donnelly River and runs parallel to Coronation Road. It then crosses Vasse Highway near Stewart Road and runs in a generally westerly direction to the Beenup minesite. MDPL will pay approximately $12m for the construction of the powerline.

In addition to providing power to the minesite, the transmission line may, in the short term, provide an alternative power supply for the Augusta area, thus supplementing power supplies derived from Margaret River. In the long term, the proposed line may supply other developments, depending on their location, and will reinforce the existing power supply system from Picton to Margaret River. The benefits of the Beenup project as a whole to the people of Western Australia - and hence the Government of Western Australia - relate principally to resource development and growth through jobs and a diversified economic base. In addition, the future development of other industries in the south west area will be more likely due to the presence of appropriate road and power infrastructure. The project will employ about 200 people during the peak construction phase, while the mining operations will provide work for about 150 people in operations, support services and transport. The mine and associated power and road infrastructure is expected to cost about $150m. The total cost of the project, including a smelter joint venture with Tinfos A/S Group of Norway, will be more than $200m. The mine is expected to generate exports of about $60m a year, with the first shipload of minerals scheduled to leave the port of Bunbury in 1997 for use as a feedstock for the production of titanium dioxide pigment, principally used in the manufacture of paints and plastics.

Sitting suspended from 6.00 to 7.30 pm

Hon GEORGE CASH: The project is expected to inject an extra $10.7m a year into the south west economy through contract and service industry opportunities for local business. In addition, the Augusta-Margaret River Shire will collect over $90 000 a year through an agreement with MDPL to cover the impact of the project work force on the shire's social infrastructure. The State Government will collect about $7m a year from royalties, payroll tax and fuel tax.

For the benefit of members, MDPL is a wholly owned subsidiary of the Broken Hill Proprietary Co Ltd and is a member of BHP Minerals International. The company has mined mineral sands on the east coast of Australia for almost 50 years, and is now the oldest continuously operating heavy mineral mining company in the world. The company currently has three wet plant/dredging operations north of Newcastle in New South Wales, with the mineral concentrate being processed at MDPL's dry mill at Hawks Nest. The term of the agreement is 21 years, with the right during the currency of this agreement for MDPL to take two successive renewals of the said term, each for a further period of 21 years, upon the same terms and conditions.

I turn now to the specific provisions of the agreement which comprise the schedule to the Bill before the House: Clause 1 contains definitions of the various words and phrases used in the agreement. Clause 2 outlines the intended interpretation or effect of specific references in the agreement. Clause 3 requires the State to introduce and sponsor a Bill into Parliament to ratify the agreement prior to 30 June 1995 or such later date as the parties may agree. Should the agreement not commence operating as an Act by 30 June 1995, it shall cease and determine, unless the parties otherwise agree to an extension of time.

Clause 4 obliges the company to submit detailed proposals to the Minister for Resources Development. Clause 4(1) requires the company to submit proposals on or before 31 December 1995, in accordance with the Environmental Protection Act and laws relating to traditional usage, including plans for the mining and treatment project with a capacity to produce not less than 500 000 tonnes per year of heavy mineral products. Clause 4(2) states that each of the proposals listed above may, with the permission of the Minister for

Resources Development, be submitted separately. Clause 4(3) requires the company to submit details of any services and any works, materials and plant or equipment that may be obtained outside Australia. The company is obliged to provide evidence of marketing arrangements demonstrating its ability to profitably sell the mineral products. The company must demonstrate that it has finances available to fulfil its agreement obligations.

Clause 5(1) provides for the consideration and approval by the Minister for Resources Development of the company's detailed proposals for the mineral sands plant. It is also made clear that approval shall be subject to any associated requirements specified under the Environmental Protection Act 1986 and laws relating to traditional usage. Similar requirements for the consideration and implementation of the proposals, as are contained in other ratified state agreements, are set out in subclauses (1) to (4) of clause 5. Clause 5(5) explains conditions of the arbitration award which give equal representation to both the State and the company. Clause 5(6) requires that unless all the detailed proposals are approved by 31 December 1996, the Minister may give the company 12 months' notice of intention to determine this agreement. Clause 5(7) obligates the company to obtain all necessary approvals and licences in accordance with the Environmental Protection Act 1986 and laws relating to traditional usage, before the proposals are implemented.

Clause 6 deals with the mechanism for submitting additional proposals should the company seek to significantly modify or expand its activities beyond those approved under its initial proposals. The means of dealing with these matters is also outlined. Clause 7 specifies the obligations of the company with respect to measures to be taken for the protection and management of the environment, including programs of investigation, research and monitoring. During the life of the agreement, the company is required to submit to the Minister for Resources Development, brief annual and comprehensive triennial reports outlining the measures taken and proposed to monitor, minimise and redress adverse environmental impacts of the project.

Clause 8 deals with the mining leases over the mining areas held by the company at Beenup. Clause 8(1) states that during the life of this agreement, the mining leases will be subject to the Mining Act, modified as follows: Clause 8(1)(a) specifies the life of the mining leases will be 21 years with the right to take two successive renewals each for a period of 21 years. Clause 8(1)(b) releases the company from the expenditure obligations otherwise imposed by the Mining Act and provides for access to the mining leases for the State and other parties. Clause 8(1)(c) requires the company to submit periodical reports and returns to be lodged with the Department of Minerals and Energy. In addition, an annual report on ore reserves and reports on drilling operations to define future ore reserves will be submitted. Clause 8(2) allows the company to apply for the inclusion into the mining leases of additional areas held by the company. Clause 8(3) provides that the company has the right to mine Scott River Road within the mining leases, subject to suitable deviations of the road at the cost of the company. Following mining the company shall, at its cost, restore the road to a satisfactory standard.

Clause 9(1) specifies that the company shall pay royalties to the State according to the rates from time to time prescribed in the Mining Act. Clause 9(2) obligates the company to comply with the provisions of the Mining Act in respect of statistical returns and reports. Clause 10(1) specifies that the company shall not use any roads other than the designated haulage route for the transport of heavy minerals between the mining leases and the northern end of the Capel bypass. Clause 10(2) requires the State to construct the haulage route to a suitable standard for the haulage of heavy minerals and that these works be completed by the time heavy minerals are to be transported on a regular basis. Clause 10(3)(a) obligates the company to contribute an amount that has been agreed between the company and the State towards the cost of constructing part of the haulage road between the minesite and Bussell Highway. The parties to the agreement have since agreed that the company will pay up to $17.5m for these road works. Clause 10(3)(b) specifies that any expenditure incurred by the company on preliminary design, site studies and land acquisition shall be credited against the amount payable by the company under the previous subclause.

Clause 10(4)(a) specifies that the State shall maintain all public roads comprising the haulage route to a satisfactory standard. Subclause 4(b) requires the company to pay a proportion of the cost of maintaining the haulage route, as agreed from time to time with the Commissioner of Main Roads. Clause 10(5) specifies that the State shall determine an interim route for use by the company if the regular haulage route is not constructed on time. Clause 10(6) states that if use by the company causes excessive damage or deterioration - other than fair wear and tear - to public roads, the company will pay an equitable share of the cost of repairing the damage. Clause 10(7) states that if the Commissioner of Main Roads is given access to the mining leases to recover laterite, sand or other materials for the construction of the haulage route, there will be no charge by, or cost to, the company. If the company is requested to carry out any excavation, processing, stockpiling, loading or transporting of such materials, the company shall be entitled to recover those costs from the commissioner.

Clause 11(1) requires SECWA - now Western Power - to construct a 132 kV powerline from the Manjimup substation to an electrical substation at Beenup for the supply of electrical power to the project. Clause 11(2)(a) obligates the company to contribute an amount that has been agreed between the company and the State towards the cost of the powerline. It is estimated the powerline will cost approximately $12m, which the company will pay. Clause 11(2)(b) states that the electrical substation at Beenup shall be constructed by Western Power but at the expense of the company. Clause 11(2)(c) provides a mechanism for a capital refund from Western Power to the company if additional users are connected to the powerline in the period expiring on 1 January 2006. Clause 11(3) specifies that in the event of Western Power being unable to supply power or if the company properly terminates its contract for the supply of power, the company may generate its own electricity, at no cost to the State, and transmit power within the areas of its mining operations.

Clause 12(1) requires the company to advise the Bunbury Port Authority within 30 days of the proposals being approved of the date it anticipates commencing shipment of product from the Bunbury port. Clause 12(2) provides that the company shall arrange for the provision of storage facilities at berth C in the inner harbour and connection to the shiploading facilities provided by the Bunbury Port Authority. Clause 12(3) states that if berth C is unlikely to be available within six months of the specified shipping date, the Bunbury Port Authority shall agree with the company on appropriate arrangements for the use by the company of berth C for its product storage and berth 2 for the company's portable shiploading facilities until such time as berth C is fully available for the company's use. Clause 12(4) specifies that if the Bunbury Port Authority does not give notice in subclauses (2) and (3), the authority shall agree with the company on appropriate arrangements for the use of berth 2. The company shall relocate to berth C, when it becomes available. Clause 12(5) specifies that arrangements for use by the company of berth C and berth 2 shall be on reasonable terms. Upon relocation from berth 2 to berth C, the Bunbury Port Authority will pay the nominal sum of $1 000 as consideration for the sale by the company to the Bunbury Port Authority of the storage facilities at berth 2.

Clause 13 requires the company's work force to be recruited from Western Australia, if it is economic to do so. Preference is to be given to local suppliers and services, unless the company can demonstrate that this is impractical to achieve. The company is required to report monthly to the Minister for Resources Development on the implementation of the provisions of this clause. Clause 14(1) enables the company to obtain its water requirements from the source specified in the proposals and dispose of excess water from the mining operations at the company's cost in accordance with the Water Authority Act 1984 and any other applicable laws of the land. Clause 14(2) requires the company to construct and operate all plant and equipment used in its operations so as to minimise water consumption. Clause 14(3) specifies that should the water source be reduced, such reduction shall first be applied to third parties and thereafter, if necessary, the company's requirements shall be reduced by an amount agreed between the company and the Minister for Resources Development. Clause 14(4) states that the company shall not be

exempt from any liability to the State or third parties caused by the extraction of water, dewatering or any discharge from the mining leases.

Clause 15(1) states that if the State constructs a railway to Beenup suitable for the transport to Bunbury of heavy minerals, the company shall have the right to use the railway on such reasonable terms and conditions as are agreed with the Commissioner of Railways. Clause 15(2) specifies that should a railway become commercially viable as a consequence of the company wanting to significantly expand its operations under this agreement, the company and the Commissioner of Railways shall enter into discussions with a view to reaching agreement on terms and conditions for the construction of the railway and the transport to Bunbury of heavy minerals.

Clause 16 specifies that should the company submit additional proposals, consultation will take place with the relevant local authorities with a view to providing adequate housing for its work force and to contribute to the cost of community amenities. Clause 17 ensures that the mining leases shall be and shall remain zoned for use or otherwise protected so that the activities of the company may be undertaken without interference or interruption. Clause 18 provides that the mining leases will be rated on the unimproved value under the Local Government Act 1960, except where otherwise agreed in writing between the company and the relevant local authority. Clause 19 specifies that the State shall not impose, nor shall it permit any agency or local authority to impose, discriminatory rates upon the company's operations, or to take discriminatory action against the company which would prejudice the project. Clause 20 precludes the resumption of agreement lands by the State, except with the consent of the company, and any such resumption being non-prejudicial to its operations.

Clause 21 provides for the assignment or disposal by the company of its interest in this agreement, subject to the company executing a deed of covenant in favour of the State. Clause 22 enables this agreement to be varied from time to time by agreement in writing. Clause 23 introduces a force majeure provision which recognises temporary suspension of agreement obligations as a result of circumstances beyond the control of the parties to the agreement.

Clause 24 requires the company to undertake ongoing investigations into the feasibility of further processing in Western Australia of the ilmenite obtained from the mining leases. The company shall submit to the Minister for Resources Development detailed reports of such investigations, but not more frequently than once every two years. The State may initiate its own investigations, and negotiate with the company on the implementation of such further processing, if it is considered viable. Third parties may be approached if the company is unwilling to proceed, and the company shall provide ilmenite or other heavy minerals to the third party for this purpose on reasonable commercial terms, provided it is able to do so. The company is also able to apply to the Minister for approval for alternative mineral processing investments by the company, or a related body corporate, to be accepted in lieu of all or part of the company's obligations pursuant to this clause.

Clause 25 allows the Minister for Resources Development, at the request of the company, to extend dates referred to in this agreement. Clause 26 provides for the indemnity of the State for activities undertaken by the State on behalf of the company. Clause 27 requires the company to obtain all necessary commonwealth licences and consents to enable it to fulfil its agreement obligations. Clause 28 gives the company the right to engage subcontractors to carry out activities which it is authorised or obliged to carry out under this agreement. Clause 29 specifies the events which can result in the determination of this agreement. Clause 30 details the effect of determination or cessation of this agreement. Clause 31 requires the company to consult the State on any action that the company proposes with any other party, which may affect the State's interests under this agreement. Clause 32 specifies that any unresolved dispute between the parties shall be referred to and settled by arbitration under the provisions of the Commercial Arbitration Act 1985.

Clause 33 provides for limited stamp duty exemption, for a two year period, on the

transfer of certain mining leases to the company by BHP Minerals Pty Ltd, and on any assignment pursuant to clause 21, provided the company supplies evidence of satisfactory marketing and financial arrangements to the State by 31 December 1995. Clause 34 specifies the format of notices to be given by the State to the company. Clause 35 states that the company must comply with the Environmental Protection Act in relation to all activities under this agreement. Clause 36 specifies that this agreement shall expire on the expiration of the last of the mining leases. Clause 37 states that this agreement will be interpreted according to Western Australian applicable law. I commend the Bill to the House.

Debate adjourned, on motion by Hon Doug Wenn.

BILLS (2) - ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills -

1. Bank of Western Australia Bill
2. Alumina Refinery (Worsley) Agreement Amendment Bill

TITLES VALIDATION BILL

Second Reading

Resumed from 24 May.

HON VAL FERGUSON (East Metropolitan) [7.52 pm]: The Commonwealth's Native Title Act is an historic Act of Parliament that recognises the rights of Aboriginal people and rejects the notion that Australia was uninhabited prior to the invasion of European settlers. The Native Title Act achieves four goals: It confirms all existing titles; it confirms that native title claims will not succeed in the case of residential, commercial and pastoral grants; it allows native title to be revived at the end of mining leases; and it provides that any other valid grants of title will override native title only to the extent of any consistency between that grant and native title. The Native Title Act does more than this: It attempts to rectify part of the huge injustice perpetrated upon Australia's indigenous people. Together with the land acquisition fund and the Federal Government's Aboriginal justice package to be released later this year, the Labor Party will have delivered the single biggest step towards reconciliation with Aboriginal and Torres Strait Islanders. The same cannot be said about this State Government.

This State Government has not participated in this process, except in an obstructionist and provocative manner. This State Government does not support the idea of justice and land rights for Aboriginal people. We have only to look at the record of the Western Australian Liberal Party over the past three decades: Noonkanbah in the 1970s; the fight for acceptance of land rights in the 1980s; and finally its attitude towards the decision of the High Court of Australia on Mabo in the 1990s.

When this Bill came before this Chamber, members on this side agreed to accept it as a small step towards enacting the federal native title legislation in this State. We agreed to accept it, despite the discontent and reluctance of the presentation of a Bill by a Government trying to come to terms with its recent loss in the High Court. We agreed to accept it, despite the obvious fact that the Government did not support the legislation it was putting forward, but would have preferred that the whole question of Aboriginal rights be left and the problem not addressed at this time. That did not happen. The State Government had to look at a new strategy, one that makes me doubt even further its motives for this Bill. Of course, I am talking about this Government's deliberate attempt to sabotage the workings of the Native Title Act and its callous and unfeeling attempts to negate the rights of Western Australian Aborigines.

