

**REVIEW OF MINING IN WESTERN AUSTRALIA —
ESTABLISHMENT OF SELECT COMMITTEE**

Motion

HON JON FORD (Mining and Pastoral) [10.10 am] — without notice: I move —

That this house calls on the government to establish an all-party select committee to review existing and proposed statutes and regulatory framework as it pertains to mining approvals and occupational health and safety for mining in Western Australia as a matter of urgency.

While in past debates the Minister for Mines and Petroleum has asserted that every effort is made to ensure workplaces are safe but that there can be no guarantees, that is not good enough. Who says—as I have asked before—that in 2010 we must accept that people die in the pursuit of financial gain? Why do we need a review? Because, as a Parliament and as governments past and present, we continue to fail in our goal of injury and fatality-free workplaces. Since 14 September 2010, six people in Western Australia have died at work. This is in 2010.

Hon Norman Moore: Which period of time?

Hon JON FORD: Since 14 September. It is not in mining; I am talking about people who have died in work in Western Australia.

Hon Norman Moore: I think you should clarify that.

Hon JON FORD: I will get to mining.

We have two departments responsible for workers' safety: The Department of Commerce and the Resources Safety division of the Department of Mines and Petroleum. We have an Australian government trying to harmonise occupational safety and health legislation across the nation, yet we have had a declaration by the WA government and other governments in other jurisdictions that legislation will not be harmonised across all facets of the nation. In Western Australia, in recognition of the failures, particularly with fatalities in the resources sector, so that it is properly funded, the government and this Parliament have approved a levy to ensure that the appropriate departments are paid the appropriate amount of money to effect safety. The minister has mused in this house about a new risk-based safety system. This, of course, is novel in the mining sector. I have said it before and I say it again, in my view, from a safety perspective, mining in Western Australia is probably at least 20 years behind similar industries in the resources sector such as oil and gas. That industry was made to review its own performance as a result of the *Piper Alpha* tragedy. A royal commission into that tragedy led to massive changes across the world in offshore facility management from a safety and asset protection perspective. Yet, based on what we have been told in discussions about risk-based analysis in safety there is still confusion in the industry on how it will be implemented, the transition, who it will apply to, how it will be applied, whether it will be applied to greenfields or to brownfields and what size of operation it will apply to. Will it apply to exploration? The government established a consultative committee to deal with those concerns.

Only yesterday I talked to a major resources company that confirmed what I have been hearing from a number of resources companies and their representative bodies; that is, whilst they are sure that the leadership of the DMP has all good intentions and talks about what it wants to achieve, nobody is sure what the plan is to do that. That might have nothing to do with the way the DMP is selling its story, but from people's perspectives there is uncertainty about the plan and the direction we are going in.

What about tailings management? The government is now embarking on a uranium mining policy, yet we are told that the mineral sands legislation, the regulations attached to it and the current approvals process are sufficient to allow that to go ahead. In my journey in exploring uranium mining and the requirements involved, I have come to the conclusion, as the minister would have and as would many mining operations, that it depends on the product; it depends on what heavies are to be mobilised, such as lead, silver, vanadium and nuclear isotopes that are not required for the sale of that product. Yeelirrie is talking about digging a hole and literally throwing it over its shoulder and then packing it in the ground as the mining goes along. An operation such as Olympic Dam places tailings in hectares and hectares of tailings dams, which relies on a leaching process through about 50 metres of naturally occurring limestone. We are told that after 1 000 years, it will be okay by the time it gets to Lake Torrens.

It is a very different situation from what we have over here. Some project proponents talk about heap leaching and some talk about in situ leaching. All those processes are very, very complex. People talk about polymer barriers to protect the aquifers. However, we do not have legislation for, or at least experience in, dealing with those sorts of matters. Indeed, the government is persisting in its claim that whilst transporting uranium is nearly

