



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
SECOND SESSION  
1998

LEGISLATIVE COUNCIL

Wednesday, 23 December 1998

# Legislative Council

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**THE PRESIDENT** (Hon George Cash) took the Chair at 2.00 pm, and read prayers.

## BILLS - ASSENT

Message from the Governor received and read notifying assent to the following Bills -

1. Mutual Recognition (Western Australia) Amendment Bill
2. Revenue Laws Amendment (Assessment) Bill (No 2)

## STANDING COMMITTEE ON LEGISLATION

*Resignation of Hon J.A. Cowdell*

**THE PRESIDENT** (Hon George Cash): Today I received a letter in the following terms addressed to Hon George Cash, President of the Legislative Council, Perth and dated 23 December 1998 -

My dear President,

I hereby tender my resignation as a member of the Legislation Committee.

Yours sincerely

John Cowdell

## OCCUPATIONAL SAFETY AND HEALTH (VALIDATION) BILL

*Second Reading*

Resumed from 28 October

**HON LJILJANNA RAVLICH** (East Metropolitan) [2.06 pm]: On behalf of the Australian Labor Party, the Opposition supports the Occupational Safety and Health (Validation) Bill. However, the Opposition still has concerns about the whole area of occupational health and safety. In particular the Opposition is displeased about the way the Government has addressed some of the problems occurring in occupational health and safety.

This Bill readdresses some of the issues that have arisen as a result of the hiatus in the appointment of WorkSafe Western Australia Commissioner Neil Bartholomaeus. That is causing problems, particularly with the uncertainty regarding prosecution. This Bill is unusual because it is not common for Governments to introduce special legislation to retrospectively approve actions of a government agency. The Titles Validation Amendment Bill and this Bill validate the mistakes and oversights of this Government. The Bill validates past actions of the WorkSafe commissioner when he was not officially appointed to the position. The department then functioned under a delegated authority. I have been recently advised that amendments on the Supplementary Notice Paper are as a result of the fact that during the four periods of hiatus, the commissioner delegated authority to his deputies and as a result the actions taken by those deputies have become questionable.

This smacks of maladministration by a government agency and lack of control by the Government, particularly the Premier in his role as Minister for Public Sector Management. It is laughable that not only one hiatus occurred - that would have been bad enough as an administrative oversight - but there were four periods, the first of which was from 10 July to 18 July 1994, the second from 1 July to 24 September 1995, the third from 1 July to 29 July 1996 and the fourth from 1 October to 7 October 1996. I do not understand how we could end up with four periods of hiatus.

Was that situation a reflection of the fact that the Government was not certain and had some concerns about Commissioner Bartholomaeus and therefore was reluctant to reappoint him to the position, or were those four periods of hiatus the result of other factors, such as incompetence, bad administration or a failure of the Government - specifically, the Premier - to keep an eye on the ball? I would have thought it would be beholden on Commissioner Bartholomaeus as the head of WorkSafe to bring to the attention of the Premier and any relevant body that his appointment was questionable and that the issue of his tenure needed to be addressed urgently. Mr Bartholomaeus might have done that, but no-one listened, and as a result we now have enormous problems within WorkSafe, specifically with fallen prosecutions.

The implications of this maladministration are serious. I do not want to dwell on former Commissioner Bartholomaeus because in some way he was a victim of the system. He had an arrogant minister, and Mr Bartholomaeus rolled on with that arrogance. Unfortunately, it was to be his downfall. On many occasions I brought to this place my concerns about WorkSafe WA. I said time and again that something was not quite right within that department; it had problems and we needed a full,

comprehensive and thorough investigation into WorkSafe WA. In fact, I moved a motion in this place for a full and comprehensive inquiry into WorkSafe WA. All along I was advised by members of the Government that nothing was wrong with WorkSafe and there was no need for an inquiry. This Bill is an admission by the Government that all is not well within that government agency. If things are not well in that government agency, there may be other government agencies where things may not be going all that well either. Only time will tell.

The implications of the four periods of hiatus are substantial. A total of 202 prosecutions were commenced by WorkSafe WA during the period when there was a deficiency in Mr Bartholomaeus' appointment as commissioner. The cost of bringing each case to prosecution is \$11 266, which is a substantial sum of money. Many of those prosecutions have now been challenged and 25 out of the 202 remain outstanding. Of those cases, three have been successfully challenged, a further two are being appealed, and a further 18 have been adjourned pending the outcome of appeals. The current status of the prosecutions which have been subject to challenge is that two are expected to be heard on appeal in the Supreme Court, and the remaining three are on hold pending the outcome of the other two. When two WorkSafe cases are being challenged in the Supreme Court, and another three are awaiting the outcome of the other two, taxpayers' money is being wasted. As a result of bad public administration, taxpayers' money will now be used to challenge those cases in the Supreme Court. This situation should never have arisen. Five cases are in progress at the moment, with 18 pending. This could end up being a very expensive exercise for the State. I am sure most Western Australian taxpayers will agree that the money could have been used in a much more efficient way than defending cases in the Supreme Court that have resulted purely and simply from administrative mismanagement. The Government has no excuse.

Hon M.J. Criddle: This Bill will fix that up.

Hon LJILJANNA RAVLICH: Yes, and sometimes people on the minister's side have to cop it sweet. The Government has mucked up badly. For 18 months I have sat on this side of the Chamber and expressed my concerns about WorkSafe WA, because I kept hearing about major problems within that government agency. I brought that information to this place time and again. I was advised time and again that nothing was wrong within that government agency, that everything was sweet and it was being administered efficiently. Suddenly the Government introduces the Occupational Safety and Health (Validation) Bill, which says that WorkSafe is an absolute mess. I am focusing on the prosecutions which are now under threat of Supreme Court challenge.

Another concern is the other aspects that this Bill will validate that we do not even know about. The Australian Labor Party is being asked to validate the acts of Commissioner Bartholomaeus that he carried out in his role as WorkSafe WA Commissioner during periods of hiatus in his appointment. The department has been forthcoming in providing information on the prosecutions that are currently at risk. However, the department has not been so forthcoming in providing information on other acts which occurred. I would like to know the full extent of what I am validating.

A case in point relates to a group of Malaysians who were certified to become assessors in the area of dogging, rigging and scaffolding. These assessors were certified in July 1995 under the Occupational Safety and Health Act. A provision within that Act states that in order to be certified and to practise in Western Australia, assessors must pay a registration fee of \$600. Upon investigation, I found that the registration fee had not been paid by the Malaysian assessors, and there was an arrangement between WorkSafe WA and the Malaysian training company where these gentlemen work. In exchange for airfares and accommodation etc there was a quid pro quo arrangement and the Malaysian assessors did not have to pay the \$600 required by the Act. I have evidence that the money was never paid. There was a clear breach of the Act and the Malaysian assessors were certified in 1995 to operate as assessors in WA - although I understand they do not - without having to pay the registration fee prescribed in the Act.

Hon Derrick Tomlinson: Has that anything to do with the hiatus in Mr Bartholomaeus' appointment?

Hon LJILJANNA RAVLICH: During the same period. The question I ask is: By invalidating all past actions of Commissioner Bartholomaeus, does that mean that that action is validated also?

Hon Derrick Tomlinson: You are making an inference of maladministration.

Hon LJILJANNA RAVLICH: I am saying that that would be validated and that, therefore, those acts of maladministration would be validated. That is only one instance that I am aware of from my investigations of this case. However, there is no excuse for poor administration. That case borders on corruption.

Hon Derrick Tomlinson: You would have to report that.

Hon LJILJANNA RAVLICH: I have reported it. It has been reported to the Commissioner for Public Sector Standards, who has advised me that the matter will be investigated. I am concerned because I do not know the magnitude of what this validation Bill validates. I would feel more comfortable if the full extent of what we are validating was known to members. We could then make the right judgment. At present this Bill gives a blanket approval for validation of actions without our knowing the details. I do not want to take up the time of the House as I realise that people are tired.

This debate is about poor public administration. The Government has a poor record in this area. Members of the Labor Party will nevertheless support the legislation because we realise that there are many people within the community who have a direct interest in the current prosecutions. Many of these people have undergone enormous stress and we do not want to add to that stress. However, we have a concern with proposed new subsection (3) in proposed new clause 4, which states that proceedings for an offence against this Act may be commenced at any time within three years after the offence was committed. The amendment will amend section 52 of the Occupational Safety and Health Act to permit all prosecutions to commence up to three years after the offence was committed, calculated retrospectively. The statutory provision under the Act for commencing proceedings is currently 12 months; new proceedings for the failure to notify the commissioner of a reportable injury or disease may be instituted within two years. In adopting this new approach of three years, the Government must give us an unequivocal undertaking that WorkSafe WA will pursue class defences only when a prosecution has already commenced. We want an undertaking from the Government that the proposed new clause will not be used by the Government as a window of opportunity to trawl back and open up new prosecutions. I understand that the minister has given that undertaking. We would like it reported in *Hansard*.

**HON J.A. SCOTT** (South Metropolitan) [2.23 pm]: The Greens (WA) will be supporting this Bill. We see it as simply picking up an administrative error which caused problems for WorkSafe WA. Clearly, as Hon Ljiljanna Ravlich pointed out, the extent of the validation is of some concern. However, given the assurances that have already been provided, I am confident it will be used properly. It is of concern to us that this error occurred in this way. I hope that some procedure will be implemented to ensure that it does not occur in the future if possible.

**HON NORM KELLY** (East Metropolitan) [2.24 pm]: The Australian Democrats will also be supporting the Occupational Safety and Health (Validation) Bill although we have concerns about amendments on the Supplementary Notice Paper. The parameters of the Bill were clearly stated by the Attorney General in his second reading speech on 28 October. I will briefly quote a few excerpts from that speech. He said that the Bill would validate past actions of the WorkSafe WA Commissioner at a time when there was a hiatus in his appointment. It has been shown that there were four different hiatus periods. The Bill will remove legal uncertainties where there was a deficiency in the commissioner's appointment prior to 8 October 1996. The Attorney General went on to say that the legal status of a number of prosecutions under the relevant authority of delegation had been brought into question and that the House would accept that it was untenable to leave the matter unclear for any further length of time. Given those parameters, the Democrats believe that this Bill is worthy of support.

However, I make a few comments, some of which the Hon Ljiljanna Ravlich has already gone into in some detail; therefore, I may be repetitive. My comments will be relevant to the same issues. The hiatus periods with which we are dealing make interesting reading when considering Neil Bartholomaeus' periods of appointment. There were some hiatus periods of a few months and finally a period of appointment of five years. Not having gone back into the detail of his appointments in the mid-1990s, I am not sure why these short-term appointments were made. However, they clearly compound the occurrence of the hiatus periods.

The first hiatus was from 10 July to 18 July 1994. To correct that gap, action was initiated only three days before that hiatus period commenced. It was then 12 days before the Governor was able to make a new appointment. The second hiatus period was from 1 April to 25 September 1995. Therefore, there was a period of six months when some action was undertaken. WorkSafe WA seemed to be acting on legal advice from the Crown Solicitor which was shown later to be wrong in saying that the doctrine of de facto offices would validate the commissioner's actions. Unfortunately, that Crown Solicitor's advice has not helped the situation.

The third hiatus period was from 1 July to 29 July 1996. This follows a period of appointment in the first six months of 1996. It is interesting that that appointment ceased on 30 June 1996, yet action was initiated only on 8 July. Therefore, there was a full week when the commissioner did not have a relevant appointment in that position yet still no action was taken to correct the problem. Action was initiated a week after the hiatus period commenced and it took another three weeks for the Governor to approve an appointment for another term. That appointment for another term was for a period of two months, in which time, I suggest, work was being done on the longer-term contract. Before that came into being, there was yet again a fourth hiatus period from 1 October to 7 October 1996. Interestingly in that case, the Governor endorsed the appointment on 24 September, but it was not considered until 8 October, resulting in that one-week hiatus period.

A number of outstanding prosecutions were initiated in these hiatus periods. Advice I received from the minister's office states that of 25 outstanding prosecutions, 18 have been adjourned pending the outcome of appeals in three other cases, and in only two cases the hiatus period was not raised as an issue in the prosecution. Later correspondence, dated 8 December, states that the remedial action has ensured all future prosecution actions will be valid and has rectified the problem in all but 47 prosecutions already authorised but not finalised. I am not too sure about the discrepancy between the 25 and the 47 cases; or whether there is a difference between "authorised" and "initiated" or whether that has to do with the month or two in which I received the correspondence. These matters of prosecution are very serious. A couple of the high profile cases involve the death of a 13-year-old Karratha boy killed after being hit with an ockie strap that came off a string of shopping centre trollies, and the death of Mark Allen, a union organiser investigating safety complaints on a demolition site when he fell from the top of a building.

The retrospective nature of the Bill is of serious concern. Although we should not be dealing with retrospective legislation, on some occasions there are valid reasons that we should, such as to correct injustices and unfairness. In a general sense, retrospective legislation can undermine the rule of law and thus the legitimacy of the State. It can be unjust and create uncertainty, and the Government can be seen to be sanctioning illegitimate and unlawful acts. However, it can be a greater mistake not to act on occasions where injustices and unfairness would prevail if this remedial action were not taken. The Australian Democrats think this is one instance where the benefits to the community far outweigh the considerations associated with adopting retrospective legislation.

The amendments standing in the name of the Attorney General will amend section 52 of the Occupation Safety and Health Act to permit all prosecutions to be commenced up to three years after the offence was committed. This is calculated retrospectively, allowing new proceedings to be initiated under the Act. I understand this is simply to reinstate the prosecutions that cannot be proceeded with because of these hiatus periods. However from my reading of the amendments, it would seem that a permanent fixture in the Act would be a three-year period in which cases could proceed.

Hon Simon O'Brien: A statute of limitations.

Hon NORM KELLY: It is adding to the current one-year or two-year limitation, where a matter has not been brought to the attention of WorkSafe. The amendment would introduce into the Bill something that is beyond the parameters of the original intent of the Bill. There has not been sufficient public discussion about whether the period should be extended for three years in all cases. The Australian Democrats can see why we should have this provision in cases relating to the appointment, or non-appointment, of Neil Bartholomaeus as commissioner and we fully support amendments which express that and limit the three-year period to those cases. We have a greater concern that the Government is introducing something into the Bill which was not the original intent and which, rightly, should be considered in its own right in a separate amending Bill. As I said, we feel it would be far better if the retrospective impact of that proposed amendment were limited to cases where - this is something about which the Democrats have advised the relevant minister - the offender had been notified of the intention to prosecute before the introduction of this legislation and where technical deficiencies in the commissioner's appointment or delegation could be available as a defence. That would limit the three-year period to the cases which would make it explicitly relevant to the appointment, or non-appointment, of Neil Bartholomaeus as the WorkSafe WA Commissioner. Although we have those concerns about what is proposed by the Government, we feel this legislation is correcting wrongs and it is for the public benefit, particularly the workers in this State. For those reasons, we will be supporting the Bill.

**HON MARK NEVILL** (Mining and Pastoral) [2.36 pm]: Two validation Bills have come before the Parliament in this session, both of which in my view have been deficient. I refer to the fourth edition of *Legislative Drafting* by Garth Thornton wherein he states that three preliminary steps are necessary before proceeding to draft validating legislation. He states -

They must

1. identify the nature and extent of the actions and omissions which have produced the illegality that is to be cured;
2. identify the extent of the illegality caused by those actions and omissions;
3. identify what acts and omissions have taken place after and in consequence of the invalidity.

I have not been able to glean the answers to those principles from either this Bill or the Titles Validation Amendment Bill. There must be closer scrutiny of these validation Bills that come before the House. They must rectify very precisely the conduct that has been illegal or the problem to which the Bill is directed. If we do this in a general sense, we run the risk of validating decisions that are quite challengeable. This Bill and the previous one, in my view, do not provide the information we need to make these sorts of decisions. In this case the information has been provided by subsequent letters and correspondence; however, that information must be in the second reading speech and these Bills must be much more precise and informative and address the principles that Garth Thornton outlines in his well-respected book.

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [2.38 pm]: I thank members for their general support of the Bill. I understand the points raised. This Bill validates the appointment of Mr Batholomaeus as WorkSafe WA Commissioner when previously there was a defect in his appointment. Members who have spoken have made the point that recognition of the problem with the appointment of the chief executive officer went on for quite some time.

The proposed amendments in the validation Bill will amend section 52 of the Occupational Safety and Health Act to permit all prosecutions to be commenced up to three years after the offence was committed, and calculated retrospectively. The statutory limitation for commencing proceedings under the Act is currently 12 months, except in relation to failure to notify the commissioner of a reportable injury or disease, in which case the period is two years. New proceedings could then be instituted under the Act. In adopting this approach, the Government gives an unequivocal undertaking that WorkSafe Western Australia, in relation to past offences, will pursue only those for which a prosecution has already commenced. That clearly meets members' requirements. It also validates anything that has been done lawfully under the Act.

Hon Mark Nevill said that the legislation makes the process far more open to scrutiny and that there might be some later challenges. That is a general matter that could be taken into consideration. I understand that much information has been made available to members. The minister made it clear that information would be made available. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Suspension of Standing Orders*

On motion by Hon M.J. Criddle (Minister for Transport), resolved -

That standing orders be suspended so far as will enable the Committee of the Whole to amend the Bill by incorporating proposed new section 52 of the principal Act into the Bill.

*Committee*

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon M.J. Criddle (Minister for Transport) in charge of the Bill.

**Clauses 1 and 2 put and passed.**

**Clause 3: Validation -**

Hon M.J. CRIDDLE: I move -

Page 2, line 25 - To insert after the word "valid" the word "and".

Hon LJILJANNA RAVLICH: The amendment is intended to clarify matters. It is a grammatical amendment and the Australian Labor Party will support it.

**Amendment put and passed.**

Hon M.J. CRIDDLE: I move -

Page 2, line 25 - To insert after the word "the" the word "principal".

Hon LJILJANNA RAVLICH: The Australian Labor Party will support the amendment as it is intended to strengthen and clarify the legislation.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**New clause 3 -**

Hon M.J. CRIDDLE: I move -

Page 2, after line 3 - To insert the following new clause -

**3. Interpretation**

In this Act -

**“principal Act”** means -

- (a) the *Occupational Health, Safety and Welfare Act 1984* as in force before 1 October 1995; or
- (b) the *Occupational Safety and Health Act 1984* as in force on and from 1 October 1995.

Hon LJILJANNA RAVLICH: The new clause contains two references to the principal Act. Will the minister clarify why there is reference to the Occupational Health, Safety and Welfare Act and to the Occupational Safety and Health Act?

Hon M.J. CRIDDLE: It is the same Act, the title of which was changed.

**New clause put and passed.**

**New clause 4 -**

Hon M.J. CRIDDLE: I move -

Page 2, after line 28 - To insert the following new clause -

**4. Occupational Safety and Health Act 1984 amended**

(1) Section 52(3) of the *Occupational Safety and Health Act 1984* is repealed and the following subsection is inserted instead —

" (3) Proceedings for an offence against this Act may be commenced at any time within 3 years after the offence was committed. "

(2) Section 52(3) of the *Occupational Safety and Health Act 1984*, as inserted by subsection (1), applies in respect of an offence committed against that Act before the commencement of subsection (1) despite the fact that the time for commencing proceedings for that offence expired before the commencement of subsection (1).

Hon LJILJANNA RAVLICH: The Australian Labor Party supports the new clause. Labor members are pleased with the minister's assurances in regard to new subsection (3) that the Government will not use the new clause as a window of opportunity to open new prosecutions but will simply use the mechanism to deal with those which have already commenced.

Hon NORM KELLY: Why is the new clause not worded so as to relate specifically to matters relating to Neil Bartholomaeus? As I said during the second reading debate, there appears to be a far broader scope than simply dealing with the hiatus periods with which the rest of the Bill deals. In future there will be a three-year period when prosecutions can be commenced and broad scope in respect of future and past actions of the previous commissioner.

Hon M.J. CRIDDLE: It is in relation to a new problem that has arisen with regard to an officer in the department. In reference to Hon Ljiljanna Ravlich, I gave an assurance during the second reading speech.

Hon LJILJANNA RAVLICH: My understanding was that this Bill is a result of Commissioner Bartholomaeus' delegating to his deputies and the fact that their delegation was subsequently deemed to be invalid.

Hon M.J. CRIDDLE: It is a delegation to another departmental officer, but there is a problem with that delegation.

**New clause put and passed.**

**Title -**

Hon M.J. CRIDDLE: I move -

Page 1, line 7 - To insert after the words "*Occupational Safety and Health Act 1984*" the following words -  
and to amend that Act

**Amendment put and passed.**

**Title, as amended, put and passed.**

**Bill reported, with amendments, and an amendment to the title.**

Leave granted to proceed through the remaining stages.

*Report*

Report of the Committee adopted.

*Third Reading*

Bill read a third time, on motion by Hon M.J. Criddle (Minister for Transport), and returned to the Assembly with amendments and an amendment to the title.

**COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL**

*Assembly's Message*

Message from the Assembly notifying that it had disagreed to amendments Nos 2 and 4 to 10 made by the Council, and had disagreed to amendments Nos 1 and 3 and substituted new amendments as set forth in schedule A, now considered.

*Committee*

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

No 1

The Assembly disagreed to the Council's amendment No 1, and the following amendment was substituted -

**Clause 7**

Page 11, after line 5 - To insert the following -

- (8) In determining a question under subsection (5) the Registrar, after considering all the circumstances of the case, may determine that any increase or reduction in rent payable as a result of the determination of the Registrar under that subsection is payable over such period as the Registrar thinks fit.

The Assembly's reason for disagreeing to the amendment was as follows -

**Amendment No 1 - Repayment period**

The Government accepts the principle of this amendment. However, the Government is concerned the change, as drafted, may introduce the potential for manipulation by lengthening the dispute to gain an advantage. Accordingly a variation has been moved which addresses these concerns and provides the Registrar with further powers.

No 3

The Assembly disagreed to the Council's amendment No 3, and the following amendment was substituted -

**Clause 13**

Page 26, lines 6 to 10 - To delete the lines and substitute the following lines -

13. Section 31 of the Act is repealed and the following section is substituted -

**Review of Act**

31. (1) The Minister is to carry out a review of the operation and effectiveness of this Act within 6 months after the expiration of every 5 years from the commencement of section 1 of the *Commercial Tenancies (Retail Shops) Agreements Amendment Act 1998*.
- (2) The Minister is to prepare a report based on each review made under subsection (1) and cause the report to be laid before each House of Parliament within 12 months after the commencement of that review.

The Assembly's reason for disagreeing to the amendment was as follows -

**Amendment No 3 - Review of Act to stipulate a definite time frame for reporting to Parliament**

The Government accepts the principle of this amendment. However, to accommodate drafting requirements a variation has been moved.

The Assembly's reasons for disagreeing to amendments Nos 2 and 4 to 10 were as follows -

No 2

**Amendment No 2 - Prohibiting Land Tax from being paid by tenants**

Prohibiting this property cost element was not included in submissions to the Green Bill consultations process. The recovery of this tax is a legitimate operating cost. The tenant can potentially negotiate any cost element out of the agreed contributions in their commercial lease with the landlord. As a result of the extensive consultation, the Amendment Bill reflects commercial reality and has been drafted to protect those agreed contributions being based on the single ownership rate of ownership.

No 4

**Amendment No 4 - Apply assignment and subleasing provisions, market rent determinations and disclosure to all parties to all leases**

This is retrospective legislation that interferes with existing contracts.

Nos 5 and 6

**Amendment Nos 5 and 6 - Prohibit rent from being determined by combinations of turnover and other rent calculation methods**

The Opposition's proposal would effectively exclude agreements between parties to negotiate rentals that allow a commercial risk share between lessee and lessor over the life of the lease. To accept the amendments would mean that tenants and landlords will no longer be able to negotiate this arrangement, even in circumstances where it would be to their mutual benefit. The existing Act prevents lease terms that require the disclosure of turnover unless the rental agreement specifically includes the provision of those figures.



No 7

**Amendment No 7 - Right to 7 years tenancy**

The previous amendments to this legislation addressed the needs of retailers to ensure a minimum 5 years tenancy for them to acquire, earn and profit from their new leasehold estate. This entitlement is common to most retail tenancy laws in Australia. The need for statutory intervention into a commercial contract by increasing the guaranteed tenure is highly questionable. It would certainly affect the balance in those stakeholders' interests. There is no evidence of agreement from either sector or any analysis supporting the proposal. The double-edged sword effect of the increased tenure which needs to be thoroughly canvassed with the retail sector. It would be entirely inappropriate for the Parliament to impose this major change at this time before stakeholders have been consulted.

No 8

**Amendment No 8 - Unconscionability provisions of the Trade Practices Act to apply to lease renewal**

Unconscionability is embodied in the Federal Liberal Government's new Trade Practices Act provisions to assist all small business. The Court Government announced before the last election that it would introduce legislation in Western Australia to complement the Commonwealth legislation. The Government's initiative will make these provisions available to all small business following an appropriate consultation process. Unconscionable conduct is a wider issue involving balance of power considerations in all commercial dealings between business parties. It should not be focused in the limited sense, that the Opposition is proposing under this Act, on retail tenants, who are nearing lease expiry. In contrast these proposals by Opposition relate to only a small section of the business community. As there has not been local industry wide consultation, there is the real probability of unintended outcomes. This is a significant change inconsistent with this Government commitment and the proposals in the Green Bill. Industry stakeholders must be given the opportunity to have input to the debate.