The Government, to the end of May, had lodged 118 right to negotiate applications with the national Native Title Tribunal. The Minister for Mines has said that the Government will lodge a further 60 or 70 applications each week. Aboriginal groups have only two

months to declare their interest. Many Aboriginal groups will have serious difficulty in responding within this time frame. It is difficult to understand why the Government has chosen this course. In an article appearing in *The West Australian* on 30 May, Hon George Cash said that it was ludicrous to suggest this State was trying to clog the tribunal. Why then is the Government lodging these applications? It is an incredibly immature way of thumbing its nose at the Federal Government and the High Court for daring to suggest that the Land (Titles and Traditional Usage) Act 1993 was an expensive waste of time. The cost of this exercise is over $7m: $2.7m to implement and defend the State's anti-Mabo law; $3.4m to establish and operate the Mabo coordination unit; and $1.7m for legal costs in the High Court.

Is this Government once again declaring its contempt for the rights and welfare of our most disadvantaged group of citizens? The Government reluctantly puts forward the Bill and then underhandedly seeks to subvert the entire process, with no thought to the damage it is doing to the reconciliation process in which the majority of Australians passionately believe. This Government has no commitment to reconciliation. This Government has no feeling or understanding of the historical injustices perpetrated upon Aboriginal people. This Government does not support the High Court decision on Mabo, despite the decision being 7:0. It has stated this over and over again; yet it reluctantly brings this Bill before us and begrudgingly asks us to accept it. For members opposite to attempt to take some sort of moral high ground on this issue would be laughable if it were not such a serious matter. My colleagues mentioned in the early days of Mabo the attempts of members opposite to frighten ordinary Australians with outright lies about the ramifications of the High Court decision. The Government continues to raise supposed uncertainties to business and the dangers to investment arising from the Mabo decision.

I bring to the attention of members the results of a survey published in the February 1995 edition of *Australia's Mining Monthly*. The annual risks survey lists a table of 15 countries which measured the level of risks to mining investment within a range of criteria including labour relations, green tape, land claims, sovereign risks and civil unrest. Australia topped the list. In fact, this is an improvement from second spot last year. In the area of land claims, Australia ranked no lower than Canada, which already has land claim legislation, South Africa and Papua New Guinea. This result is all the more significant because within the survey land claims are regarded as one of the greatest risks to mining security. In reviewing the survey this publication says -

> Despite continued high levels of publicity and negative comment about Australia's new Mabo-inspired land ownership laws there was no change in sentiment about land access or land claims.

The magazine article continued -

> However, this latest survey does pour some cold water on the negative views expressed by a number of outspoken critics of Australian Government policy. When measured as an overall ranking, and not based solely on geological prospectivity, Australia is shown to be an excellent place in which to do business . .

As one can see, there seems to be little uncertainty among the business community. The only uncertainty seems to be in the mind of this Government. This Government has not helped to settle things down and to allow all interested parties to understand and adapt to the new rules. The Government had to throw an expensive spanner in the works and hold up Western Australian participation in the Mabo process, a costly mistake in more ways than one. It now brings this Bill before us, not in the spirit of reconciliation, but with a great deal of reluctance. I do not in any way condone the attitude of this Government and its lack of understanding of Western Australian Aborigines nor the time and money being wasted. I support the Bill for what it will achieve.

HON KIM CHANCE (Agricultural) [8.02 pm]: This Titles Validation Bill 1995 could be reasonably expressed to be the first stage of legislation to provide a state Statute which is complementary to the commonwealth Native Title Act 1993. In speaking at the second reading stage of this Bill, other members made the point that this is the stage we should

have been at 18 months ago but for the incompetence of the Land (Titles and Traditional Usage) Act. It is unnecessary for me to go over that ground again at any length, except to say I must reject the comments made by Hon Ross Lightfoot in his contribution to the debate on 23 May. The *Hansard* reference is page 3517, where Hon Ross Lightfoot said that by criticising the Government's action opposition members had been imbued with a great vision of 20:20 hindsight. It would seem that Hon Ross Lightfoot has his nouns mixed up somewhat. Hindsight relates to past events and one's vision of them; foresight on the other hand relates to something which is yet to occur. In very clearly advising the House that the Land (Titles and Traditional Usage) Act would be later held inconsistent with federal legislation, opposition members at the time gave the Government ample forward notice that its Bill was worthless. Even Hon Ross Lightfoot cannot determine that to be hindsight. It was very clearly a matter of foresight. Hon Ross Lightfoot went further to castigate my friend Hon Tom Stephens, who he claims had the egotistical effrontery to say his knowledge of the Australian Constitution is superior to that of Professor Colin Howard QC. Hon Ross Lightfoot informed us that Professor Howard was the prime architect of the Land (Titles and Traditional Usage) Act. Today the facts support Hon Tom Stephens' being correct to match his ability in this matter with that of Professor Howard. The outcome of what Hon Tom Stephens and other members warned us of in respect of the state Mabo Bill was far more accurate than that anticipated by Professor Howard.

The history of this Bill essentially began in the early hours of 25 November 1993. After just 24 hours' notice we saw in this place that conventions established over the years were thrown out of the window on the basis of minimal notice. We were required to interrupt debate on another Bill in order to debate the Land (Titles and Traditional Usage) Bill. The guillotine was applied to that Bill, historically I believe for the first time ever in the Western Australian Legislative Council. I find it necessary to go back to those debates to see what actually occurred at the time in those unusual circumstances. I looked to the second speaker for the Opposition on that Bill. I found it was Hon Cheryl Davenport. I recall the debate went through the night. At 12.36 am Hon Cheryl Davenport, even with that short notice, was able to be extremely lucid. I will read an excerpt from the speech which appears in *Hansard* at page 7896. In part Hon Cheryl Davenport said -

> The mood of the hard-headed, no-nonsense colonist was captured by E.W. Landor, a Western Australian settler, who wrote in 1847 -
>
> > Nothing could be more anomalous and perplexing than the position of the Aborigines as British subjects. Our brave and conscientious Britons, whilst taking possession of their territory, have been most careful and anxious to make it universally known, that Australia is not a conquered country; and successive Secretaries of State ... have repeatedly commanded that it must never be forgotten "that our possession of this territory is based on a right of occupancy".
> >
> > A "right of occupancy"! Amiable sophistry! Why not say boldly at once, the right of power? We have seized upon the country, and shot down the inhabitants, until the survivors have found it expedient to submit to our rule. We have acted exactly as Julius Caesar did when he took possession of Britain. But Caesar was not so hypocritical as to pretend any moral right to possession.

Hon Sam Piantadosi interjected.

Hon George Cash: He was Italian, too.

Hon KIM CHANCE: He was. Hon Cheryl Davenport continued -

> That is what we have done in this country over the past 200 years and that is what the Government continues to do with the passage of a Bill such as this because it does not like what is happening at the national level in this country. This is nothing more and nothing less than a pathway to the High Court.

Hon Cheryl Davenport said about 12.36 am on the day that the state Mabo Bill was first introduced that this Bill would end its days effectively in the High Court. She went on to say -

> I have to say that I am an Australian first. We should all be thinking about our country and the people who are here long before we came here.

That prediction by Hon Cheryl Davenport was ultimately carried out. As a result of that prediction being accurate and that foresight by Hon Cheryl Davenport and other members at the time, all this time later we are doing what we should have been doing in or about November 1993. The warning on the Land (Titles and Traditional Usage) Act 1993 was issued to the Court Government by virtually every opposition speaker during the debate in this Chamber and during the debate in the other place. The 7:0 decision in the High Court in March of this year vindicated the warnings that the Government chose not to listen to almost two years ago. The Government and or the Premier went lawyer shopping until ultimately they found a lawyer prepared to say, "You have a case which might win." This is despite the evidence that I understand was received by the Government from its own Crown Law Department and also from many constitutional lawyers, that it was impossible to construct a case consistent with the State Government's opposition to land rights and at the same time not be in conflict with the federal legislation and thus doomed to failure in the High Court.

The comment made in the debate in the other place in 1993 by the then Leader of the Opposition, Dr Carmen Lawrence, has been well and truly borne out. Dr Lawrence said at the time that Premier Court's stance was one of "isolated stupidity". The Premier's futile attempt has cost the Western Australian taxpayer millions of dollars. We do not really know how much has been lost. However, the up-front costs are reasonably well known. Side issues have been terribly expensive to Western Australia, not the least of which is the international and national perceptions of Western Australia as a place where fair legislation is dealt with. Apart from anything else, one of those unidentifiable factors of that legislative mistake is that the reconciliation process of this State, a process to which this country is moving on a national scale far faster than we have ever moved in this State, has slowed immeasurably.

Some weeks ago in this Chamber we heard some speeches on the Aboriginal reconciliation motion which appears in today's Notice Paper as Order of the Day No 13. Other Parliaments in Australia have long since carried this motion. It enjoyed a similar level of bilateral support in other States to that which we saw in this afternoon's debate on the atrocity committed at the French consulate in West Perth. It seems that some of us in the Legislative Council of Western Australia have to be dragged kicking and screaming into this latter part of the twentieth century.

Hon John Halden: Where is the Minister for the Environment? I am sure you are speaking about him.

Hon KIM CHANCE: Never! They have to be dragged kicking and screaming to recognise our indigenous people's right to land title, a right which has never been surrendered despite the perfidious actions of colonial Britain, and which has never been given up as an ideal by the Aboriginal and Torres Strait Island people. Recent comments made in this place by Hon Ross Lightfoot do not help the process of reconciliation. On a number of occasions, Hon Ross Lightfoot has made statements about Aborigines which have implied they are anything but our equals. In one of his early speeches in this place he referred to them as coming from the lowest colour of the spectrum of civilisation. That and other more recent comments make me wonder, first, why anybody would want to say them in the first place and, second, lead to concern by members - including, I imagine, members opposite also - that Hon Ross Lightfoot is expressing sentiments which have no place in the latter part of the twentieth century.

The Western Australia Government is now moving towards a process of reconciliation, and this Bill forms part of that process. It would be churlish of me not to recognise that.

Hon John Halden: I would not go too far!

Hon KIM CHANCE: I have to start somewhere. The effect of the Bill will be minimal. However, a minimalist change in the right direction is a change in the right direction nonetheless.

Hon B.K. Donaldson: Are you supporting this Bill?

Hon KIM CHANCE: Yes, enthusiastically. Perhaps I should have made that clearer.

Hon B.K. Donaldson: I was a bit concerned.

Hon KIM CHANCE: I thank Hon Bruce Donaldson. I and the rest of the Opposition enthusiastically support the Bill, although we recognise that it does not go far enough. However, in introducing it, the Minister for Mines I think acknowledged that it will not overcome all of the conflict between our current position and the commonwealth Act. Nonetheless it moves towards achieving that. I acknowledge the role that the Minister for Mines has played in this matter because he has taken a mature stock of the situation since the High Court judgment and has progressed the matter as rapidly as is physically possible in the circumstances.

It is interesting to compare the performance of this Government with the performance of the Commonwealth on the process of reconciliation. Although the Commonwealth's response in the form of the Native Title Act has been criticised, its response is much wider than simply that Act. In conjunction with the Royal Commission into Aboriginal Deaths in Custody and, in part, in response to it, legislation and responses have come forward which have coloured legislation which has come since that time. In 1991, the Commonwealth passed the Council for Aboriginal Reconciliations Act, which is a little recognised piece of legislation. However, it was a stepping stone for much bigger things. As has been referred to on numerous occasions in debates on this Bill, the Commonwealth's major response in 1993 to the High Court's decision was the Native Title Act. A social justice package has been developed since then for those Aboriginal people who, because of non-Aboriginal settlement, have effectively lost their land. This is a recognition that, for a great many Aboriginal people, the Mabo judgment and the Commonwealth's and other States' legislation which has flowed from that judgment have not been a great deal of use. The Mabo judgment and consequential legislation can benefit only a very narrow spectrum of Aboriginal people. That has been presented to us as a fact on numerous occasions and the Commonwealth Government is well aware of it. We must find ways to address that by guaranteeing some form of equity for Aboriginal people in Australia. With recent legislation, the Commonwealth Government has probably gone as near to doing that as any Government can.

Having mentioned the Royal Commission into Aboriginal Deaths in Custody, it is pertinent at this juncture to remind members of recommendations 334 to 336 in the royal commission's report. The matters are entitled "Addressing land needs" and state -

> 334. That in all jurisdictions legislation should be introduced, where this has not already occurred, to provide a comprehensive means to address land needs of Aboriginal people. Such legislation should encompass a process for restoring unalienated Crown land to those Aboriginal people who claim such land on the basis of cultural, historical and/or traditional association.
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> 335. That in recognising that improvement in the living standards of many Aboriginal communities (especially for those people living in inadequate housing and environmental circumstances on the fringes of towns and on other discrete areas of Aboriginal occupation of land) cannot be ensured without the security of land title, governments provide, by legislation and/or administrative direction, an accelerated process for the granting of land title based on need.
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> 336. That unalienated crown land granted on the basis of cultural, historical and/or traditional association of Aboriginal people should be granted under inalienable freehold title and should carry with it the right of the Aboriginal owners to, *inter alia*:

a. determine who may enter the land and the terms of such entry; and

b. control the impact of development on the land in so far as such development may threaten the cultural and/or social values of the Aboriginal owners and their communities.

337. That governments recognise that where appropriate unalienated Crown land is unavailable to be claimed on grounds of cultural, historical or traditional association with the land or where, due to the processes of the history of colonisation, Aboriginal people are no longer able to, nor seek to, make claims to particular areas of unalienated Crown land on the basis of cultural, historical or traditional association there remain land needs of Aboriginal people which should be met by governments. These needs should be accommodated by a process which:

a. enables Aboriginal communities or groups to obtain secure title to unalienated Crown land or to purchase land for social, recreational and community purposes (including the obtaining of additional land in circumstances in which an Aboriginal community is on Aboriginal land but where the area of that land is established as being too small to accommodate the community);

b. enables Aboriginal communities or groups to obtain secure title to land so as to improve the environmental circumstances in which they live;

c. provides adequate funding in order that land may be purchased on the open market in pursuance of the needs identified in paragraphs (a) and (b); and

d. where pastoral land is held on lease from the Crown, permits Aboriginal communities traditionally or historically associated with the land to have priority when leases come up for renewal.

338. That as an interim step all land held under leasehold, being former Aboriginal reserve or mission land and being now held for or on behalf of Aboriginal people, be forthwith transferred under inalienable freehold title to the present leaseholder(s) pending further consideration by Aboriginal people as to the appropriate Aboriginal body which should thereafter hold the title to such land.

I thought it necessary to revisit those recommendations of that royal commission because they point to the legislative pattern which has been followed by the Commonwealth Government in respect of the needs of Aborigines for land in those areas where land is available and, more importantly with respect to the land Bill, to at least try to address the needs of Aboriginal people in those parts of Australia where such land is not available because of the encroachment of what we might call secure title held by non-Aboriginal people. During the debate on this issue, which goes back to 1984 - I guess that is the date one could nominate as being the beginning of the land rights debate - some people questioned whether land was something that provided any kind of solution to the problems faced by Aboriginal people in Australia.

I understand that the Select Committee on Endeavours and Achievements of Indigenous Peoples of Australia was a joint House committee. It does not really matter whether it was; what does matter is what was said during the deliberations of that committee. I believe Hon Muriel Patterson was the chairman of the committee.

Hon George Cash: She was, and the committee produced a magnificent report.

Hon KIM CHANCE: I think the committee was set up before I became a member of Parliament. However, I remember a comment made to me about an informal conversation which involved the chairperson of that committee. After having crossed the border between the Northern Territory and Western Australia a general conversation was held between committee members. I am not breaking any confidences because the discussion was not made in the context of the committee, but was about the difference in

the way the Aboriginal people in the Northern Territory viewed their place in life. Reference was made to the level of optimism they displayed, which was, according to at least one member of the committee, of a much more beneficial nature to the Northern Territory Aborigines than to the Western Australian Aborigines. One committee member said to another, "Why do you think that is the case? They live in similar conditions and they live in the same climate, because we have simply crossed the Territory-State border. In addition, there is the same level of consumption of alcohol and they are the same distance from the nearest town. Why is one group more optimistic than the other?" The answer given was that it was probably because there were land rights in the Northern Territory and none in Western Australia. I do not know whether that is the reason, but I think it is a fair guess.