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

a zero-harm option, it is not going to—the government might be able to tell me if it is—consider moving uranium. In one case the project is talking about carting uranium by road, through Port Hedland, down Great Northern Highway and past Kalgoorlie. It is a bit grey about whether it will go on the train or the road to either Adelaide and/or to the port of Darwin. It seems to me that if we are using a risk-based analysis approach, we should be considering the shortest possible route. If we are to see uranium mining in this state—for all intents and purposes it certainly looks like it—and it is to be moved through Port Hedland, why not establish a port of call there to keep the supply chain short? Why not transport it through Esperance to keep the supply chain short? The risks involved with transporting uranium can be mitigated if the logistics chain is kept as short as possible. There are contradictions in the messages we hear nearly every day about how we are managing uranium. Year after year governments tinker around the edges of governance. From a fisheries perspective, Karratha has one of the biggest boat ownership per capita ratios in Australia. People have all sorts of well-equipped boats and great technology to enable them to go out and hit the water off Karratha day in, day out because of their shift patterns. Karratha is only really protected by oil rigs. Had it actually been thought about, Karratha would not have been approved without stronger legislation specifically to protect the coastline. That was because that planning was done, in regards to state development, from a perspective, I dare say, of the environment at the time. It was long before my time; in fact, before my time in the state. We learned lessons from that.

We now see in the state, in the same areas, a shortage of critical infrastructure, such as water. We need to look at where those failures occurred. I am not having a go at what this government is trying to do in regard to mine safety, and I will touch on approvals shortly, but what I am saying is that this government tinkers and the previous government, the government before that and the government before that tinkered around the edges trying to make adjustments. In our efforts previously, we moved resource safety in with workplace safety because it seemed if we had safety under one department that was a good option. In regards to protecting workers in the mining industry, that failed. The current government has decided to take that out and put it back into the Department of Mines and Petroleum, yet we still manage to see Western Australians fatally injured and injured at work. It is time for us to step back and think about what we are doing. Perhaps what we need is a department. The government, in its attempt to streamline approvals processes, talks about a lead agency model. I was recently invited by somebody from the DMP to a briefing on bonding associated with mine closures and the environmental assessments associated with that. Although we talk about streamlining we have environmental assessments being carried out by the DMP—this is without seeing the briefing but that is how it appears to me—to make decisions in regard to rehabilitation of mine sites at the end of their life. To create a mine nowadays in order to exploit a resource, a company has to deal with the Departments of State Development; Mines and Petroleum; Environment; we heard yesterday, the Department of Agriculture and Food; and the Heritage Council, just to name a few—myriad agencies, and statutes and regulations. Government after government, in reality, has tweaked around the edges. The government attempts to make things better but, in my view, it is making things worse. An all-party review, through a select committee, would have the ability to step back and have a much wider view of what we can do, not just in safety but in the approvals processes.

Perhaps the way the government itself is structured is wrong; perhaps that is why we are failing. When members sit around the cabinet table, it is very competitive. Everyone around that table is defending their agencies and their plans, seeking dollars in a limited pool, shared with other commitments, to fund those programs and agencies. It is a table of compromise and pragmatism. Has that served us well? We can argue that. It seems to me that if we had a single minister who looked at state development, perhaps the better way from a state development perspective is that that person has the funding to deal with environmental approvals and has authority under the statute to deal with planning issues, and all other matters associated with that portfolio. There is an argument that if we have a Commissioner for Children and Young People, that commissioner will only be effective if that commissioner carries the full budget for children's health, education, staffing of programs, and child protection. Perhaps that is the way to go. I am not saying it is, but these are the sorts of matters that as a government and as a Parliament we should be looking at.

We should not imagine that the tragedy of the tailings dam that happened in Hungary recently cannot happen here. I discovered on a recent trip to Olympic Dam, and a trip to Europe looking at the nuclear cycle, that we are faced with a one thousand-year legacy. To pull down a nuclear reactor in Europe takes a minimum of 10 years' planning, between 10 and 20 years of decommissioning, and another 20 years before we actually see whatever they are decommissioning disappear. People talk about long time frames. With Olympic Dam, legacy issues were talked about to 1 000 years, yet the immediate life of that project is 150 years. When we talk about approving a Yeelirrie operation or a Wiluna operation in uranium, or any other mine, we seem to talk about 15 to 25 years and then stop. It is great that the government is talking about bonding, but do we actually have agencies with the capacity to talk about what the effect is, what the legacy issues are, and what the cost liability to Western Australian taxpayers will be in 1 000 years? I simply do not think we are there yet. There are issues with mineral sands tailings, I understand, at Capel Vale, which has been a disaster in our own backyard.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