No 9

**Amendment No 9 - Relocation and compensation**

The existing powers exercised by the Registrar are adequate protection. The matter has not been raised by the stakeholders as an area of concern for intervention. The Registrar of the Commercial Tribunal has been mediating and resolving matters of relocation and redevelopment clauses successfully since 1985. The industry is well aware of the Registrar's powers. The issues were not proposed in the Green Bill, which the Government provided before the last election.

No 10

**Amendment No 10 - General penalty and proceedings**

The issues were not proposed in the Green Bill, which the Government provided before the last election. The Act contains no penalties provisions and is at odds with the scheme and history of the Act. The general penalty as drafted would be ineffectual as offences under the provision are not specified. This provision would encourage disputation rather than negotiation and mediation through the Registrar. This is a most contentious issue which would require extensive consultation.

Hon MAX EVANS: I move -

That the Council -

- (a) not insist on its amendments Nos 2 and 4 to 10;
- (b) agree to the amendments proposed by the Legislative Assembly in substitution for the Council's amendments Nos 1 and 3.

The message addresses the 10 proposals passed by the Council in October. The Government has accepted two versions of these changes on the basis that the new amendments will not interfere with the balance of the Bill. The other eight proposals have not been agreed to as they would have major implications for the fair operation of the retail leasing market and its participants. The Government cannot accept these proposals as they are in conflict with the extensive consultation outcomes contained in the Bill. Unconscionable conduct is an important issue that has been debated in both Houses. The Government has rejected the introduction of such provisions when focused on lease renewal only. The concept of unconscionable conduct is much wider and deals with all relations and balance of power issues in business-to-business transactions. Members may be aware that the New South Wales Parliament passed amendments to its Retail Leases Amendment Bill on Friday, 4 December 1998. This legislation includes unconscionable conduct provisions. Unlike the proposals introduced by the Opposition, this legislation covers all aspects of the retail lease relationship. These proposals apply equally to the

conduct of both lessees and lessors. In addition the Government has been advised that the legislation is based on consensus between two key stakeholders at a national level. In the short term it is not practical, for jurisdictional and administrative purposes, to replicate New South Wales' unconscionable conduct provisions at this late stage.

Members may recall that the second reading speech of this Bill included a commitment by the Government to examine any further developments that are agreed to at a national level. In view of these circumstances and provided the Government's Bill is passed by Parliament this year, the Government will instruct the Ministry of Fair Trading to commence consultations with local stakeholders and evaluate this concept using the New South Wales legislation as a basis for the consultations. The minister will be required to report to the Minister for Fair Trading by 30 May 1999. It would clearly be inappropriate for the minister to give any further undertaking as any legislative proposals require the consideration of Cabinet. The Retail Traders Association of Western Australia has also written to members opposite confirming that the organisation is satisfied with the action being undertaken by the Minister for Fair Trading. That key retail group is also keen to have the provisions of the existing Bill passed without further delay. The market participants also understand that sufficient time must be allowed to put in place the raft of benefits contained within the Bill. The tenant guide's development, proclamation and education program will need to be expedited to accompany the Bill's enhanced accounting and audit provisions well before the start of the next financial year. Prospective lessees proposing to enter commercial contracts must be protected by the measures set out in the Assembly's Bill as quickly as possible. The retail leasing market is also looking for certainty from Parliament in order to factor these improvements into its agreements. I can confirm that the minister has given an undertaking that he will take an unconscionable conduct proposal to Cabinet in the calendar year 1999 provided that the Bill is passed this year. Given these practical considerations and the Minister for Fair Trading's undertakings, particularly on the unconscionable conduct issue, I seek the cooperation of the Committee to agree with the Assembly's message and pass the Bill with the changes agreed to by the Government to enable delivery of these long awaited reforms.

Hon KEN TRAVERS: The Australian Labor Party is of the view that the amendments moved in this place were needed and are supported by the overwhelming majority of small business people. Nevertheless, it is not our intention at this stage to insist on all of the amendments. The only amendment about which we have some concern is the unconscionable conduct issue. We felt all along that it was the most important part of the legislation for small business.

I appreciate the commitment the minister has given. It goes some way to allaying the Labor Party's fears. Is it the intention that the proposal will be taken to Cabinet in time for a Bill to be drafted and introduced into the Parliament in 1999? That will occur only if the Cabinet decides to proceed. Is the minister looking at doing it in sufficient time to draft the legislation and have it debated in Parliament in 1999?

Hon MAX EVANS: It is one thing to take it to Cabinet and get it passed and another to have it drafted. Certain priorities are a problem. We came into the last session of Parliament with only this commercial tenancies legislation and we now have 32 Bills going into the next session.

The minister has said that he will take an unconscionable conduct proposal to Cabinet. That will take into account the New South Wales legislation and the report of 30 May. As I said, there is more to it than the unconscionable conduct aspect of the lease. As occurred in New South Wales, we must consider the lessees' and the lessors' concerns.

When Bills are drafted and approved for printing we make a statement about what will happen. I wish I could make guarantees about some of my own Bills. The minister will stand by his commitment. He has been very conscious of this, looking at the whole matter and reporting by 30 May. The New South Wales legislation is being considered by the stakeholders. It is very much needed, but we must ensure it is done in a balanced way.

Hon NORM KELLY: I will make some comments about the peripheral issues; that is, matters other than unconscionable conduct, which is pivotal to the whole debate.

The Government in the other place has amended the Australian Democrats' amendments relating to rent payable after a determination. The Democrats support the Government's amendment; it is stronger than our original amendment. It takes the power out of the legislation and gives it to the registrar to make the determinations. Therefore, any possible manipulation of extending a rent review is limited. The other government amendment relates to the Democrats' review provision. That is a very minor technical detail. The other place has requested that this place not persist with the land tax prohibition. The Government is obviously not ready to take that issue on board.

The ALP moved amendments regarding rent being determined on turnover. The Government's arguments are valid in some instances but not in the majority. People who have these turnover-based leases must submit their turnover figures even though their rent will not be based on that turnover. Invariably the turnover threshold is not reached. However, it is a way for the landlord to gain access to those figures and to use them against the tenant. That is the major reason the ALP moved the amendment, and the Australian Democrats agree with the principle. The Government has not addressed those concerns sufficiently.

The Australian Democrats' amendment No 7 relates to the right to a seven-year tenancy. Once again, the Government has

ignored the recommendations of the Reid report from the Federal Parliament, which suggested that there be 10 years of secure tenure. The Reid report recommended a five-year plus five-year option. My amendment to seven years should be an acceptable compromise, but the Government has not seen fit to shift even to that point. It had a problem with the manner in which the Democrats put forward the amendment. I would prefer to see the Government's coming back with something more in line with the recommendations of the Reid report and trying to solve this critical issue for small business retailers. Five years' tenure is far too short a period and businesses will not be viable.

I will not comment on amendment No 9, which is an ALP amendment dealing with relocation and compensation.

The final amendment is a Democrat amendment relating to general penalties for breaches of the Act. Although I prefer to have some penalty provisions to give the Act more teeth, we will not persist with that amendment.

The most contentious issue of the whole debate is the unconscionable conduct provisions and why they should or should not be included in the legislation. I have a copy of the undertaking the minister has just given to have a proposal before Cabinet in the calendar year 1999 provided the Bill is passed this year. Even if the Bill were not passed this year, the Government should be working hard to have that issue before Cabinet in 1999. That would be a more accurate indication that it is serious about this issue, otherwise it could be seen as a mechanism by which to get the Bill passed this year.

The Government's track record on commercial tenancy legislation is not good. We are dealing with the result of a review that started in 1990. In the 1996 election campaign the Government promised to introduce this legislation in 1997. It honoured that promise by introducing this Bill on the final sitting day of that year. That is why we are here more than a year later still dealing with it. I do not have much confidence in the Government's commitments. That is why the Australian Democrats are pushing for a stronger commitment to produce something in a public format. In answer to my question without notice yesterday, the minister representing the Minister for Fair Trading said that a proposal would be evaluated by the reference group and presented to the Minister for Fair Trading for consideration by no later than 30 May 1999. I would like to see that proposal released for public input and appraisal.

If the Government ties up such information within the confines of Cabinet, the danger will be that the legislation will not be introduced until, say, 2000. It would be very dangerous for the Government not to introduce legislation as soon as possible. It will suffer a backlash if it does not act on this issue. If it does not believe this matter is important, it underestimates the anger in the small business sector relating to unconscionable conduct. I seek a stronger commitment from the minister to make this process as open as possible by making available all the proposals and subsequent documents so that all those in the retail sector - be it tenants, landlords or property owners - can be informed. We have the representative body on the reference group, but all individual property owners and tenants should be able to see what is occurring. It is in the Government's interests to show it is making progress, rather than merely paying lip service - which is perceived to be the case in the community.

I have spoken to tenants and property owners in my region who are concerned about the Government's lack of commitment and slowness in acting on these issues. Section 51 of the Trade Practices Act allows for unconscionable conduct provisions. Also, a Bill was recently introduced into the New South Wales Parliament in this regard, although this cannot be transferred directly into our commercial tenancy Act. We need to review and tailor it to meet our Act and circumstances. However, this process will happen across Australia. The Government must take the bit between its teeth and provide the business sector with the necessary provision. It works both ways. Some people see it as a means by which small business can hit property owners. However, unconscionable conduct can also apply to tenants and be a protection for property owners as well as tenants.

Hon MAX EVANS: The main point Hon Norm Kelly raised was land tax, which we have discussed before. The property cost element was not included in submissions to the Green Bill consultation process. A figure to cover the tax is a legitimate operating cost. A tenant can potentially negotiate any cost element out of the contribution in the commercial lease for the landlord. As a result of extensive consultations, the amendment Bill reflects the commercial reality and has been drafted to protect those agreed contributions being based on a single rate of ownership.

Amendments Nos 5 and 6 involve rent being determined by a combination of factors, including turnover. The Opposition's proposal would exclude agreement between parties to negotiate rentals to allow a commercial risk-share between lessee and lessor over the life of the lease. To accept the amendment would mean that tenants and landlord would no longer be able to negotiate arrangements even in circumstances where to do so would be to their mutual benefit. The Act prevents lease terms that require the disclosure of turnover, unless the rental agreement specifically includes the provision of those figures.

The right to a seven-year tenancy is a new provision. The previous amendment to the legislation addressed the needs of retailers to ensure a minimum five-year tenancy to acquire, earn and profit from the new leasehold estate. This entitlement is common in most retail tenancy laws in Australia. The need for statutory intervention in commercial content by increasing the guaranteed tenure is highly questionable. It would certainly affect the balance in the stakeholders' interests. There is no evidence of agreement from either sector, or any analysis, supporting the proposal. The double-edged sword aspect of the increased tenure needs to be thoroughly canvassed with the retail sector. It would be inappropriate for Parliament to

impose this major change before the stakeholders were consulted. This process requires discussions backwards and forwards. It takes time. The Labor Party struggled for a number of years with similar legislation before we came to government. Two distinct groups are involved, and it is a matter of trying to strike a balance.

I have received a note. The Minister for Fair Trading has agreed with Hon Bob Thomas and the member for Bassendean on the following undertaking: I can confirm that the minister has given an undertaking that he will take an unconscionable conduct proposal to Cabinet next year with a view to printing and introducing a measure by June 2000 provided this Bill is passed this year. I have authority on behalf of another minister to go only that far.

As Hon Bob Thomas stated in the second reading debate, this is important legislation which has many good parts. It is important to get on with it. Unconscionable conduct needs to be sorted out. We need the right balance, and to determine which is to be the principal Act to be amended. We will not debate that matter today. I have covered all the points. We should get on with the Bill and look at unconscionable conduct in the new year.

Hon J.A. SCOTT: The Greens (WA) supported the commercial tenancy Bill when it was previously in the Chamber, particularly after some of the amendments were made. Therefore, I have mixed feelings about the message. I will run through our concerns with the amendments as they appear in the schedules. The first schedule refers to amendment No 1, clause 7, with which we have no problem. The proposed amendment is better than the previous proposal to protect players on both sides of these agreements. Amendment No 3, clause 13, is a minor change, to which I certainly have no objection. I am pleased that the Government felt it had no problem with the tenor of either of those amendments.

Schedule B contains amendment No 2, which would prohibit land tax being paid by tenants. I disagree with the Government on this matter, but not to the point of seeing this Bill disappear over the horizon. Essentially, land tax is a creature of the landowner. It certainly is not right to move the burden to any other person. Certainly, it could be seen as a hair-splitting exercise.

Hon Max Evans: They will adjust the rent accordingly.

Hon J.A. SCOTT: Yes. They could do that anyway. Although I have a philosophical problem with this, at least the lessee will be aware of what he is paying for land tax and the other costs involved.

I can understand the problem of retrospectivity with amendment No 4. Although people who have entered into an agreement - say, a five-by-five year lease - may feel that will lock them into a long arrangement and it will be some time before they fall under the new arrangement, it is most important that in the future we arrive at a system which is fair to all. Those people entered such agreements knowing what they were doing at that time. Although I have some concern about that aspect, I will not cause the Bill not to proceed on that issue.

I can understand the Government's reasoning with regard to amendments Nos 5 and 6. I agree that the Opposition's proposal would effectively exclude agreements between parties to negotiate rentals that allowed a commercial risk-sharing between the lessee and lessor over the life of the lease. I agree also that to accept the amendments would mean that tenants and landlords would no longer be able to negotiate this arrangement, even in circumstances where it would be to their mutual benefit. There are many circumstances in which that might be the case, and I am aware that there is a great deal of concern that people might be forced to disclose turnover when they did not have that type of arrangement. I would like the Government to address that matter in a stronger way than it has done so far. The problem is that a party to an arrangement might receive only 1 per cent of the turnover, yet the landowner would be able to get a very good idea of what the turnover actually was.

Amendment No 7 is the right to a seven-year tenancy. The schedule states -

The previous amendments to this legislation addressed the needs of retailers to ensure a minimum 5 years tenancy for them to acquire, earn and profit from their new leasehold estate. This entitlement is common to most retail tenancy laws in Australia. The need for statutory intervention into a commercial contract by increasing the guaranteed tenure is highly questionable. It would certainly affect the balance in those stakeholders' interests. There is no evidence of agreement from either sector or any analysis supporting the proposal.

Hon Norm Kelly has already pointed out that that is not the case. The fact that this entitlement is common to most retail tenancy laws in Australia is not the only reason that we should make these decisions. Perhaps we should have a better system than everyone else and give our retail sector an advantage over those in the eastern States. The schedule states also -

The double-edged sword effect of the increased tenure which needs to be thoroughly canvassed with the retail sector. It would be entirely inappropriate for the Parliament to impose this major change at this time before stakeholders have been consulted.

I know from my consultations with people who have come to see me that tenants are very keen to have such a system in place. I agree that sometimes that may be to their detriment, but certainly the people to whom I have spoken preferred the proposal put by the opposition benches through this amendment. In view of the fact that in other cases the Government has

not proclaimed a section of a Bill, perhaps it can conduct its consultation further down the track and not proclaim this section; and if it is okay, leave it in, although it may be just as easy for the Government to rewrite it, if it finds it is necessary to do that.

Amendment No 8 deals with unconscionable conduct. This has been the most contentious issue in the debate so far. I do not agree with the Government's argument on this issue; just because this matter will be dealt with in some government legislation at some stage does not mean that it is not appropriate to put it in this legislation. I have never agreed with that argument whenever it has been put.

Amendment No 9 deals with relocation and compensation. I believe that the Government's arguments on this matter are perfectly good. Amendment No 10 deals with general penalty and proceedings. The schedule states that "These issues were not proposed in the Green Bill". That is not the only reason that we should make such judgments. Oppositions are sometimes capable of coming up with things that are not in Green Bills. The legislation as proposed by the Government will be fairly toothless.

Hon KEN TRAVERS: The Australian Labor Party stands by the amendments that it previously moved to this legislation. We have adequately debated the reasons that we support those amendments, and I do not intend to cover those matters again today. I agree with the minister that this is a good Bill; it contains many provisions that will be of benefit to people on both sides of the commercial tenancy field. The measures proposed in this Bill need to be put in place as soon as possible. We would prefer that our amendments were put through as part of this package, but we appreciate the commitment that the Minister for Finance has passed on from the minister responsible for this Bill that the Government will take our unconscionable conduct proposal to Cabinet with a view to having it printed and introduced by June 2000. That is effectively a commitment to keep the promises that the Government made at the last election. In view of those issues, and because of the need to move on with this legislation, we will not insist that our amendments go through as part of this package. However, we stand by those amendments, and we will see what other options we have to progress them in this or other forums in the future.

I thank the minister in this place, the minister in the other place, and all the staff from the minister's office and the Ministry of Fair Trading for their cooperation on this Bill. This has been quite a good Bill with which to be involved, and those staff have been helpful at every stage. I indicate once again that while the ALP will not insist on its amendments at this stage so that the Bill can be passed and the good measures contained in the Bill can be put in place, it will pursue those matters at the appropriate time.

Hon NORM KELLY: Amendment No 4, which the Government has decided not to support, relates to assignment and subleasing provisions, market rent determinations, and disclosure to all parties to all leases, which I wanted to apply to both current and new leases. The Government's argument is that that would be retrospective legislation that interfered with existing contracts. Given the discussion that we had this afternoon prior to the debate on this Bill, I reiterate that if something is unfair and unjust, we only compound the problem if we do not act on it. The Government is making a mistake in not acting on the amendment put by the Democrats. The minister referred to correspondence that I and others have received from the Retail Traders Association, which states its support for progressing the Bill in its current form. In the letter, Brian Reynolds, the manager of the Retail Traders Association, points out some of the good provisions in this Bill that the retail world is looking forward to becoming law. Some of the provisions deal with ratchet clauses, which will be prohibited; market reviews, which will be strengthened; management fees, which will be abolished; tenant obligations to pay outgoings, which will be restricted to no more than the proportion of their space; and tenant obligations to pay land tax, which will be restricted. As much as we would like to see no land tax at all being paid by tenants, at least it will be now restricted to the notional value of land tax, which is a slight improvement for tenants.

However, prior to that letter from Mr Reynolds on 4 December, he had previously sent correspondence to the minister's office stating that the Retail Traders Association's preferred option was that the minister give an assurance to the House that he would introduce the agreed provisions in a separate government amendment Bill in the next sitting of Parliament. That is probably a true reflection of the opinion of a lot of tenants and retailers in this State. They want to see it acted upon as quickly as possible, in a manner as simple as that followed by the Government when it enters into a state agreement, where part of the contract is to facilitate the passage through Parliament as readily as possible. What the minister has committed to today still falls short of a strong commitment for retailers and property owners in this State. I would be surprised if the Government did not introduce legislation by June 2000. As I said before, it would be very dangerous for the Government not to do so prior to the next election. Given that we are talking about 18 months hence, it allows a long consultation period, so that when legislation is introduced, it can be acted upon quite speedily.

The Government has approached this matter in a weaker way than the Democrats would have liked. We appreciate that the Bill provides gains for both retailers and property owners. We will support the Bill so that the provisions to which I have referred can be enacted as speedily as possible. I will repeat Hon Ken Travers' comments about the work and the ready availability of the minister's staff in handling this legislation. It has been a torrid and lengthy process, but the ability to discuss all of these matters is very much appreciated by a party with small resources.

Hon TOM STEPHENS: During the initial consideration of this issue by the Chamber, I gave an example of the type of conduct that had been drawn to my attention that might best be attended to by way of the amendments pursued by the Labor Party. I referred to Anthemis Pty Ltd and Glenbury Nominees Pty Ltd, and I spoke about Mr John Flottman, the director of Glenbury Nominees Pty Ltd. I gave examples of a couple of tenants of the Old Shanghai at Northbridge and the Old Shanghai in Fremantle. I made my comments on the basis of a presentation of the case involving tenancies of this particular landlord. I presented that case as it had been presented to me. In fairness, having since heard a contribution on behalf of the landlord which had a different slant on the facts as they were outlined to me, it is reasonable to seek a way of simply making that alternative view available to the Chamber. I seek leave effectively to table the letter that has been sent to me by Chris Martin Associates which provides another way of looking at that same set of circumstances. I am not the judge and jury in the case of the disputes that have gone on between those tenants and that landlord. Better legislation, such as that advocated by the Labor Party, would be a way of ensuring that the balance is struck fairly. I seek leave to table this letter.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): The Leader of the Opposition seeks leave to table a letter. Before I put that question, I draw to the Leader of the Opposition's attention that it is a private letter. Has he considered the implications of tabling such a letter?

Hon TOM STEPHENS: I have. I will quickly flick back through it. I have been asked to make sure that the tenant's view of the situation is offset against the view of the landlord. I think this letter does that. To that extent it is reasonable that I should make it available to any member who has heard only one side of the case and may be interested to hear the other side it.

Leave granted. [See paper No 690.]

Hon MAX EVANS: Many comments have been made. Quite a few members quoted from Assembly message No 47. I appreciate that all parties are agreeing to the message as received so that the Bill may go forward. Members have already mentioned the cooperation they have had from the staff of the Minister for Fair Trading. Three of those staff have listened to the whole of the debate. I hope those people with particularly strong points on unconscionable conduct will make a point of going to that committee and putting forward their views, as they have been picked up by people involved with the committee. We are all agreed that something needs to be done. There is no doubt about that. I thank all parties concerned. The debate on this matter has been going for quite a long time.

Question put and passed.

#### *Report*

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

### **COAL MINES LEGISLATION AMENDMENT AND REVIVAL BILL**

#### *Returned*

Bill returned from the Assembly without amendment.

### **BILLS - 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. Local Government Amendment Bill (No 2).
2. Western Australian Land Authority Amendment Bill.
3. Gas Pipelines Access (Western Australia) Bill.

### **CORPORATE LAW ECONOMIC REFORM PROGRAM BILL 1998**

#### *Statement by the Leader of the House*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [3.40 pm]: On Tuesday, 15 December 1998 the Commonwealth's Corporate Law Economic Reform Program Bill 1998 and the explanatory memorandum in relation to the Bill were tabled. The Bill is tabled in this place as it will, when enacted, make many changes to the Corporations Law. Honourable members will be aware that the Corporations Law is uniform legislation enacted by the Commonwealth which, because of section 7 of the Corporations (Western Australia) Act 1990 is applied as a law of Western Australia. The Bill is, accordingly, important to Western Australia.

The Corporations Law is the law which now regulates all corporate matters in Australia under one unified law. The

Corporations Law has now been in place since 1 January 1990. The Bill was introduced and second read in the House of Representatives on 2 July 1998, and debate was then adjourned. At the time the Bill was entitled the Corporate Law Economic Reform Bill 1998. The Bill lapsed when the recent federal election was called. The Bill has since been retitled the Corporate Law Economic Reform Program Bill 1998, and a number of changes have been made. It was reintroduced in the House of Representatives on 3 December 1998.

The Bill arises from the corporate law economic reform program announced by Hon Peter Costello, the Federal Treasurer, in March 1997. The program involves a fundamental review of key areas of regulation which affect business and investment activity. The object of the program is to ensure that business regulation is consistent with promoting a strong and vibrant economy and provides a framework which assists business to adapt to change.

The focus of the reform agenda is to ensure that business regulation facilitates economic activity and job creation. The program looked to six key areas to promote business and economic development, and six discussion papers were released for comment as follows: Accounting standards; fundraising; directors' duties and corporate governance; takeovers; electronic commerce; and futures and securities markets. The Bill now tabled covers the first four of the six areas listed. It is anticipated that legislation covering paper six will be released shortly or early in 1999. The fifth matter has been dealt with by the Commonwealth's Payment Systems and Netting Act 1998, which recognises market netting practices under the auspices of the Reserve Bank.

Following release of the discussion papers, seminars were conducted in each State. Any person who made a submission regarding the papers was invited to a discussion group conducted in Western Australia, at least, by Senator Ian Campbell, who was then Parliamentary Secretary to the Treasurer. Members of the business and legal community attended, and the general response was favourable.

Honourable members will note that the Bill is a fairly sizeable document. However, at the discussion group Senator Campbell noted that, when enacted, the legislation would reduce the Corporations Law to between two-thirds and three-quarters of its current size. The Bill does this, in part at least, by deleting large portions of the Corporations Law and re-enacting them in very much more simple, precise and understandable language.

## PARLIAMENTARY COMMISSIONER RULES

### *Motion*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [3.43 pm]: The motion which I am about to move relates to the rules under which the Parliamentary Commissioner for Administrative Investigations operates. By way of a brief explanation, I intend to move the motion, and let it sit on the Notice Paper until the House resumes after the Christmas break. It is a request from the Parliamentary Commissioner and it is for the House to make a decision on his proposal. I move -

That -

#### (1) **Citation**

1. These rules may be cited as the *Parliamentary Commissioner Rules 1998*.

#### **Definitions**

2. In these rules -

"Assistant Commissioner" means the officer of the Commissioner styled Assistant Parliamentary Commissioner;

"special officer" means an investigating officer, a legal officer or any other officer of the Commissioner occupying a position not lower in classification than an investigating officer or a legal officer.

#### **Delegation to Deputy Commissioner, Assistant Commissioner and special officers**

3. For the purposes of section 11(1) of the Act, the Commissioner is authorized to delegate the performance of any of the functions of the Commissioner under the Act, other than the power to delegate under section 11 or to make any report or recommendation under the Act, to the Deputy Commissioner, the Assistant Commissioner or a special officer of the Commissioner.

#### **Matters to be considered by Commissioner**

4. The Commissioner, in delegating any function under these rules, is to have regard to the experience, qualifications and suitability of the person to whom the function is to be delegated and, where appropriate, the seniority and status of a person to whom a particular investigation relates.