The people in the Northern Territory face life with more hope and optimism than those in Western Australia because of the deep association they have with the land and they have certainty of possession of it. All members can understand the association that Aborigines have with the land. Those members who have lived on the land, more than those who have been bound by the set of values which develops in cities, will be aware of what is an association with the land. I can understand from a European point of view what other farmers and land occupiers feel about the ownership of land. Anyone who lives on the land has a very deep attachment to that land. I can only begin to imagine the depth of the attachment that an indigenous race of people, with a history going back thousands of years, has to the land.

It is not surprising that when we look at other races of indigenous people, particularly nomadic people in other parts of the world including the North American Indians and the Bushman of the Kalahari Desert, we find the same expression of attachment to the land and the same level of care of land in those societies. The Indian population of South America, when they first saw the Portuguese clearing land there for sugar plantations, stood on the edge of a clearing and cried. When the Portuguese colonists asked why they were crying they said it was because the colonists had taken away the trees and the land could not breathe any more. Their attachment was such that despite the fact that they occupied one of the biggest land masses on the world - they must surely have had a concept of the size of their country, which we now call Brazil - when they saw this little bit of coastline being cleared by the Portuguese it affected them so deeply that they stood and cried. Brazilian history records that, unless under extreme duress, South American Indians refused to work on that land which had been killed by the Portuguese, so much so that the Portuguese had to import slaves from West Africa. The Portuguese regarded the South American Indians as being lazy and useless, but the truth is that those Indians would not work on that land simply because they felt that in contributing to killing the land they were committing an unpardonable sin. That is one expression of it.

One can find similar expressions among the North American Indians and certainly among Aboriginal Australians, whose attachment for the land is such that if one takes a tribal Aboriginal away from his home country and deprives him of his people and what he regards as his country, even though he might be only 200 or 300 kilometres away from his home, effectively he dies inside. The wail that is set up by Aboriginal tribal prisoners translates to words that we know well in the English language: "Poor fellow, my country."

It has taken us a long time to come to the stage where we even want to try to understand what reconciliation means. In so much of Australia we do not have a hope of giving that back to the descendants of the original inhabitants, but that should not stop us from trying. Acknowledging at all times that the commonwealth Bill has deficiencies, it is a genuine attempt to overcome those deficiencies, and I for one as a member of the Opposition would welcome the opportunity to work with the State Government to overcome those deficiencies. I believe they are not as difficult to overcome as some people tell us. I have sat down with representatives of the Pastoralists and Graziers Association and gone through their concerns about the commonwealth legislation. I sincerely believe there are relatively simple answers. If ever the opportunity arose to assist the Government I would be delighted to do so. Without taking one thing away

from the commonwealth legislation, however, I believe that even the Commonwealth would want these matters settled.

Perhaps some of my comments strayed a little from the Bill, but they were things that needed to be said, and they underline the fact that the Opposition genuinely welcomes this Bill because it is a step in the right direction towards reconciliation. I hope these steps can come more quickly and more smoothly as the Government finds its way through the fairly tortuous web of the commonwealth legislation, and I sincerely hope that the Opposition is able to assist in that process.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [8.33 pm]: It probably goes without saying that it would be easy for 14 members on this side to get to their feet and say, "Well, we told you so." Unfortunately, the matter not recognised by Hon Ross Lightfoot is that when the original legislation, the Land (Titles and Traditional Usage) Bill, was passed through this House the Opposition told the Government that it would have problems with its legislation. Hon Kim Chance said that the Premier went on a shopping spree to find some legal opinion that would support him. The tragedy in that was the wastage of government money that could have been used perhaps to build 3 or 4 metres of the tunnel in Northbridge or for some other equally worthwhile pursuit! Or, perhaps, for a far more worthwhile pursuit.

When reading the debate and even listening to the words of Hon Ross Lightfoot and others in this and other debates and by way of interjection in this place, there does not seem to be a preparedness on the part of the Government to move some distance towards what most people would accept as an attempt to have this reconciliation process. It is an attempt that people on this side of the House want to see embraced, but I do not embrace this Bill with the same generosity as Hon Kim Chance. As he said, this Bill represents a minimalist position. Even the words of the second reading speech delivered by the Minister for Mines attack the Federal Government for what he sees as the problems in this complicated area, rather than an attempt to meet it on some common ground. If the Government had made more of an attempt to find that common ground, it would have moved away from this minimalist position that has been developed in this Bill. If there was any commitment from members opposite they would have repealed the Land (Titles and Traditional Usage) Act. A sign of commitment would be the Government's repeal of that Act, and it will get an opportunity in this debate to do just that.

Based on the comments that I hear from members opposite, and perhaps a cursory reading of the second reading speech, the Government says that it has been forced to change its position because of current legislation. The Government will gets its chance to be tested on that. I want to be convinced that the legislation the Government would not change is the Racial Discrimination Act - the very one that brought this Government undone in the High Court; and that if ever the Government's federal colleagues got to power that would not be one of the primary objectives of a legislative package from the conservatives. If the outrageous comments I have heard in this Chamber about Aboriginal people were reflected in Canberra, we would be demanding that this Bill be repealed as a sign of the Government's good faith. I assure the Government that is what we will be doing. Except for this minimalist change, the history of the Land (Titles and Traditional Usage) Act has been a deplorable assault upon Aboriginal people and their rights as established both in the High Court and by the Federal Government. The insult continues.

In this week's Budget members may recall the words of the Premier, and those made in debate in this House on the preceding Bill, on the impact of native title legislation on the State: It would slow down exploration and mining, and cripple the State. The Premier said in regard to the federal Native Title Act that growth would be slowed dramatically and the State's main economic engines - the mining, petroleum, pastoral and agricultural industries - would be steadily weakened by a flight of capital out of Western Australia. That is in line with the Premier's wasting $10m or thereabouts on High Court challenges. The Economic and Financial Overview tabled by the Premier last week states, "Significantly the growth in exploration activity in Western Australia appears largely unaffected by the Federal Government's native title legislation." One can only try to

ascertain why we went down the path of native title and traditional usage. It was because the Government of the day did not want to acknowledge, in fact extinguished in this place and by its actions in the other place, the concept of native title in its legislative form. It granted and extinguished it in the same Bill. It was an act of the highest arrogance imaginable. It was an act of contempt for the indigenous people of this country, and it went on to cost the taxpayers $10m.

When we consider this legislation, is it any wonder that we are suspicious? The Government has been dragged to this point by a High Court decision. Considering the second reading speech, it has been dragged here not for any common good or by any common desire to solve the problems but out of sheer necessity to conform with the law of this nation. At the end of the day if we want to show some credentials, if we want to be perceived in any way as not having used the issue of native title to maximise one's political advantage, to try to whip up racial fervour in the community to suit one's political advantage, and to try to minimise the image of a limp Premier at the time, then the issue before us is to be more cooperative with the Federal Government. We should deal with the problems that exist with the federal native title legislation, and its great complexities and difficulties. What we can do to show our goodwill is to repeal one of the most repugnant pieces of legislation this place or the other place has ever passed; that is, the Land (Titles and Traditional Usage) Act. It has been a sorry saga for this House and this issue.

I can honestly say that I have not been more offended by the comments of any member on any issue than those made by Hon Ross Lightfoot on this matter. I am not normally easily offended by anyone. Those comments offended me, but what offended me more was the member's absolute arrogance and superiority vis a vis his comments regarding his origin, being Anglo Saxon, and those of the Aboriginal community. One must be puzzled about how much longer even in this place, conservative as it is, a view will be expressed that is so out of touch with the basic common decency to accept people for what they are, to accept their differences, and be prepared to acknowledge their rights within our society. The comments by Hon Ross Lightfoot typify my disgust that those values still exist in our society, but my disgust is not minimised by what the Government has done or how it has performed in addressing this issue. It has been a disgrace from day one, and it continues to be a disgrace by virtue of the second reading speech. The Government can be assured that we will test whether it has any real commitment to strike out the Statute which represents the kernel of one of the most repugnant pieces of racist legislation to be brought into this House this decade.

As other members stated, we will support this Bill, but only on the basis of its minimalist approach, that it is a movement, and we hope that when we test the Government later it will have some new-found commitment to the native title issue.

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.45 pm]: I thank members for their obvious support of this Bill. I was delighted to hear the complimentary comments by members of the Opposition. However, I was somewhat distressed to hear some of the misinformed comments about suggestions that the State Government had not been working closely with the Federal Government to try to resolve some of the difficulties with the procedure laid down in the Native Title Act. That indicated that some members of the Opposition are not as well informed as they might be on the huge amount of work being done between the State and the Commonwealth to try to resolve what some members of the Opposition have recognised as obvious difficulties in the current Native Title Act.

The Titles Validation Bill was introduced into this Parliament to validate all past acts attributable to the State, and it is in strict conformity with the Commonwealth's Native Title Act - an Act to which the Opposition has given its support. I say that in so far as the comments of opposition members were similar during this debate to their comments regarding the Land (Titles and Traditional Usage) Bill in this House in 1993. The reason that the State has introduced the Bill before us is that there is an obligation under the commonwealth Native Title Act to so do in order that certain titles in Western Australia can be validated. In that regard it is fair to nominate the Bill as being one of minimalistic

approach in so much as it does those things required in respect of validation as set down by the commonwealth Act. There is no need at this stage to take other action in respect of the commonwealth Act because the decision made this year by the High Court when seven judges of the High Court determined that the commonwealth Act should have precedence over the state Act, indicated that commonwealth law was to prevail whether the State Government liked that position or not. I have said before in this House on a number of occasions that although the State Government may not have been pleased by or attracted to the decision by the High Court, the fact that it was a 7:0 decision did not leave much room for doubt in anyone's mind.

Hon Mark Nevill: It was the only game in town.

Hon GEORGE CASH: It was the only game in town, and the good thing is that a 7:0 decision is better that a 4:3 decision because if it were a 4:3 decision people would still be arguing about the merits or otherwise of the decision.

The State Government accepts that the High Court has handed down its ruling. The commonwealth Native Title Act is now the legislation with which we are required to work. In that regard, we will. However, the current processes and procedure laid down in the Native Title Act remain unworkable. I will quote some of the opening words by Hon Bob Thomas where he acknowledged, "I am not one who believes that the federal legislation is fully workable yet." He then went on to say that the Federal Government is in effect "sucking and seeing". He later urged the Opposition to discuss the process with the Commonwealth Government. In that regard Hon Bob Thomas is absolutely right.

Hon Bob Thomas: Justice French says the same.

Hon GEORGE CASH: I think everyone acknowledges the current commonwealth Act is not workable and as a result that will clearly impact on all the States.

Hon Bob Thomas: I was talking about the tribunal.

Hon GEORGE CASH: I will talk about the tribunal in a moment. I think there are problems with the process generally but there are specific areas, and Hon Bob Thomas is right - the tribunal area is one of them.

Hon Bob Thomas interjected.

Hon GEORGE CASH: Yes, it does. To answer a question raised by a number of other members who spoke urging that the Government should establish a state tribunal in accordance with the Native Title Act, the State Government is very happy to have a state tribunal. It believes that the State has a greater capacity than the Commonwealth to manage land within its boundaries. The Department of Land Administration has a proud history of over 100 years of managing land within Western Australia. The Mines Department, which celebrated its centenary last year has a very proud record of managing mining in Western Australia over a century. Clearly there is expertise in Western Australia.

Hon Bob Thomas: You sell it overseas.

Hon GEORGE CASH: Hon Bob Thomas is right; the Department of Land Administration actively markets its skills overseas in land administration and the Department of Minerals and Energy has been invited overseas to show other countries just how good is the mining registration and tenements system it has established. We in Western Australia definitely want to establish our own tribunal, but it is not much good establishing that tomorrow if it is required to work under the current unworkable process laid down in the commonwealth Native Title Act. We want to negotiate with the Commonwealth Government so that we can make the Native Title Act more workable, so that it is able to do the things I think the Commonwealth would want it to do, and certainly the State wants it to do. We can get it into a workable form. We can then establish a state tribunal under the provisions of the commonwealth Native Title Act and get on with the job and save much time in processing applications.

Hon Bob Thomas: You will acknowledge that certain people have common law rights to native title?

Hon GEORGE CASH: It does not matter whether I acknowledge it or not. The High Court of Australia has determined that to be case. That is the law of the land. Many people might want to deny it; they can deny it as much as they like, but 7:0 in the High Court means the law of the land says it exists whether we like it or not. If the member is asking me whether I accept it, I accept a 7:0 decision from the High Court. One would be silly not to.

Hon Sam Piantadosi: I have been listening to your argument intently. Would the Government and this body consider all native Western Australians have the ability to claim land rights?

Hon GEORGE CASH: We must refer to the original High Court decision which was based on occupancy and traditional usage of an area.

Hon Sam Piantadosi interjected.

Hon GEORGE CASH: I know what the member is getting at, but the original Mabo decision was based on traditional usage and rights associated with a very small area of land in the Murray Islands. The land in question was approximately only nine kilometres square. As a result of an action taken by Eddie Mabo the High Court determined that certain common law rights should be recognised in respect of that land. When that decision was made and handed down, a great expectation was built up that the decision concerning the Murray Islands would translate in exact terms to mainland Australia. I think that is where we started to run into problems.

As Hon Sam Piantadosi will well remember, lawyers throughout Australia formed their view on whether there would be an ability for Aboriginal people on mainland Australia to make similar claims. Half the lawyers said it could be done and half said it would not have a great impact. That great legal argument took place for a long time during which expectations were built up among certain groups. In my view they were unfair expectations because whether we believe it or not, we have a long way to go before native title will be agreed to by any court. Under the present commonwealth legislation certain groups can make a claim on land. All that does is cause them to register an application with the National Native Title Tribunal. In due course, if they are able to show certain traditional usage and links with the land, the court may make the decision. However, that will be in rare cases. Yet there is an expectation that every person who has an Aboriginal background will be entitled to some land, no matter what.

I think Hon Sam Piantadosi was referring to other groups in Australia. The High Court decision did not relate -

Hon Sam Piantadosi: They could be native to Australia.

Hon GEORGE CASH: I understand what he is getting at, but the High Court made a determination concerning terra nullius - no man's land as it translates to. That was related to people who had been here for a very long time. The people to whom Hon Sam Piantadosi is now referring settled in Australia later, in the case of Western Australia 1829, and New South Wales in 1788.

Val Ferguson claimed in her contribution that the Government was attempting to sabotage the process laid down in the Native Title Act and used as evidence the fact that the State had lodged 118 applications up to May of this year. Every day the Department of Minerals and Energy receives applications for mining tenements. It is required under the commonwealth Native Title Act to take certain action. It must first assess the tenure history of the land to determine whether there is a likelihood of native title. In that regard the first thing it does is determine what status or tenure attaches to the land. If it is freehold native title is extinguished. The High Court decision in itself acknowledged that freehold tenure extinguished native title along time ago. Other categories of tenure must be considered; for instance there are two categories, so to speak, of pastoral leases in Western Australia - those pastoral leases with reservation under the Land Act and those that are not the subject of reservation. Given submissions made by the Federal Government, and given discussions between the State and the Commonwealth, a general understanding has been reached that the State can issue title on pastoral leases without

reservation. For pastoral leases the subject of reservation, until a court of law determines whether native title has been extinguished, the State Government has made a policy decision that they must go into the native title system so they can be evaluated under the process laid down in that system. Because of the High Court's decision, there is clearly an implicit obligation on the Government to have any application on vacant Crown land, another category of tenure, put through the commonwealth Native Title Act process. That necessarily requires those applications to be put into the system.

To try to expedite the process the State Government has used what are known as the section 26 and section 29 applications of the Native Title Act. They are the advertisements to which Hon Val Ferguson related her comments. Under that process the respective department attempts to assess the tenure history of the land in question. Having determined that there is a possibility of native title, the application is then introduced into the system by advertising an intent under the Native Title Act. The regulations to the Native Title Act contain a requirement that that advertisement be placed in a newspaper circulating on at least five days in each week throughout the State; that where there is a local newspaper that newspaper also carry a similar advertisement; and where there are Aboriginal radio stations that notice be given by advertising on those radio stations so there is notification of potential persons who might have an interest and wish to make claim, if they believe they could substantiate a claim. The Act contains other requirements relating to that. The regulations require that those advertisements provide a two month period in which a claim can be lodged. If no claim is lodged within a two month period, the State is in a position to issue a title for that land. That is the reason those applications appear in the newspaper; there is a statutory requirement for them to so do.