Wittenoom, probably one of the most contaminated sites in Australia, is still in existence. Rum Jungle, in the Northern Territory, I am advised by the Northern Territory government, has had \$100 million spent on it trying to resolve leakage and seepage from that operation. It is okay to say it was in the bad old days of 1953 and 1954 when the mine was first established, but have we got that much better? I look at the Whaleback mine, this great big hole in the ground, and imagine how that might be rehabilitated. There are issues with the tailings from that mine and how that needs to be sealed and locked up. There are issues of access, who is going to pay for that and where are we going with that. What I am asking is simply for the government to consider a much broader review, and that is why I said all parties. We have heard a lot of discussion about sovereign risk. If we include all parties, it will give the industry some security, in that everybody who will continue to be involved from an all-parties perspective will come out the other end with at least an understanding of the common view of the issues. We can move away from some of the more emotive issues and have a serious look at the way in which we do business in this house. A number of members want to speak on this. I urge the house to support the motion.

HON LJILJANNA RAVLICH (East Metropolitan) [10.31 am]: I support this motion. I think it is a very good and very well crafted motion. Although Hon Jon Ford has made comments more on occupational health and safety, I certainly want to make my comments on mining approvals. There is no doubt in my mind that the government needs to establish an all-party select committee to review existing and proposed statutes and the regulatory framework as it pertains to mining approvals and occupational health and safety.

We have only to look at the absolute mess of the handling of an application that was made by billionaire mining magnate Clive Palmer for approval for the \$4 billion Balmoral South project. A bond was originally proposed by the Environmental Protection Authority last October, to ensure long-term environmental protection and rehabilitation of the mine site. The story of mining approvals and the way that they have been applied to the application made by Mr Palmer, and the interface between the Department of Mines and Petroleum and the Department of Environment and Conservation, is nothing short of a scandal. Right from the beginning of this government, there were concerns about the appointment of the Minister for Environment and the fact that she would be compliant when it came to mining approvals and mining approval processes. There has been concern for some time that perhaps the Minister for Mines and Petroleum may be in fact bypassing Hon Donna Faragher when it comes to this whole question of mining approvals. How do we get a situation —

Hon Norman Moore: Just give me one example.

Hon LJILJANNA RAVLICH: The minister will be able to get up and have his say.

We have a situation whereby a recommendation in an EPA report on a project released on 5 October 2009 was deleted on 7 December by the Minister for Environment Hon Donna Faragher, which meant that a \$45 million bond would no longer be required.

Hon Simon O'Brien: The circumstances have already been clarified in the house.

Hon LJILJANNA RAVLICH: No, the circumstances have not been clarified. There is information that is still yet to be provided by Hon Brendon Grylls.

Hon Norman Moore: It is nothing to do with him.

Hon LJILJANNA RAVLICH: Mr President, may I ask to be heard in silence?

Several members interjected.

Hon LJILJANNA RAVLICH: Clearly, they are all upset. What are they upset about?

Several members interjected.

The PRESIDENT: Order! The same rules apply to every member in this chamber. If the member wishes to be heard in silence, she shall be heard in silence. In turn, every other member shall be heard in silence.

Hon LJILJANNA RAVLICH: Fair enough.

The question is: why did the minister delete the bond requirement, as recommended by the EPA report that was released on 5 October; why did she delete it on 7 December; was she put under any pressure on that and was she leaned on; and, in fact, if she was leaned on, by whom? The story is that some \$110 000 was donated to the National Party. The relationship of the Leader of the National Party, Brendon Grylls, who is very close to good old Mr Palmer, and the closeness of that relationship meant that perhaps Mr Grylls was able to convince some of his parliamentary colleagues that there should be preferential treatment of sorts given to Mr Palmer.

One would have to say that at the heart of this is the integrity of the approvals process. I do not accept what the minister says, which is that we have dealt with that. As far as I am concerned I do not think that we have touched on this. I think that it should have gone to the Corruption and Crime Commission. I do not have any problems; it

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy
President; Hon Dr Sally Talbot

should have gone to the CCC and the CCC should have had a very, very close look at it. Mr Palmer apparently lobbied Mr Grylls and the Minister for Environment Hon Donna Faragher to have the bond dropped. The bond has been dropped. When we look at investment and return on investment, here we have a situation in which Mr Palmer gave the National Party \$110 000 and in return for that there is a waiver of some \$45 million on a major resources project.

Hon Norman Moore: There is no waiver of the bond. There will be a bond on the project.