**Repeal**

5. The Parliamentary Commissioner Rules 1994 are repealed.
- (2) That the Legislative Assembly be acquainted with the resolution of the House and be invited to concur in that resolution.

The purpose of this motion is to make new rules relating to the delegation of functions by the Parliamentary Commissioner, or Ombudsman as he is also known. Section 12 of the Parliamentary Commissioner Act 1971 provides that Parliament may make rules for the guidance of the commissioner in the exercise of his functions. Likewise, section 11 of the Act provides that the commissioner may delegate any of his functions to the deputy commissioner or any officer of the commission, insofar as he is authorised so to do by rules made by Parliament or a resolution of both Houses of Parliament. The rules made by Parliament under the Act have dealt only with the delegation of functions by the commissioner. The current rules are the Parliamentary Commissioner Rules 1994, which were agreed upon by resolution of the Legislative Council on 23 November 1994 and by the Legislative Assembly on 8 December 1994, and which repealed the Parliamentary Commissioner Rules 1985.

The approach adopted by the rules is to specify the various functions of the commissioner in three categories and to authorise the commissioner to delegate one category to the deputy commissioner, another to the assistant commissioner and the third to any officer of the commission who is classified as at least an investigating officer or a legal officer.

As a result of amendments to the Act, the rules require amendment to include new functions included in the Act in 1996; for example, new section 22A, dealing with consultation with the Anti-Corruption Commission and the Director of Public Prosecutions, would need to be specified as a function that can be delegated. However, the commissioner has advised that it would be more appropriate to alter fundamentally the basis upon which the commissioner is authorised to delegate functions to staff of the commission. He has proposed that the rules be repealed and new rules adopted which would allow the delegation of any function - other than the power of delegation or the power to make a report or recommendation under the Act - to the deputy commissioner, the assistant commissioner or any officer not lower in classification than an investigating officer or a legal officer. Under this proposal, the requirement in the current rules for the commissioner to have regard to certain matters when delegating any function will be retained.

The President and the Speaker have written to the Government advising that they have considered the draft rules, as proposed by the commissioner, and recommend that a motion be agreed to by the House. I commend the motion to the House.

Debate adjourned, on motion by Hon Tom Stephens (Leader of the Opposition).

*Sitting suspended from 3.49 to 4.30 pm*

**NATIVE TITLE (STATE PROVISIONS) BILL***Assembly's Message*

Message from the Assembly received and read notifying that it had declined to make the amendments requested by the Council.

*Committee*

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

The amendments requested by the Council which the Assembly declined to make were as follows -

**No 1**

Page 111, after line 24 - To request the Legislative Assembly to make the following amendment -

To insert the following new clause 7.54 —

“ **7.54. Parliamentary Joint Committee on Native Title**

(1) As soon as practicable after the commencement of this Part and after the commencement of the first session of each Parliament, a joint committee of members of Parliament, to be known as the Parliamentary Joint Committee on Native Title, must be established.

(2) The Parliamentary Joint Committee's duties are —

(a) to consult extensively about the implementation and operation of this Act with —



- (i) groups of Aboriginal peoples;
- (ii) industry organisations;
- (iii) local governments; and
- (iv) other appropriate persons and bodies;
- (b) to inquire into and report to both Houses on the implementation and operation of this Act as soon as practicable after the end of the period of 24 months from the establishment of the Commission and every eighteen months thereafter;
- (c) to examine each annual report that is prepared by the Commission under this Act and of which a copy has been laid before a House, and to report to both Houses on matters —
  - (i) that appear in, or arise out of, that annual report; and
  - (ii) to which, in the Parliamentary Joint Committee's opinion, the Parliament's attention should be directed; and
- (d) from time to time, to inquire into and, as soon as practicable after the inquiry has been completed, to report to both Houses on the effectiveness of the Commission. ”.

**No 2**

Page 112, after line 10 - To request the Legislative Assembly to make the following amendment -

" **8.3. Assistance from Attorney-General**

- (1) A person who is, or intends to be —

- (a) a consultation party; or
- (b) a negotiation party,

to a consultation or negotiation, as the case may be, or a mediation or hearing in relation thereto, may apply to the Attorney-General for the provision of assistance under this section in relation to the consultation, negotiation, mediation or hearing.

(2) Subject to subsection (3) the Attorney-General may authorize the provision by the State to the applicant, either unconditionally or subject to such conditions as the Attorney-General determines, of such legal or financial assistance as the Attorney-General determines.

(3) The Attorney-General shall not authorize assistance under this section unless the Attorney-General is satisfied that —

- (a) the applicant is not eligible to receive assistance in relation to the matter concerned from any other source (including from a representative Aboriginal body);
- (b) the provision of assistance to the applicant in relation to the matter concerned is in accordance with the guidelines (if any) determined under subsection (4); and
- (c) in all the circumstances, it is reasonable that the application be granted.

(4) The Attorney-General may, in writing, determine guidelines that are to be applied in authorizing the provision of assistance under this section.

- (5) In this section —

**“the applicant”** means the person referred to in subsection (1).

"

Hon N.F. MOORE: I move -

That the House do not press its requests.

Last night after a lengthy debate this Chamber passed two clauses relating to expenditure of funds which in effect the Council requested the Legislative Assembly to include in the Bill. Initially there were three clauses and the Council knocked back one. Two were eventually passed, although they were opposed by the Government, related to setting up a parliamentary joint committee on native title, and assistance from the Attorney General. The Government made clear last night its reasons for not supporting those clauses.

Firstly, this Chamber's committee system recommended against having a special committee for Aboriginal matters. It was a deliberate decision of the committee that investigated our committee system that we do not go down the path of having a separate Aboriginal committee. The reason was that we believed that matters relating to Aboriginal affairs should be considered by appropriate committees depending upon the circumstances of the issue, rather than on the fact that they related to an Aboriginal group or some Aboriginal matter that would be dealt with in isolation. As a general rule this Chamber has not supported joint parliamentary committees. We have supported a couple of them, but the general view is that they are not the most successful committees because of the difficulties faced by members from both Chambers trying to meet when necessary. There are always difficulties with membership and funding. The Legislative Council committee that considered the matter suggested that unless there were rare circumstances, a joint parliamentary committee was not the way to go, and we should set up our own committees whenever the Legislative Council felt there was a need. It is refreshing on this occasion that the Legislative Assembly agrees with me for once. It has a few of these bright ideas from time to time and occasionally we get such suggestions from them. On this occasion the Legislative Assembly has not agreed to the Council's request to set up a joint parliamentary committee on native title. I do not think we need to have a committee on native title anyway, ignoring whether it is an Aboriginal committee on its own or a joint parliamentary committee. It is an important issue. However, I do not think that the processes of native title and the provisions of the legislation are such that we need some overview by Parliament. Parliament has many ways to oversee what goes on in the public sector and the tribunals of Western Australia. I do not see any special need for a joint committee to look at native title.

The second proposal related to assistance from the Attorney General. This is a clause which requires the Government to provide financial support for people who intend to be a consultation or a negotiation party. It is ironic that this Government has been criticised, because some members believe that the Titles Validation Amendment Bill will require huge amounts of compensation to be paid, and we have an amendment suggesting that the Government pay people to become involved in the native title process.

Hon John Halden: The Premier just made the same speech.

Hon N.F. MOORE: He has got it right, too.

Hon Ljiljanna Ravlich: Maybe you have both got it wrong.

Hon N.F. MOORE: It is amazing that members on the other side, who are good at spending money, have no idea how to manage it. They are good spenders and one of their amendments is that we spend some more money.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: I will respond to the inane interjections if members want to send them across this way. The Opposition wants it both ways. The Opposition does not want the Government to be responsible for any compensation payments in respect of native title, yet it wants a clause that will -

Hon John Halden: Didn't you spend \$500 000 on a High Court challenge?

Hon N.F. MOORE: I will do my best to ignore Hon John Halden because it is Christmas.

The Opposition suggests that we provide financial support to people involved in the native title process. That is not necessary. Interestingly, those who are making native title claims these days seem to have any amount of money to pursue them. We saw some of their representatives in the gallery last night who are well paid from the public purse. As I indicated during the initial debate, many people are doing very nicely indeed through the native title process. Regrettably, it is not the Aboriginal people seeking native title who are doing very well; it is the people who are representing their interests. I say that advisedly. Those people send letters to people on their very important legal letterhead and make sure everybody is intimidated by the situation in which they find themselves to the point where many people who are trying to defend their own interest over native title are giving it away. It is getting too hard. They cannot keep fighting against publicly-funded lawyers. The Labor Party wants to do more of that. There are already a couple of clauses in the Bill to that effect. I term one the Megan Anwyll clause, because it will be a boon to the legal profession in the goldfields. They will do very nicely out of that.

Hon Ken Travers: You were going to win that seat at the last election, minister, and you lost it.

Hon N.F. MOORE: Her seat is very marginal indeed in what used to be the safest seat in Australia. If the member has a good, hard look at the history of Kalgoorlie, he will know what will happen there in due course; and he will know what will happen as a result of this legislation. What members opposite have done in the last couple of days is to make absolutely certain that they lose the state seat of Kalgoorlie, just as they lost the federal seat of Kalgoorlie the last time around.

We should not be passing a clause which requires assistance from the Attorney General to be made available to people seeking to be involved in the native title process. It is an unnecessary waste of taxpayers' money. If an organisation is so poor that it is unable to take the legal action that it requires, there is the Aboriginal Legal Service, which is a significant publicly-funded organisation that supports huge numbers of political activities and programs around Australia. There is also

Legal Aid, which is available to all citizens of Western Australia regardless of whether they are Aboriginal. Therefore, if people need money, sources are provided without having to go further into the public purse to get more. For these reasons we will continue to oppose this clause.

Hon TOM STEPHENS: The Labor Opposition opposes the motion moved by the Leader of the House. If the Committee were to support our opposition to this motion - that is, if a majority of the Chamber votes against the motion moved by the Leader of the House - it would then leave open the opportunity for me to move that the Chamber press its requests. It would be open then, and only then, for any member to move a subsequent amendment which might consider the option of pressing either of the two requests currently before us for appropriations. That is the only way the Chamber would have available to it the opportunity of pressing either both or one of the requests.

I will not take up much time of this Committee other than to say that, firstly, it is exceptional and unusual that we would insist on the provision relating to the joint standing committee. This has been done basically because in the period in which this Government and its predecessors have been in office and handling Aboriginal affairs, there has not been on display the bona fides in dealing with the questions of native title and Aboriginal issues in general. It is thought, in the view of the Labor Opposition, that it is important to have a joint standing committee available to it. Secondly, in reference to the need for the Attorney General to have funds provided under the legislation, members should keep in mind that we have heard in this Chamber the fact that innocent parties will be drawn into the native title questions by virtue of their being people with non-indigenous interests who will inevitably get caught up in the native title processes. Members should keep in mind that those people are inevitably and inextricably linked in the issues of native title by virtue of the legislation's existence both at common law and the statutory law provided by the Native Title Act and the provisions contained in the State Provisions Bill.

I commend the approach that I am adopting to the Chamber. I urge the Committee to support that procedure - that is, to oppose the motion moved by the Leader of the House - and to provide me with the opportunity to move to press the requests of the Legislative Assembly so that when the Government accepts and includes those amendments, it can advise us of that accordingly and we can deliver to them the state provisions Bill so that it can be proclaimed in double-quick time for the people of Western Australia to have a state-based regime.

Hon HELEN HODGSON: I seek clarification. The Leader of the Opposition outlined what he understands to be the situation; that is, there can be a motion not to press the requests before us followed by a motion to press the requests. Can we deal with the two issues separately?

The CHAIRMAN: We have before us a motion that the Chamber not press its requests. That is subject only to amendment if the Chamber wanted not to press only one of its requests. It could be amended in that way but it cannot be directly negated. If the member wants to negative it directly - that is, to press both requests - this motion must be defeated. We would then have to go out of this Committee, come back into another Committee and the direct negative of this motion must then be moved. That is the procedure.

Hon HELEN HODGSON: In that case, I will explain my position while I am trying to draft the appropriate motion. Essentially, two requests are involved. One was in respect of the joint standing committee. As I said last night, I understand the reasons that it may not be appropriate to have a joint standing committee, given the circumstances of this Chamber. However, another issue of funding for legal action is a significant one in view of the restrictions on available legal aid and the restrictions on administrative processes that must be undertaken in that process. I am concerned that native title actions would be either a long way down the list or, alternatively, would absorb funds that otherwise could be used for other forms of legal action. I believe that one of the requests is worth pressing; the other one is probably not. As I do not have a printed copy of the message, could I have the first request clarified? Which is the first request?

Hon N.F. Moore: Joint committee.

Hon HELEN HODGSON: Therefore the second request is in respect of the legal aid. In that case, I wish to amend the motion to insert before "request" the words "do not pursue the first request".

The CHAIRMAN: The motion currently before the Chair is that the Chamber do not press its requests. That could be amended to delete the letter "s" from "requests" and include the words "for a joint standing committee" so that the amended motion would be "That the House do not press its request for a joint standing committee".

Hon HELEN HODGSON: Mr Chairman, thank you for your assistance with the drafting. It is unusual not to have the written message; however, I understand the reasons that that is the case.

The CHAIRMAN: I will take the member's amendment to include "for a joint standing committee (new clause 7.54)" which I have just found.

Hon HELEN HODGSON: I move -

To delete the word "requests" and substitute the words "request for a joint standing committee (new clause 7.54)".

**Amendment put and passed.**

Question (motion as amended) put and a division taken with the following result -

## Ayes (15)

Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Ray Halligan

Hon Helen Hodgson  
Hon Barry House  
Hon Norm Kelly  
Hon Murray Montgomery

Hon N.F. Moore  
Hon M.D. Nixon  
Hon Simon O'Brien  
Hon B.M. Scott

Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

## Noes (12)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon N.D. Griffiths

Hon John Halden  
Hon Tom Helm  
Hon Mark Nevill

Hon J.A. Scott  
Hon Christine Sharp  
Hon Tom Stephens

Hon Ken Travers  
Hon Giz Watson  
Hon E.R.J. Dermer (*Teller*)

## Pairs

Hon Peter Foss  
Hon M.J. Criddle  
Hon Greg Smith

Hon Ljiljanna Ravlich  
Hon Cheryl Davenport  
Hon Bob Thomas

**Question thus passed.**

Hon TOM STEPHENS: I move -

That the request for proposed new clause 8.3 be pressed.

In view of earlier decision of the Committee, we urge that at least this request be pressed.

Question put and a division taken with the following result -

## Ayes (14)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon N.D. Griffiths  
Hon John Halden

Hon Tom Helm  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon J.A. Scott  
Hon Christine Sharp  
Hon Tom Stephens

Hon Ken Travers  
Hon Giz Watson  
Hon E.R.J. Dermer (*Teller*)

## Noes (13)

Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Ray Halligan

Hon Barry House  
Hon Murray Montgomery  
Hon N.F. Moore

Hon M.D. Nixon  
Hon Simon O'Brien  
Hon B.M. Scott

Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

## Pairs

Hon Cheryl Davenport  
Hon Bob Thomas  
Hon Ljiljanna Ravlich

Hon Peter Foss  
Hon M.J. Criddle  
Hon Greg Smith

**Question thus passed; the Council's requested amendment pressed.***Report*

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

**SURVEILLANCE DEVICES BILL***Assembly's Message*

Message from the Assembly received and read notifying that, in accordance with Joint Standing Order No 12, it had agreed to the following resolution -

That clause 36(3) of the Surveillance Devices Bill 1977, be amended to read as follows -

- (3) A surveillance device or connected device seized under subsection (2) may be retained until the final determination of any proceeding under this Act relating to it unless it is ordered to be returned or otherwise dealt with under subsection (4).

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.58 pm]: I move -

That the Council concur with the amendment made by the Assembly.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [4.59 pm]: The Labor Opposition supports the motion.

**HON NORM KELLY** (East Metropolitan) [5.00 pm]: I received the message only a couple of seconds ago, so I am unable to support it until I have considered it, but I envisage that the Australian Democrats will support it eventually. I need time to consider it.

Hon N.F. Moore: It is just a typographical error.

The PRESIDENT: The question is that the Council concur with the message. I will explain it. It represents the correction of a typographical error in a Bill that was sent from the Legislative Assembly to the Legislative Council. The Legislative Council dealt with the Bill in good faith and returned it to the Legislative Assembly, where it was found that the Bill had a typographical error. It is no higher plane than that. However, if the message is not agreed to, the Bill cannot be assented to.

Question put and passed.

### **BILLS - 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. Occupational Safety and Health (Validation) Bill.
2. Health Amendment Bill.

The PRESIDENT: It is now 5.00 pm and time for questions without notice, but before I ask for the first question, I should advise members who might be searching through the standing orders to find out what has happened to the message that has been sent to the Legislative Assembly, advising that the Council presses its amendment in respect of clause 8.3 of the Native Title (State Provisions) Bill, that the Council must remain in session until the Assembly deals with that matter and lets the Council know whether it agrees with the request. Obviously, some avenues are available to the Legislative Assembly, as there would be avenues available to the Legislative Council, depending on the result.

### **[Questions without notice taken.]**

### **NATIVE TITLE (STATE PROVISIONS) BILL**

#### *Pressed Amendment - Procedure*

Hon N.F. MOORE: I seek your advice, Mr President. Because the House has pressed its requested amendment on the Native Title (State Provisions) Bill, it must now go to the Assembly, which will contemplate it and then respond to the Council. Once that happens, this House will then proceed, as presumably we can only press it so many times.

Hon Tom Stephens: The Assembly might change its mind.

Hon N.F. MOORE: I do not think it will. If it comes back to this House, in whichever form, it is necessary for this House to deal with it and then deal with the third reading because, as members will be aware, we have not had the third reading of the Bill. It is necessary for us to remain until that happens. I do not know how long that will take. If members are agreeable, I suggest that we do the valedictories now, which are traditional at this time of year, and then deal with the native title Bill. However, the problem is that I do not know how long either will take; the valedictories usually take about half an hour. That should be long enough for the Assembly to deal with the matter and return it to this House. If members are agreeable, I will move the special adjournment and then use that as the vehicle for debating the valedictories. Once we have completed that, hopefully we will be in a better position to deal with the native title Bill.

The PRESIDENT: It is up to the House and at the moment we do not have a motion before the House.

#### *Point of Order*

Hon JOHN HALDEN: What will be the situation if we reach six o'clock? Does that mean that we will take the normal dinner break?

The PRESIDENT: Yes.

Hon JOHN HALDEN: If we want a break, I am happy with that; however, I do not think we need an hour and a half. Will the Leader of the House take that into account?

The PRESIDENT: I understand the point raised by Hon John Halden. I interpret that to be whether, if the message were to arrive at a few minutes past six o'clock, we would be on our dinner break until 7.30. Because it appears to be the last night of this sitting year, some give and take is necessary. I agree with the course of action suggested by the Leader of the House; that is, to move the special adjournment now to enable comments to be made by those members who so wish. By then it will be approximately six o'clock. Perhaps we can then ascertain whether the Legislative Assembly has dealt with the message and we can have a further report to the House. If the Legislative Assembly has not dealt with the Bill, it would be appropriate that we rise for dinner. It may be that members will encourage the Chair to be resumed at 7.00 rather than 7.30 pm in the hope that the matter has been dealt with. I do not know what dinner break the Assembly intends to take or whether it will be working through it. I understand members' positions of wanting to facilitate the orderly management of the House; however, we are required to remain in session until a reply comes back - on the assumption that we want the reply - and then we can deal with it. Once we have disposed of the question of the requested amendment, the amendments to the balance of the Bill can be sent to the other House after the third reading for its concurrence; that is the procedure.

Hon JOHN HALDEN: When the amendments go to the other House, I presume we must wait here in expectation that they might return to this House.

The PRESIDENT: I expect that the Leader of the House will seek some advice from the lower House to determine whether it intends to deal with those matters tonight and whether there is any likelihood of it returning to this House. It is a case of seeking some advice from time to time and then the Chair keeping the members advised.

### ADJOURNMENT OF THE HOUSE

#### *Special*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [5.36 pm]: I suggest to the House that, if there is a general nodding of heads in agreement, I will move the special adjournment to give members a chance to make a few comments at the end of the session. I suggest that you, Mr President, do not leave the Chair at six o'clock, and I will keep my fingers crossed that just after we finish the valedictory session we can deal with the reply. I do not know whether the Assembly will send back its consideration of our amendments to the Native Title (State Provisions) Bill. I have a sneaking suspicion what its views will be, but I do not know whether it will be returned tonight for the consideration of this House. I move -

That the House at its rising adjourn until a date and time to be fixed by Mr President.

Hon Tom Stephens: Do you not normally move to adjourn until 9 March?

#### *Complimentary Remarks*

Hon N.F. MOORE: I will explain that to the Leader of the Opposition if he will give me a chance. I have moved this motion because, although it has been suggested that the House return on 9 March, I have not made a decision yet. The Assembly has agreed to that date for resumption next year. However, I want to have some time to consult with a number of people about whether the Council will begin on that day. Therefore, rather than specify a particular date, I would like to talk to the Leader of the Opposition, other party leaders and ministers over the Christmas break about whether we should commence on that date or on another date.

Hon Tom Stephens: Do you mean a later date?

Hon N.F. MOORE: It may be earlier but I will discuss it with the Leader of the Opposition and then the President will let members know the date.

Hon John Halden: I thought we were having Christmas together.

Hon N.F. MOORE: We can have Christmas together if the member likes.

I was just reading through the speeches that were made at the end of last year. We were talking about what a wonderful time of year it was coming up to the festive season. I noticed, however, that it was on 27 November.

Hon N.D. Griffiths: That is why we were happy.

Hon N.F. MOORE: It is slightly different this year. We have had a very long sitting and this is as close to Christmas as I can recall the Council ever sitting. I can recall an occasion when we came back between Christmas and the new year to deal with a matter that the previous Government decided was so urgent it had to be done at that point. I do not intend to go into the reasons behind that, but it was extraordinary to say the least. I hope we do not find ourselves in that situation ever again. It has been a very long year.

As members are aware, we now do not prorogue the House over the Christmas break, so when we return, whenever that may be, the Notice Paper will be full of business, and that will mean a very important continuation of this session next year when we deal with the legislative program as well as with the Budget and a number of other major issues. The past six months have been dominated to a fairly large extent by some fairly important debates. The most important of those debates,

particularly with regard to the amount of time it took, was the abortion debate. I said at the time, and I am happy to say again, that this House demonstrated a significant maturity in its capacity to debate an issue of that nature. Those debates in this Chamber were very well put together. Members were able to make an important contribution, there was no rancour, and generally there was a determination and a desire on the part of members to reach a decision on that issue, which everyone found very difficult. I guess that sometimes the more difficult the issue, the better we are at debating it. We do get carried away at times on smaller Bills such as the Dog Act, which often force members to talk at great length about issues which are fairly low on the level of importance and magnitude.

Hon Kim Chance: Not if one is a dog!

Hon N.F. MOORE: No. The Dividing Fences Act is another issue that tends to get us all fired up. We have made relatively good progress with the legislative program, but we still have a lengthy Notice Paper, so we will be moving almost straight into that when the House resumes, presumably in March.

Mr President, I continue to be very impressed at your ability to manage the House and to carry out the very high office of President of this Chamber. I did say last time that to fill the shoes of your predecessor is a big task for anyone, but you have done that in a very commendable way. I thank you for the way in which you have provided guidance to the Chamber and the way in which you have managed the House, sometimes in pretty difficult circumstances, but because of your wisdom and guidance, we have been able to debate issues in a proper and moderate way and invariably reach the conclusion that the majority of members have sought to reach. I thank you and wish you well in your continued occupancy of the position of President.

I thank the Chairman of Committees, Hon John Cowdell, and the Deputy Chairmen of Committees for their contribution. I mentioned last year that Hon John Cowdell was growing into the job. He is doing a very good job indeed, and while I am a bit disappointed that he has just resigned from a committee, that is a decision for him to make, and such a decision is always pretty tough. I thank Hon John Cowdell for his work as Chairman of Committees and for the very adept way in which he handles what is often the very difficult job of managing the House when we are in committee and dealing with the myriad amendments and amendments to amendments that we get from time to time and fitting everything into place and coming up at the end of the committee stage with a Bill that looks like something other than a dog's breakfast. I commend the Chairman for the work he has done, and I also commend his Deputy Chairmen, who also show similar characteristics and talent in managing the House during committee.

I thank my ministerial colleagues in this place, Hon Peter Foss, Hon Max Evans and Hon Murray Criddle, for their continued support. It is not easy to be a minister in the upper House when we spend most of our time dealing with business that belongs to another minister in the other place. That does create a burden for upper House ministers, as members of both sides of the House are aware. Therefore, I thank my colleagues for the serious way in which they have handled their responsibilities in this House. Hon Eric Charlton has left us since last Christmas. I also thank him for the significant contribution that he made to this Chamber in his time. I say to my colleagues who sit behind me and on the benches to my right that it is pretty difficult to be a government backbencher, as some members of the Labor Party will know, having sat on this side of the House as government backbenchers when they were in government. Backbenchers are often expected to make a contribution at short notice, and they are often expected to say nothing when they really want to say something. I thank them for their patience and tolerance, and for the contribution that they make when they are called upon to make a contribution. Sometimes we do not get the benefit of the wisdom and knowledge of government backbenchers because of the way in which the legislative program falls in this House. Debates used to involve the Opposition and the Government, and sometimes opposition and government members would speak, but with the current make-up of the House, with a number of parties, we now have speakers from the Labor Party, the Australian Democrats and the Greens (WA), and that means that it takes even more time to debate Bills and puts more pressure on government backbenchers to not take a great deal of time; so I thank those members for their patience on these issues.