There is no attempt to clog the system; if anything, the Government would be happy if the Native Title Tribunal were to give the State another method of dealing with the land. I can assume only that the comment Hon Val Ferguson made was picked up from a newspaper, because the Commonwealth Government soon after the decision was handed down by the High Court said that that was a likely scenario; that is, that the WA State Government would try to clog the system. There is no future in our clogging the system anyway. We hope the Native Title Tribunal could expedite the issue of applications as and when required.

The Government is required to proceed under the Act and the Native Title Tribunal in Perth now understands that to be the case. Hon Kim Chance in his opening statement acknowledged that this was the first time he believed the State Government was complying with the Native Title Act. Perhaps he used a little latitude in that regard, because clearly the Government has had to comply with the Native Title Act since the High Court brought down its findings.

Hon Kim Chance: In a statutory sense.

Hon GEORGE CASH: The proper interpretation is that because of the requirements of the Native Title Act, this is the first state legislation to be introduced into the House to ensure that the State complies with certain provisions. I recognise that. Hon Kim Chance said also that it was a long time coming, meaning that on 25 November 1993 the State Government introduced the Land (Titles and Traditional Usage) Act. I further acknowledge Hon Kim Chance's comment that he hoped progress in the future would be a lot quicker.

On 23 May Hon Nick Griffiths ran through the legal side of the Bill and explained the purpose of the Bill which, as he correctly described it, was to validate those matters described in past Acts from 31 October 1975 through to January 1994. Hon Nick Griffiths then went on to explain why 1975 was an important date; of course, it was the coming into operation of the commonwealth Racial Discrimination Act. He said also that the Government should provide a clear and cogent explanation of why the State Government would not repeal the Land (Titles and Traditional Usage) Act 1993. In a moment I will do that, because that matter has since been raised by a number of other speakers.

Hon Tom Stephens gave what I might describe in simple terms as an "I told you so" speech. I do not need to say much more in that regard. It was the first opportunity Hon Tom Stephens had to speak at any length on matters relating to native title because he was on an enforced holiday in 1993 when the other Bill was debated in the House. I am always amused when he claims that there was a conspiracy or game plan to have him out of the House when that last Bill was discussed; in fact, nothing is further from the truth.

Hon Sam Piantadosi: You wouldn't do that; you're not that type of person.

Hon GEORGE CASH: I do not think I could have done it by the design he claims: If I could do it like that, there would be a good chance that he might spend more time out of the Chamber. That is not the way things happen and it is not the way it was done.

Hon Kim Chance: So there was no conspiracy involving you and Hon Tom Stephens?

Hon GEORGE CASH: No, certainly not between us. Hon Tom Stephens claimed also that the federal coalition would repeal the Native Title Act; however, he is wrong in saying that. The federal coalition has made its position clear on the Native Title Act. Along with the State Government it has made it clear that amendments are necessary to the Native Title Act and it has indicated it is happy to work with the Western Australian Government to ensure those amendments occur. The State is required to work with the federal Labor Government to ensure that those amendments occur as soon as possible. The dealings on those amendments are between the State Government and the Commonwealth Government because they are the two bodies which will need to reach agreement.

If there was a change of Government in due course, then all the better, but we hope that by that stage, the Native Title Act will be in a workable form.

Hon Tom Helm started off in an encouraging way by saying, "I support the Bill", and he said later, "We cannot oppose it because we agree with what is intended in the Bill." He then related various activities within his electorate of the Mining and Pastoral Region. I was interested in Hon John Cowdell's comments. I always enjoy Hon John Cowdell's speeches in this place. He commenced by saying, "I must say that our foresight has proved to be better than the Government's hindsight even at the current juncture." That may be the case, but one would only know that in hindsight. However, it is an interesting proposition. It is interesting that all of the members of the Australian Labor Party supported the Bill. Hon Jim Scott was the only member on the opposition side who could not go so far as to support the Bill. He commenced by describing the Bill as putting right a past mistake, and concluded by saying, "I do not oppose the Bill". It is regrettable that he could not support the Bill.

Hon Mark Nevill said, "I support the passage of the Titles Validation Bill 1995. There is nothing objectionable in this Bill." Both Hon Mark Nevill and Hon Val Ferguson suggested that the Government was trying to clog up the system. I refute that claim. We are not interested in clogging up the system. We are interested in processing as many applications as we can as fast as we can so that those people who have an interest in getting on with the job can do so. However, Hon Mark Nevill did recognise that there are serious deficiencies in the commonwealth Bill that need to be remedied. Hon Mark Nevill was wrong when he said that the State Government had not had discussions with the Federal Government. The Minister for Aboriginal Affairs, Hon Kevin Prince, and I met with the Special Minister for State, Gary Johns, who assists the Prime Minister on Mabo matters, and the federal Minister for Aboriginal Affairs, Hon Robert Tickner, in Perth some time ago, and I have another meeting scheduled with them in about three weeks to try to progress discussions on the need for amendments to the Native Title Act. I understand that as a result of discussions between the Premier and the Prime Minister, the Attorney General, Hon Michael Lavarch, will be called in to those discussions in due course because of the legal nature of the amendments, and we are looking forward to his later involvement in putting these amendments into their final form. I hope I will have the opportunity of meeting the commonwealth Attorney General in Perth on about 12 or 13 July when I believe he will be in Perth for an Attorneys General meeting. Hon Mark

Nevill referred to the Brandy decision. That decision will clearly have considerable impact on the decisions of tribunals in Australia, and that will put additional pressure on the Federal Court. That matter has been well and truly canvassed in the media over a period of time, and I do not know that there is much need to discuss that at this stage of the debate.

The Leader of the Opposition, Hon John Halden, wanted a guarantee that the Federal Opposition will not repeal the Racial Discrimination Act. I was surprised to hear Hon John Halden mention that because it is the first time I have heard it suggested that a federal party, be it Labor or coalition, might contemplate the repeal of that Act. I do not believe that will be the case. In addition, there is a question in law about whether that action would succeed, given the High Court decision. We may think the Parliament is supreme, but clearly the High Court has views of its own, and it is an interesting constitutional question whether a Federal Government could now repeal completely the Racial Discrimination Act, but that is a question for another day and we do not need to chase that rabbit down the foxhole at this stage.

A number of speakers referred to the repeal of the state Act. Hon Nick Griffiths, as the lead opposition speaker on this Bill, also indicated that at the Committee stage, he intends to move an amendment which is on the Supplementary Notice Paper. I think members will recognise that whenever I have talked about the question of native title in Australia, I have tried to take a responsible or moderate view - some might call it a soft view - and my comments have been heard by some and not heard by others. However, there is no question that another Bill must be introduced into this Parliament, in compliance with the commonwealth Act, if this State is to resume and compensate for native title on state land in Western Australia. There must be an amendment to the Public Works Act, and there must also be some consequential amendments to the Mining Act.

Hon Mark Nevill: Hopefully there will be a new Land Act.

Hon GEORGE CASH: We can handle it through the Public Works Act at the moment because that Act is used as the major vehicle for the resumption of land in Western Australia.

Hon Mark Nevill: That was said tongue in cheek. I hope the new Land Act will be in before you get around to those amendments.

Hon GEORGE CASH: It will not be, because the Government is in the process of preparing a Bill to amend the Public Works Act to allow for the resumption of that interest known as native title and some other consequential amendments. That will be discussed further by Cabinet next Monday, and I hope that Bill will be introduced into the Parliament next week. That will require the repeal of certain sections of the Land (Titles and Traditional Usage) Act.

Hon Mark Nevill: You will not need new legislation to set up a tribunal because you can do that under the commonwealth Act.

Hon GEORGE CASH: That is right. I am dealing just with the state Act at this stage. I have had some preliminary discussions with the Premier, and the matter has been raised with a number of my ministerial colleagues, and the position that I will adopt is rather than bring in a single Bill to amend just the Public Works Act and make the consequential amendments that will flow from repealing some sections of the Land (Titles and Traditional Usage) Act, the Bill that will be introduced next week will provide for the repeal of the Land (Titles and Traditional Usage) Act. Hon Nick Griffiths might wonder why we do we not just adopt his amendment. I have looked at the various options that are available. The first option is to agree to that amendment. However, in its present form that requires a fair number of consequential amendments that flow into different Acts. The second option is to introduce a separate and distinct Bill to repeal the state Act on a stand alone basis. The third option, and the most expeditious option as far as time is concerned, is to include it in an amending Bill that needs to be introduced to allow the resumption of land. That proposition will be put next week. Hon Nick Griffiths may ask how I can guarantee it will occur. I cannot guarantee that. However, I

can say that in all the discussions I have had to date, that is the option most favoured. I expect by next week to have the necessary amendments in hand to be drafted into a Bill. I anticipate the Bill will be printed next week and introduced into the lower House. The Government will not agree to the proposed amendment by the Opposition, but members opposite can anticipate a Bill being introduced into the Legislative Assembly next week that will repeal the state Act. I make that my final point because it is one of the major areas with which Hon Nick Griffiths wanted to deal. Having completed my comments, I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Murray Montgomery) in the Chair; Hon George Cash (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: I welcome the concluding comments of Hon George Cash in responding to the matters raised by the Opposition. The Australian Labor Party continues to support the Titles Validation Bill 1995 and trusts it will be passed in a relatively speedy way this evening.

I am very pleased to see the Minister for Transport in the Chamber this evening because I have an apology to make to him. In concluding my remarks in the second reading debate I made reference to Hon Eric Charlton. I refer to page 3510 of *Hansard* and my statement -

> I note the relevant interjection from Mr Charlton to the effect that the deal was that Mr Howard promised to repeal the Act. That was when I was talking about the Racial Discrimination Act 1975. Mr Howard has promised to repeal the Racial Discrimination Act 1975, as stated by Hon Eric Charlton.

It was my impression that Hon Eric Charlton had interjected to that effect. However, Hon George Cash speedily pointed out that Hon Eric Charlton did not say that and that I was misrepresenting him. I accept the accuracy of those comments. I did inadvertently misrepresent Hon Eric Charlton and I apologise to him for doing so. However, I note that Hon Tom Stephens who spoke after me pointed out that another member opposite had made the interjection which I thought had been made by Hon Eric Charlton. I do not want to refer to that gentleman because he is unfortunately away on parliamentary business. However, I note with some misgiving that the honourable member concerned is a person of great significance within the faction structure of the Liberal Party, and that causes me a greater degree of concern than if the interjection had been made by Hon Eric Charlton.

Clause put and passed.

Clauses 2 to 14 put and passed.

New clause 15 -

Hon N.D. GRIFFITHS: I move -

> Page 7, after line 23 - To insert new clause 15 as follows -
>
> **15.** The *Land (Titles and Traditional Usage) Act 1993* is consequentially repealed.

If the Land (Titles and Traditional Usage) Bill of 1993 is not repealed, there is a danger that the legislation, which many people regard, in my view quite accurately, as being racist, will taint the good governance of this State. There is a risk that the legislation will become operative down the track, depending on what happens to commonwealth legislation, whether the Native Title Act or the Racial Discrimination Act. There is a real danger that if the Government continues to heed the advice of Dr Colin Howard, who was a primary source of advice with respect to the drawing up of the Land (Titles and

Traditional Usage) Bill - not in respect of being the draftsperson but by providing advice to the effect that the legislation may be constitutionally valid - it may go down the dangerous path about which I am concerned, and may not heed the words of moderation of Hon George Cash this evening in concluding his remarks in the second reading debate.

My concern is raised by reference to an article in the *Western Review* of May 1995 entitled "An absence of loose ends" by Dr Colin Howard. The *Western Review* advised that the article was reprinted from an article in the *Adelaide Review* of April 1995. I refer to the article and some observations of Dr Howard, who in my view, eminent though he is in the field, was clearly wrong in his judgment and in his advice. However, it is the following words that cause me concern -

> Mr Court has announced his intention to continue to resist the progress of native title and the survival of the Native Title Act in particular . . . All that the court has done, or could do, is declare the Act inconsistent with the Native Title Act and, or alternatively, the Racial Discrimination Act.
>
> By section 109 of the Constitution such inconsistency renders State legislation inoperative to the extent of the inconsistency. In the High Court's view the degree of inconsistency is total because the land rights made available to Aborigines under the WA Act are less extensive and secure than the interests in land available the under the Native Title Act. For the same reason the WA Act was held to be racial discrimination and therefore totally inconsistent with section 10 of the Racial Discrimination Act . . .
>
> This means that the disclaimer by the Opposition of any intention to repeal the Native Title Act, let alone the Racial Discrimination Act, must have been particularly disappointing to Mr Court. With those obstacles out of the way his own legislation would come into its own. Indeed, ironically for his present critics, if in this hypothetical situation he chose to leave his own Act on the books he would become the champion of the most enlightened native title laws in the country.

That is a very strong endorsement of the legislation that we find offensive from a past primary legal adviser of the Government. My concern is raised even further by his concluding words -

> What a disarming game of snakes and ladders politics can be.

It is for those reasons that the Opposition thinks it appropriate that it persist with the amendment that I have moved this evening. I have already indicated to Hon George Cash that we intend to divide on the question.

Hon GEORGE CASH: Much has been said during this debate about the professional advice tendered by Dr Colin Howard and most of it has been assumption. All those people who have raised their views about what Dr Howard said or did not say at the various meetings that clearly occurred when we were formulating the state Act were not there. It just so happens that I was there on most occasions. Therefore, I have some understanding of the advice that Dr Colin Howard tendered. While I certainly do not intend to divulge to the Committee what would be regarded as legal advice tendered to the Government as requested, I stress that I have the highest possible regard for the professional capacity and competence of Colin Howard. I think Hon Nick Griffiths will agree with me that Dr Howard is a very competent constitutional lawyer.

Hon N.D. Griffiths: My comments should not be interpreted as an attack on Dr Howard's competence but merely a concern about his view as presented and as being adopted by the Government.

Hon GEORGE CASH: I certainly accept what the member is saying as a lawyer, but I am unsure that those same views were necessarily carried forward when other members of the Opposition were making their comments. However, we both respect Dr Howard as a very professional and competent constitutional lawyer. The fact is that no matter what the advice tendered to the Government, the Government made its own decision about the formulation of the state Bill. It was the Government's Bill that was introduced to the

House and no-one else's; it was the Government's Bill that was passed by this House and no-one else's.

I also have a copy of the article referred to by Hon Nick Griffiths from the *Adelaide Review* of April 1995, which is entitled "An absence of loose ends" and which was written by Dr Colin Howard. I understand clearly what Hon Nick Griffiths was relating to when he referred to the words that he stated earlier. The fact is that, as far as I am concerned, we are not playing a game of snakes and ladders. In fact, we are considering a Bill now that is required to be considered by this Parliament in compliance with the Native Title Act - an Act that the High Court has determined shall be the law of the land for native title in Australia. There is no need to play snakes and ladders.

I have informed the House that it is my intention next Monday to recommend - I hope the Bill can be introduced next week - a Bill that will, in effect, repeal the state Act. It is a Bill that, as I explained earlier, is intended to allow the State to amend the Public Works Act. It will allow the proper resumption of native title interests as defined under the Native Title Act. The opportunity exists in that Bill to include the repeal of this Act and, more than that, the consequential amendments that flow from it. That is the reason why the Government cannot agree to the member's amendment.

From time to time members of the Opposition put up amendments. When those amendments are rejected, members opposite probably think no consideration was given to them. The fact is that members opposite put up the amendments. I am not suggesting that that is the sole reason the Government has agreed to repeal the Native Title Act, but it was a factor that was clearly taken into account in considering the future of the state Act. Once the Act is repealed, clearly any notion of playing snakes and ladders goes out the door. What we have at the moment is a decision by the High Court, which said, seven to nil, that the Native Title Act was the Act that was to be considered the law. As a consequence, the state Act is held in abeyance or is inoperative while the Native Title Act remains on the Statute books. As a act of good faith we are saying that we will repeal the state Act. In due course, if the Government believes there is a need to introduce some other legislation to protect the rights of Aboriginal people in Western Australia, or that some other legislation is needed to improve the wellbeing of Aboriginal people in Western Australia - or any other group for that matter - we will obviously introduce legislation to that effect. I was going to suggest that there was probably a need for the Chamber to have some regard for what happens when a law of the State is inconsistent with a law of the Commonwealth - whether that law is held in abeyance, is invalid or is inoperative. However, I do not think there is any need to pursue that. The question that must be understood is that the state law is inoperative at this stage. I have given a commitment that the amending Bill will be introduced into the House and the state Act will be repealed.