Hon LJILJANNA RAVLICH: Even that is in contention.

Hon Norman Moore: It is not in contention at all; it is a fact of life.

Hon LJILJANNA RAVLICH: I do not think it is a fact of life. If it is so clear, this is what the Minister for Mines and Petroleum said in September 2010 —

Mines Minister Norman Moore said as far as he was aware the EPA had never before imposed a bond on a mining project and the Government preferred bonds to be dealt with by the Department of Mines.

The minister does not even know who has the right and who does not, and he is the mining minister! Here he is; he is the mining minister and he does not even know who is responsible for the issue of it. This is what the mining minister continues to go on to say —

“We don’t want agencies issuing bonds because it becomes a negative when it comes to attracting investment,” he said.

The EPA believes a bond was necessary because the proposed minesite was home to potentially acid-forming materials and asbestiform minerals that would require careful management.

Mr Moore said that he accepted that view.

This is the Minister for Mines and Petroleum —

Hon Norman Moore: I told you who would be issuing the bond. You don’t listen.

Hon LJILJANNA RAVLICH: I can tell by the minister’s reaction there is something that he is very, very uncomfortable about. If he really wants to clarify this issue —

Hon Norman Moore: How many times do I need to?

Hon LJILJANNA RAVLICH: If the minister really wants to clarify this issue, he should ask the Leader of the National Party —

Hon Norman Moore: It has nothing to do with him.

Hon LJILJANNA RAVLICH: No. The minister should have him release all his documents on this matter. That paper trail should be put on the table so that confidence can be restored in the mining approval processes. First of all, Mr Palmer denied any link with Mr Grylls, but he had given him some \$110 000 as a campaign donation. Then Mr Palmer said that he was exempt from the bond. How can he be exempt from something if there is no legal requirement to pay, which is what the Minister for Regional Development argued? Then there was the situation of Mr Palmer paying for a joy flight; people went up in Mr Palmer’s helicopter—the big toy. What did they do in a helicopter that has only four seats? Did they all not talk to each other? Why would one take someone up in a helicopter, anyway?

Hon Norman Moore: I can think of a reason for taking you up in one.

Hon LJILJANNA RAVLICH: It is true. Has the Leader of the House been on a joy ride with Mr Palmer? Has he been in Mr Palmer’s helicopter?

Hon Norman Moore: No, I have not.

Hon LJILJANNA RAVLICH: Right; he has not made any donations to the Leader of the House, but if the Leader of the House is a good fellow, Mr Palmer might well make some donations to him next time also.

If the notion is that this has been dealt with, that there is nothing to answer for and that this is in some way all above board and there has been no interference with the approvals processes, it behoves the government to demonstrate that that is the case. Mr Grylls should table all those documents in this place.

HON ADELE FARINA (South West) [10.41 am]: I rise to strongly support the motion moved by Hon Jon Ford. The experiences of the Margaret River community with the proposed Osmington coalmine leave me in absolutely no doubt that a parliamentary review of the Mining Act and regulations, particularly the mining approvals process, is long overdue. There have been a range of piecemeal changes to the mining approvals process over time that have made the process so complex that it requires two massive departments, the

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

Department of State Development and the Department of Mines and Petroleum, to guide proponents through it. The community, however, is not as fortunate; it has no-one to hold its hand, guide it through the process and provide advice on navigating the approvals process, or to provide information about the points in the process at which the community can have some input.

I can assure the members that the Margaret River community is very unhappy and very disillusioned with the process. In its view, the governments that it has elected to govern on its behalf over time have failed it. The Margaret River community is of the view that the mining approvals process rides roughshod over its rights. It feels that the Mining Act puts miners' rights over and above community members' rights as landowners and business owners. The community is shocked that the government would support laws that do not provide a level playing field for all parties.

Hon Norman Moore: The same laws that were in place when you were in government.

Hon ADELE FARINA: I have already acknowledged that.

The community is also shocked to learn about the very narrow range of matters that are considered through the mining approvals process. It has been horrified to learn that a high number of environmental decisions are now made and enforced by the Department of Mines and Petroleum rather than by the independent Environmental Protection Authority, as it previously believed to be the case. It is horrified about what this means for due regard for environmental considerations.