I also thank the Whip, Hon Muriel Patterson, who has not lost a member yet. We have lost a few votes! Hon Muriel Patterson has always been able to make sure that all our members are here, and that is a pretty tough task.

Hon Tom Stephens: She has gained a couple on occasion!

Hon N.F. MOORE: It is interesting the member says that, because that was his interjection last year. If Hon Muriel Patterson did that last year and she is doing that this year, she is doing a good job. I thank Hon Muriel Patterson most sincerely for the dedicated work that she puts in.

The Leader of the Opposition's initials in this Chamber are LOP. He is called loopy, and I am called log - that is only fair, I suppose. Hon Tom Stephens and I do not always see eye to eye and do not always agree on issues, but at least when the crunch comes we can sit down and work out a way in which we can get through some difficult programs and processes. Last night was a classic example of that. It was a difficult Bill. The Leader of the Opposition agreed that it should be progressed and passed, and I thank him for the way in which he conducted that debate and the way in which he was able to contain himself on a number of issues where normally he would spend many hours giving us the benefit of his great knowledge on

some of these matters. I thank him for his cooperation over the past year, bearing in mind that there will always be difficulties, because he wants my job and I do not want his! I guess that is one of the reasons that we will always have some arguments from time to time. I wish him and his family well. As I said last year, anyone who has children as nice as his must be okay in some respects. I have often thought about Hon Tom Stephens' wife, in the sense that she must have a pretty tough life, but she is a very patient and tolerant lady, and she has brought up some delightful children. I said last year - I do not want to keep saying this every year - that it is delightful to see the Leader of the Opposition bring his family to dinner at Parliament House on a regular basis. I cannot get my children to come here because they are too embarrassed, but that is the way it is sometimes in some families! It is wonderful to see members bring their family to Parliament House for dinner, and the Leader of the Opposition does that more than most.

I thank Hon Helen Hodgson for her significant contribution to the Chamber. If I can give Hon Helen Hodgson a word of advice, she does not need to amend every Bill. It is not a job description or a requirement of the position to do that. I know that she wants to make a contribution in the sense that legislation will be improved as a result of her being here. However, I can assure her that by going down that path, she will wear herself out very quickly indeed. I congratulate Hon Helen Hodgson on her dedication, and I also thank her colleague, Hon Norm Kelly, who seems to follow in her footsteps in that respect.

The Greens (WA) tell me they are leaderless but share the job around from time to time. I thank the Greens for the contribution that they make. In their way they are very enthusiastic supporters of various causes, and it is helpful to the House to hear from people who hold those particular views, which I regard from time to time as being a bit extreme, but perhaps we do need a range of views to make sure that at the end of the day we get something in the middle, which is where most people belong. I thank the Greens for their contribution.

I also thank all of the staff who work in the House. Laurie Marquet, the Clerk of the Council, has been here for nearly as long as me. Laurie provides absolutely excellent advice and assistance to all members, but particularly to me as the Leader of the House. He must get sick and tired of my asking him quickly, "What do I move next?", when I have to move a motion about some procedural matters, but he never gets angry and always provides that excellent advice to which I referred. I thank Ian Allnutt who has been here longer than all of us combined, I suspect, and continues to make a very positive contribution to the House. I thank Stuart Kay as Deputy Clerk of Committees. His is becoming a very big job in this Chamber as committees grow and their influence continues to grow, and that task is very important. I thank him and all the staff who work on the committees. I do not know them now because I do not belong to a committee but I do know from past experience how much work committee staff do and what dedication they have to the cause, so I thank them most sincerely. I thank the attendants in the Chamber, Donna, Chris, Jason and Yu-Li, very much for looking after us so well and making sure that there are glasses of water when we need them and making sure that the House runs smoothly. I thank Malcolm Peacock, who has been here for many years and provides excellent support to the House. I thank Janeen Robertson who provides excellent support to the House and makes sure that the Clerk's work is done for him and makes sure that the House is looked after from her perspective.

I thank my own staff, Teena Beale, Linda McIver, Julie Holmes and Trevor Whittington, who assist here at Parliament House - Teena has been a tower of strength and she is supported now by Linda. Julie Holmes has been here when needed. Trevor Whittington has the job of trying to tell all the disparate groups in this House what is going on. He does a pretty reasonable job of getting the message out from my office to the various parties to let them know what we are trying to do from time to time. There are many other staff at Parliament House. They work in the bar, the dining room, as attendants at the doors, and in security. There are Cathy and Marilyn who work on the switchboard, and of course the gardeners who keep the place looking really good. I commend them because Parliament House gardens are really a delight. To them I say thank you again at this time of the year. I wish them a very happy Christmas and a successful 1999.

To Hansard I say a special thank you. They are the people who must come here and listen to us all the time. One often hears comments like "You don't have to agree but you have to listen". Your predecessor used to say that, Mr President. However, we can always walk outside if we do not want to listen to what is being said or we can think about something else, but Hansard staff must listen and write it all down. They invariably write it down in such a way that they make it sound a whole lot better when we read it than what we actually said when we delivered it. For that they are to be commended and congratulated. They work very long hours at a very difficult task, particularly with those members who speak very quickly, as I do from time to time. It must be very difficult trying to keep up. To the Hansard staff a very special thank you, to Neil Burrell and everybody. We do appreciate very much what they do for Parliament and the difficult circumstances in which they work from time to time, particularly at 4.00 am, as we experienced this morning. I think that covers all the people I can think of in Parliament House who need to be thanked. If I have forgotten anybody I apologise, but it is unintentional.

This is an important time of the year. I have a lot of pleasure at Christmas time, having relatively young children who still enjoy it. It is an important time for families. I hope that everybody in the Chamber has a very pleasant break. We are all entitled to a rest for the next couple of days, although I guess that Christmas Day is never a day of rest. I regret that we have had to sit for so long and so late into the year. I hope that it does not become a habit in the future. I will be reminding my colleagues in the other place of their responsibilities to ensure that it does not happen on a regular basis in this House. I



thank everybody for their perseverance, wish them all a very happy Christmas and hope that 1999 will be very successful and prosperous for them all. I thank everyone for the contribution that they have made.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [5.55 pm]: I rise on behalf of the Opposition to join with the Leader of the House in that expression of gratitude on behalf of all members of this place to the people the Leader of the Government has listed in his contribution, and to make a few additional comments. Firstly, I appreciate very much the kind remarks, insofar as they were kind, with reference to me and the warm wishes the Leader of the Government extends, to not only me but all people in this House and all those associated with it. Secondly, I want to add a few people to whom the Leader of the House would understand I owe a particular debt. Of course it includes you, Mr President, and the Deputy President but I add people from this side of the House. My deputy Hon Nick Griffiths has given me extraordinary support, for which I am very appreciative, in getting through what has been a very challenging year for all of us on this side of the House, for many of the same reasons that the Leader of the Government has listed.

In my case I thank the Whip, Hon Bob Thomas, and his deputy, Hon Ed Dermer, both of whom have particular challenges on this side of the House. The Leader of the House has regularly said that there are particular challenges for a majority on the floor of the House; that is, maintaining that majority when it comes to the vote, which is a more important issue than when one is a minority on the floor of the House. That is a particularly demanding role for both those members. I appreciate the work they have done, working closely with me, in ensuring that we got through, relatively unscathed, in the various divisions when we had to bring our full complement to the floor of the House. I want to go on record at this time in expressing particular appreciation for the opportunity of working so closely with my other Labor colleagues in this place, who know my weaknesses almost as well as I do and the limitations that they have in me as their leader. They have provided me with all the support possible to make sure that I can rise to the challenge of my limitations and to build on those strengths, insofar as I have them, to bring together a team that can put its combined strength on the floor of the House in the service of our party in its efforts to serve the Western Australian community. I appreciate their efforts in ensuring that my weaknesses are not constantly on display and that together we display our strengths. I wish all those members a restful Christmas and a good, solid break.

I express appreciation to my other non-government colleagues, the Greens (WA) and the Australian Democrats, and for the close cooperation they have extended to me and my party on those occasions when it has been available, which have been many, and the spirit of collaboration in which they have worked with the Opposition on the questions of legislation and government accountability through this place. I wish them all a happy Christmas as well. I wish each and every member opposite, on behalf of the Opposition, a very restful Christmas period and a very good rest indeed.

I also want to thank my support staff, Ben Harvey, Shelly Eaton and new staffer Janice Perrier, for their untiring support.

As members appreciate, I have been here for a while, although not as long as the leader of the Government. One of the humorous aspects of this time of the year is that as we have approached Christmas we have regularly been involved in the most extraordinarily heated debates in the lead-up to the special adjournment. Those debates have regularly had us slinging arrows across the Chamber. My predecessors as leaders of the Labor Party, whether in government or opposition, have referred to this reality. I am thinking of Hon Des Dans' and Hon Joe Berinson's contributions, whose places I walk in without the same distinction they brought to the role. Their speeches at this time would intrigue me. They commented on the irony of insulting one another and abusing one another across the Chamber - certainly in the case of Hon Joe Berinson, he was more abused than abusing - but nonetheless at the end of the process we would move to the special adjournment and say nice things about each other. We are into the special adjournment but perhaps members have not yet finished the exchange of insults over the issues. We might soon be back into heated debate, depending on the message from the other place.

Hon N.F. Moore: I will not if you will not.

Hon TOM STEPHENS: I will endeavour not to, in view of the special circumstances we face. This House may soon receive a message from the other place at the same time that we are extending to all members appreciation for their collaborative work in this place and our good wishes for Christmas. As servants of the community of Western Australia - I am thinking especially of members of Parliament but of course it extends to everybody in the Parliament - this job takes an extraordinary toll on us all. It is an extremely demanding role that only those who fill the role can understand. Members are subject to extraordinary pressures, both from each other and from external sources also. We operate under amazing time constraints with enormous pressure, and must operate with incredible speed which, from time to time, leads us to make mistakes in our professional lives. That sometimes leads to mistakes in our personal lives also because of the way in which members must prioritise their work. We are subject to the problem of public odium which flows when we have made a mistake. It is a punishing experience for us all. Those of us - I am sure it includes all of us - who believe in Christmas, if not Santa Claus, believe that Christmas recharges batteries when we walk into that period of a peace-filled rest where we have a chance to not only re-establish the links with what we are as a person but also to reconnect with our families, constituents and communities. We then come back to the role of parliamentarians, having overcome some of the essential problems associated with being in this place so constantly and off from that reality. That sense of Christmas is about overcoming the pressures that result from a fear of life. Fear is not usually expressed as a Christmas concept; but fear leads many of us into

difficulties as we play out our professional lives - it can be fear of the unknown, the circumstances with which we are faced and of change. I hope that as we go about our future challenges in the coming parliamentary year, we will be able to draw on a restful and happy Christmas so that in our shared professional lives - lives that are available for the good service of the community by whom we are elected - we are able to rise to great challenges.

I do not want to diminish in any way the gratitude that has been expressed by the Leader of the House to all the people to whom he referred - to those whose work and efforts in support of members is, by any standards, of the highest calibre and quality indeed. There is an irony also in this debate in thanking Hansard staff for the enormous work they do on our behalf, in that as we express our gratitude we provide them with more work to record our words. Having noted that, I go on record on behalf of the Opposition as joining with the Leader of the House in thanking all the support team available in the Parliament for their efforts this year. I wish them all a very happy Christmas and I hope we come into each other's company, later rather than sooner, fully rested from the break.

**HON J.A. SCOTT** (South Metropolitan) [6.04 pm]: As the Leader of the House has said, the minor parties must always put their piece into these arguments, and I also join with the motion and wish everybody in this place a very happy and restful Christmas. I hope those who are going away on trips have good trips. I particularly thank the staff of this place who are always incredibly congenial and professional in their treatment of members. Also, they must be fairly understanding because otherwise we would probably have driven them mad by now. Even though members are not supposed to reflect on your work, Mr President, I must say that I have found your approach to the way this House operates to be very evenhanded and sensible. I have found it very easy to understand the proceedings and I thank you for that.

I thank my colleagues for the very hard work and great friendship they have demonstrated this year. People in the major parties do not realise what it is like to cover as many Bills as frontbenchers cover. It is not like being a member of the backbench of a major party, even though backbenchers in the Opposition and the Government certainly do a great deal of work in committees. However, they do not have to cover the wide range of Bills that must be covered by members of minor parties. I thank them for their very hard work and also the cooperative way in which the other parties have interacted with the Greens (WA). I include government members in that. Members of the public do not realise that most Bills pass through this place relatively unscathed, with very few amendments, and that everybody agrees to them. That is sometimes missed in the community where people think political parties are always at each other's throats. That is not true. Mostly this place resembles a quietly working factory and things zip through it. The public becomes aware of the more contentious points, because they are important to the community.

I point out to the Leader of the House that those extreme positions -

Hon N.F. Moore: I was not talking about you.

Hon J.A. SCOTT: That usually means a position a long way from one's own. Perhaps we both need to come closer together to solve that extremity problem, given that we are entering the season of peace.

Hon John Halden: It sounds like a marriage made in hell.

Hon J.A. SCOTT: I am sure that with each of us putting our position we will all come to a greater understanding. While there have been many disagreements around this Chamber, often while one disagrees one also sees the other point of view. Matters are not black and white. I am very pleased that members generally respect the position of others.

I have been very pleased with the changes made to the systems and culture of this House in recent times. For minor parties, the working of this place is getting easier in that we are being made a real part of the system, which was not obvious to me as the lone member of my party in this place some years ago. I thank members as a whole for making that possible.

We should all reflect upon the work of those in our electorate offices who put up with much in keeping us supplied with the information we require and in dealing with the public in our absence. They do a tremendous job. I am sure every member has people like that in his or her office.

Although the year has ended in tiredness and much time spent in this place, it has been a very productive year. I hope that we have managed to do much for the community that will improve lives. I wish every member and all the staff a very happy Christmas on behalf of the Greens (WA).

**HON NORM KELLY** (East Metropolitan) [6.11 pm]: It is probably fitting that to cap an extraordinary year we are having the valedictory speeches when we still have business with which to deal. On behalf of my colleague Hon Helen Hodgson, I thank all the staff - the Clerks and attendants; the Hansard staff, who have definitely been improving my speeches; and all the other staff who ensure the smooth running of this place such as those in the catering, security and maintenance sections and others. There are probably times when we could be more considerate of the impact that our decisions have on them, but they respond admirably and in a very professional manner, which does credit to this place and raises the esteem in which it is held.

The Leader of the House named most people, but I would like to repeat one name; that is, Janeen Robertson, who does an

admirable job. I am sure she appreciates the fact that there are now three non-government parties all wishing to submit last-minute amendments on a number of Bills. She handles that workload in a very special way that we very much appreciate.

After seven consecutive sitting weeks it is understandable, although unfortunate, that tempers have become more frayed, and I am one of the guilty. It is something of which I am not proud, but it reflects the stress that all members have been under, particularly in this session, although the first session had its own stresses. Hopefully we can have an enjoyable summer recess - somewhat shorter than the corresponding recess last year. We can recuperate and refresh ourselves and come back next year. Perhaps we can use some of that time to contemplate how we can better handle matters in this place. Generally the proceedings are of a very high standard, and I am proud of that. However, there is room for improvement. Everyone should be seeking to improve, and that is also true in this place.

I take on board the comments of the Leader of the House about burnout. I assure him that we are working hard towards alleviating that to some degree in being able to spread the workload in a couple of years. Time will tell how that will happen.

It is disappointing that we have not been able to handle private members' business in this session. I appreciate that a huge amount of time during the first session was devoted to private members' business. That is one area we can look at improving, hopefully in a way that is agreeable to all parties in this place.

As a belated welcome, I express the Australian Democrats' appreciation of the contributions of the one new member this year, Hon Dexter Davies. Having worked with him on committees, we appreciate his contributions to this place.

Mr President, the Australian Democrats appreciate the assistance that you have provided. At any time, whether it be in respect of procedural matters or other issues, you have been forthcoming. I have had to approach you in the past week or two and you have acted immediately, which is the way you have handled the Australian Democrats' concerns in the time we have been here, and we very much appreciate that. That gratitude also extends to the Chairman of Committees and the Deputy Chairmen for providing direction when it is required and assisting on procedural matters. I believe we are both knowledgeable on those issues, but there is no point at which any member can say he or she has a complete knowledge.

The Australian Democrats also appreciate the efforts of the Leader of the House and the Government to make it easier to handle legislation by providing better warning of forthcoming business. I acknowledge the work of Trevor Whittington in this regard. He has assisted in obtaining briefings when they have been difficult to come by.

The development of the business management committee is progressing very well. It is certainly helping the Australian Democrats to leave this place on a Thursday night with a good idea of what is likely to be the order of business for the following week. Having that extra few days warning of what to prepare for helps members and as a result that helps the House because we are better prepared and do not unnecessarily delay proceedings.

I thank my colleague Hon Helen Hodgson for her work. She brings many talents to this Chamber, of which I am sure members are aware. At a party level we work together as a team and that has assisted us in our work in this place. I assure members that there have not been many tied caucus votes in our party room meetings.

On behalf of the Australian Democrats I wish every best Christmas wish to all members and their families, who have had to suffer this year. We normally have these weeks to spend with them, and that time has been reduced, which has made it difficult for many members. Hopefully we can go away from this place tonight, enjoy the festive season and come back refreshed and ready and committed for another good year of parliamentary work.

**HON JOHN HALDEN** (South Metropolitan) [6.19 pm]: Members will understand that this has been a unique year in my life. Not to comment on the support I have had from both members and staff would not only be impolite but also an enormous oversight on my part. To say it has been a unique year is probably an understatement. I acknowledge the support I received from staff of this place, even to the extent that security guards had to walk me to the car because of my bail conditions. This exemplifies the extent to which people will go to assist others in this place. I appreciate that members stood by me and supported me. I saw people here the day after my trial. A number of people opposite were pleased to see me here. To the others who were not pleased to see me, I am sorry but I am back!

It is fair to say that this is a unique environment. It is often difficult to understand why we do what we do here. On the Friday after my trial, I came here to be greeted by non-political staff at the front door, and political staff at my office. I am not prone to tears on many occasions, but I was on that morning. It is a unique environment. When people have difficulties, we all pull together. I take the opportunity at this time of the year, having had the year I have, to thank all members for their good wishes and support. I thank some members for their hard work, and some members whom I have bored to tears about a matter over the last four or five years. It will probably bore all of us to tears again, but that will be for another day.

I appreciate your presence in the Chamber, Mr President, and the fair way in which you control the House. I have benefited from the support of the clerks, the support staff and all in the Clerk's office. Most importantly, I have been privileged in politics. Contrary to the words of Mr Fred Daly that you leave politics without making true friends, I look around and think that I must have made some friends. It has been a difficult time.

**THE PRESIDENT** (Hon George Cash): As the presiding officer, it is left to me to thank the Leader of the Government, the Leader of the Opposition, Hon Jim Scott, Hon Norm Kelly and Hon John Halden for the generous comments made about staff who work in Parliament House. Undoubtedly, Parliament House is a unique work environment. One moment one may be finishing at six o'clock on a certain night, and within a few minutes it changes to 10 o'clock. We know that with the will of the Leader of the House, the finishing time can change suddenly to some ungodly hour in the morning. The staff of Parliament House are required to serve both the House and its members, and do so in a dedicated way without any complaints whatsoever. Moreover, many long-serving members of the Parliamentary Services Department, in particular, show that staff are truly committed to service at Parliament House.

I thank Hon John Cowdell for his assistance as Deputy President and Chairman of Committees during the past 12 months. All the Deputy Chairmen have professionally chaired stages of Bills and other matters in the proceedings of the House. It is appreciated. Members can be proud of the way we conduct our proceedings in this Legislative Council when they are compared with those of other Parliaments around Australia and the world. I do not by any means claim that as a feather in our cap, but undoubtedly the Legislative Council in Western Australia has had a long history of managing its business and procedures in a particular way. Hon Clive Griffiths, who was our President for more than 20 years, ensured that the tradition was maintained. With members' help, I will endeavour to ensure that proceedings are conducted in a fair and proper manner.

I thank the Leader of the Government, ministers, the Leader of the Opposition and the respective party leaders from the Greens (WA) and the Australian Democrats for the support they have given me over the past year. I must rely on the support of all members of this place if we are to conduct the proceedings of the House in a proper manner. That is determined by members. I am guided by standing orders. Ultimately, if members want to turn this place into chaos, it is within their absolute power to do so. I am pleased that members want to work in a place where the views of all are at least heard in a proper manner.

I also thank Laurie Marquet, the long-serving Clerk of this House; Ian Allnutt, Deputy Clerk; and Stuart Kay, Deputy Clerk (Committees). They have provided tremendous support to not only me but also all members in the past year. They offer their advice in a very dedicated way. At times members might not like that advice; however, if they look at standing orders and think through what is said, they will find that the advice is always consistent, and that is important in the management of this House.

During the next 12 months I hope to be able to show members, or at least encourage them to learn, the difference between consistency - as outlined in section 109 - and the scope of a Bill. On occasions, some members are unsure about what we should and should not be debating with a Bill. It is incumbent on me to get that message across. Section 109, inconsistency, which was seen during the native title debate, is open to judicial review, and the courts will do whatever they must in that regard. However, the scope of a Bill is subject to the House, and is not subject to the judicial review - thank goodness. We must come to grips with that matter because the composition of the House has changed, and various members represent differing views. Obviously, all members want to ensure their amendments to Bills are in order.

Also, I thank Malcolm Peacock and members of the Chamber staff for the support given to all of us during the past year. I need not tell members how dedicated those members of staff are; they demonstrate it to us every day. I say to Stuart Kay, as the person responsible for Legislative Council committees, that the quality of committee reports over the past 12 months has improved considerably. That directly relates to the work of Stuart Kay and his team. We have a dedicated committee office, and we can be proud of reports produced by that office. More than that, they appear on the Internet soon after they are tabled in the Legislative Council. That allows all to see them.

I think the House has matured in the past 12 months. Hon Jim Scott raised that issue. Whether it is directly related to the maturity of members, or whether we have all settled in, this House is finding its feet. I agree with the Leader of the Government when he suggested that the abortion and native title debates - both serious matters of deep emotional consequence for many members - were handled in a reasonable way. That is the way Parliament should operate if we are to be part of a democratic system.

I have said enough. Before closing, I thank a few people who work closely with me: Lorraine Coogan, who is my personal assistant; Janeen Robertson, who, although secretary to the Clerk, also works closely with me with the management of the House; and Brian Conn and Stephen Sceats, who also work closely with me as part of the President's office. I wish members and their families an enjoyable and safe Christmas. All members have spoken about their desire to return refreshed and ready to get on with work. I am not sure that I necessarily agree with that sentiment - I agree with the refreshed part! I hope all members have an enjoyable and safe Christmas and I look forward to seeing everyone in 1999.

Question put and passed.

## **NATIVE TITLE (STATE PROVISIONS) BILL**

### *Assembly's Message*

Message from the Assembly received and read notifying that it has agreed to the following resolution -

With reference to Council message No 39 in relation to the Native Title (State Provisions) Bill, the powers of the Legislative Council to request an amendment were exhausted when the Legislative Assembly declined to make the amendments requested. The Assembly cannot further consider Council message No 39.

*Third Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [6.30 pm]: I move -

That the Bill be now read a third time.

I am all argued out on this Bill and I hope the same applies for all other members in the House. It is time to make a decision.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [6.31 pm]: I concur with the Leader of the House that it is time to bring debate to a conclusion. Nonetheless, I would prefer that this Bill had the benefit of the improvements of the two requested amendments. In the absence of that the Labor Opposition, nonetheless, supports the passage of the legislation. We believe that as a result of the amendments that have been carried it is better legislation than it was. We support the third reading of the Bill.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments

*House adjourned at 6.33 pm*

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**QUESTIONS ON NOTICE**

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

**ROCK LOBSTER INDUSTRY ADVISORY COMMITTEE***Mr John Paterson's Appointment*

368. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) Did the Minister for Fisheries appoint Mr John Paterson to the position of Independent Chairperson of the Rock Lobster Industry Advisory Committee ("RLIAC")?
- (2) When does Mr Paterson's appointment expire?
- (3) How much is Mr Paterson paid in total for work associated with RLIAC?
- (4) Is this amount more or less than his predecessor was paid?
- (5) If so, why is it a greater or lesser amount?
- (6) What were the criteria for Mr Paterson's appointment?
- (7) Is Mr Paterson's payment for this service ultimately sourced from professional rock lobster fishers through cost recovery arrangements?
- (8) What involvement did these professional fishers have in Mr Paterson's selection or his rate of pay?
- (9) Is Mr Paterson a former State and Federal President of the National Party and if so does this compromise his independence?
- (10) Was Mr Paterson appointed to the position of Chairman of the RLIAC marketing sub-committee prior to his appointment as Chairman of RLIAC itself, and is this the usual way RLIAC chairpersons are appointed?
- (11) Were the fishing industry catching sector involved in the selection process for Mr Paterson's appointment as Chairman of the marketing sub-committee?
- (12) Is it correct that the marketing sub-committee was appointed and met before the majority of RLIAC members were aware of the sub-committee's existence?
- (13) If so -
  - (a) what were the circumstances of the appointment of the sub-committee; and
  - (b) who appointed the sub-committee?
- (14) Is the Minister for Fisheries aware that a significant section of the fishing industry is dissatisfied with Mr Paterson's performance?
- (15) If so, does he propose to take any action to correct this situation?
- (16) What avenues are available to the fishing industry to have Mr Patterson removed from the position of Chairman of RLIAC if the dissatisfaction with his Chairmanship cannot be resolved?