Having said that, I have been advised that the Premier will not be available next Monday. It has been suggested to me that I should not be too definite by promising the Bill next week. If the Premier is not available to agree to it, unfortunately it will take another week. I was not aware of that when I made my statement. I will endeavour to see that it is progressed, but his absence is a matter for which I must have regard. The Chamber has been advised of the position that will be put. I believe it is one that will be carried. I must, however, put a caveat on the introduction of the Bill, not for reasons of policy but for purely administrative or procedural reasons. In that regard the Government cannot accept the amendment in its present form as part of this Bill. Hon Nick Griffiths has indicated that it is the Opposition's intention to divide on this amendment, and I understand the reasons for that. Clearly the Government will vote against this amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Murray Montgomery): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (11)		
Hon Kim Chance	Hon N.D. Griffiths	Hon Sam Piantadosi
Hon J.A. Cowdell	Hon John Halden	Hon Doug Wenn
Hon Graham Edwards	Hon A.J.G. MacTiernan	Hon Bob Thomas *(Teller)*
Hon Val Ferguson	Hon Mark Nevill	
Noes (14)		
Hon George Cash	Hon Peter Foss	Hon N.F. Moore
Hon E.J. Charlton	Hon Barry House	Hon M.D. Nixon
Hon M.J. Criddle	Hon P.H. Lockyer	Hon W.N. Stretch
Hon B.K. Donaldson	Hon I.D. MacLean	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon Murray Montgomery	

Pairs	
Hon Cheryl Davenport	Hon P.R. Lightfoot
Hon Tom Helm	Hon Derrick Tomlinson
Hon Tom Stephens	Hon B.M. Scott

Amendment thus negatived.

Title put and passed.

Bill reported, without amendment.

TREASURER'S ADVANCE AUTHORIZATION BILL

Second Reading

Resumed from 14 June.

Amendment to Motion

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [9.47 pm]: I move -

> To add to the end of the question "That the Bill be now read a second time" the following words -
>
> > but nevertheless advises the Government that it should ensure the return of this Bill to the Legislative Assembly for the purpose of amending it such that the amount authorised to be expended is reduced by a sum equal to that which was intended to be advanced to the Western Australian Coastal Shipping Commission.

I have moved this amendment because as the House will be aware, from my investigations into Stateships it has become clear that prior to the 1994-95 Budget Stateships would need additional expenditure of about $3m. That was clear. I have stated before in this House that it was clear because the Government delayed payment of a variety of accounts until after 1 July this year. In knowingly doing that, it incurred financial penalties; in the case of Patricks the penalties amounted to some $11 000. Further, it has been admitted by the Minister for Transport that he knew the terms and conditions under which accounts had to be paid; that is, he knew they were 30 day accounts. I intend to refer quite specifically to information, which I have in passing referred to previously, to prove it was the case in respect of one account of Patricks. As members may know, Patricks probably accounts for something like one-eighth of Stateships' expenditure on the payment of accounts. Before I continue, I will refer specifically to the Treasurer's Advance Authorization Bill. Clause 5(1)(a) reads -

> make payments of an extraordinary or unforeseen nature in anticipation of, or in addition to, the relevant appropriations by Parliament . . .

I raise this point with the Minister for Finance because of our opposition to this matter and why we as a House could not possibly give concurrence to the Treasurer's Advance

on this occasion. It is clear from the statements of the Minister for Transport that this was not an extraordinary or unforeseen expenditure; in fact, it is clear from the record established in *Hansard* in this House and from the freedom of information applications that it was to be expenditure that had to be made in the next year. The Western Australian Coastal Shipping Commission delayed payment until that next year. However, no appropriation was made to take that into account. I have said repeatedly during debate in this House prior to today that the $16.01m appropriated in the 1994-95 Budget would be in the vicinity of $3m short. Lo and behold, what do we find in the 1995-96 estimates? It is in fact $3.5m short. I notice that the Minister for Finance is looking through the annual report of Stateships. If it is of any value, I am quite happy to refer specifically to the page in the Budget document so that we can establish some mutual agreement about the figures I am quoting. I intend to go back through *Hansard* and acquaint everybody yet again with this situation, although I am sure many members are familiar with it.

I do not think there can be any doubt that we have always had the idea, the knowledge, and the concept that the Treasurer's Advance is for unexpected expenses that might arise in a year that quite legitimately any government department would face and quite legitimately we would need to fund in that year. I have no problems with that, but that is clearly not the position of the Western Australian Coastal Shipping Commission, and it is not the position from the words of the Minister for Transport. Let me be absolutely blunt. That expected expenditure was attempted to be hidden. Even blind Freddy, namely me, could work it out. During question time the Minister for Transport mentioned the odd word about my kindergarten education and the fact that I failed. I will not deny that! If I had been in a position three months ago, if not four months ago, to quote to this House that the Budget was at least $3m short for the Western Australian Coastal Shipping Commission, brought about by the deferral of payments on account well before the end of the 1993-94 financial year, I could not claim to be all that bright. The Minister for Transport said that I failed kindergarten, but one can only reflect on the absolute stupidity of those who advised him that this tactic might work. The tactic was so transparent as to be stupid.

I will go back so that everyone clearly understands this important matter. In the 1994-95 Budget we appropriated just over $16m for Stateships. The actual expenditure according to the estimates statement was $19.537m, an excess of over $3.5m. Just so that the House is clear in its recollection about this matter and so that there can be no doubt that this can be substantiated, I will refer to my FOI application in regard to Stateships.

Hon Max Evans: It is quite clear through the accounts of last year that $3m was outstanding. It was taken up in the accounts last year. It is a cash movement, as the debt was in the accounts last year.

Hon JOHN HALDEN: The Minister for Finance makes the point that the $3m was there. He failed to appropriate sufficient to cover the $3m in the accounts. The Minister for Transport attempted to say that all he required for the operation of Stateships in 1994-95 was $16m. He did not, and he attempted to hide that $3m. We are in total agreement.

Hon Max Evans: I am worried now.

Hon JOHN HALDEN: I agree totally with the Minister. Was it an extraordinary, unforeseen or unanticipated expense? The answer is no. Therefore, it is out of the bounds of the Treasurer's Advance according to the very Bill we are trying to pass at this moment. It is clear and the Minister is quite correct that it is there. By that fact alone it cannot be extraordinary or unforeseen. Quite clearly he is right. I suggest that we are being deceived in this process but not in the process of the accounts.

Hon Max Evans: That was paid in July. A lot of redundancy money has been paid since then and reconciled later.

Hon JOHN HALDEN: Let me turn to the accounts of Patricks. I would have received all the accounts, but, as I said during question time tonight, Stateships seemingly has a policy whereby if one wants to know what is going on it wants to charge $3 000 under

FOI guidelines. I clearly cannot afford that, but I know the status of Patricks' outstanding one-eighth of accounts with Stateships.

Hon Max Evans: The $3.5m is more than the total expenditure of Stateships.

Hon JOHN HALDEN: The Minister should not confuse this with that, or he will be confused. The Minister for Transport acknowledged that those accounts were to be 30 day accounts, month to month. On 30 June a cheque was made out to Patricks for the payment of accounts, presumably posted on that day, with Stateships knowing full well that it was to be cashed on 1 July because of the 30 day monthly account.

Hon E.J. Charlton: You get blind Freddy to have a look at that.

Hon JOHN HALDEN: There was also a January account in that time. I know what the Minister did.

Hon E.J. Charlton: You got the Auditor General to have a look at that. What did he say?

Hon JOHN HALDEN: That is not the issue. The issue is what this Bill says. Unfortunately, the Government has to comply with this Bill.

Hon Max Evans: No, we don't.

The PRESIDENT: Order!

Hon JOHN HALDEN: Mr President, the Minister for Finance has said that the Government does not have to comply with the Bill before us.

Hon Max Evans interjected.

The PRESIDENT: Order! When I call for order I expect order. I want the House to have a bit of decorum about it. The member should direct his comments to me and not to members. Other members should not interject.

Hon JOHN HALDEN: I apologise, Mr President. As I said, it is clear from the FOI application that accounts that were due to be paid on 1 June were not paid. In fact, one account that was due to be paid on 1 March was not paid. An effort was made for cheques to be made out on 30 June and for accounts to be drawn on 1 July. That financial arrangement accrued a value of $460 000. That was presented at Treasury on 1 July. It is clear that if that figure is multiplied by my rough one-eighth figure, the answer is very close to the amount by which the Stateships' budget was overspent. To the best of my recollection and from the *Hansards* that I have before me, my requests for information on this matter from the Minister for Transport began on 29 March. Members will recall my efforts to try to secure from the Minister for Transport information about how that budget would come in at $16m, bearing in mind that $3m had been carried over from the previous year. I then went through what can only be described as gymnastics during a number of question times. I was asked to place questions on notice and when I placed them on notice, I did not receive a response and, if I got a response, it did not answer my question. I asked seven or eight questions and still did not receive a response. However, plodding on in my normal, patient way, all of a sudden I received a response from the Minister because I had received a response to my FOI request. He said that 10 months into that year, Stateships' allocation of $16.1m had already been spent. Simple mathematics indicated that it would be overspent in the next two months by about $3m. The Government knew that the accounts were not paid in the appropriate year and that that $3m was carried over to make the accounts look better.

Hon Max Evans: No business pays all its accounts before 30 June.

Hon JOHN HALDEN: The Minister for Finance is delighted to be able to help me in this debate and I am delighted that he has done so.

Hon Max Evans: I thought you might need some help.

Hon JOHN HALDEN: I have had plenty today. The Minister for Finance said it was quite legitimate for the Government to carry over those expenses to 1 July. I am prepared to concede that. I am also prepared to concede that my speculation about cooking the books to make them look good is not correct. However, there is one

problem; that is, the Government wants us to pass this Bill because it knows that that money was carried over. It was not an extraordinary expense and it was not an unforeseen or unanticipated expense. If we were to pass this legislation with that amount of money in it, we would be breaching the provisions of the legislation. I have never seen a more ludicrous position for a House of Parliament to be placed in than this one. It is clear from the words of the Minister for Finance that the Government knew of this expense. We should forget about all of the Halden speculation; the Government carried this expense forward. It knew it was roughly $3m. However, it did not anticipate that or was not prepared to say that in the Estimates Committee or in last year's budget for the Western Australian Coastal Shipping Commission. It knew that and it has now introduced this legislation suggesting that we should appropriate $3m through the Treasurer's Advance! I do not know how this House can do that, especially after the Minister for Finance has announced to the House that it is legitimate for the Government to carry that expense over to the next year. Okay, that is a normal business practice. However, it is not in accordance with the Bill we are being asked to pass. There is only one way that we can deal with this Bill after accepting the wise words of the very accomplished, knowledgeable Minister for Finance: We must send it back to the Legislative Assembly and ask it to remove from the Bill the amount that is to go to Stateships.

Previously, the Minister for Transport acknowledged that he knew about the status of the account; that it was a 30 day account to be paid at the end of each month. He also acknowledged that the department paid interest on the overpayment.

Hon E.J. Charlton: So have a number of other government agencies for the last 20 years. Are you suggesting that that 20 year practice is wrong?

Hon JOHN HALDEN: I am even prepared to concede that that may be the case. It was probably the case last November when I referred to tacking. That had probably been done for 20 years also. Unfortunately, I have picked up this amount and it does not conform to the law. We expect to pass this Bill some time this evening. The Minister cannot possibly expect the Opposition to accept that because this procedure has been adopted over the last 20 years, it is all right.

Hon E.J. Charlton: I do not agree with the point you are making. From a commercial point of view you budget for a certain amount of money and you carry some over. You are saying that that is contrary to this Bill.

Hon JOHN HALDEN: I hate to tell the Minister that it is the unfortunate reality.

Hon Max Evans: You could not have thought about this yourself.

Hon JOHN HALDEN: Yes, I did. As the Minister for Finance knows, I have watched the actions of the Minister for Transport very closely.

Hon Kim Chance: Take it as a significant compliment.

Several members interjected.

The PRESIDENT: Order! Hon Alannah MacTiernan should not interject when she is sitting in another member's seat.

Hon JOHN HALDEN: It is not bad for someone who, it was said today, did not pass kindergarten to take expert advice from someone else! I ask members opposite why they think I asked the questions I did? Do they think it was accidental that I led the Minister for Transport down this road?

Hon E.J. Charlton: You were trying to demonstrate the bad situation in which Stateships was in and you said that it could not pay its debts. You are trying to link that approach to this Bill. There is no reason that Stateships could not cut its costs by $2m or $3m and not need the money allocated in this Bill.

The PRESIDENT: Order! A long interjection is one thing, and a second reading speech is something else.

Hon JOHN HALDEN: Quite clearly, my questioning was leading me to the conclusion

that Stateships would exceed its 1994-95 budget allocation. I was asking the Minister for Transport questions of that nature. The Minister replied in answer to one of my questions that approximately $16m had been allocated for the financial year and in 10 months that allocation had been exceeded. The moment the Minister said that, and based on the fact that he had already told me the length of the contract, the fines and everything else, I knew there would be another Bill coming into this place. One did not need to be a Rhodes scholar to work that out. I apologise to the Minister for Finance if he thinks I am not smart enough to work that out. When I read clause 5(1)(a) of this Bill all I could think of was that it was not appropriate. My view, for whatever it is worth - it is perhaps not much from someone who did not graduate from kindergarten - is that it would be unlawful for this House to pass this Bill. It could not possibly conform to the law if we were to pass it.

I do not deny that the Minister for Transport is correct and that this procedure has been adopted for over 20 years. It has probably been done in a range of other areas. The difficulty is to establish that what one must do is to go through the process I have gone through since the beginning of this parliamentary year to establish the facts. I apologise to the Ministers I have not pursued and I also apologise to them that the House has not considered this matter before today.

Hon E.J. Charlton: What would have happened to Stateships if the $4m you keep talking about came in? If that decision had been made during the financial year where would it put us?

Hon JOHN HALDEN: Then there would have been no need for a Treasurer's advance and it would have been more difficult for me to have tracked down the Minister. I also knew what was Stateships' revenue; therefore, the Government could not avoid introducing this Bill.

Hon E.J. Charlton: You did not know that.

Hon JOHN HALDEN: Yes, I did.

Hon E.J. Charlton: You did not know that Stateships would be closed.

Hon JOHN HALDEN: I actually did know the day the Minister made the announcement. I cannot confirm whether it was before or after he made it, but I knew that he was going to make the announcement on the day he did. However, that is not the point.

Hon E.J. Charlton: It is because it blows your theory apart. It is not the end of the financial year.

Hon JOHN HALDEN: I suggest to the Minister that in the estimates of expenditure for the year ending 30 June 1996 it is stated that the 1994-95 estimate is $16m and the actual expenditure is $19.5m. They might not be the exact figures because they are only estimates, but it is evident that what is proposed in this Bill is that a Treasurer's advance of $3m be granted to something that the Minister for Finance said is quite clearly a business practice and is probably something that has happened for many years. He also said that it is clearly acknowledged in what I think he said was the annual report.

Hon E.J. Charlton: You said on a previous occasion that the $16m allocated in the 1995-96 Budget should not be there because Stateships was closing down.

Hon JOHN HALDEN: It has nothing to do with this Bill.

Hon E.J. Charlton: It has everything to do with it. You are misrepresenting the fact that we could have made this decision six months ago.

Hon JOHN HALDEN: It could have been made then and it would have made it more difficult for me to trace these matters. At the appropriate time the issue of Stateships and the 1995-96 Budget will be debated and I will not miss the opportunity to run the issue through this House. It has now been confirmed by two Ministers that we will not be conforming to the law by passing this Bill. It is amazing that we can have an expenditure which seemingly is not extraordinary and will be appropriated by passing this Bill. I do not believe we can do that.