Hon M.J. CRIDDLE replied:

- (1) The appointment was made by the Minister of Fisheries and endorsed by Cabinet.
- (2) 30 Sept 1999.
- (3) \$19,600 per annum.
- (4) More.
- (5) It is a greater amount because of additional work being undertaken by the Chairman in matters ancillary to the primary functions of the Committee.
- (6) Mr Paterson met the criteria as specified in Section 29 of the Fish Resources Management Act 1994, including being independent of Fisheries Western Australia as an organisation and the Rock Lobster Industry.

- (7) Yes.
- (8) All appointments to Management Advisory Committees are made at the discretion of the Minister.
- (9) Mr Paterson is a former State and Federal President of the National Party. This does not compromise his independence in his role as Chairman of Rock Lobster Industry Advisory Committee (RLIAC).
- (10) Yes, Mr Paterson was appointed Chairman of the RLIAC Market Research Advisory Sub-Committee prior to his appointment as Chairman of RLIAC. Upon the resignation of the RLIAC Chairman, Mr Paterson was then appointed to this position.
- (11),(13) RLIAC endorsed the establishment of the Market Research Advisory Sub Committee and the appointment of its Chair at a meeting of 17 Oct 1997.
- (12) An interim Rock Lobster Marketing Group first met on 10 Oct 1997 on the initiative of the Executive Director of Fisheries WA and following a request from the Western Rock Lobster Development Association.
- (14) I am not aware that a significant section of the fishing industry is dissatisfied with Mr Paterson's performance.
- (15) Not applicable.
- (16) Section 3(2) of Schedule 1 of the Fish Resources Management Act 1994 details circumstances under which the Minister may remove a member from office.

#### KINHILL PTY LTD'S ENVIRONMENTAL REVIEW OF MT CHARLOTTE REWARD

370. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:
- (1) Did Kinhill Pty Ltd carry out the Environmental Review and (Noise) Regulation 17 Application on the Mount Charlotte Reward and Northern Ore Body open pits and floor pillars?
  - (2) Is Dr Rob Howard who until recently headed the Kinhill Pty Ltd Environmental services Group, the same Dr Rob Howard who worked for KCGM owned by Normandy Mining and Homestake Gold, a couple of years ago?
  - (3) If yes, does the Environmental Protection Authority consider it acceptable within the notion of independent evaluation, to have Kinhill make an assessment of a project when the senior officer of Kinhill was formerly an employee of Normandy Mining and Homestake Gold?
  - (4) Why has Kinhill Pty Ltd placed two limitation statements in the Environmental Review and (Noise) Regulation 17 Application on the Mount Charlotte Reward and Northern Ore Body open pits and floor pillars?
  - (5) Is the information supplied by the proponent to the consultant truthful and correct, given that two limitation statements are contained in the Environmental Review and (Noise) Regulation 17 Application on the Mount Charlotte Reward and Northern Ore Body open pits and floor pillars?

Hon MAX EVANS replied:

- (1) Yes.
- (2) I do not know Dr Rob Howard's employment history and do not have access to employee information for these companies.
- (3) Not applicable.
- (4) I understand that these limitation statements are included in the Environmental Review document in accordance with the company's Quality Assurance (QA) system. The company must acknowledge any element of a piece of work which is outside their direct control.
- (5) As part of its assessment of the project, the EPA will consider the reliability of information provided in the Environmental Review document.

#### KARRI FOREST REGENERATION

408. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:
- (1) For each of the past three years, how many hectares of clearfelled karri forest were regenerated using -
    - (a) hand-planted seedlings;
    - (b) seed trees; and
    - (c) other (please specify)?

- (2) Prior to 1997/98, was this information always included in CALM's Annual Report?
- (3) Is this information included in CALM's 1997/98 Annual Report?
- (4) If not, why not?

Hon MAX EVANS replied:

(1)		95/96 (ha)	96/97 (ha)	97/98 (ha)
(a)	hand-planted seedlings	1 490	1 557	1 450
(b)	seed trees	40	3	120
(c)	other (please specify)	nil	nil	nil

Note: Appendix 2 of the CALM Annual Report 1997/98 reports the area of even-aged karri regeneration as 1,570 hectares, while on page 17 of the text, regenerated karri forest is reported as 1,560 hectares. The actual area regenerated was 1,565 hectares, which was rounded differently in the two areas of the report.

- (2) Yes.
- (3) No.
- (4) A change in format to report only the total area of karri forest regenerated.

#### GOVERNMENT DEPARTMENTS AND AGENCIES - CREDIT CARD PURCHASES

431. Hon LJILJANNA RAVLICH to the Minister for Transport:

- (1) Is the Minister satisfied with the procedures the departments and agencies within his portfolios are following to ensure that Credit Card purchases are only being used for approved purposes?
- (2) Do the departments and agencies within the Minister's reconcile all credit card statements against supporting documentation?
- (3) Has there been evidence of supporting documentation not being provided during 1996/97 and 1997/98?
- (4) If yes, will the Minister provide details of transactions amounts in questions?

Hon M.J. CRIDDLE replied:

- (1)-(2) Yes.
- (3) No.
- (4) Not applicable.

#### FISH RESOURCES MANAGEMENT ACT 1994, SECTION 43 ORDERS

453. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In respect of Orders made under Section 43 of the *Fish Resources Management Act 1994* I ask -

- (1) Is there provision for exemptions to be made to such orders?
- (2) If yes, for what purposes are such exemptions granted?
- (3) Would any such exemption be transferable?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2) The Minister may grant an exemption for any purpose. The Executive Director may grant an exemption for the purposes specified in Section 7(3)(a-g) of the Act.
- (3) No.

#### FISH RESOURCES MANAGEMENT ACT 1994, SECTION 43 ORDERS

454. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In respect of Orders made under Section 43 of the *Fish Resources Management Act 1994* I ask -



- (1) How many Orders prohibiting commercial fishing are in effect under Section 43 of the *Fish Resources Management Act 1994*?
- (2) Which areas of Western Australia do any such orders apply to?
- (3) For what marine species do any such orders apply to?

Hon M.J. CRIDDLE replied:

- (1)-(3) Section 43 Orders, and notices under Sections 9, 10, 11 or 38 of the repealed Act which continued to be in force under the *Fish Resources Management Regulations 1995*, are categorized in the Index to the *Statutes of Western Australia* (1997, Vol 3, pp 4-83 to 4-89). The areas and marine species to which they refer can be found in the Index.

#### CRAB FISHING, GEOGRAPHE BAY

455. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) On August 12, 1998 did an employee from the Minister for Fisheries' office, along with Fisheries WA Officers, meet with South West commercial fishermen in order to discuss the Minister's proposals in respect to crab fishing in Geographe Bay?
- (2) If yes, what were the proposals discussed?
- (3) Did the Minister put a time limit on response from South West commercial fishers to any proposals discussed?
- (4) If yes, what was the time limit stipulated?
- (5) Did South West commercial fishers respond to the Minister's proposal?
- (6) If yes, what was the specific nature of their response?
- (7) If yes, on what date or dates did the South West commercial fishers respond?
- (8) Did the Minister reply to South West commercial fishers in respect to their proposals?
- (9) If not, why not?

Hon M.J. CRIDDLE replied:

- (1) A meeting was held on August 12, 1998 with the South West commercial fishermen to discuss a Fisheries WA proposal with respect to crab fishing in Geographe Bay.
- (2) The proposal discussed with the commercial fishermen is the same proposal which was released for public comment in October 1998.
- (3) Yes.
- (4) Written responses were required by the close of business Wednesday, 26 August 1998.
- (5) Yes.
- (6) Responses varied - some supported all or some elements of the proposal, others rejected the proposal and suggested alternative courses of action.
- (7) 12, 13, 18 and 25 August 1998.
- (8)-(9) Following initial discussion with industry and noting their comments, the decision was made to seek comment from the broader community through a full consultation process which involved all sectors of the community.

#### CRAB FISHING, GEOGRAPHE BAY

456. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) In the last two years has the Minister for Fisheries given any undertakings to any individuals or groups that the Minister will take action in respect to diminishing commercial crab catches in Geographe Bay?
- (2) If so, who were the individuals or groups?
- (3) What were the nature of the undertakings?

Hon M.J. CRIDDLE replied:

- (1)-(3) After receiving a crab petition of 1209 signatures calling for the removal of crab fishing from Geographe Bay, on 12 November 1996, the Minister announced there would be a full review of open access commercial crab fisheries on the West Coast including Geographe Bay.

#### CRAB FISHING, GEOGRAPHE BAY

457. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In relation to the process that was used to identify the key stakeholders in the Geographe Bay Blue Swimmer Crab Fishery in the last two years I ask -

- (1) Has the Minister for Fisheries or officers of Fisheries WA held meetings with South West commercial fishermen in relation to commercial crab fishing in Geographe Bay?
- (2) If yes -
- (a) who was present at any such meeting;
  - (b) where and on what dates did any such meetings take place;
  - (c) who chaired any such meeting; and
  - (d) what were the outcomes from any such meetings?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2)(a)-(d) The meeting, chaired by Mr Richard Sellers of Fisheries WA, was held at the Ship Resort in Busselton on Wednesday 12 August 1998. It was called for the purpose of informing stakeholders about the content of a proposal for future management of the Geographe Bay crab fishery and inviting discussion. The meeting was attended by south west fishermen who were known to have a history or an interest in commercial crab fishing in Geographe Bay. Also at the meeting was a representative of the Western Australian Fishing Industry Council (WAFIC), a representative of the Minister for Fisheries, and five representatives of Fisheries WA, four of whom are based at either Busselton or Bunbury District offices. The fishermen refused the opportunity to consult on the proposal and presented a position statement to Fisheries WA in respect to future management. Fishermen were advised that written submissions would be received up to the close of business on Wednesday 26 August 1998.

#### CRAB FISHING, GEOGRAPHE BAY

458. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In relation to the process that was used to identify the key stakeholders in the Geographe Bay Blue Swimmer Crab Fishery in the last two years I ask -

- (1) Has the Minister for Fisheries or officers of Fisheries WA held meetings with Mr Phil Tickle of the Siesta Park Caravan Park in which the matter of commercial crab fishing in Geographe Bay was discussed?
- (2) If yes -
- (a) who was present at any such meeting;
  - (b) where and on what dates did any such meetings take place; and
  - (c) what were the outcomes from any such meetings?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2) (a) Hon Monty House, Minister for Fisheries  
Peter Rogers, Executive Director, Fisheries WA  
Nathan Harrison, Policy Advisor to the Minister for Fisheries  
Shane O'Donoghue, Senior Policy Advisor to the Minister for Fisheries  
Phil Tickle  
Mrs Beryl Morgan, Shire President, and Cr John Valentine, Shire of Busselton  
Lindsay Joll, Commercial Program Manager, Fisheries WA.
- (b) Wednesday, 30 April 1997, at the office of the Minister for Primary Industry; Fisheries..
- (c) A number of issues relating to commercial and recreational fishing in Geographe Bay were discussed..

## CRAB FISHING, GEOGRAPHE BAY

459. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to a letter published in the *Busselton Margaret River Times* of September 3, 1998, the member for Vasse, Bernie Masters MLA, is quoted as saying "that the future of crabbing in Geographe Bay is being clouded by mostly spurious arguments coming from a small number of vocal but ill-informed opponents to professional fishing, and that there is no proof that professionals take so many crabs in winter that there are none left for residents or tourists" and ask -

(1) Are these statements correct?

(2) If not, why not?

Hon M.J. CRIDDLE replied:

(1)-(2) Mr Masters was voicing his opinion. There are many other opinions as to the source of the perceived resource conflict regarding crabs in Geographe Bay.

## CRAB FISHING, GEOGRAPHE BAY

460. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to a press release dated October 7, 1998 in which the Western Australian Fishing Industry Council called for the public release of the Crab Review Report so that the Review recommendations in respect to Geographe Bay could form the basis of public comment on the Minister for Fisheries proposed restrictions on commercial crab fishing in this area and ask -

(1) Will the Minister release the recommendations of the Crab Review Report in respect to the Geographe Bay blue swimmer crab fishery to the public?

(2) If not, why not?

Hon M.J. CRIDDLE replied:

(1)-(2) The Working Group Report on the inshore crab fishery has been released for public comment.

## CRABBING REVIEW COMMITTEE

461. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to the Crab Review Report that was conducted earlier this year by the Crabbing Review Committee and ask -

(1) Who were the members of the Crabbing Review Committee?

(2) Who chaired the Crabbing Review Committee?

(3) What organisations did the members represent and what positions did they occupy in their organisations?

(4) What was the cost of the review into crabbing in Western Australia?

(5) On what date did the Review Committee report to the Minister for Fisheries?

Hon M.J. CRIDDLE replied:

(1) Messrs Sellers, Stevens and Prokop and Ms Campbell.

(2) Mr Sellers.

(3) Mr Sellers was a Senior Manager with the Commercial Fisheries Program, Fisheries WA. Ms Campbell is a Management Support Officer with Fisheries WA. Mr Stevens is the Western Australian Fishing Industry Council's Research and Development Manager. Mr Prokop is the Executive Director of RECFISHWEST.

(4) There has been no separate cost centre allocated to the review process, it was a part of the overall management budget for minor fisheries.

(5) 3 July 1998.

## CRAB FISHING, GEOGRAPHE BAY

462. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to the Crab Review Report that was conducted earlier this year and ask -

(1) What, specifically, did the Report recommend in relation to the commercial and recreational fishing of blue swimmer crabs in Geographe Bay?

- (2) Are the Minister for Fisheries' proposals for the restriction of commercial crab fishing in Geographe Bay consistent with the recommendations of the Crab Review Report?
- (3) If not, why not?
- (4) Did the Minister seek advice on the use of Geographe Bay crab stocks from Fisheries WA?
- (5) Was Fisheries WA's advice consistent with the recommendations of the Crab Review Report?

Hon M.J. CRIDDLE replied:

- (1)-(5) The proposal for the future management of crab stocks in Geographe Bay and the Working Group Report on the inshore crab fishery were both released for public comment.

#### CRAB FISHING, GEOGRAPHE BAY

463. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to a statement which appeared in *The West Australian* of October 10, 1998 where a Fisheries WA commercial fishing program manager is reported as saying that the proposed management regime for the commercial crab fishery in Geographe Bay was prompted by a review into crab fishing as a result of a perception that crab stocks were declining and that the review found that there was no decline in crab stocks and ask -

- (1) Are these statements accurate?
- (2) If not, why not?

Hon M.J. CRIDDLE replied:

- (1)-(2) There was a community perception that crab stocks in Geographe Bay were declining. This view was supported by a petition of 1200 signatures presented to the Minister for Fisheries in November 1996, calling for the removal of commercial crab fishing from Geographe Bay. The review of the crab fishery indicated that there is the potential for localised depletion of size crabs depending on fishing pressure.

#### CRAB FISHING, GEOGRAPHE BAY

464. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department for the management of commercial crab fishing in Geographe Bay -

Which objective or objectives under the *Fish Resources Management Act 1994* do the Minister's proposals to close the waters lying within 400 metres of the high water mark between Port Geographe and Cape Naturaliste to commercial crab fishing, to increase the minimum legal size of crabs taken by commercial fishers and to prohibit commercial crab fishing on weekends, school and public holidays fall under?

Hon M.J. CRIDDLE replied:

The specific objectives under the *Fish Resources Management Act 1994* which apply to the Fisheries WA proposal are:

- 3(2)(e) to achieve the optimum economic, social and other benefits from the use of fish resources
- 3(2)(f) to enable the allocation of fish resources between users of those resources.

#### CRAB FISHERY, SOUTH WEST - RESEARCH

465. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

With regards to the stocks of the blue swimmer crab fishery off the coasts of South Western Australia -

- (1) What research (if any) is being undertaken into the distribution of blue swimmer crabs?
- (2) What research (if any) is being undertaken into the sustainability of crab stocks subject to commercial and recreational fishing?
- (3) What research (if any) is being undertaken into the respective catch shares of the commercial and recreational fisheries?
- (4) What research (if any) is being undertaken into the biological characteristics of these crabs that is relevant to effective management of fishing pressure on crab stocks?

- (5) If research into this fishery is being undertaken then -
- (a) when will the relevant research program be completed;
  - (b) when will the results be known;
  - (c) what is the cost of this research; and
  - (d) what is the source of its funding?

Hon M.J. CRIDDLE replied:

- (1) A Fisheries Research and Development Corporation (FRDC) project examining the genetic stock structure of the blue swimmer crab in Australia is currently being undertaken by Murdoch University.
- (2) A wide range of projects including catch monitoring and biological research are being conducted which will aid in the sustainable management of the crab resource.
- (3) Commercial catch records are available through compulsory monthly commercial catch and effort returns.  
A creel survey of recreational boat ramps between Kalbarri and Augusta has been conducted to estimate the recreational catch of different species, including blue swimmer crabs. An FRDC funded project to estimate the recreational catch of blue swimmer crabs in the South West of Western Australia is also currently underway.
- (4) A major FRDC funded research project is currently underway at Fisheries WA and Murdoch University which deals with the biology of blue swimmer crabs.
- (5)
  - (a) The above projects will be completed at different times, with some scheduled to be completed within 18 months and others within 3 years.
  - (b) The results will be available within 6 months of the completion of the projects.
  - (c) The total cost of the four projects mentioned above is \$1.213 million.
  - (d) The projects are being funded by FRDC, Fisheries WA and Murdoch University.

#### CRAB FISHING, GEOGRAPHE BAY

466. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

For how many years has commercial crab fishing taken place in Geographe Bay?

Hon M.J. CRIDDLE replied:

Commercial crab fishing records held at Fisheries WA for the Geographe Bay catch statistics reporting block, commenced during the 1968-69 financial year. This was the first year that statistics of this type were recorded. It is likely that commercial crab fishing was undertaken before this time.

#### CRAB FISHERY, SOUTH WEST - VALUE

467. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) Has the department any information as to the average annual value of the recreational crab fishery to the South West economy over the last five years?
- (2) Has the department any information as to the average annual value of the commercial crab fishery to the South West economy over the last five years?

Hon M.J. CRIDDLE replied:

- (1) An estimated 100,000 people participate in recreational crabbing in Western Australia each year. Their contribution to the economy is thought to be significant.
- (2) Fisheries WA's catch and effort statistical system indicates that the average annual commercial catch taken in Geographe Bay between 1993-1997 is approximately 9,200kg. The commercial value of this catch is around \$40,000.

#### CRAB FISHING, GEOGRAPHE BAY

468. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

What is the estimated number of recreational fishers who have fished for crabs in Geographe Bay in the following years -

- (a) 1992;
- (b) 1993;
- (c) 1994;
- (d) 1995;
- (e) 1996; and
- (f) 1997?

Hon M.J. CRIDDLE replied:

- (a)-(f) Geographe Bay has always been a focal point for the estimated 100,000 recreational crabbers in the State. A Fisheries WA estimate for the 12 month period from September 1996 to August 1997, calculated that the number of people boat fishing for crabs in Geographe Bay multiplied by the days they fished equalled at least 11,000 crab fisher days. This figure does not include recreational crab fishers diving and scoop netting.

#### CRAB FISHING, GEOGRAPHE BAY

469. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department for the management of commercial crab fishing in Geographe Bay -

- (1) Has the department any information on the likely impact of the proposed regime to the average success rate per recreational fisher fishing for crabs in Geographe Bay?
- (2) Has the department any information on the impact of the proposed regime on seafood wholesalers such as Craven Foods of Bunbury and Busselton who supply local crabs to the South West hospitality industry?
- (3) Has the department any information on the extent of the retail demand for local fresh crabs?

Hon M.J. CRIDDLE replied:

- (1) Catch rates for the recreational sector are dependant upon a variety of factors such as the number of fishers and recruitment of crabs into the fishery each year. Due to these factors, it is not possible to accurately predict changes in recreation catch rates from year to year.
- (2)-(3) Commercial crab fishermen are not required to provide Fisheries WA with information in respect of who they supply crabs to.

#### CRAB FISHING, GEOGRAPHE BAY

470. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

What is the average success rate per recreational fisher fishing for crabs in Geographe Bay in each of the years -

- (a) 1990;
- (b) 1991;
- (c) 1992;
- (d) 1993;
- (e) 1994;
- (f) 1995;
- (g) 1996; and
- (h) 1997?

Hon M.J. CRIDDLE replied:

- (a)-(h) Data obtained during a Fisheries WA survey of boat based recreational crab fishers in Geographe Bay between September 1996 and August 1997 show that -

average number of crab caught per boat = 18.2  
 average number of crabs per fisher = 7.2  
 average number of crab caught per boat per hour = 6.8

There is no information available for other years. There is insufficient information on shore based fishers to estimate crab catch rates.

#### CRAB FISHING, GEOGRAPHE BAY

471. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

What was the total crab catch of commercial fishers in Geographe Bay in the areas subject to the proposed commercial bans and limitations in each of the years -

- (a) 1990;
- (b) 1991;
- (c) 1992;
- (d) 1993;
- (e) 1994;
- (f) 1995;
- (g) 1996; and
- (h) 1997?

Hon M.J. CRIDDLE replied:

The reported commercial crab catches from the statistical block of which Geographe Bay is part are as follows:

- (a) 1,187 kilograms
- (b) 788 kilograms
- (c) 638 kilograms
- (d) 578 kilograms
- (e) 5,667 kilograms
- (f) 7,669 kilograms
- (g) 16,501 kilograms
- (h) 15,678 kilograms

#### CRAB FISHING, GEOGRAPHE BAY

472. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

What was the total crab catch of recreational fishers in Geographe Bay in the areas subject to the proposed commercial bans and limitations in each of the years -

- (a) 1990;
- (b) 1991;
- (c) 1992;
- (d) 1993;
- (e) 1994;
- (f) 1995;
- (g) 1996; and
- (h) 1997?

Hon M.J. CRIDDLE replied:

- (a)-(h) It is estimated in the 12 month period from September 1996 to August 1997 the boat based recreational crab catch in the defined area was:

Total number of crabs caught = 54,000  
Total weight of crabs caught = 12.0 tonnes

There is no information for other years. There is insufficient information on shore based recreational catches to estimate the total catch for these fishers.

#### CRAB FISHING, GEOGRAPHE BAY

473. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the management of commercial crab fishing in Geographe Bay -

- (1) What is the average legal size of crabs caught and retained by commercial fishers in Geographe Bay?
- (2) What is the average legal size of crabs caught and retained by recreational fishers in Geographe Bay?
- (3) How many days a year can recreational fishers legally fish for crabs in Geographe Bay?
- (4) How many days a year can commercial fishers legally fish for crabs in Geographe Bay?

Hon M.J. CRIDDLE replied:

- (1)-(2) The legal minimum size for crabs is 127 mm. From data collected during a survey conducted by Fisheries WA between September 1996 and August 1997 the mean carapace width of crabs caught in that period by recreational fishermen in Geographe Bay was 135.3 mm.
- (3) Recreational fishers can fish all year.
- (4) Commercial fishers can fish all year except weekends between 1 August each year and the end of February the following year, and on week days between 29 September to 14 October and 24 December to 31 January (school holidays).

CRAB FISHING, GEOGRAPHE BAY

474. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department for the management of commercial crab fishing in Geographe Bay -

- (1) What will be the impact on catch levels for those South West commercial fishermen who have historically harvested crabs within Geographe Bay, of the proposal to increase the minimum legal size of crabs taken by commercial fishers from 127mm to 130mm is proceeded with?
- (2) What will be the financial impact on those South West commercial fishermen who have historically harvested crabs from this area if the proposal to increase the minimum legal size of crabs taken by commercial fishers from 127mm to 130mm is proceeded with?

Hon M.J. CRIDDLE replied:

- (1)-(2) The potential impacts of the proposal cannot be precisely determined at this point and will depend upon:
- entry criteria established for the fishery;
  - catch rates;
  - number of commercial fishermen; and
  - areas fished.

CRAB FISHING, GEOGRAPHE BAY

475. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department to close the waters lying within 400 metres of the high water mark between Port Geographe and Cape Naturaliste to commercial crab fishing -

- (1) What will be the impact on catch levels for those South West commercial fishermen who have historically harvested crabs from this area?
- (2) What will be the financial impact on those South West commercial fishermen who have historically harvested crabs from this area?

Hon M.J. CRIDDLE replied:

- (1)-(2) The proposal suggests that fishermen who satisfy the criteria of an average catch of 1.0 tonne or more over a three year period between November 1994 and November 1997 will be permitted to use gear that will allow them to fish in waters beyond 400 metres offshore. The proposal allows both commercial and recreational crab fishing activity to continue.

CRAB FISHING, GEOGRAPHE BAY

476. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department to close the waters lying within 400 metres of the high water mark between Port Geographe and Cape Naturaliste to commercial crab fishing -

- (1) Did the Minister's department consider any information adverse and/or prejudicial to any South West commercial fishermen in the formulation of this proposal?
- (2) If so, has this information been disclosed to South West commercial fishermen?
- (3) What was the source of any such information?

Hon M.J. CRIDDLE replied:

- (1)-(3) Fisheries WA considered all submissions to the review process. South West commercial fishermen were informed of those views through Fisheries Management Paper 112 and the discussions which were held in Bunbury and Busselton in May 1998.

CRAB FISHING, GEOGRAPHE BAY

477. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries' department to close the waters lying within 400 metres of the high water mark between Port Geographe and Cape Naturaliste to commercial crab fishing -



- (1) What information was used as the basis for the Minister's proposed decision?
- (2) What criteria was applied to the sourcing and collation of information used in the formulation of this proposal?

Hon M.J. CRIDDLE replied:

- (1) As of 30 November 1998, no decision has been made.
- (2) Not applicable.

#### CRAB FISHING, GEOGRAPHE BAY

485. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) Over the last five years what investigations have been conducted by Fisheries WA into instances of perceived or real conflict between commercial and recreational fishers over the Geographe Bay blue swimmer crab fishery?
- (2) If there was any such investigation, what was the result?

Hon M.J. CRIDDLE replied:

- (1)-(2) A review of the inshore crab fishery was announced in November 1996 following the presentation of a petition of 1200 signatures to the Minister for Fisheries, calling for the removal of commercial crab fishing from Geographe Bay. The review of the crab fishery indicated that there is the potential for localised depletion of size crabs depending on fishing pressure.

#### CRAB FISHING, GEOGRAPHE BAY

488. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) What is the purpose of the Government's "Guidelines for Voluntary Resource Sharing"?
- (2) What fisheries has the Minister for Fisheries referred to this process?
- (3) Did the Minister consider referring the matter of "perceived conflict" between commercial and recreational fishers over Geographe Bay crabs to this process?
- (4) If not why not?
- (5) What is meant by the term "perceived conflict" as used in Section 4 of the Fisheries WA document on the proposal for management of crabbing in Geographe Bay dated October 1998?

Hon M.J. CRIDDLE replied:

- (1) The "*Guidelines for Voluntary Resource Sharing*", being part of the Government's resource sharing initiative, provide a process for resolving resource sharing conflicts among potentially competing users of fisheries resources.
- (2) All managed fisheries in Western Australia can utilise the *Guidelines* process..
- (3)-(4) The review of the inshore crab fishery was announced in November 1996. The "*Guidelines for Voluntary Resource Sharing*" did not commence until January 1998. Expressions of interest for participants in the *Guidelines* process were called in January 1998 and July 1998 and no nominations were received for any fisheries in Geographe Bay.
- (5) A petition of 1 200 signatures was presented to the Minister calling for the removal of commercial crabbing from Geographe Bay.

#### FISHERIES - SECURITY OF ACCESS AND RESOURCE SHARING WORKING GROUP

489. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

I refer to a document entitled *Future Directions for Fisheries Management in Western Australia*, dated September 22, 1995, produced by Fisheries WA, in which an undertaking is given that the final report of the "Security of Access and Resource Sharing Working Group" will be made available to the fishing industry and the wider community, and that comment will be sought from stakeholders on the report -

- (1) Who constituted the Security of Access and Resource Sharing Working Group?
- (2) On what date did the Minister for Fisheries receive the final report of the Security of Access and Resource Sharing Working Group?
- (3) What were the recommendations of the Security of Access and Resource Sharing Working Group?

- (4) Has the Minister sought comment from stakeholders and if so what was their advice?
- (5) If not, why not?
- (6) What was the cost of the working group?
- (7) Will the Minister release this report to the fishing industry and the community?
- (8) If so, when?
- (9) If not, why not?

Hon M.J. CRIDDLE replied:

- (1) The Security of Access and Resource Sharing Working Group was established by the Minister for Fisheries as part of the Fisheries Portfolio Review and comprised the following persons -  

Dr Paul McLeod, Chairperson  
Mr Lindsay Harbord  
Mr Chris Humphrey  
Mr Guy Leyland  
Mr Peter Millington  
Mr Tony O'Connor  
Mr Mark Pendelbury  
Ms Erica Smythe
- (2) May 23 1996.
- (3) The recommendations dealt with a range of resource sharing and security of access issues.
- (4) No.
- (5) The Report has not been formally accepted or endorsed by Government and does not represent Government policy or position.
- (6) The cost of the Working Group was not identified separately from the Ministerial Portfolio Review Costs.
- (7)-(9) The Report has been released.

#### FISHERIES - RESOURCE SHARING

490. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

- (1) What is the Government policy on resource sharing between commercial and recreational fishers?
- (2) If, as a result of Government action, commercial fishers access to marine resources are diminished in order to benefit recreational fishers, is it Government policy that affected commercial fishers should be compensated?
- (3) Will the Government compensate South West commercial fishers who have historically fished for crabs in Geographe Bay if, as a result of adoption of the Minister for Fisheries proposals to prohibit and restrict access, their access to crab stocks is diminished?
- (4) If not, why not?

Hon M.J. CRIDDLE replied:

- (1)-(4) The Coalition's policy on resource sharing focuses on examining opportunities to co-operatively manage the State's fish resources that are shared by recreational and commercial interests. The Government carefully evaluates the effects of any resource sharing proposal on all parties. If deemed appropriate, the Minister for Fisheries will determine whether an adjustment process under the *Fisheries Adjustment Scheme (FAS) Act 1987* is necessary.

#### CRAW FISHING, GEOGRAPHE BAY

491. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

In regard to the proposal put forward by the Minister for Fisheries department for the management of commercial crab fishing in Geographe Bay -

- (1) Are there appeal provisions available to South West commercial fishers who have historically taken crabs in this area but who will not meet the entry criteria?
- (2) If not, why not?

(3) If so what are the appeal provisions?

Hon M.J. CRIDDLE replied:

- (1) Yes.
- (2) Not applicable.
- (3) A fisherman who applies for entry into the fishery and is regarded as an affected person to a decision to refuse his application, may, in accordance with the provisions of Part 14 of the *Fish Resources Management Act 1994*, lodge an Objection to a Proposed Decision with the Executive Director, Fisheries WA.

#### MINISTER FOR PRIMARY INDUSTRY - INTERNATIONAL ITINERARIES

516. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Primary Industry:

- (1) Will the Minister for Primary Industry table the itineraries for his Ministerial visits to -
  - (a) Argentina, Uruguay, Peru, Chile and Ecuador on February 3 to February 22, 1996;
  - (b) USA and Canada on February 23 to March 4, 1996;
  - (c) India and Indonesia on September 6 to September 15, 1996;
  - (d) Korea, Japan, Taiwan and Hong Kong on April 11 to April 27, 1997; and
  - (e) South Africa, Namibia and Mauritius on June 30 to July 19, 1997?
- (2) If not, why not?

Hon M.J. CRIDDLE replied:

- (1)-(2) Details of ministerial travel are tabled in Parliament on a quarterly basis.

#### MINING - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD TAILINGS FACILITIES, SEEPAGE

531. Hon TOM HELM to the Minister for Mines:

I refer to a Department of Minerals and Energy ("DOME") file note dated September 27, 1995 signed by Adrian Lang Geotechnical Engineer to the Director Mining Operations Division titled "Kalgoorlie Consolidated Gold Mines Pty Ltd Tailings Storage Facilities 195 Annual Operational Audit", and ask -

- (1) Can the Minister state why "seepage management at all KCGM facilities" "will become progressively more changeling with time"?
- (2) If not, can the Minister explain why not?
- (3) Can the Minister state why the "factor of safety greater than 1.5 for normal gravitational loading or 1.2 for simulated earthquake loading, is generally adequate"?
- (4) If not, can the Minister explain why not?
- (5) Can the Minister state why the "Oroya facility" was "marginally below the recommended minimum factors of safety"?
- (6) If not, can the Minister explain why not?

Hon N.F. MOORE replied:

- (1) As stated in the Department of Minerals and Energy file note dated September 27, 1995, tailings storage seepage management is an important and challenging part of the successful management of large tailings storage facilities. This has been recognised by KCGM and its geotechnical engineering consultants. Extensive work has been undertaken around a number of the KCGM tailings storage facilities to manage seepage.
- (2) Not applicable.
- (3) It is a recognised geotechnical engineering practice to use a range of factors of safety in stability analyses. The factors of safety stated are consistent with those quoted in Fell, MacGregor and Stapledon (1992) *Geotechnical Engineering of Embankment Dams*.
- (4) Not applicable.
- (5) In the 1995 Annual Review of KCGM's tailing storages it is noted that its geotechnical engineering consultants have assumed an elevated level for the phreatic surface (ie the upper surface of free water in the tailings) in the stability calculations. It is further noted that "...if the phreatic surface is lowered to be consistent with actual measured levels in Oroya then the factors of safety are satisfactory for current and maximum heights and normal

and earthquake loadings...". Thus the factors of safety for the "Oroya facility" were "marginally below the recommended minimum factors of safety" because an elevated phreatic surface was assumed in the stability calculations.

(6) Not applicable.

#### CONSULTANTS - MINISTRY OF PREMIER AND CABINET

548. Hon KEN TRAVERS to the Leader of the House representing the Premier:

In reference to the "Report on Consultants Engaged by Government for the Six Months ended 31 December 1997", page 1, under the heading "Ministry of Premier and Cabinet", what was the hourly fee paid to Everard Yeo & Associates for their consultancy contract?

Hon N.F. MOORE replied:

Everard Yeo and Associates was not included in the "Report on Consultants Engaged by Government for the six months ended 31 December 1997". The Consultants were included in the report for the six months ended 30 June 1997. The hourly fee paid to Everard Yeo and Associates was \$125.00.

#### ENVIRONMENT - ACID SULPHATE SOILS DISTURBANCE

613. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

In response to question on notice 1932 of June 9, 1998, is the Minister for the Environment aware of any non-operational projects that have the potential to entail disturbance of acid sulphate soils?

Hon MAX EVANS replied:

Three proposed projects have been identified as having the potential to disturb acid sulphate soils. Two of the projects are mineral sands mining projects of Cable Sands (WA) Pty Ltd: the Jangardup South and Jangardup extension projects. The third is the Derby Tidal Power project of Derby Hydro Power Pty Ltd. All three projects are subject to formal environmental impact assessment by the Environmental Protection Authority. As part of the environmental assessments, the companies will be required to identify the occurrence of acid sulphate soils within the project areas and to propose appropriate environmental management measures.

#### LAND BLOCK, LOGGING

620. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

In relation to the logging of Lane block -

- (1) Can the Minister for the Environment confirm that there is an exclusion zone of 100 metres radius around two trees which contain protesters on platforms?
- (2) Is the Minister aware that Bunnings employees have driven machinery up to the base of one of those trees, and scrub-rolled within the exclusion zone?
- (3) Is the Minister aware that Bunnings employees are allowed by the Department of Conservation and Land Management ("CALM") to take family and friends into the Temporary Control Area?
- (4) If not, what action will the Minister take against Bunnings, or CALM employees for these actions?

Hon MAX EVANS replied:

- (1) There are no protesters on tree platforms in Lane Block. Harvesting is now being completed.
- (2) Not applicable.
- (3) My advice suggests this not to be the case.
- (4) Not applicable.

#### EGG FARMS

638. Hon J.A. SCOTT to the Minister for Transport representing the Minister for Primary Industry:

- (1) How many egg farms are operating in Western Australia?
- (2) Of these farms, how many production systems are -

- (a) battery cage;
  - (b) barn-lay; and
  - (c) free-range?
- (3) What procedures are in place to ensure that eggs in the carton have been produced as labelled?
- (4) How often are these procedures monitored?
- (5) Who monitors these procedures?

Hon M.J. CRIDDLE replied:

- (1) There are 102 licensed commercial farms operating in the South West Land Division (SWLD). Additionally, in the remote South East area there are 5 licenced commercial farms. In the remote North West area there are 11 Licensed commercial farms. The great majority of the eggs are produced in the SWLD and complete records are only held for this area.
- (2) System split in SWLD:
- (a) 79 intensive system;
  - (b) 7 barn laid system;
  - (c) 16 free range system.
- (3) All commercial eggs produced in WA in the SWLD are under the control of The Western Australian Egg Marketing Board trading as Golden Egg Farms (GEF) for the purposes of grading and labelling as required in the Marketing of Eggs Act. The Egg Board is responsible for monitoring the supply of eggs to the consumer and ensuring that eggs sold are correctly labelled. GEF has International ISO 9002 quality accreditation and this system further ensures correct production and packaging of product.
- (4) Egg production is constantly monitored by GEF. GEF also has control over licenses outside the SWLD south of the 26th parallel. GEF has no control over egg production in remote areas north of the 26th parallel but maintains a 'watching brief'. In addition, the ISO 9002 quality system is audited by third party auditors. The procedures are constantly documented and the third party auditor checks these systems. The auditor inspects the systems 6-monthly.
- (5) The Western Australian Egg marketing Board monitors the systems and currently SGS are the auditors.

#### FISHERIES, NULLARBOR OPERATION

648. Hon MARK NEVILL to the Minister for Transport representing the Minister for Fisheries:

- (1) Will the Minister for Fisheries confirm that Esperance based fisheries officers conducted a lengthy and costly operation in the Nullarbor area in recent years?
- (2) Did this operation include officers from the Australian Customs, Australian Federal Police and South Australian fisheries officers and local Police?
- (3) What is the officer's name who was in charge of the operation?
- (4) Did the operation include the use of a RAAF transport aircraft?
- (5) If yes -
- (a) where was the aircraft deployed at the time;
  - (b) how long was it assigned to the departments operation;
  - (c) what was its role and what did it carry - if vehicles and boats, how many?
- (6) How many personnel were involved in the operation and for how long?
- (7) What was the cost to the Western Australian Department of Fisheries?
- (8) What was the nature of the investigation?
- (9) Were any persons apprehended?
- (10) If yes, what were the offences?
- (11) If not, why not?
- (12) Did the investigating officer provide his regional manager with an operational plan or evidence to support such an operation?

- (13) If yes -
- (a) who received the evidence;
  - (b) who approved the operation?

Hon M.J. CRIDDLE replied:

- (1)-(13) A number of joint patrols have been conducted by various government agencies to the Nullarbor in recent years. RAAF aircraft have never been used in any operations by Fisheries WA in the Esperance area. If the Honourable member could provide me with details about the specific operation in question, I am prepared to give further consideration to the Honourable Member's request.

#### FISHERIES DEPARTMENT INVESTIGATIONS

649. Hon MARK NEVILL to the Minister for Transport representing the Minister for Fisheries:

- (1) During the past five years how many Esperance based processors have been investigated by the Fisheries Department?
- (2) During the past five years how many licensed professional fishermen have been investigated by the Fisheries Department?
- (3) Who has been investigated and on how many occasions?
- (4) Who was the investigating officer in each case?
- (5) Was the investigating officer acting on instructions?
- (6) If yes, who issued the instructions?

Hon M.J. CRIDDLE replied:

- (1)-(6) Licensed professional fishermen and Esperance-based fish processors have been regularly and routinely checked by Fisheries WA during the past five years. If the Honorable Member could provide me with details regarding any specific operation in question, I am prepared to give further consideration to the Honorable Member's request.

#### APPLES, CRIPPS RED AND CRIPPS PINK TRADEMARKS

667. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

- (1) Were the trademarks for the varieties Cripps Red and Cripps Pink filed uniformly across Europe in order to protect those trademarks for our future marketing program?
- (2) If this did not take place, why did it not take place?

Hon M.J. CRIDDLE replied:

- (1) All European trade mark applications were filed in the name of the body corporate of Agriculture Western Australia under international class 31, which covers fresh fruit. Registration was sought in those countries deemed to be relevant to the export program of the Western Australian apple industry at that time.
- (2) Not applicable.

#### APPLES, CRIPPS RED AND CRIPPS PINK PLANT VARIETY RIGHTS REGISTRATION

668. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

- (1) Were the well documented international requirements for registration of plant variety rights (PVR) of new varieties, which requires filing uniformly across the world within six years of the first commercial sale of plants, followed in the case of the varieties, Cripps Red and Cripps Pink?
- (2) If this was not the case, why were these requirements not met?

Hon M.J. CRIDDLE replied:

- (1) Agriculture Western Australia complied with The International Convention for the Protection of New Varieties of Plants which requires applications to be filed outside of Australia within 6 years of the first sale or disposal of propagating or harvesting material by or with the consent of the breeder for purposes of exploitation of the variety.
- (2) Not applicable.

## APPLES, CRIPPS RED AND CRIPPS PINK PLANT VARIETY RIGHTS REGISTRATION

669. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

- (1) Why was the plant variety rights application for the Cripps Red and Cripps Pink varieties delayed in Chile and Argentina?
- (2) Has this delay resulted in litigation?
- (3) In which Court is the litigation taking place?
- (4) Is the litigation still active?
- (5) Who is taking action against whom?

Hon M.J. CRIDDLE replied:

- (1) Applications for Plant Variety Rights/Plant Breeders Rights were filed in Argentina and Chile as soon as a Licensee was appointed and was ready and willing to fund such applications.
- (2)-(5) Not applicable.

## APPLES, CRIPPS PINK AND CRIPPS RED, LICENCE FEE

670. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

- (1) Was a licence fee collected from the Australian industry last year from growers and/or packers of the varieties Cripps Pink and/or Cripps Red?
- (2) Was one purpose of this fee collected to ensure that the quality specifications laid down in the licence were correctly administered in the future marketing interests of this/these varieties?
- (3) Were these aims achieved in all markets?
- (4) If not, in which markets was proper administration and monitoring carried out and in which markets was it deficient?
- (5) Was the licence fee revenue fully expended?
- (6) Why was adequate monitoring not provided?

Hon M.J. CRIDDLE replied:

- (1) Fees were collected from those growers and packers of Cripps Red and Cripps Pink who wanted to apply the trade mark "Sundowner" and "Pink Lady" respectively in export markets.
- (2) No.
- (3)-(4) Not applicable.
- (5) Yes.
- (6) Not applicable.

## ABORTIONS

673. Hon E.R.J. DERMER to the Minister for Finance representing the Minister for Health:

- (1) In the six month period following Assent to the *Acts Amendment (Abortion) Act 1998* how many abortions were performed in Western Australia at or after the completion of 20 weeks pregnancy?
- (2) What severe medical conditions justified each of these abortions?
- (3) How many weeks of pregnancy were completed when each of these abortions were performed?

Hon MAX EVANS replied:

- (1) As of 26 November 1998, thirteen (13).
- (2) It is not appropriate for the information requested to be provided as it may breach the duty of confidentiality owed to the female patients.
- (3) It is not appropriate for the information requested to be provided as it may breach the duty of confidentiality owed to the female patients.

# GOVERNMENT CONTRACTS

677. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

- (1) Have any agencies or departments under the Minister for Housing's control awarded any contracts to the following companies since July 1, 1996 -
  - (a) Malavoca Pty Ltd; and
  - (b) Hanscom Holdings?
- (2) If yes, can the Minister provide the following details of those contracts -
  - (a) the name of the contractor;
  - (b) the contract number;
  - (c) the date it was awarded;
  - (d) the project the contract was awarded for;
  - (e) the cost of the contract;
  - (f) if the contract has been completed, the final cost of the contract; and
  - (g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

- (1)
  - (a) Yes.
  - (b) No.
- (2)
  - (a) Malavoca Pty Ltd.
  - (b) Tender No T3084/97.
  - (c) 16 October 1997.
  - (d) Northwood Civil Works Stage 1 - 55 lots.
  - (e) \$1,043,339.
  - (f) The contract is not yet complete.
  - (g) ATA Construction Pty Ltd, Wesville Contractors, Musgrave Contracting, Scott Constructions and Development, Croker Construction WA Pty Ltd, Wolfe Construction Co Pty Ltd, Roadpave Australia Pty Ltd, Densford Pty Ltd, Prolay Constructions Pty Ltd, Morroni Nominees Pty Ltd and Four Seasons Constructions Pty Ltd.  
  - (a) Malavoca Pty Ltd.
  - (b) 5183 - sc, Woodlake School Site.
  - (c) 15 April 1998.
  - (d) works on Fortescue Place and servicing of the Woodlake Village Primary School site.
  - (e) \$263,031.
  - (f) The total of the works approved to date including all variations is \$245,378.74 less \$13,151.54 retention.
  - (g) WA Gravel and Paving, Georgiou Group and Croker Construction WA Pty Ltd.

# ELLE MACPHERSON ADVERTISING CAMPAIGN

689. Hon KEN TRAVERS to the Leader of the House representing the Premier:

I refer to the Premier's meeting with Elle Macpherson and/or her representative in Los Angeles last year and ask, who initiated the meeting?

Hon N.F. MOORE replied:

I refer the member to the answer provided in response to Question Without Notice 511 on 17 November 1998.

# CANNING VALE PRISON INQUIRY

708. Hon MARK NEVILL to the Minister for Justice:

- (1) Who initiated the first inquiry at Canning Vale Prison which led on to the inquiry under section 9 of the *Prisons Act 1981*?
- (2) Will the Minister table the minutes of the monthly security meeting held on September 23, 1994?

Hon PETER FOSS replied:

- (1) Dr Denzil McCotter, the then Executive Director of Corrective Services.
- (2) [See paper No 691.]



## ELECTORATE OFFICES, COMPUTER SUPPORT SERVICES

709. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

- (1) Was a telephone survey conducted earlier this year of electorate offices which included questions on computer support services?
- (2) If yes, who conducted this survey and when was it conducted?
- (3) Did the results of this survey indicate any preference for who should provide the computer support service?
- (4) If yes, which organisation did the electorate offices recommend?
- (5) Did the survey seek comment on the Ministry of Premier and Cabinet taking over this role?
- (6) If yes, what was the level of support for this option?
- (7) Will the Premier table the results of this survey?
- (8) If not, why not?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) Ministry of the Premier and Cabinet. March 1998.
- (3)-(8) No question was asked regarding a preferred organisation. The contract is subject to open tender process and in line with Supply Commission guidelines. The question asked was:

What is your preferred method for the support service -

- . Support as currently provided by a private sector service provider
- . Support to be provided by Ministry of Premier and Cabinet
- . Support to be sourced locally by yourself
- . Any other method - please describe

The results of the survey were as follows:

- . Support as currently provided by a private sector service provider 76%
- . Support to be provided by Ministry of Premier and Cabinet 6%
- . Support to be sourced locally by yourself 6%
- . Any other method -please describe 12%

## SOFTWOOD SCANNER LOGS, SALE

723. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

- (1) In the financial year for 1997/98, what volume of softwood scanner logs was sold in each of the following mid diameter class mm categories -
  - (a) 150-249;
  - (b) 250-299;
  - (c) 300-349;
  - (d) 350-399;
  - (e) 400-449;
  - (f) 450-499; and
  - (g) 500 and greater?
- (2) What do the softwood log codes "S5" and "S6" mean?

Hon MAX EVANS replied:

- |     |                     | Cubic Metres |
|-----|---------------------|--------------|
| (1) | (a) 150-249         | 4 172.76     |
|     | (b) 250-299         | 25 321.18    |
|     | (c) 300-349         | 47 357.96    |
|     | (d) 350-399         | 50 427.61    |
|     | (e) 400-449         | 40 009.14    |
|     | (f) 450-499         | 24 936.88    |
|     | (g) 500 and greater | 17 934.88    |

- (2) S5 and S6 are logs sold on the basis of mid diameter class. The codes identify the method of processing these logs. S6 logs are automatically scanned and processed. S5 logs can be scanned or manually measured, but are processed manually.

## DEPARTMENT OF MINERALS AND ENERGY, OBLIGATIONS

727. Hon TOM HELM to the Minister for Mines:

- (1) Does the Department of Minerals and Energy ("DOME") have an obligation to report on contaminated water?
- (2) If yes, who to and how?
- (3) Does DOME have an obligation to have dumped chemical drums removed or dealt with?
- (4) If so, what are the procedures and protocols for dealing with chemical drums?

Hon N.F. MOORE replied:

- (1) No.
- (2) Not applicable.
- (3) This obligation is shared by the Department of Minerals and Energy and other Government agencies.
- (4) Dumped chemicals are notified through the triple zero phone number to the Fire and Rescue Service. The Fire and Rescue Service will seek advice on control and treatment options from the HAZMAT Emergency Advisory Team which comprises Government Officers from the Fire and Rescue Service, Department of Environmental Protection, Police and the Department of Minerals and Energy.

The HAZMAT Emergency Advisory Team has been set up as part of the WA Hazardous Materials Emergency Management Plan which also maintains an interdepartmental coordination committee to improve the handling of chemical emergencies.

If the ownership of the dumped drums cannot be established, then the Waste Management & Pollution Prevention Division of DEP will deal with the waste disposal according to its guidelines.

## FAMILY COURT, Re K MATTERS

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

How many Re K matters have proceeded to trial in the Family Court of Western Australia in each of the last 12 months where a party has not been represented?

Hon PETER FOSS replied:

The Legal Aid Commission and the Family Court of Western Australia do not keep a separate record of the number of re K matters that have proceeded to trial where a party has not been represented.

## FAMILY COURT, Re K MATTERS

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

In each month of the last 12 months, how many applications for Legal Aid for Re K matters have been refused?

Hon PETER FOSS replied:

The following applications have been refused in the last 12 months:

December 1997	-	1
January 1998	-	1
August 1998	-	2
September 1998	-	1
November 1998	-	1

## DIRECTOR OF PUBLIC PROSECUTIONS, NOLLE PROSEQUI

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

With respect to what matters and when in the period from July 1, 1997 to December 30, 1998, did the DPP advise you of a *nolle prosequi*?

Hon PETER FOSS replied:

It is not the function of the Director of Public Prosecutions to advise the Attorney General as to the lodging of a *nolle prosequi*. On any occasion where, following lodgement of a *nolle prosequi*, I enquire as to the reasons the Director of Public Prosecutions tells me.

## POLICE FACILITIES IN REMOTE ABORIGINAL COMMUNITIES

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

Further to question on notice 187 of 1998 answered on October 13, 1998, will the Minister for Police also provide similar information to other relevant police regions such as that which covers the central desert area?