Hon Peter Foss: Does it seem unconstitutional? Are you saying we cannot pass this Bill?

Hon JOHN HALDEN: It appears, based on the information the Minister for Finance has been only too happy to give me, that we would be breaching the clause which this House proposes to pass.

Hon Peter Foss: You cannot breach the clause of a Bill by passing the Bill.

Hon JOHN HALDEN: I am pleased the Minister for the Environment is here to help me in this matter.

Hon Peter Foss: You look like you need a lot of help.

Hon JOHN HALDEN: I have been amused enough today and I am plodding along despite my having only a pre-kindergarten education!

Hon Max Evans: I suggest that you will not find any money drawn to pay Stateships. It does not come out of the Treasurer's advance account.

Hon JOHN HALDEN: I would be happy if the Minister is prepared to guarantee that.

Hon Peter Foss: He does not have to. You can pass this Bill - it does not refer to anything.

Hon JOHN HALDEN: I understand that - perhaps the Minister thinks I should go to university to understand that.

Hon Peter Foss: I think you should. You cannot breach the Bill by passing it.

Hon JOHN HALDEN: This Bill authorises the expenditure of $200m - does the Minister understand that?

Hon Peter Foss: Yes, I do.

Hon JOHN HALDEN: The Minister is obviously very talented! That money can be expended on extraordinary or unforeseen circumstances.

Hon Peter Foss: That is what the law says.

Hon Max Evans interjected.

Hon JOHN HALDEN: I will deal with the Minister for the Environment. These expenditures for Stateships -

Hon Peter Foss: What expenditures? Hon John Halden is assuming what the expenditure will be. He should be waiting until the Bill is passed to see whether it is observed.

Hon JOHN HALDEN: I will not do that.

Hon E.J. Charlton: That would be normal.

Hon JOHN HALDEN: I suggest the Minister for the Environment turn to the appropriate budgetary documentation - Consolidated Fund Estimates, page 111 - to see that there has been an overexpenditure of $3.5m.

Hon Peter Foss: So?

Hon JOHN HALDEN: I have suggested from where that overexpenditure has come. The Minister for Finance has stated that is clearly the case. It was expected the year before. It comes into the Treasurer's Advance. Before the Minister for the Environment arrived his colleagues were acknowledging that. Now the Minister for the Environment has decided to convolute that story.

Hon Peter Foss: Where does this Bill say that it will be expended?

Hon JOHN HALDEN: Exactly; it does not. I am saying that based on these documents it will be. If it is not, the Minister for Finance can make a statement that it is not. The Opposition wants it clearly on the record that the Government will not use the Treasurer's Advance for the payment of that money for Stateships. I will be delighted if the Minister for Finance does that. I will accept the good word of the Minister for Finance, and when the appropriate documentation comes out I will check it, but until

such time as we receive an unequivocal guarantee, this should be done in the way that the Opposition is proposing. The Minister for the Environment may not like that, and I understand the necessity for members who were sitting on the front bench to call for the Minister for the Environment to assist them in this matter, but the Opposition would be prepared to accept what the Government is now saying, as long as it is unequivocal, and bearing in mind that we will check the veracity of that statement at some point in the future.

The motion that I have moved can be dispensed with quickly based on clear guarantees, otherwise we will vote on it; but we will watch this area to see how the money is expended. It is clear from these documents that $3.5m not accounted for will come from the Treasurer's Advance. The Minister for the Environment may have another theory which he will no doubt eloquently put at some stage; however, the evidence of this overexpenditure is there. We know exactly where it came from, and how it eventuated. The Minister for Finance stated that it is in the annual report, and the Minister for Transport says that it has been done for 20 years by a number of departments.

Hon Peter Foss: Western Australian Government Holdings was a marvellous example of what is an unexpected cost.

Hon JOHN HALDEN: I agree; it probably was.

The PRESIDENT: Order! I have put up with this conversation for about half on hour. The time is getting on, and it is about time that we end the conversation and get on with the debate. Hon John Halden should direct his comments to me and talk about the justification for the amendment that he has proposed.

Hon JOHN HALDEN: I have developed an argument which has in some respects been supported by Ministers opposite. I have said that the Opposition will accept certain assurances and, with those assurances, will not divide the House. However, until such time as those assurances are given it is the Opposition's intention to ensure that there is no potentiality for this legislation to not be enforced to the letter of its own writing. I ask the Government either to provide the assurance or to support this motion and send the message back to the Assembly.

HON KIM CHANCE (Agricultural) [10.25 pm]: I second the amendment. Having followed the motion with some interest and over some period, from what the Leader of the Opposition has said and with the assistance of the Minister for Finance and the Minister for Transport by way of interjection, many of the members here who have also been following the motion will have some difficulty, as I believe the Ministers have, in coming to grips with the concept. The concept is not as difficult as it first seems. The Treasurer's Advance is specifically confined to a purpose, as is the debate on such a Bill as this. What Hon John Halden has identified is a form of expenditure which does not fit the precise terms for which the Bill is drafted. I will be waiting with some interest for the response by the Minister for Finance, and I assure him that I will be taking my seat soon so that he does not have very long to wait.

One aspect of the debate I believe needs some correction, firstly by the Minister for Finance, who implied that the Leader of the Opposition was not clever enough to have thought up this matter on his own. I can assure the Minister for Finance that Hon John Halden first told me of this possibility, if my memory serves me correctly, almost two months ago. The Leader of the Opposition was well aware of the potentiality which had developed out of the matter which, as the Minister for Transport has reasonably correctly assumed, came from another matter - that is, following through the difference between the expenses paid by Stateships and the expenses incurred by Stateships. Despite what the Minister for Finance said, as that procedure developed it did occur to the Leader of the Opposition that this would create problems once the Government got to the stage of the Treasurer's Advance. The Minister for Transport is probably correct in saying that this is not something unusual.

Hon E.J. Charlton: I am talking about the commercial side; it is not related to the Bill. It is the Leader of the Opposition who is relating that to this Bill.

Hon KIM CHANCE: I agree that it probably has occurred before, but like the debate on the issue of tacking, which may also have happened before, possible or likely precedents make it no more legal than if those precedents had never occurred.

Hon E.J. Charlton: I was not saying that what was done in previous years was illegal either.

Hon KIM CHANCE: I quite understand, and the Minister for Transport was making the point, which the Leader of the Opposition took as fair and valid, that this is a normal state of affairs.

Hon E.J. Charlton: The Auditor General said so. I have it in writing from him.

Hon KIM CHANCE: He may well have said so. What has been extended from that state of affairs is not necessarily the original issue which led the Leader of the Opposition to take an interest in this, but rather the effect of that means of accounting and doing business, in this case with Stateships - and perhaps in other cases with other agencies. Who knows the effect that would have when the funding arrangements had to be accounted for in the Treasurer's Advance? I will be very interested to hear the comments of the Minister for Finance. I support the motion.

Debate adjourned, on motion by Hon Max Evans (Minister for Finance).

House adjourned at 10.30 pm

QUESTIONS ON NOTICE

TRAVEL - GOVERNMENT TRAVEL RESERVATION OPERATIONS
Spot Checks, Departmental Responsibility

22. Hon TOM STEPHENS to the Minister for the Environment representing the Minister for Planning:

(1) Which department or agency within the Minister for Planning's portfolio has carried out spot checking of its travel reservation operations to ensure that it receives the best price for its intra state or interstate travel business?

(2) What has been the result of these spot checks?

Hon PETER FOSS replied:

(1) The best available fare is negotiated at the time of booking.

(2) Not applicable.

MINISTERIAL PORTFOLIOS - TELECOMMUNICATIONS, EXPENDITURE

101. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) What was the total telecommunications expenditure for each department or agency within the Premier's current portfolio areas for each of the following years -

(a) 1992-93;

(b) 1993-94; and

(c) 1994-95 (Budget estimate)?

(2) What part of this expenditure in each of the years above was for telecommunications expenditure other than Telecom phone accounts?

Hon GEORGE CASH replied:

The Premier has provided the following reply -

			$	
(1)	(a)	Ministry of the Premier and Cabinet*	666 994.00	
		Public Service Commission	116 000.00	
		Department of Infrastructure and Government Assets	20 957.00	
		Treasury*	28 089.00	
		Governor's Establishment	27 394.00	
		Salaries and Allowances Tribunal*	55.00	
		Western Australian Tourism Commission	550 000.00	
		Gold Corporation	285 007.84	
		Office of the Auditor General	58 204.80	
	(b)	Ministry of the Premier and Cabinet*	626 589	
		Public Service Commission	116 279	
		Department of Infrastructure and Government Assets	3 701.00	**
		Treasury*	25 057.00	
		Governor's Establishment	32 254.00	
		Salaries and Allowances Tribunal*	266.00	
		Western Australian Tourism Commission	493 000.00	
		Gold Corporation	293 571.92	
		Office of the Auditor General	66 377.39	
	(c)	Ministry of the Premier and Cabinet*	710 000.00	
		Public Service Commission	30 000.00	
		Treasury*	24 000.00	
		Governor's Establishment	33 000.00	

		Salaries and Allowances Tribunal*	500.00	
		Western Australian Tourism Commission	575 000.00	
		Gold Corporation	255 107.27	
		Office of the Auditor General	66 000.00	
(2)	(a)	Ministry of the Premier and Cabinet*	nil	
		Public Service Commission	nil	
		Department of Infrastructure and Government Assets	nil	
		Treasury*	nil	
		Governor's Establishment	nil	
		Salaries and Allowances Tribunal*	nil	
		Western Australian Tourism Commission	112 000.00	
		Gold Corporation	74 456.19	
		Office of the Auditor General	2 573.00	
	(b)	Ministry of the Premier and Cabinet*	5 087.00	
		Public Service Commission	nil	
		Department of Infrastructure and Government Assets	50.00	**
		Treasury*	nil	
		Governor's Establishment	nil	
		Salaries and Allowances Tribunal*	nil	
		Western Australian Tourism Commission	76 000.00	
		Gold Corporation	101 296.68	
		Office of the Auditor General	1 952.00	
	(c)	Ministry of the Premier and Cabinet*	3 011.00	
		Public Service Commission	nil	
		Treasury*	nil	
		Governor's Establishment	nil	
		Salaries and Allowances Tribunal*	nil	
		Western Australian Tourism Commission	86 000.00	
		Gold Corporation	76 792.77	
		Office of the Auditor General	1 290.00	

* Additional telecommunications costs for these agencies using central PABX systems are met from miscellaneous services, telephone and telex charges - Central Government Buildings.

** Costs to December 1993.

COLLIE POWER STATION - WATER SUPPLY, UNAFFECTED GUARANTEE, COST

1359. Hon J.A. SCOTT to the Minister for Water Resources:

(1) What is the estimated cost for guaranteeing that the domestic and stock water supply are unaffected by the proposed coal fired Collie power station?

(2) Is the cost for guaranteeing that the domestic and stock water supply are unaffected by the coal fired Collie power station included in the projected cost per kilowatt hour of power generated by the Collie power station?

(3) If not, how will this additional cost affect the price of electricity?

Hon PETER FOSS replied:

(1) $50 000 based on 10 families being affected by ground water supply to the new Collie power station.

(2) Yes. The costs are insignificant against the projected total costs of the project.

(3) Not applicable.

TEACHERS - WORKPLACE AGREEMENTS, REMOTE TEACHING SERVICES

1675. Hon JOHN HALDEN to the Minister for Education:

Section 5.3.1(iii) (salaries allowances) of the workplace agreements for remote teaching services appears to be ambiguous by giving the impression that the allowance can be increased but is not clear whether or how it can be decreased.

(1) Can the Minister confirm that under the proposed workplace agreement - sec 5.3.1.(iii) - an employee could be offered substantially less than the $8 000-$11 000 figure and/or forgo that allowance in total in order to obtain employment with the department?

(2) Under what circumstances would the allowance be adjusted?

Hon N.F. MOORE replied:

(1) Section 5.3.1(iii) salary package and allowances has been misconstrued. The adjustments would result in an increase but not result in a decrease.

(2) It is intended to provide for adjustments to the salary package and allowances (after entering the agreement) to take account of any relevant changes reflected in the award.

MINISTERIAL PORTFOLIOS - ALCOHOL AND LIQUOR EXPENDITURE

2638. Hon TOM STEPHENS to the Minister for the Environment representing the Minister for Planning:

What Government funds have been spent on alcohol and liquor supplies for -

(a) the Minister for Planning's office; and

(b) each department or agency within the Minister for Planning's portfolio areas, for the years 1993-94 and 1994-95?

Hon PETER FOSS replied:

The Minister for Planning is not prepared to devote the considerable resources required to provide a response to this question.

EDUCATION DEPARTMENT - DISCRIMINATION CASES AGAINST MINISTER, PARENTS' LEGAL COSTS

2653. Hon JOHN HALDEN to the Minister for Education:

(1) Can the Minister confirm that parents who take alleged discrimination cases against the Minister for Education to the Equal Opportunity Commission will have to meet not only their own legal costs, but also the legal costs of the Education Department should they fail in their appeal?

(2) Will the Minister give consideration to guaranteeing that those involved in such cases will only have to pay for their own costs?

Hon N.F. MOORE replied:

(1) Under section 93 of the Equal Opportunity Act the commissioner may assist the complainant, if required to do so, in the presentation of their case. Under section 125 of the Equal Opportunity Act the tribunal may order, if satisfied that the complaint is frivolous, that the complainant meet the costs of the inquiry.

(2) Under section 128 of the Equal Opportunity Act, unless the tribunal dismisses a complaint as frivolous, each party pays its own costs.

WATER AUTHORITY - SEWERAGE INFILL PROGRAM
Footpaths Damage, Local Government Regulations

2657. Hon SAM PIANTADOSI to the Minister for Water Resources:

(1) Can the Minister confirm that the Western Australian Water Authority and contractors working on the infill sewerage program with work carried out

near or below footpaths are subject to the following local government regulations -

(a) any portion of a cast in-situ concrete path damaged during the works is to be reinstated with completed panels of concrete;

(b) slab footpaths are not to be reinstated by the contractor, the local Government authority is to be paid an amount equal to $20 m2 to reinstate slab footpaths;

(c) where slab paths are damaged during the works, the ground is to be reinstated to the level of the underside of the pre-existing slabs; and

(d) damaged slabs are to be removed from the site by contractors?

(2) Have any breaches of the above requirements been lodged with WAWA and the Minister?

(3) If yes, what action will the Minister take to rectify these breaches and to ensure that contractors comply with the requirements?

Hon PETER FOSS replied:

(1) This is a question seeking a legal opinion.

(2)-(3) Not applicable.

PRICE WATERHOUSE - GOVERNMENT CONTRACT

2748. Hon N.D. GRIFFITHS to the Minister for the Environment representing the Minister for Health:

Since 16 February 1993, with respect to the Minister for Health's department and each of the bodies administered within that department -

(1) Has any contract been entered into with Price Waterhouse?

(2) If yes, in each case -

(a) what is the date of the contract;

(b) what is the cost to the Government of the contract;

(c) what goods and/or services are to be provided pursuant to the contract;

(d) were the matters, the subject of the contract, put out to tender before the contract was awarded and if so when, what process was employed and if not, why not;

(e) had the matters, the subject of the contract, been formerly carried out by someone else, who was that person and why was that former arrangement discontinued;

(f) were the matters, the subject of the contract, formerly carried out in part, or in whole, by the public sector; and

(g) how many full time equivalents have left the public sector as a result of the awarding of the contract?

Hon PETER FOSS replied:

(1)-(2)

I am not prepared to devote the considerable resources which would be required to provide the information sought. If the member has a specific question about a particular consultancy I will endeavour to provide the information. In addition, the Government recently released its report on consultants engaged by government for the six months ended 31 December 1994. This report will now be prepared on a six monthly basis and will provide the member with the readily available information on consultancies.

PRICE WATERHOUSE - GOVERNMENT CONTRACT

2751. Hon N.D. GRIFFITHS to the Minister for the Environment representing the Minister for Planning:

Since 16 February 1993, with respect to the Minister for Planning's department and each of the bodies administered within that department -

(1) Has any contract been entered into with Price Waterhouse?

(2) If yes, in each case -

(a) what is the date of the contract;

(b) what is the cost to the Government of the contract;

(c) what goods and/or services are to be provided pursuant to the contract;

(d) were the matters, the subject of the contract, put out to tender before the contract was awarded and if so when, what process was employed and if not, why not;

(e) had the matters, the subject of the contract, been formerly carried out by someone else, who was that person and why was that former arrangement discontinued;

(f) were the matters, the subject of the contract, formerly carried out in part, or in whole, by the public sector; and

(g) how many full time equivalents have left the public sector as a result of the awarding of the contract?

Hon PETER FOSS replied:

The Minister for Planning is not prepared to devote the considerable resources which would be required to provide the information sought. If the member has a specific question about a particular consultancy the Minister will endeavour to provide the information. In addition, the Government recently released its report on consultants engaged by government for the six months ended 31 December 1994. This report will now be prepared on a six monthly basis and will provide the member with the readily available information on consultancies.

PRICE WATERHOUSE - GOVERNMENT CONTRACT

2752. Hon N.D. GRIFFITHS to the Minister for the Environment representing the Minister for Heritage:

Since 16 February 1993, with respect to the Minister for Heritage's department and each of the bodies administered within that department -

(1) Has any contract been entered into with Price Waterhouse?

(2) If yes, in each case -

(a) what is the date of the contract;

(b) what is the cost to the Government of the contract;

(c) what goods and/or services are to be provided pursuant to the contract;

(d) were the matters, the subject of the contract, put out to tender before the contract was awarded and if so when, what process was employed and if not, why not;

(e) had the matters, the subject of the contract, been formerly carried out by someone else, who was that person and why was that former arrangement discontinued;

(f) were the matters, the subject of the contract, formerly carried out in part, or in whole, by the public sector; and

(g) how many full time equivalents have left the public sector as a result of the awarding of the contract?

Hon PETER FOSS replied:

The Minister for Heritage is not prepared to devote the considerable resources which would be required to provide the information sought. If the member has a specific question about a particular consultancy the Minister will endeavour to provide the information. In addition, the Government recently released its report on consultants engaged by government for the six months ended 31 December 1994. This report will now be prepared on a six monthly basis and will provide the member with the readily available information on consultancies.

ROGER GRAHAM & ASSOCIATES - GOVERNMENT CONTRACT

2794. Hon N.D. GRIFFITHS to the Minister for the Environment representing the Minister for Planning:

Since 16 February 1993, with respect to the Minister for Planning's department and each of the bodies administered within that department -

(1) Has any contract been entered into with Roger Graham & Associates Passenger Transport Consultants?

(2) If yes, in each case -

(a) what is the date of the contract;

(b) what is the cost to the Government of the contract;

(c) what goods and/or services are to be provided pursuant to the contract;

(d) were the matters, the subject of the contract, put out to tender before the contract was awarded and if so when, what process was employed and if not, why not;

(e) had the matters, the subject of the contract, been formerly carried out by someone else, who was that person and why was that former arrangement discontinued;

(f) were the matters, the subject of the contract, formerly carried out in part, or in whole, by the public sector; and

(g) how many full time equivalents have left the public sector as a result of the awarding of the contract?

Hon PETER FOSS replied:

The Minister for Planning is not prepared to devote the considerable resources which would be required to provide the information sought. If the member has a specific question about a particular consultancy the Minister will endeavour to provide the information. In addition, the Government recently released its report on consultants engaged by government for the six months ended 31 December 1994. This report will now be prepared on a six monthly basis and will provide the member with the readily available information on consultancies.

ROGER GRAHAM & ASSOCIATES - GOVERNMENT CONTRACT

2795. Hon N.D. GRIFFITHS to the Minister for the Environment representing the Minister for Heritage:

Since 16 February 1993, with respect to the Minister for Heritage's department and each of the bodies administered within that department -

(1) Has any contract been entered into with Roger Graham & Associates Passenger Transport Consultants?

(2) If yes, in each case -

(a) what is the date of the contract;

(b) what is the cost to the Government of the contract;

(c) what goods and/or services are to be provided pursuant to the contract;

(d) were the matters, the subject of the contract, put out to tender before the contract was awarded and if so when, what process was employed and if not, why not;

(e) had the matters, the subject of the contract, been formerly carried out by someone else, who was that person and why was that former arrangement discontinued;

(f) were the matters, the subject of the contract, formerly carried out in part, or in whole, by the public sector; and

(g) how many full time equivalents have left the public sector as a result of the awarding of the contract?

Hon PETER FOSS replied:

The Minister for Planning is not prepared to devote the considerable resources which would be required to provide the information sought. If the member has a specific question about a particular consultancy the Minister will endeavour to provide the information. In addition, the Government recently released its report on consultants engaged by government for the six months ended 31 December 1994. This report will now be prepared on a six monthly basis and will provide the member with the readily available information on consultancies.

SCHOOLS - KEWDALE SENIOR HIGH
Cleaners, Additional Duties

2859. Hon JOHN HALDEN to the Minister for Education:

With regard to Kewdale Senior High School -

(1) Is the Minister aware that cleaners at this school pick up the following duties -

(a) working cooperatively with the administration and registrar to immediately attend to problems such as broken windows, malfunctioning door locks and furniture removal;

(b) working in with classroom teachers and heads of department to reduce acts of classroom vandalism;

(c) working in with Student Council to reduce litter problems;

(d) attending to issues such as chemical spills in the science block and flooded classrooms; and

(e) preparing meeting areas for parent and community groups such as parents and citizens and school decision making groups?

(2) Why are these duties being done by the cleaners and not by the caretaker?

(3) How will the Minister factor in these additional tasks taken on by cleaners in an analysis of the cost-benefit of day labour, to ensure a fair assessment of the merits of cleaners?

Hon N.F. MOORE replied:

(1)-(3)

Cleaners in all schools, whether day labour or contract cleaned, work cooperatively with the school administration to ensure that faults are reported to the Building Management Authority or other appropriate remedial action is taken.

CORAL COAST RESORT DEVELOPMENT - EFFECT ON NINGALOO MARINE PARK

2903. Hon J.A. COWDELL to the Minister for the Environment:

(1) Is it a fact that parts of the proposed development of the Coral Coast Resort, Maud's Landing and activities to establish them intrude into Ningaloo Reef marine park - see master plan included in the public environment review?

(2) If yes, which parts of the proposed development will intrude into Ningaloo Reef marine park?

(3) What development activities will be taking place in Ningaloo Reef marine park in the process?

(4) Will the proposed Coral Coast Resort development be in breach of the Premier's undertaking "to preserve and protect one of the world's most unique natural phenomena - the Ningaloo marine park"?

Hon PETER FOSS replied:

(1) Yes.

(2) The effect on the park is currently subject to a public environmental review.

(3) Development activities will be dependent on the outcome of the public environmental review.

(4) No. The Premier's comments were related to petroleum exploration. The proposed Coral Coast Resort is being subjected to a full environmental review to ensure that the development is consistent with the preservation and protection of the Ningaloo marine park.

FACTOR VIII - GOVERNMENT FUNDING

2996. Hon REG DAVIES to the Minister for the Environment representing the Minister for Health:

(1) Is the Minister for Health aware that, in response to multiple problems experienced by people with haemophilia and their clinicians, the Commonwealth Government has made an allocation in the federal Budget for additional factor VIII over the next four years?

(2) Will the Minister ensure that people with haemophilia in this State receive equity of care through similar state-matched funds being provided, lifting the supply of factor VIII concentrates to the widely accepted level of 3.0 international units per capita?

Hon PETER FOSS replied:

(1) Yes.

(2) The State will fund the supply of factor VIII in accordance with national agreements on shared funding and targets for aggregate factor VIII supply.

CHILD HEALTH - MENTAL HEALTH PROBLEMS SURVEY

3003. Hon JOHN HALDEN to the Minister for Education:

(1) Is the Minister aware that a recently published survey "Western Australian Child Health" found that one in six children and teenagers had a significant mental health problem?

(2) If yes, what action will the Minister be taking to ensure that adequate specialist staff will be made available to schools to address this problem?

Hon N.F. MOORE replied:

(1) I have received a briefing on the importance of the Western Australian

child health survey findings with respect to the significant proportion of children experiencing problems with social and academic development in Western Australian schools.

(2) A departmental officer is working in close consultation with the Western Australian Institute for Child Health Research Ltd to develop an Education Department strategy to address issues relevant to students in government schools.

TAB - COMPUTER SECURITY POLICY

3021. Hon TOM STEPHENS to the Minister for Racing and Gaming:

(1) Has formal approval been given to the Totalisator Agency Board's computer access security policy?

(2) What caused the delay in giving formal approval to this policy?

(3) Have the residual recommendations of the Office of the Auditor General in regard to the TAB's security administration been implemented?

(4) If not, why not?

Hon MAX EVANS replied:

(1) The TAB's policy on computer security was approved by the board on 22 May 1995.

(2) The delay was not in the approval process. TAB management and auditors (internal and external) reviewed the consultant's report and prepared the policy document for initial endorsement by the TAB's Internal Audit Committee.

(3)-(4) All recommendations have been implemented except for some aspects of the recommendation regarding user management involvement in the security administration. The matters are under trial and review by management and the board's internal auditors.

SCHOOLS - MANDURAH, COLLEGE PROPOSAL; COLLEGES, GOVERNMENT POLICY

3096. Hon J.A. COWDELL to the Minister for Education:

(1) Is the Minister aware of the proposal of the Peel Development Commission that a state college, covering years 11 and 12 students, be created in Mandurah instead of an additional senior high school?

(2) If yes, what is the Minister's response to the proposal?

(3) Will the Government prepare a statement outlining the Government's policy with respect to state secondary colleges and senior colleges?

Hon N.F. MOORE replied:

(1) No. However, the Peel District Superintendent of Education has set up a community committee to examine the secondary education needs of the Mandurah and Pinjarra areas, and types of configuration that should be considered to best meet those needs. In this regard, I am advised that the Peel Development Commission has provided written support for this committee.

(2) Not applicable.

(3) The Government will consider individual proposals on their merits. Provided that communities are prepared to support departures from the traditional years 8 to 12 structure, and provided also that viable educational programs can be implemented and delivered both effectively and economically, the Government will give full support to such initiatives.

QUESTIONS WITHOUT NOTICE

SCHOOLS - CLEANING, CONTRACTING OUT

435. Hon JOHN HALDEN to the Minister for Education:

The Minister may recall that last Thursday I asked him a question about the loss of 858 full time employees in the Education budget and he was unable to advise from where they would be lost. I advise the Minister that in the other place today the Treasurer was asked a question about the loss of 858 FTEs from the Education budget, which includes approximately 2 800 part time cleaners. The Treasurer responded by saying that the budget was predicated on the contracting out of school cleaners' jobs.

(1) In the light of the Treasurer's answer, can the Minister for Education now tell the House that the Treasurer's answer was correct?

(2) When does he intend to advise school cleaners of the loss of their jobs?

(3) If not, does it mean that the Budget is not a decision making document?

Hon N.F. MOORE replied:

(1)-(3) What the Treasurer said in the other place today does not surprise me because I prepared the answer for him. What the Leader of the Opposition left off from the Treasurer's answer was, "However, no final decision has been made", and that is still the case. Estimates are simply estimates of expenditure for a period during which decision making takes place. The Education budget was predicated on the understanding that the contracting out of cleaning would be done on the basis of Arthur Andersen's report which recommended a particular course of action which would result in significant savings for the education system.

Hon Bob Thomas: How much?

Hon N.F. MOORE: Between $6m and $10m a year.

Hon Bob Thomas: Does that mean there will be an increase in productivity of 30 per cent?

Hon N.F. MOORE: The interesting point is that when I became Minister for Education I sought from cleaners an improvement in their productivity to match the productivity levels of private sector companies which were working in government schools. The improvement in productivity was achieved and the significant saving that was achieved has been added to the Education budget since then. Subsequent to that, a report was completed by a consultant to ascertain whether that was all the savings that could be made. Arthur Andersen's report recommended that if the department went down the path of contracting out cleaning there would be a saving in addition to what has already been saved of between $6m and $10m. It would be quite wrong of me to ignore the report. Any savings that are made in these areas will result in additional funds for the education system. The cleaning of schools is not an educational matter; it is subsidiary to the main purpose of the education system, which is educating children.

I am contemplating the propositions put forward to me in Arthur Andersen's report. A number of variations to that have been suggested and until such time as I have considered all the options, a final decision will not be made. The final decision may not be to contract out at all. There may be other ways to do it. It is a pity that Mr Halden and his colleagues regularly seek to frighten people by suggesting that somehow or other they will lose their jobs. If he knew anything about the cleaning industry he would know that the majority of cleaners within the education system would be employed by a private contractor if we go down that path. The number of people available in Western Australia to take on

cleaning jobs is virtually nil. The successful contractors, if we decide to go down that path, would be required, and would want, to employ those people already in the education system.

The bottom line is that the Treasurer's answer is correct.

Hon John Halden: Why didn't you tell me on Thursday? Why did I have to wait?

Hon N.F. MOORE: The Budget had been brought down about five minutes before question time last Thursday.

Hon John Halden: Don't say you hadn't seen it before then. The Minister for Education, the mushroom!

Hon N.F. MOORE: The Leader of the Opposition read out two figures and I could have given him an answer which might not have been absolutely correct. He will understand that I am obliged to stand by the answers I give in this House. When I know that the answer I might give to a question is not absolutely accurate I ask for the question to be put on notice and that is what I did last Thursday.

SCHOOLS - CLEANING, CONTRACTING OUT

436. Hon JOHN HALDEN to the Minister for Education:

I refer to the Treasurer's admission in question time today in the other place that the Education budget is predicated on the privatisation of 2 800 school cleaners.

(1) How can the Minister justify that predication when in this House on 2 November 1993 in response to question without notice 585 he said -

> When I became Minister I was given two options: To retain a day labour work force and request that it become more productive, or contract out the work to the private sector, thereby saving the taxpayers 30 per cent in terms of productivity.

(2) The Minister also said in answer to question without notice 599 -

> I am simply saying to them that if they want to keep their jobs, they can, but they must improve their productivity to the same level achieved by the private sector.

To achieve that productivity the Minister announced that there was a necessity for school cleaning numbers to be reduced by 100 and productivity to be increased by 30 per cent. Will the Minister confirm that the Education Department advised the Miscellaneous Workers Union at a meeting in January 1995 that the redundancy target had been achieved and that productivity had increased by 30 per cent?

Hon N.F. MOORE replied:

(1)-(2) My answer is probably yes to all of that. I will repeat some of the answer I gave in November 1993. Upon becoming the Minister for Education I was confronted by a cleaning situation in the schools which was the product of the previous Government. By requiring day labour cleaners to increase their productivity to the level attained by a very small number of contract cleaners already engaged in schools a significant saving would be made, which I think was in the vicinity of $10m, and which illustrates the fat that was left in the system by the previous Government. I said at the time that the Government wanted school cleaners to achieve a 30 per cent increase in productivity. That has now been achieved. It was always my intention that the Government would do that.

I am now confronted with a report which says that there is a significant degree of additional savings of perhaps up to another $10m in the event that school cleaning is contracted out. The Government and I must decide whether to go to contract cleaning. No guarantee was ever given to anybody. It was the Government's intention at the time.

Hon John Halden: They probably thought that.

Hon N.F. MOORE: Is the Leader of the Opposition suggesting that they should have a job forever? Does the member believe in that strategy? The facts are that productivity was achieved, but Arthur Andersen's report states that significantly greater productivity can be achieved by contracting out school cleaning. I said in my last answer that no decision has been made to do that.

Hon John Halden: Except that the budget is predicated on it.

Hon N.F. MOORE: That is absolutely right. I am now telling the House that no decision has been made. If the Government decides to go down the path of contracting out school cleaning, the Opposition will not be the first to know. The people in the schools will be the first to know, but the Opposition will be made aware of the basis on which the decision was made and so will the cleaners. I would be derelict in my duty if I ignored a report which said that between $6m and $10m could be saved, which could go into the education system to provide better education for children.