Hon PETER FOSS replied:

- (1) In remote Aboriginal communities in the Central Police Region Police Posts are established in:
  - (a) Coonana.
  - (b) Warburton Aboriginal Community.
  - (c) Warakurna Aboriginal Community.
- (2) Each facility is a "Police Post" which provides for basic policing operations and accommodation. Operations commenced:
  - (a) Coonana - 1985.
  - (b) Warburton - 1989.
  - (c) Warakurna - the original police post was utilised between 1992-1996. The new police post was officially opened in 1998.
- (3)
  - (a) Coonana - \$50,000.00.
  - (b) Warburton - \$130,000.00.
  - (c) Warakurna - \$160,000.00.
- (4)
  - (a) Homeswest.
  - (b) Local Aboriginal Council "Ngaanyatjarra Aboriginal Council" Alice Springs.
  - (c) Local Aboriginal Council "Ngaanyatjarra Aboriginal Council" Alice Springs.
- (5)
  - (a) Operating Costs are met by ATSIC.
  - (b) Electricity and water together with \$20,000.00 per annum rent are met by WAPS. General upkeep is kept by the Ngaanyatjarra Aboriginal Council.
  - (c) Electricity and water together with \$20,000.00 per annum rent are met by WAPS. General upkeep is kept by the Ngaanyatjarra Aboriginal Council.
- (6) Please refer to items (4) and (5).
- (7) It is understood that an exchange of letters occurred for the construction of the Police Posts. All files have been archived and would require retrieval to confirm this. Former Deputy Commissioner AYTON established an agreement with the communities in relation to these premises. Commander BALCHIN has honoured this agreement in providing back to back patrols to the Central Desert area.

## POLICE, GOLD DETECTION UNIT

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

I refer to question on notice 303 of September 8, 1998 with particular reference to part (2) and the answer provided by the Minister and ask -

- (1) Can the Minister for Police explain the part of Police Operational Procedures that allows a letter of indemnity to criminals who implicate others in an alleged offence?
- (2) Can the Minister explain how a Gold detection unit Police Officer would obtain a letter of indemnity for such a criminal?
- (3) How many times has a criminal suspect been extradited from another State via telephone and been kept under police guard for one week, then flown back to Queensland without being charged?
- (4) What were the circumstances?
- (5) Where are criminal suspects normally questioned?
- (6) How long is someone allowed to be detained while being questioned and not charged?
- (7) Do police usually put criminal suspects they are questioning up in hotels when they are questioning them for extended periods?
- (8) Can the Minister advise if police officers from the Gold Detection Unit are allowed to distribute lists of charged or allegedly charged employers of mining companies to the gold mining community before the allegations and evidence has been tested in a court of law?

Hon PETER FOSS replied:

- (1)-(2) The issue of indemnity is a determination that can only be made by the Director of Public Prosecutions or the presiding Justice.
- (3)-(4) Extradition of prisoners is not arranged over the telephone as suggested. The extradition of a prisoner from interstate is subject to the strict procedures and guidelines enforced by the Service and Execution of Process Act (1992). Approval to extradite a prisoner from interstate must be granted by the Department of Public Prosecutions and further authorised by a magistrate in the State the extradition is sought. If approval is granted then further departmental procedures must be complied with.
- (5) There are many factors which have an influence on how and when an interview of a person is conducted and that is a matter for the investigating officer to determine, based on the nature of the inquiry and the facts available at the time.
- (6) There is no statute law in this State that prescribes for how long a person can be questioned. However the High Court of Australia in 1950 said of a police officer when questioning suspects:

The obligation resting upon police officers is to put all questions fairly and to refrain from anything in the nature of a threat, or any attempt to extort an admission. But it is in the interests of the community that all crimes should be fully investigated with the object of bringing malefactors to justice, and such investigations must not be unduly hampered. Their object is to clear the innocent as well as establish the guilt of offenders. They must be aimed at the ascertainment of the truth, and must not be carried out with the idea of manufacturing evidence or extorting some admission and thereby securing a conviction. Upon the particular circumstances of each case depends the answer to the question as to the admissibility of such evidence.

- (7) No.
- (8) In the event of a person being arrested and charged, that information becomes 'public knowledge' and may be obtained through a number of outlets, such as the courts or the media. The policy of the Western Australia Police Service is to release the details of an 'Alleged Offender' to the media by providing the following:

Name, age and residential suburb of the offender  
Charge details and the alleged facts of the offence  
Date of court appearance  
Names of officers of the unit or portfolio responsible for the apprehension.

In situations involving juvenile offenders, information that would identify the juvenile is not released. Similarly, information is not released in instances involving juvenile victims, where the release of such information would identify the victim. It is a strategy of the Gold Stealing Detection Unit to promulgate throughout the mining industry, details of alleged offenders in compliance with the organisation's policy relating to the release of details of an 'Alleged Offender.' This promotes an avenue for people within this industry who may be able to provide information relating to the alleged offence to come forward.

#### NURSING HOME RESTRUCTURE PROJECT

750. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Health:

- (1) Over how many years has the Nursing Home Restructure Project been operating?
- (2) How many nursing home beds have been distributed to "under-bedded" locations?
- (3) In what facilities and what areas are the redistributed beds now situated?

Hon MAX EVANS replied:

- (1) The State Government Nursing Home Restructure Project was officially announced on 9 August 1995. (3 years 4 months)
- (2) 21 have been approved for distribution to under-bedded areas as facility based bed approvals and 73 allocated to Multi Purpose Services being "cashed out" and not necessarily being facility based.
- (3)

Baptist Homes Busselton	10 (Nursing Home facility)
Kimberley Region	11 (currently in planning phase)

Multi Purpose Service Allocation:

73 Nursing Home Bed approvals allocated to the Multi Purpose Service Project have been pooled with additional Commonwealth allocations for Multi Purpose Services

## VIAGRA, DEATHS

751. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:

In view of the recent report regarding the investigation by the NSW Coroner into what is believed to be Australia's first Viagra-related death, I ask -

- (1) In the event that the coroner establishes that Viagra was directly responsible for the death, what action will the Minister for Health take?
- (2) Is the Minister aware of any other reported side-effects from the use of Viagra?
- (3) What monitoring of the drug has occurred in Western Australia by the Government?
- (4) In view of the suspected Viagra-related death, what monitoring mechanisms does the Minister intend to introduce in WA to assess the ongoing long term health effects of Viagra on Western Australian users?

Hon MAX EVANS replied:

- (1) It is well recognised that Viagra has contra-indications for persons suffering cardiovascular disease particularly, if the person concerned is required to take Nitrate medications as part of their treatment. For these reasons, Viagra is only available on the prescription of a medical practitioner. Any patient requesting Viagra would be expected to undergo assessment by a medical practitioner to determine the suitability of prescribing. It is the role of the Commonwealth Therapeutic Goods Administration to assess the safety and efficacy of drugs such as Viagra. If the Coroner establishes that Viagra is the cause of death, it would be expected that the Therapeutic Goods Administration would take the appropriate action.
- (2) The major side effects are associated with Cardiovascular disease as outlined above.
- (3) No monitoring of Viagra usage has occurred in Western Australia by the Health Department.
- (4) The National Adverse Drug Reactions reporting program is designed to collect information of adverse drugs reactions in the community. It would be expected that adverse effects related to Viagra would be reported through this programme.

## HEALTH DEPARTMENT, OCEANA CONSULTING PTY LTD

763. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Health:

With regards to the Health Department of Western Australia's (HDWA) consultancy contract with Tasmanian firm Oceana Consulting Pty Ltd -

- (1) What was the total cost of the contract?
- (2) Will the Minister for Health break this figure down into-
  - (a) consultancy fee;
  - (b) air travel;
  - (c) accommodation;
  - (d) meals;
  - (e) telecommunications services; and
  - (f) incidental expenses?
- (3) Were written quotations sought before the contract was awarded?
- (4) If yes (3) above, will the Minister state the names of firms who provided quotations?
- (5) If no to (3) above, why not?
- (6) What mechanism was used to choose Oceana Consulting Pty Ltd for this contract?
- (7) Who made the decision which awarded the contract to Oceana Consulting Pty Ltd?

Hon MAX EVANS replied:

- (1) \$47,756.69
- (2)
  - (a) \$40,875
  - (b) \$4,109.75
  - (c) \$1,904.50
  - (d) \$784.94
  - (e) \$82.50
  - (f) nil

- (3) No.
- (4) Not applicable.
- (5) Oceana Consulting was engaged consistent with State Supply Commission guidelines and requirements which allow an exemption from the normal quotation/tender system to be obtained in certain circumstances. An exemption was granted in this case given the sensitivity and scope of the projects and the unique skills and experience of Oceana Consulting.
- (6) Oceana Consulting was selected on the basis of its knowledge and experience and ability to deliver the required outcomes within the short and inflexible time frames available.
- (7) The decision to engage Oceana Consulting was made by the Commissioner of Health, supported by the Department's Procurement Evaluation Committee.

MINISTER FOR HOUSING, CONTRACTS WITH DIRECT DRAINAGE OR GEORGIU CORPORATION

773. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

- (1) Have any agencies or departments under the Minister for Housing's control awarded any contracts to Direct Drainage or Georgiou Corporation since July 1, 1996 -
- (2) If yes, can the Minister provide the following details of those contracts-
  - (a) the name of the contractor;
  - (b) the contract number;
  - (c) the date it was awarded;
  - (d) the project the contract was awarded for;
  - (e) the cost of the contract;
  - (f) if the contract has been completed, the final cost of the contract; and
  - (g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

Homeswest has awarded contracts through the joint venture at Ellenbrook to Direct Drainage WA Pty Ltd and Georgiou Group Pty Ltd but it is not practical for the Department to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on a contract I would be prepared to commit the resources to provide an answer.

HEALTH DEPARTMENT, OCEANA CONSULTING

778. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Health:

With regards to the Health Department of Western Australia's (HDWA) consultancy contract with Tasmanian firm Oceana Consulting Pty Ltd -

- (1) Was a report prepared by Oceana Consulting on behalf of the HDWA?
- (2) Will the Minister for Health table a copy of the report?
- (3) If not, why not?
- (4) Has the HDWA implemented any of the report's recommendations?
- (5) If yes, which ones?

Hon MAX EVANS replied:

- (1) Yes.
- (2) No.
- (3) The report, and recommendations made therein are still under consideration. This report addresses issues which are highly sensitive and contains information which could be regarded as commercial-in-confidence. It is not appropriate for it to be tabled. Following discussion with key stakeholders, the recommendations made in this report may be amended. Once finalised, the recommendations will be made public where appropriate.
- (4) No.
- (5) Not applicable.

## POLICE SERVICE, DRIVE SAFE ADVERTISEMENTS

794. Hon KEN TRAVERS to the Attorney General representing the Minister for Police:

- (1) Is the WA Police Service contributing any funds to the Drive Safe advertisements which publicize booze bus locations on Channel 9 and 96fm?
- (2) If yes, how much are they contributing?

Hon PETER FOSS replied:

- (1) No.
- (2) Not applicable.

## HOMESWEST, BGC CONSTRUCTIONS CONTRACTS

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

In reference to contracts awarded by Homeswest to BGC Constructions a division of Homestyle Pty Ltd in the Homeswest Cannington region since July 1, 1996, can the Minister for Housing provide the following details of those contracts -

- (a) the contract number;
- (b) the date it was awarded;
- (c) the project the contract was awarded for;
- (d) the cost of the contract;
- (e) if the contract has been completed, the final cost of the contract; and
- (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

BGC Construction a division of Homestyle Pty Ltd completes many projects for Homeswest. I do not consider it appropriate for Homeswest to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on a construction contract let by Homeswest then I would be prepared to commit the resources to answer the question.

## HOMESWEST, BGC CONSTRUCTIONS CONTRACTS

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

In reference to contracts awarded by Homeswest to BGC Constructions a division of Homestyle Pty Ltd in the Homeswest Fremantle region since July 1, 1996, can the Minister for Housing provide the following details of those contracts -

- (a) the contract number;
- (b) the date it was awarded;
- (c) the project the contract was awarded for;
- (d) the cost of the contract;
- (e) if the contract has been completed, the final cost of the contract; and
- (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

BGC Construction a division of Homestyle Pty Ltd completes many projects for Homeswest. I do not consider it appropriate for Homeswest to commit the resources required to answer the question in its current form. If the Hon Member has a specific question on a construction contract let by Homeswest then I would be prepared to commit the resources to answer the question.

## MINISTER FOR WORKS, CONTRACTS

798. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Works:

With reference to the following contracts -

- (a) Triad Contractors - Contract number 3045;
- (b) Jaxon Construction - Contract number 2716;
- (c) Jaxon Construction - Contract number 2803;
- (d) Jaxon Construction - Contract number 2829;
- (e) Jaxon Construction - Contract number 2830;
- (f) Jaxon Construction - Contract number 2838;
- (g) Jaxon Construction - Contract number 2866;
- (h) Jaxon Construction - Contract number 2906;
- (i) Jaxon Construction - Contract number 3018;
- (j) Jaxon Construction - Contract number 3161;

- (k) Jaxon Construction - Contract number 3228;
- (l) Jaxon Construction - Contract number 3298; and
- (m) Doric Constructions - Contract Number 3241,

can the Minister for Works state -

- (i) the reason for the increase in the cost of the contract;
- (ii) any variations to the design of the original contract;
- (iii) who suggested the variations to the contract;
- (iv) whether there was a rise and fall clause in the contract;
- (v) who approved the increase in the contract cost;
- (vi) was prior approval sought by the company for the cost over-run, and if yes, from whom?

Hon MAX EVANS replied:

This information was correct as at 18 December 1998:

I am advised that:

- (i)-(vi) Cost increases may occur from variations which could arise from several reasons including clients requests, documentation adjustments and site conditions. A consultant is given authority to approve variations between \$2,000 and \$5,000, depending on the size of the project. Where a variation is in excess of \$5,000 the client's approval is required. All variations to the contract are carried out under instructions from the Superintendent's Representative only. To provide the specific details requested in this question would require a large use of resources and take considerable time to compile.

#### WATER CORPORATION, HOSPITALITY SUITE AT WORLD SWIMMING CHAMPIONSHIPS

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

What was the total cost of the Water Corporation's hospitality suite at this year's World Swimming Championships?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

\$20,950.00.

#### DEPARTMENT OF CONTRACT AND MANAGEMENT SERVICES, CONTRACT No 110697

803. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Works:

With regards to the Department of Contract and Management Services contract No 110697 for the Provision of Public Relations, Marketing and Marketing Communications Services -

- (1) How much has been paid to each company since the commencement of this contract on April 23, 1998 to November 27, 1998 -
  - (a) 303 Advertising Pty Ltd;
  - (b) Marketforce Advertising;
  - (c) Marketforce Productions;
  - (d) The Brand Agency;
  - (e) The Shorter Group;
  - (f) Vinten Browning;
  - (g) Kapow! Advertising;
  - (h) Adlink Advertising;
  - (i) Bowtell Clarke & Yole;
  - (j) John Davis Advertising Pty Ltd;
  - (k) Stratagem Advertising; and
  - (l) Workhouse Advertising?
- (2) How many contracts has each company received from this contract between April 23, 1998 and November 27, 1998?

Hon MAX EVANS replied:

This information was correct as at 18 December 1998:

I am advised that:

- (1)-(2) This is a panel contract. Individual government agencies access contractors on the panel according to their specific needs. A "special condition" of this contract requires contractors to provide CAMS with the value of expenditure of work completed under this contract annually (to 30 June) only, in order to reduce the reporting requirements of



individual small business contractors. To provide the specific details requested in this question would require a large use of resources across all government agencies, as well as contractors on this panel, and take considerable time to compile.

#### RACING AND GAMING, ANNUAL REPORTS

812. Hon KEN TRAVERS to the Minister for Racing and Gaming:

(1) Have the following 1997/98 annual reports been produced, or have contracts been awarded for their printing -

- (a) Office of Racing, Gaming and Liquor;
- (b) Gaming Commission of Western Australia;
- (c) Betting Control Board;
- (d) Racecourse Development Trust;
- (e) Racing Penalties Appeal Tribunal;
- (f) Western Australian Greyhound Racing Authority;
- (g) Totalisator Agency Board; and
- (h) Burswood Park Board?

(2) If yes, for each report can the Minister state -

- (a) the name of the printer;
- (b) how many copies have been, or will be, printed; and
- (c) the cost of -
  - (i) artwork;
  - (ii) publication;
  - (iii) distribution; and
  - (iv) writing?

(3) Was the 1997/98 annual report produced wholly within the department or agency?

(4) If not -

- (a) what services were provided by contractors; and
- (b) at what cost?

Hon MAX EVANS replied:

(1)

Agency	Report produced/Contract awarded
Office of Racing, Gaming and Liquor	Contract awarded
Gaming Commission	Contract awarded
Betting Control Board	Contract awarded
Racecourse Development Trust	Contract awarded
Racing Penalties Appeal Tribunal	Contract awarded
Western Australian Greyhound Racing Authority	Contract not awarded
Totalisator Agency Board	Yes
Burswood Park Board	Yes

(2)

Agency	Name of Printer	Copies	Cost
Office of Racing, Gaming and Liquor	Expo Document Copy Centre	200	Not known
Gaming Commission	Expo Document Copy Centre	100	Not known
Betting Control Board	Expo Document Copy Centre	100	Not known
Racecourse Development Trust	Expo Document Copy Centre	100	Not known
Racing Penalties Appeal Tribunal	Expo Document Copy Centre	100	Not known
WA Greyhound Racing Authority	N/A	100	N/A
Totalisator Agency Board	Sands/Fairplay Print	500	(i) \$11,038. (ii) \$3,902. (iii) not distributed (iv) \$ 1,504.

Burswood Park Board	M & M Print	50	(i) \$480. (ii) \$650. (iii) \$15. (iv) \$270.
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(3) No.

(4).

Agency	Services	Cost
Office of Racing, Gaming and Liquor	Typesetting, artwork and printing	Not known
Gaming Commission	Typesetting, artwork and printing	Not known
Betting Control Board	Typesetting, artwork and printing	Not known
Racecourse Development Trust	Typesetting, artwork and printing	Not known
Racing Penalties Appeal Tribunal	Typesetting, artwork and printing	Not known
WA Greyhound Racing Authority	Typesetting and Printing	N/A
Totalisator Agency Board	(i) Artwork and Typesetting - 303 Advertising Creative Design Copyright	(i) \$12,542.
	(ii) Printing	(ii) \$ 3,902.

Burswood Park Board	Printing, artwork and writing	\$ 1,400.
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#### INSURANCE COMMISSION AND GOVERNMENT EMPLOYEES SUPERANNUATION BOARD, ANNUAL REPORTS

814. Hon KEN TRAVERS to the Minister for Finance:

(1) Have the following 1997/98 annual reports been produced, or have contracts been awarded for their printing -

- (a) Insurance Commission of Western Australia; and
- (b) Government Employees Superannuation Board?

(2) If yes, for each report can the Minister state -

- (a) the name of the printer;
- (b) how many copies have been, or will be, printed; and
- (c) the cost of -
  - (i) artwork;
  - (ii) publication;
  - (iii) distribution; and
  - (iv) writing?

(3) Was the 1997/98 annual report produced wholly within the department or agency?

(4) If not -

- (a) what services were provided by contractors; and
- (b) at what cost?

Hon MAX EVANS replied:

Insurance Commission of Western Australia

- (1) (a) Yes.
- (b) Not applicable.
- (2) (a) Lamb Print.
- (b) 600.
- (c) (i) \$14,561.75 for all graphic design and artwork.
- (ii) \$8,450.00 for printing.
- (iii) \$1,080.00 for postage.
- (iv) Nil (written in-house).
- (3) No.
- (4) (a) Printing and graphic design.
- (b) Total cost is \$23,011.75.

Government Employees Superannuation Board

- (1) Yes.

- (2) (a) Frank Daniels Pty Ltd.  
(b) 600.  
(c) (i) \$11,662.  
(ii) \$12,800.  
(iii) \$450 (estimated).  
(iv) Nil - done internally.
- (3) No.
- (4) (a) Artwork, Design, Typesetting, Photography, Illustration, Printing.  
(b) \$24,462.

#### SWAN RIVER TRUST AND WATER AND RIVERS COMMISSION, ANNUAL REPORTS

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

- (1) Have the following 1997/98 annual reports been produced, or have contracts been awarded for their printing -
  - (a) Swan River Trust; and
  - (b) Water and Rivers Commission?
- (2) If yes, for each report can the Minister for Water Resources state -
  - (a) the name of the printer;
  - (b) how many copies have been, or will be, printed; and
  - (c) the cost of -
    - (i) artwork;
    - (ii) publication;
    - (iii) distribution; and
    - (iv) writing?
- (3) Was the 1997/98 annual report produced wholly within the department or agency?
- (4) If not -
  - (a) what services were provided by contractors; and
  - (b) at what cost?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) (a) No.  
(b) Yes.
- (2) (a) Water and Rivers Commission - Scott Four Colour.  
(b) Water and Rivers Commission - 1000.  
(c) (i) Water and Rivers Commission - \$5990 (quoted but not yet invoiced).  
(ii) Water and Rivers Commission - \$5650 (quoted but not yet invoiced).  
(iii) Water and Rivers Commission - not yet distributed.  
(iv) Water and Rivers Commission - \$887.50.
- (3) No.
- (4) (a) Swan River Trust - editing, desktop publishing and printing. Water and Rivers Commission - writing/editing, artwork (including desktop publishing and photography).  
(b) Swan River Trust - \$800 (quoted but not yet invoiced), \$1280 (quoted but not yet invoiced), contract not yet awarded. Water and Rivers Commission - \$887.50, \$5990 (quoted but not yet all invoiced).

#### OFFICE OF MULTICULTURAL INTERESTS, ANNUAL REPORT

818. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

- (1) Has the 1997/98 Office of Multicultural Interests annual report been produced, or has a contract been awarded for its printing?
- (2) If yes, can the Minister for Citizenship and Multicultural Interests state -

- (a) the name of the printer;
- (b) how many copies have been, or will be, printed; and
- (c) the cost of -
  - (i) artwork;
  - (ii) publication;
  - (iii) distribution; and
  - (iv) writing?
- (3) Was the 1997/98 annual report produced wholly within the department or agency?
- (4) If not -
  - (a) what services were provided by contractors; and
  - (b) at what cost?

Hon MAX EVANS replied:

This information was correct as at 18 December 1998:

I am advised -

- (1) The contract to print the annual report has been awarded and the report will be available by the end of December 1998.
- (2)
  - (a) P K Print.
  - (b) 200 copies.
  - (c)
    - (i) \$1 828.
    - (ii) \$2 047.
    - (iii) Cost of postage (estimated at \$125.00).
    - (iv) Nil.
- (3) No. The writing and distribution of the report was undertaken by OCMI and P K Print will carry out the artwork and printing of the annual report.
- (4)
  - (a) Artwork and printing.
  - (b) \$4 000.

#### MINISTER FOR REGIONAL DEVELOPMENT, ANNUAL REPORTS

823. Hon TOM STEPHENS to the Leader of the House representing the Minister for Regional Development:

- (1) Can the Minister for Regional Development name the regional departments and agencies under his control which printed their 1997/98 annual reports in the Perth metropolitan area rather than utilising the services of local businesses?
- (2) For each annual report listed in answer to (1) above, can the Minister for Regional Development state -
  - (a) why the report was printed in the Perth metropolitan area rather than in regional cities and towns;
  - (b) how many companies tendered for the contract;
  - (c) did any local regional companies tender for the contract; and
  - (d) what were the original and actual final costs of the contract?

Hon N.F. MOORE replied:

Goldfields Esperance Development Commission

- (1)-(2) (a) Goldfields Esperance Development Commission tendered for a contractor to provide a graphic design package. Three local businesses tendered for the job and all incorporated printing into the overall package. The successful local graphic designer chose a Perth based printer.
- (b) Three.
- (c) Yes.
- (d) The quoted costs were \$5 604 and the actual final costs were \$6 021.

## Kimberley Development Commission

- (1)-(2) (a) One provider of this service exists in Kununurra. A previous invitation to this company for a quotation was declined due to the complexity of the job and the inability of the company to meet the requirements for the report. In assessing management of the processes it was decided that utilising a metropolitan contractor provided less risk due to the complexity of the task and the time restrictions imposed by the statutory reporting requirements.
- (b) Three.
- (c) No.
- (d) Original quote \$10 481.00 plus any variations and courier costs.  
 Actual final costs \$10 481  
 Variations \$ 2 186.75 (variations)  
                   \$ 67.15  
                   \$12 734.90

## Wheatbelt Development Commission

- (1)-(2) (a) The Wheatbelt Development Commission's report was printed in Perth because printers in the region were unable to meet the required technological standard.
- (b) Three.
- (c) No.
- (d) The quoted cost of the contract was a total of \$6 270.00 and the final cost was \$7 812.50. The final cost was greater than the original price because the original was based on the report being a total of 48 pages, whereas the final report contained 56 pages.

## HOME AND COMMUNITY CARE PROGRAM, "NO TROUBLE" TRAINING PACKAGE

849. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Health:

Page 8 of the document, "Time on Our Side", states that, 'The Government will....through the Home and Community Care Program, continue to develop "No Trouble", a management training package for indigenous service providers.'. How will the development of the training package continue?

Hon MAX EVANS replied:

The development of the "No Trouble" training package for indigenous service providers has been completed. During 1997-98, training on the package took place in all Health Department regions across Western Australia for indigenous service providers in the Home and Community Care Program. A report on the training program has been circulated and the recommendations are to be considered.