EDUCATION - GOOD START PROGRAM

437. Hon JOHN HALDEN to the Minister for Education:

(1) Can the Minister confirm that by delaying the entry age into primary school there will be an increased financial burden on parents who must keep their children at home, at kindergarten or at preprimary longer, and an additional burden on the Federal Government?

(2) How does the Minister intend to help with the increased financial burden on families?

Hon N.F. MOORE replied:

(1)-(2) I do not worry about any increased burden on the Federal Government; if that is the case, it is a desirable outcome.

Hon John Halden: They told me that is why you did it.

Hon N.F. MOORE: Hon John Halden demonstrates once and for all his total lack of understanding of education issues.

Hon John Halden: We will see when you put out the bushfire.

Hon N.F. MOORE: He demonstrates his complete lack of understanding of the Good Start program. I have listened to some of the member's mutterings of the past few days, and read his comments in the newspapers. Hon John Halden is always around the edge of the issue. He does not understand that for the first time in Western Australia we have a package which will provide that every child attending a government school will have a kindergarten year.

Hon John Halden: We promised that in 1992.

Hon N.F. MOORE: It was promised but not delivered. The Leader of the Opposition does not even know what kindergarten is, because he did not start it. Hon John Halden probably missed kindergarten. Mr Halden is one of those people at whom this whole program is aimed; it is an early intervention program to identify learning difficulties at a very young age. I suspect that had this been around when Mr Halden was at school, it would have solved the problems he has now. For the first time in Western Australian history a Government is providing a kindergarten year and a full time preprimary year for every child who goes into a government school.

Hon John Halden: You are letting me run into a big vacuum.

Hon N.F. MOORE: The only vacuum around here is between the member's ears, and that has been demonstrated amply since yesterday when I listened to Mr Halden's comments on this initiative.

Hon John Halden: They must have heard me.

Hon N.F. MOORE: This is without doubt the most significant advance in early childhood education in the history of Western Australia.

Hon Kim Chance: It saves millions.

Hon N.F. MOORE: It does not save a cent. It is self-funding; that is what is so good about it. By changing the school entry age, funds that are not needed for those four cohorts that are reduced by virtue of the smaller number of children going through the system will provide enough money for every child coming into the Western Australian education system to have two half days in kindergarten and four full days in a preprimary centre. The previous Government was not able to deliver that. It promised that time after time and never delivered it. That was the same Government which gave parents $50 for every primary child and $100 for every secondary child in the year before an election. The moment the election was over and it had won, it took it away. This is the mentality of members opposite.

The PRESIDENT: Order! I mentioned last week that replies should conform to the standing orders in the same way as the questions. "Precise" and "relevant" are two words that seem to be evaded at all costs these days. Perhaps the Minister should give a bit more attention to that when answering questions.

Hon N.F. MOORE: The situation will be that children going into the kindergarten year will pay $1 a week, which is about $4 or $5 a week less than most private kindergartens, and that will be available to every child entering the education system in Western Australia. That is a significant saving. By the year 2000 every child in Western Australia will have access to preprimary education at $9 a year, which is significantly less than many of them pay in kindergartens and private preschools now. There are savings for parents across the board.

Hon A.J.G. MacTiernan: They will receive preprimary education for four days a week, where previously they were at school for five days a week.

Hon N.F. MOORE: They are not. Hon Alannah MacTiernan does not understand either. She probably did not go to kindergarten either.

Hon A.J.G. MacTiernan: I was better educated at the other end, Mr Moore.

Hon N.F. MOORE: One-third of children these days receive preprimary education, and this Government is about to give it to all of them.

WA TOURISM COMMISSION - SECURITY WORK, CONTRACTS

438. Hon J.A. SCOTT to the Minister representing the Minister for Tourism:

(1) Does the Western Australian Tourism Commission, including EventsCorp, use the services of any private security company or agents?

(2) If yes, which companies or agents has it engaged for such security work?

(3) What is the cost to the department of employing private security companies or agents?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Western Australian Tourism Commission does not currently use the services of any private security companies or agents; however, due to the extended trading hours of the retail travel centre in Forrest Place, the feasibility of using security guards is being investigated. EventsCorp uses private security companies only during managed events where contracts are annually tendered. Currently the only event being managed by EventsCorp where security and related services are utilised is Telstra Rally Australia

(2) Companies or agents engaged for security or related work for Telstra Rally Australia in 1994 and 1995 are as follows -

	1994 Company Appointed	1995 Company Appointed
Headquarters Control	Nightwatch	To be tendered
Corporate Hospitality	Nightwatch	MSS Security
Grandstand Ushering	Nightwatch	MSS Security
Crowd Control	Nightwatch	To be tendered
Ticketing Security/Control	MSS Security	MSS Security
Country Ticketing	MSS Security	MSS Security
Car Park Security	MSS Security	MSS Security

(3) In 1994 MSS costs were $11 900 for services as outlined above, and Nightwatch costs were $26 883 for services outlined above. The quoted cost for the 1995 MSS Security contract will be approximately $45 000, and the cost of the remaining work is yet to be determined.

EDUCATION - GOOD START PROGRAM

439. Hon JOHN HALDEN to the Minister for Education:

The question relates to the Good Start program announced yesterday by the Minister.

(1) Can the Minister guarantee that kindergarten class sizes will not be increased as a result of the proposal?

(2) Is there any necessity for independent schools to comply with these changes?

Hon N.F. MOORE replied:

(1) It is the intention of the program that kindergarten sizes not increase.

(2) It is not necessary for private schools to comply with the new starting age if they do not wish.

WATER AUTHORITY - CONTRACTING OUT SERVICES

440. Hon SAM PIANTADOSI to the Minister for Water Resources:

Is the Water Authority of Western Australia proceeding with the contracting out of services to the private sector where it has advice that there is no justification for doing so on the basis of lowering costs?

Hon PETER FOSS replied:

I need some specific illustration from the member, because I am not aware of any such statement.

Hon Sam Piantadosi: There was a report.

Hon PETER FOSS: The member should be specific.

Hon Sam Piantadosi: Hon Peter Foss is the Minister. He has hands-on experience of that report, so he should table it.

Hon PETER FOSS: The member has not even mentioned the report in his question. He has asked a general question over the entire Water Authority which might include services ranging from hundreds of millions of dollars down to 10¢. I think Hon Sam Piantadosi is aiming his question towards the major contracting out of north and south metropolitan operations. As I have said many times in public, one of the reasons we are seeking to contract out those services is to avoid the cyclical glut and purge in efficiency and numbers that happens within government where there is no contracting out. Parkinson was one of the first

people to illustrate that the number of people employed in government is quite unrelated to the amount of work they have to do. He demonstrated that with regard to the Department of the Navy in England where the number of people employed increased by, I think, 7.5 per cent per annum, even though the number of Navy ships, the area covered and the number of people employed on those ships was steadily going down. Because it is a painful process and because it is natural in government that people have no bottom line incentive to keep the numbers down, there is a tendency for the numbers to go up because the more people controlled, the more prestige and pay. To avoid that we are putting in place competition. As suggested by the member's federal counterparts, and Prime Minister Keating, we should try to get competition to keep the natural control which is not present in government. Long term we must ensure that we always have the efficiencies that come through competitive tendering by tendering out processes that we currently do ourselves. We believe that long term it must necessarily ensure -

Hon Sam Piantadosi: You will not allow competitive tendering.

Hon PETER FOSS: I beg your pardon!

Hon A.J.G. MacTiernan: We are referring to the Premier's circular of 24 December.

Hon PETER FOSS: I will not answer that question because it has not been asked. We allow competitive tendering, and for the north and south metropolitan areas we had a number of very competitive tenders which we are now evaluating. We are very confident that this will not only mean a competitive situation now, but that by continuing over some years we will not suffer the usual cyclical glut of people which must lead to the cyclical purge which is both painful and inefficient.

HOSPITALS - BUNBURY REGIONAL, NEW
Public Management; Joondalup and Peel, Private Management Plans

441. Hon DOUG WENN to the Minister representing the Minister for Health:

In *The West Australian* on Friday, 16 June it was reported that the Minister for Health said, "The Wanneroo, Bunbury and Peel health complexes could make history for WA as the first State owned public hospitals managed by a public firm" -

(1) Can the Minister for Health confirm that all these new hospitals will be privately managed?

(2) Is he aware that the Premier of WA gave the people of Bunbury a commitment that the planned new Bunbury Regional Hospital would be government owned and managed?

(3) If yes to (2), can the Minister please explain why he is reneging on the Premier's commitment?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Minister for Health has advised that the reported comments in *The West Australian* on Friday, 16 June are not correct. The new Bunbury Regional Hospital will be established under public management, as he has confirmed in writing to the chairman of the hospital board on 17 May 1995. Decisions have been kept open about whether the new public hospitals at Joondalup and Peel will be publicly or privately managed. This information also has been confirmed in writing.

(2) Yes.

(3) See answer to question (1).

LOTTERIES COMMISSION - HOLY TRINITY CHURCH, YORK, FUNDING

442. Hon KIM CHANCE to the Minister for Racing and Gaming:

(1) Has the Lotteries Commission allocated a sum of $130 000 or thereabouts for restoration works to the Holy Trinity Church in York?

(2) Did the Lotteries Commission make the decision to allocate funds for this purpose after receiving a recommendation from a heritage committee, established for the purpose of assisting the Lotteries Commission?

(3) Does the chairman or any member of the advisory committee also hold a senior position in the congregation of the Holy Trinity Church in York?

(4) If so, who is that person and what position does he or she hold in the advisory committee, and the Holy Trinity Church, York?

(5) Did the committee member advise the Lotteries Commission of this conflict of interest at any time prior to the commission making its decision?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The heritage advisory committee developed policy for the Lotteries Commission for this new funding program. The heritage advisory committee then sought expert advice from the Building Management Authority's heritage section on urgent works of buildings.

(3) Yes.

(4) Sir William Heseltine is a member of the heritage advisory committee, and a church warden at the Holy Trinity Church, York.

(5) Yes.

BUNNINGS - PEMBERTON SAWMILL
First Grade Karri Sawlogs

443. Hon J.A. SCOTT to the Minister for the Environment:

Some notice of this question has been given.

(1) As from 19 June 1995, what volume of first grade karri sawlogs were held at Bunnings' Pemberton sawmill, and how many days' production does this represent?

(2) What volumes of first grade sawlogs, from which coupes, and on what dates, have been delivered to Bunnings' Pemberton sawmill since 19 May 1995 inclusive?

(3) What has been the average monthly volume of first grade karri sawlogs supplied to Bunnings' Pemberton sawmill in the current financial year?

(4) What volume of first grade karri sawlogs are currently stockpiled on bush landings?

Hon PETER FOSS replied:

The information sought would require considerable research and strictly speaking some of it should be directed to Bunnings itself. To the extent that it falls within the province of my department I ask that the question be placed on notice.

HOSPITALS - ROYAL PERTH
Painting Contract

444. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Health:

(1) Can the Minister confirm that Programmed Maintenance Services Pty Ltd

has been awarded the contract to undertake planned maintenance painting at Royal Perth Hospital?

(2) Does that company have an office and staff in Western Australia?

(3) If so, where is that office located?

(4) When and where was the tender for the work advertised?

(5) How many persons submitted tenders?

(6) For what period has the contract been granted?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The contract has not been awarded as it is still under negotiation over staff transfers. Conditional letters of intent have been issued.

(2) Yes.

(3) 107 Kew Street, Welshpool.

(4) Seven selected tenders were invited in accordance with the requirements of the Government Health Supply Council.

(5) Four tenders were received.

(6) Once awarded, the contract would be for seven years; that is, one paint cycle.

FISHERIES DEPARTMENT - LIVE IMPORTS, AQUACULTURE INDUSTRY

445. Hon DOUG WENN to the Minister representing the Minister for Fisheries:

(1) Has the Fisheries Department allowed any imports of live animals from within the aquaculture industry - that is, oysters, abalone, prawns etc - from other States of Australia or New Zealand?

(2) If so, why?

(3) If so, which species?

(4) If so, which companies are importing and marketing these products?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The Minister for Fisheries has provided the following reply -

(1)-(4) The information sought by the member is quite extensive and will require considerable investigation and research from the files. I would be happy to take the question on notice.

WESTRAIL - *AUSTRALIND*; *PROSPECTOR*, PRIVATISATION PLANS

446. Hon DOUG WENN to the Minister for Transport:

Last year the Minister gave a commitment that the *Australind* and the *Prospector* would remain in government hands. In the *Sunday Times* last Sunday an article on the Avon Valley commuter service suggested that the Government was considering offering either the *Australind* or the *Prospector* to the private market as an incentive to get the Avon Valley service up and running. Can the Minister please confirm the commitment he gave last year that he is not considering privatising either the *Australind* or the *Prospector* rail service?

Hon E.J. CHARLTON replied:

I did not see the article in the *Sunday Times*, so I do not know who said what. However, regarding Westrail operations and Citylink, we consider every possibility to improve the service and the operations.

STATESHIPS - STEVEDORING CONTRACT, DOCUMENTS COST

447. Hon JOHN HALDEN to the Minister for Transport:

Given the public interest in matters related to the awarding of a stevedoring contract to BAAC Pty Ltd, and this Government's commitment to open and accountable business dealings -

(1) Why has the WA Coastal Shipping Commission levied a $2 800 fee on a freedom of information application by the Leader of the Opposition in the other place, for all documents relating to the awarding of the stevedoring contract for Stateships?

(2) Is the Minister prepared to waive the cost or to release the documents to allow proper scrutiny of this stevedoring contract?

Hon E.J. CHARLTON replied:

(1)-(2) The member is referring to an application by the Leader of the Opposition to Stateships. It is a matter for Stateships, and the role it must play in negotiations with the private companies involved.

EDUCATION - GOOD START PROGRAM

448. Hon JOHN HALDEN to the Minister for Education:

Does the Minister propose to supply purpose-built classrooms to those schools expecting an influx of students as a result of the announcements made in the Good Start program yesterday?

Hon N.F. MOORE replied:

It is intended that buildings provided for early childhood education will not be as well equipped and "flash" as the ones in the past, but they will certainly be more than adequate for the tasks for which they will be built. The analogy I made last night was that we will be going from a Rolls-Royce to a Mercedes Benz. In the past, for example, toilet pedestals in kindergartens and preprimary buildings were those made for very young children. They cost significantly more money to install than the regular pedestals. There is no reason why children need those small pedestals, when at home they use a regular size one. Savings will be made in the context of the new architectural design of preprimary centres.

I also draw to the attention of Hon John Halden, because he will probably have a bit of trouble understanding this -

Hon John Halden: The more you abuse me, the more I know I am hurting you; go for your life.

Hon N.F. MOORE: I want to draw the attention of the Leader of the Opposition to his inadequacies.

Hon John Halden: Abuse me all you like, but I will win it out there.

Hon N.F. MOORE: Is it not a pity that he will win it out there and tell every possible untruth? He will exaggerate every possible aspect even though he would know, if he read the Scott report -

Hon John Halden: I have read it twice.

Hon N.F. MOORE: - or any other learned advice on this, that it is a very good program. The most significant part of it is that it will target early childhood learning difficulties, with a significant investment of $60m over 15 years, with programs designed to provide early childhood support for young children so they will not end up like Hon John Halden - dyslexic at the age of 35! We will be able to diagnose their problems as very young children so they will not have the problem later in life. Part of the program, brought about by change in the architectural design of new buildings, is to have integrated classes between

K and 2. Vertical integration between those years of education is considered by many people to be a very positive educational initiative.

Hon John Halden: Are you proposing vertical integration across the board?

Hon N.F. MOORE: Not in every situation. We are trialling a number of multigrouping arrangements where children from preprimary, year 1 and year 2 move vertically from one class to another. That has been very successful so far. It is believed that is the way to go in the future. Schools will be given choices about the way in which they set up their classes. It makes sense in the context of that proposition to have classrooms for preprimary and kindergarten children alongside classrooms where regular schoolchildren attend. In the past, preprimary centres have been a significant distance from the regular school, which has made interaction more difficult. We are trying to achieve the best of both worlds and at the end of the day make sure our young children get the very best start in their education.