## SOUTH WEST HEALTH CAMPUS, BEDS

859. Hon BOB THOMAS to the Minister for Finance representing the Minister for Health:

In relation to the new South West Health Campus -

- (1) How many beds will be available in the new public hospital in the following wards -
- (a) medical;  
 (b) surgical;  
 (c) psychiatry;  
 (d) paediatrics; and  
 (e) intensive care?
- (2) If there is variance in these numbers with those agreed to under the Memorandum of Understanding and Combined Facilities Agreement of March 1996, can the Minister for Health explain why?

Hon MAX EVANS replied:

- (1) (a) Medical: 30  
 (b) Surgical: 30  
 (c) Psychiatry: 15  
 (d) Paediatrics: 12  
 (e) Intensive care: 8

- (2) The Combined Facilities Agreement of March 1996 states the new BHS facility will comprise a public hospital having approximately 130 beds [pp 29]. In addition to the bed types listed in Question 1, the following is a list of beds which will be available in other care categories.

Obstetrics 10 beds  
 Rehabilitation/Restorative beds 10  
 Day procedure places 20  
 Neonates (allowance is made for 8 places and this service will be developed during 1999/2000)

The Combined Facilities agreement indicated an approximate total number of beds of 130 and also indicatively listed 35 beds each for medical and surgical beds. Whilst the actual number of medical/surgical beds is 30 each, the variation is explained by the designation decision to allocate 10 of these beds to restorative care and rehabilitation.

The other variance relates to the finalisation of the assessment of requirements giving an increased emphasis on day procedures.

#### PYRTON, MARKET EQUITY POLL

870. Hon KEN TRAVERS to the Minister for Justice:

With regards to the article in *The West Australian* of July 17, 1998, page 28, concerning a phone poll conducted by the firm Market Equity concerning the proposed women's prison at Pyrtton -

- (1) What was the cost of the services provided by Market Equity?
- (2) What date was the contract or consultancy awarded and when did it cease?
- (3) Did any other firms tender for the contract, and if yes, how many?

Hon M.J. CRIDDLE replied:

- (1) \$8,100.
- (2) The contract was awarded on 13 July 1998 and ceased on 30 July 1998.
- (3) Yes, two.

#### POLICE, BRENNAN CASE

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

- (1) Did officers of the CIB or the Internal Investigations Bureau investigate the disappearance of all of Brennan's vehicles?
- (2) If not, why not?
- (3) Was Acting Inspector R M Thoy interviewed by the Internal Affairs Branch to ascertain his knowledge of the Brennan complaint following his investigation of the matter?
- (4) If not, why not?

Hon PETER FOSS replied:

- (1) Officers from the (then) CIB Motor Squad investigated the alleged theft of vehicles reported by Mr Brennan.
- (2) Not applicable.
- (3) No.
- (4) Acting Inspector Thoy would have only been able to convey hearsay information to the investigating officers. For this reason the investigators conducted interviews with Mr Brennan.

#### POLICE, COMMANDER JACK MCKAAY, HUNTER AND DUGGAN INTERVIEW

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

- (1) Did Commander Jack McKaay travel to Sydney to interview Hunter and Duggan?
- (2) If yes, on what date?
- (3) How did Commander Jack McKaay find Hunter and Duggan's whereabouts and why didn't he arrest them on the spot?

(4) Why was a senior officer such as Commander Jack McKaay sent to Sydney to investigate this matter?

Hon PETER FOSS replied:

- (1) The (then) Commander (Discipline), Mr Jack Mackaay, travelled to New South Wales, Victoria and South Australia in February 1995 to compare internal investigation practices and processes against those in Western Australia.
- (2) The eastern states visitation was between 19 and 25 February 1995.
- (3) Prior to Mr Mackaay's departure from Western Australia, Mr Hunter contacted the Internal Investigations Unit and agreed to locate Mr Duggan in Sydney. Both men agreed to be interviewed by Mr Mackaay during his visitation to Sydney. The men were not arrested as there were no warrants, or other processes, in existence for them.
- (4) Refer (1) above.

#### POLICE, BRENNAN CASE

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

Why didn't the investigation relating to the Brennan complaint fall within the mandate of the duties of the Inspectorate?

Hon PETER FOSS replied:

The investigation relating to the Brennan complaint did not fall within the mandate of the duties of the Inspectorate as the office of the Executive Commander of the Inspectorate was only responsible for auditing the Police Service, maintaining dress and discipline standards, education in relation to station audit procedures and matters of police protocol. Within the Police Service the Internal Investigations Unit and Internal Affairs Unit are and were responsible for investigating complaints against police officers.

#### POLICE, CRIMMINS CASE

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

- (1) After a briefing of the then Deputy Commissioner Mr L Ayton by Acting Commander Hawkes on December 9, 1994, was Acting Inspector R M Thoy given explicit instructions from Deputy Commissioner Mr L Ayton to cease the investigation of a complaint by Ms L Crimmins claiming that she had been indecently assaulted by a member of the Witness Protection Unit after she had only been on the program for four days?
- (2) If yes, why?
- (3) Why was Acting Inspector Thoy also instructed to refer Ms L Crimmins to Commander Jack McKaay of the Internal Investigations Branch if she called again?
- (4) If yes, why?
- (5) If Deputy Commissioner Mr L Ayton ordered Acting Inspector R M Thoy to immediately stop the investigation of the complaint by Ms L Crimmins, who was given the task of investigating the complaint?
- (6) If no one was given instructions to investigate the complaint, why wasn't the complaint investigated?

Hon PETER FOSS replied:

- (1) Yes.
- (2) Investigation of the complaint came within the purview of the Commander (Discipline) and the matter was referred to the then Internal Investigations Branch.
- (3)-(4) As the matter had been referred to the office of the commander (Discipline), it was no longer appropriate for A/Inspector Thoy (who was attached to the Inspectorate) to be dealing with the complainant.
- (5) The task of investigating the complaint was allocated to the then Internal Investigations Branch.
- (6) Not applicable, refer to (5) above.

#### WATER RESOURCES, INFORMATION

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

- (1) What plans does the Government have to ensure the large volume of water resource information is made available to the public?

- (2) What strategy does the Government have to ensure Western Australian water resources are monitored to provide an accurate assessment of the health of the State's water resources?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The Water and Rivers Commission maintains water resource databases for surface and groundwater. Data is made available to the public on request. Information on the availability and quality of water is provided to the public through enquiries made to the regional offices situated throughout the State and the central office in Perth. The central office has a groundwater enquiries public counter and a groundwater bores enquiries phone line. The Water and Rivers Commission also publishes water resource allocation plans and water source protection plans. These plans provide a basic understanding of the resource and set out the guidelines and mechanisms for the allocation of water for consumption and protection of water resources.
- (2) The Water and Rivers Commission maintains a surface water gauging and groundwater well network throughout the State providing data for a range of water resource assessment programs.

### QUESTIONS WITHOUT NOTICE

#### ABORIGINAL INFANTS, SUDDEN INFANT DEATH SYNDROME

**850. Hon TOM STEPHENS to the minister representing the Attorney General:**

With respect to the annual report of the Office of the State Coroner, which was recently tabled in Parliament -

- (1) Can the Attorney General confirm that the report showed that the incidence of Aboriginal infant deaths from sudden infant death syndrome is seven times higher than that for the non-Aboriginal community?
- (2) If yes, has the Attorney General brought the matter to the attention of the Minister for Health and the Minister for Aboriginal Affairs?
- (3) If not, why not?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) I suggest that the member read the report and draw his own conclusions.
- (2)-(3) We have drawn their attention to the report.

#### ARTIFICIAL SURFING REEF, COMPLETION DATE

**851. Hon TOM STEPHENS to the Minister for Sport and Recreation:**

Can the minister confirm that his commitment to have the artificial surfing reef at Cottesloe completed by Christmas is on target? If not, why not?

**Hon N.F. MOORE replied:**

I am unaware of the completion date. I understand that it will be early 1999. The whole process has been fascinating. I inherited it from my predecessor, Hon Doug Shave, who inherited it from Hon Graham Edwards, who started it about 10 or more years ago but did not proceed much beyond some preliminary work. Hon Doug Shave took up the matter again and I have followed it through. We then had much more work done on it and it was decided to proceed. An announcement was made to proceed with it prior to the previous election. It was absolutely vital to make sure that all environmental concerns were dealt with and to take into account the importance of building the reef properly, because there are several views about whether it will work. All the research suggested that it would work, but I took the cautious approach of having more research done by various groups to see how it could happen.

We then called for expressions of interest to build it once I was satisfied that the research had been done and that the thing would in fact work. There were conforming and non-conforming expressions of interest and proposals were put in respect of different ways of building it. We then went back to the drawing board to consider the two different construction methods



that were proposed. It took some time to decide whether the non-conforming structural process would deliver the goods. It was decided not to go down that path but to accept the lowest conforming tender. That added another dimension in respect of the time frame. The tender was let probably about eight weeks ago. I understand that progress has been made to build the reef, but it will not be built by Christmas; it will be completed early next year. The best time for surf on the artificial reef will be towards winter next year. That is when the maximum benefit will be felt. Whether or not the reef is built by Christmas will not have a great effect on the capacity for surf at that location; it will be best for surfing in February.

#### PERRY LAKES ATHLETICS FACILITY, REPLACEMENT

##### **852. Hon N.D. GRIFFITHS to the Minister for Sport and Recreation:**

Has the minister made the decision on the replacement athletics facility at Perry Lakes stadium? If not, in view of the time and money already spent on feasibility studies for a replacement centre, when will the decision be made?

##### **Hon N.F. MOORE replied:**

No, a decision has not been made. Perhaps I should give the member some background. Athletics, of course, has been located at Perry Lakes since 1962, when the facility was built. The facility has been upgraded on several occasions to ensure that the track is in good shape, although it is now beginning to wear out and has reached the end of its useful life. A decision will need to be made on whether Perry Lakes is refurbished or whether a new facility is built. I have had some research done in respect of a new facility, firstly in respect of the multipurpose stadium. It was put to the consultants when that report was done to consider whether an athletics track could be built together with a soccer-rugby ground. The consultants recommended that we not go down that path and that we separate athletics from the other two sports. They recommended that we build a new athletics stadium on a site in the general vicinity of Perry Lakes at a cost of about \$9m or \$10m. That report was done in the context of whether we could have an athletics track with a rugby-soccer rectangular stadium. No decision has been made about that, and no decision has been made about the location or when a multipurpose stadium will be built.

Athletica, which manages athletics in Western Australia, and Curtin University have considered a joint venture to build a new athletics track. They were assisted by the Government in respect of a consultant's report that they did on locating the athletics track at Curtin University. I have received that report, but no decision has been made on it, either.

Hon Ken Travers: We will have it at the Arena.

Hon N.F. MOORE: That is another issue, but it has been suggested by Athletica that we need a track in the northern suburbs. I do not disagree with that; it is a matter of finding the money, as with everything else. I am having discussions with the Town of Cambridge about the future of Perry Lakes because it has made a decision and as a result Perry Lakes does not have a long-term future. I need to contemplate what it will cost to upgrade Perry Lakes to keep it going as a viable athletics track in the future compared with the cost of building a new one. I am working through those issues. A decision will be made as soon as I am able to bring the loose ends together and acquire from Treasury the funds that will be necessary to either build a new track or fix Perry Lakes.

#### WILLIAMSTOWN RESIDENTS COMMITTEE

##### **853. Hon GIZ WATSON to the minister representing the Minister for the Environment:**

I refer to question on notice 1531 of 9 April 1998 and a facsimile to the minister's office of 14 December with attached letter dated 10 March signed by Mr Gerard Anderson, Acting General Manager, Kalgoorlie Consolidated Gold Mines Pty Ltd, addressed to the Williamstown Residents Committee.

- (1) Did the minister mislead Parliament when he replied "No" to part 9?
- (2) Has Homestake Australia Ltd and Normandy Exploration Ltd misled the Williamstown Residents Committee by stating that the seismic monitoring system locates and measures the magnitude of all blasts and seismic events within about a two-kilometre radius of the operations?
- (3) If yes to (1) will the minister apologise to Parliament?
- (4) If no to (1) will the minister ensure the misleading documentation is not provided to the Williamstown residents by Homestake Australia Ltd and Normandy Exploration?

##### **Hon MAX EVANS replied:**

I thank the member for some notice of this question.

Providing information in the time required is not possible and I request that the member place the question on notice.

BENNETT HOUSE, DEMOLITION

**854. Hon HELEN HODGSON to the minister representing the Minister for Aboriginal Affairs:**

- (1) Is the minister aware that prior to Sunday 25 October 1998 the East Perth Redevelopment Authority was going to demolish Bennett House on that date?
- (2) Is the minister aware that Bennett House was a registered Aboriginal site?
- (3) Is the minister aware that no consent was sought under section 18 of the Aboriginal Heritage (Marandoo) Act 1972 to destroy or disturb a registered Aboriginal site?
- (4) Will the minister prosecute the East Perth Redevelopment Authority for breach of the Aboriginal Heritage (Marandoo) Act? If not, why not?

**Hon N.F. MOORE replied:**

- (1) The Minister for Aboriginal Affairs was aware that the East Perth Redevelopment Authority intended to redevelop the land on which Bennett House was located. The minister was not aware that demolition was to occur on 25 October 1998.
- (2) No, Bennett House had been reported as an Aboriginal site, but had not been included on the permanent register of sites.
- (3) Yes, the minister has been advised that consent was not sought from the Aboriginal Cultural Material Committee.
- (4) In order to assess what further action may be necessary, the minister referred the matter to the ACMC for its consideration and advice.

NORTHERN FREEWAY EXTENSION, LANDSCAPING

**855. Hon RAY HALLIGAN to the Leader of the House:**

What level of funding has been allocated towards landscaping of the northern freeway extension?

Hon Ljiljanna Ravlich: Great question!

**Hon N.F. MOORE replied:**

It is a terrific question, but the answer is not so flash.

The PRESIDENT: Order! It amazes me that Hon Ljiljanna Ravlich would have the audacity to determine whether someone else's question was right, wrong or otherwise. Each member has an opportunity here to ask whatever question he or she wants so long as it is within the standing orders. Her name is on the list and she will get her chance in due course.

Hon N.F. MOORE: I thank the member for some notice of this question. No funds have been allocated by the Department of Transport for landscaping. The landscaping to the extension will be funded by Main Roads at an estimated cost of \$200 000.

POSTNATAL DEPRESSION

**856. Hon CHERYL DAVENPORT to the minister representing the Minister for Health:**

Volume Two of the "Childbirth Stress and Depression" report of August 1998 is critical of the lack of progress in providing services to women with postnatal depression since recommendations were made on this issue in the 1995 Volume One report.

- (1) Can the minister confirm the report claims that very little progress has occurred in the three years since the 1995 report, with little or no increase in funding to such programs, despite increased referrals and increased funding requests?
- (2) Does the minister agree with this claim?
- (3) Can the minister explain why very little progress has been made in providing these services since 1995?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) No.

- (3) The "Childbirth Stress and Depression" report covers the implementation of a particular approach to addressing the needs of women experiencing postnatal depression and does not cover all services for this group. For instance, it does not note the statewide growth in mental health services since 1996-97 and the increased capacity this provides for specialist services for women experiencing postnatal depression. Rural areas in particular have benefited from the mental health reform program. Additional funds will be allocated in 1998-99 for the expansion of specialist postnatal depression services.

#### PRISON BEDS

**857. Hon JOHN HALDEN to the minister representing the Minister for Justice:**

When asked in the House on 24 November if supplementary funding had been obtained to meet the cost of an additional 150 prison beds the minister had promised in March this year he said, "I do not know the stage this has reached".

- (1) Is the minister now in a position to inform the House if extra money has been sought from Treasury to fund the additional 150 beds?
- (2) If yes, how much extra money has been sought?
- (3) If not, why not?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) Capital - 1998-2003 - \$25.052m  
Recurrent - 1998-2003 - \$20.689m
- (3) Not applicable.

#### JERVOISE BAY, TOXIC PLUMES

**858. Hon J.A. SCOTT to the minister representing the Minister for the Environment:**

- (1) Was the Department of Commerce and Trade required to intercept ground water plumes to prevent toxic or nutrient rich ground water entering the northern harbour in Jervoise Bay?
- (2) If yes, has it done this?
- (3) If no, what steps has the Department of Environmental Protection or the Environmental Protection Authority taken to require the proponent to fulfill these conditions and what has been the response from the proponent?
- (4) Did the these nutrient rich ground water plumes contribute to the algal blooms that occurred in the northern harbour following its construction?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

Providing the information in the time required is not possible and I request that the member place the question on notice.

#### CALM, DR TURNER'S ASSESSMENT OF METHODOLOGY

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

Further to the question without notice asked yesterday -

- (1) Is the minister aware that when Dr Turner conducted his assessment of CALM's methodology, the only factor of which he had been made aware was jarrah dieback?
- (2) Will the minister ensure that an independent assessment of CALM's methodology in assessing all factors such as waterlogging, salinity, frost armillaria, luteobubalina and decreased rainfall, will be conducted?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) The member's assertion is incorrect. Dr Turner has considered that prescribed burning and dieback are the major issues impacting on the ecological environment of the forests in terms of their effect on estimating future yields.

- (2) These matters will be taken account of in future modelling.

MID WEST INDUSTRY DEVELOPMENT UNIT

**860. Hon J.A. COWDELL to the Leader of the House representing the Minister for Regional Development:**

I refer to the contract awarded for the provision of consultancy services to research opportunities to buy local on behalf of the Mid West Industry Development Unit.

- (1) What is the value of the contract awarded to the successful tenderer?
- (2) Over what period will the contractor be in operation?
- (3) On what grounds was the successful tenderer chosen above the locally based central west college of TAFE?
- (4) Have any other industry development units commissioned around the State tendered for similar consultancies?
- (5) If yes to (4), which agencies have tendered for such consultancies and which have been the successful tenderers?

**Hon N.F. MOORE replied:**

The question is actually under Hon John Cowdell's name. I hope that when we return, the Labor Party's system will be better organised so it does not complain that ministers do not answer questions when they cannot find them in their files. I thank the member for some notice of this question.

- (1) The value of the "buy local" contract awarded to the successful tenderer on behalf of the Mid West Industry Development Unit is \$35 000.
- (2) The contract will be in operation for a period of 10 weeks.
- (3) The successful tenderer was chosen because of its demonstrated corporate experience and superior skills and expertise relevant to the requirements.
- (4) No other regional development commissions have tendered for similar consultancies.
- (5) Not applicable.

STATE TRAINING BOARD, INDUSTRY TRAINING ADVICE

**861. Hon KIM CHANCE to the Leader of the House representing the Minister for Employment and Training:**

Some notice of this question has been given. I refer to the State Training Board's new funding allocation for industry training advice which has been seen as so biased and unfair that two board members have resigned and a writ has been issued in an attempt to ensure a proper process is followed in spending this taxpayers' money. Will the minister accept his responsibilities and set aside these funding allocations and establish a proper and fair process for the allocation of funds for industry training advice?

Hon Ljiljanna Ravlich: Good question.

The PRESIDENT: Order! It may not be a good question because we have rules about questions in this place. Hon Kim Chance has been here long enough to know them, but I remind him that Standing Order No 140 does not allow the inferences and imputations with which he introduced his question.

**Hon N.F. MOORE replied:**

The question states "will the minister accept his responsibilities" regarding the State Training Board. I do not have any responsibilities in respect of the State Training Board.

MINISTER FOR COMMERCE AND TRADE, ELECTRONIC COMMERCE

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

Some notice of this question has been given. I refer to the report which appeared in *The West Australian* of 19 November 1998 stating that the Auditor General had warned the State Government that it might need to overhaul many of its regulations to take full advantage of the move to electronic commerce. The Auditor General further warned that new laws and regulations often lag behind technological changes and that some public sector agencies needed to consider this risk when using new forms of electronic commerce.

- (1) Does the Minister for Commerce and Trade accept these reported warnings?
- (2) If yes, what action does the minister propose to take to address these warnings?
- (3) When will the minister take such action?

**Hon N.F. MOORE replied:**

I regret that I do not have an answer to that question and I ask that it be placed on notice.

## ATTORNEY GENERAL, ACTION TO REDUCE INCIDENCE OF SUICIDE

**863. Hon LJILJANNA RAVLICH to the minister representing the Attorney General:**

In relation to the State Coroner's recently released annual report -

- (1) Does the Attorney General share the State Coroner's concern that the incidence of suicide rose by approximately 30 per cent last year?
- (2) If yes, what action has the Attorney General taken to effect a reduction in this high rate of suicide?
- (3) Will this action include increased funding for studies into the causes of suicide and its prevention?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2)-(3) These questions would be more appropriately addressed to the Minister for Health.

## SWAN RIVER TRUST, PIER 21 DEVELOPMENT

**864. Hon KEN TRAVERS to the minister representing the Minister for Water Resources:**

With reference to the Minister for Water Resources' answer to yesterday's question without notice 759 in which he stated that the Swan River Trust's concerns about the Pier 21 development had been satisfactorily addressed -

- (1) Did the Swan River Trust have concerns about the setbacks from the building on lot 100 to the Swan River foreshore?
- (2) If yes, have these setbacks been increased by the developer?
- (3) If the setbacks have not been increased, why were the Swan River Trust's concerns about them not addressed before the appeal was upheld?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes. The Swan River Trust advised the City of Fremantle that the development did not comply with the trust's policy.
- (2) The development line was altered to vary the setback, increasing it along parts of the development line. The riverfront design and the height of the development were also altered to reduce the impact of the height and bulk of the development along the river.
- (3) The modifications outlined in (2) addressed the trust's concerns. That information was contained in the trust's recommendation to the Minister for Water Resources, who gave notice to the Minister for Planning prior to the appeal being determined.

## PAROLE, REVIEW OF PAROLE BOARD'S DECISIONS

**865. Hon HELEN HODGSON to the minister representing the Attorney General:**

When a prisoner is sentenced to a term of imprisonment which is subject to a parole eligibility order and at first instance the Parole Board denies the prisoner's parole -

- (1) Can the prisoner request a review of the decision of the Parole Board?
- (2) Are there any guidelines or rules as to when the prisoner's eligibility for parole shall be reconsidered by the Parole Board? If so, will the minister table those guidelines or rules?
- (3) Who makes the determination about when the prisoner's parole shall be reconsidered?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) Yes. Section 27(3) of the Sentence Administration Act provides that a prisoner whose release on parole has been refused may make a written submission to the Parole Board about its decision and reasons.
- (2) The Parole Board is an independent statutory authority which has established its own guidelines about the reconsideration of the cases of prisoners who have been denied parole. A prisoner may request to appear personally before the Parole Board to present his case for a reconsideration of the board's decision to deny parole. Parole Board meetings are presently held once a month for this. Alternatively, the prisoner may make a written submission to the Parole Board for a reconsideration of its decision. This would generally be considered by the Parole Board at its next scheduled general meeting, presently held on each Friday of the month except the last Friday.
- (3) The Parole Board.

#### PRISON ESCAPES, NUMBER

#### 866. Hon JOHN HALDEN to the minister representing the Minister for Justice:

How many escapes were recorded from Western Australian prisons in each month of the financial year 1997-98?

#### Hon MAX EVANS replied:

I thank the member for some notice of this question. In comparable national terminology there have been none. However, in terms of people walking out or not returning, the numbers are as follows -

Hon John Halden: I don't want to hear that from you too.

Hon MAX EVANS: They just get tired of the meals. The number of escapes by medium security prisoners are -

November	1
December	5
June	1
Total	7.

The numbers of prisoners walking out or not returning to minimum security prisons in 1997-98 are -

July	7
August	6
September	5
October	4
November	1
December	1
January	6
February	4
March	5
April	4
May	10
June	5
Total	58.

#### FREMANTLE ROUND HOUSE

#### 867. Hon CHERYL DAVENPORT to the minister representing the Minister for Heritage:

With reference to the current restoration of the Fremantle Round House, can the minister indicate -

- (a) the cost of the restoration work;
- (b) who was awarded the contract to carry out the restoration; and
- (c) when the restoration will be completed?

#### Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (a) The cost has not been determined at this stage.
- (b) No contract has been awarded.
- (c) The completion date of the restoration will not be known until technical and conservation studies are completed.

#### PERSONAL DATA HELD BY PRIVATE SECTOR

#### 868. Hon E.R.J. DERMER to the minister representing the Attorney General:

- (1) Is the Attorney General aware of the Federal Government's recent announcement that it intends to legislate for the protection of personal data held by the private sector?

- (2) Is the Attorney General concerned that failure to introduce similar protection for personal data held by the Western Australian public sector means that such information will continue to be at risk of misuse?
- (3) Given the increasing reliance on electronic information technology processes in the state public sector, what steps, if any, does the State Government intend to take to ensure that people's personal data is adequately protected?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question and ask that the question be placed on notice.

**JOONDALUP BROTHERS RUGBY UNION CLUB**

**869. Hon KEN TRAVERS to the Minister for Sport and Recreation:**

- (1) Has the minister been approached by the member for Joondalup seeking support for the application by the Joondalup Brothers rugby union club to join the Western Australian rugby union competition?
- (2) If yes, what action has the minister taken?

**Hon N.F. MOORE replied:**

I have received a submission from the member for Joondalup requesting my support for the Joondalup Brothers team to be part of the Western Australian rugby union competition. I have indicated to him that that decision will be made by the Western Australian rugby union organisation, unless it is taking an unfair approach or making a decision which is improper in which case there may be some grounds for the minister to become involved. At this point, I am not involved but I await any advice from him that this group is being treated unfairly. If that were the case, I would like to know more about it.

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