The Margaret River community is frustrated and angry at the reality in which it finds itself, through no fault of its own. Without its knowledge, it has been stripped of a level playing field and basic rights. This is a situation in which clear, express words of certain provisions of the Mining Act have been interpreted to mean something other than what they were intended to mean, and the community's only recourse to address this is lengthy and expensive legal action before the Supreme Court. There is a clear and wide chasm between what the Mining Act provides and what the community expects with regard to participation in the process.

Two government departments are funded by the public purse to advance and guide the interests of miners; there is no government department or office to provide advice and guidance to the community about the mining approvals process and the opportunities available to the community to be heard. Mining leases are granted for a period of 21 years, which, in terms of approvals, is a very long time, particularly when compared with approvals given under planning or environmental legislation. According to the way in which the Mining Act is being implemented, the miner has an automatic right of renewal for a further 21 years. The community—which, at the end of the day, owns the resource, because it is a state resource—has no say in the process. The landowners who will be impacted by this mining proposal have no say in the process. The mining approvals process and the environmental approvals process, contrary to the view expressed by Hon Giz Watson, are correctly named because the legislative and regulatory frameworks are geared to approve every project, not to assess every project, as Hon Giz Watson rightly asserts should be the case and what the community believes should be the case.

To add insult to injury, all the recent changes to the various government approvals processes have been geared to fast-tracking approvals, not to making sure that the processes are open, accountable, fair and just. Yesterday I reviewed the government's lead agency framework and the changes that were made to the mining approvals process, and I was not at all surprised to learn that all the changes were geared to fast-tracking approvals and to enable the Department of Mines and Petroleum to do more assessment work in-house, rather than that work being done by the independent EPA. The approvals performance indicators are focused solely on shortening the time taken to secure an approval. There is no focus on assessment being undertaken on issues such as the quality of the public consultation, the adequacy of the public consultation and participation in the process, the adequacy of the conditions that are being imposed on approvals, or the adequacy of the assessments being undertaken on proposals. Sadly, there are numerous examples of cases in which the approvals process has failed the community. Projects have been approved for which it has been shown over time that they should never have been approved, and the cost of the environmental and social impacts of these projects is left to the community to pick up.

Hon Norman Moore: Give us an example.

Hon ADELE FARINA: I am happy to give the member lots of examples.

In some cases, the approval conditions have been so poorly drafted that they cannot be enforced; the list goes on. The government promised to represent all Western Australians and to deliver open, transparent and accountable government processes and decision making, but at every step it has failed to do so. As part of the reform of the mining approvals process, the government has undertaken to be more transparent and accountable by establishing an approvals tracking system, which I actually think is a good idea. However, this tracking system

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

cannot be accessed by the public. Relevant government officers and proponents are the only people who can access the tracking system. Members of Parliament cannot access the system, and members of the community cannot access the system.

Hon Norman Moore: You can.

Hon ADELE FARINA: The member should try it.

So much for the transparency that was promised by this government. Surely the community, which owns the resource, has an entitlement to track a project through the approvals process so that it can identify the opportunities it has to make some comment and have some input into the approvals process, but that information is simply not available. The community has been left on its own to find answers to its questions.

In the early 1990s we had a social impact unit, which was tasked with the job of providing support, guidance and information to the community. It operated very well and the community benefited from being able to access that sort of information from government in an easy and accessible way. It was a very small unit; it was nowhere near the size of the Department of Mines and Petroleum or the Department of State Development, both of which proponents have access to. However, it was very short lived because it was abolished soon after the Court government was elected. As a result of the experience of the Margaret River community, it is clear that a review of the Mining Act is long overdue and that there is a deep chasm between what the community expects in terms of its rights being protected and what is afforded to the community under the Mining Act. The Margaret River community—I am sure communities elsewhere are of the same opinion—believes that a more level playing field is required and that a review of the Mining Act is long overdue. Interestingly, the lead agency framework requires community participation in the process. However, the reality is that that is virtually impossible because of the way the Mining Act is drafted. Certainly the provisions of the lead agency framework, which indicate the need for and the points at which stakeholders' participation must be included in the process, are not being implemented and due regard is not being had for them. I, again, state that a review of the Mining Act and its regulations are long overdue. I believe that the community feels strongly on that basis.

HON ROBIN CHAPPLE (Mining and Pastoral) [10.52 am]: The Greens (WA) support this motion but not necessarily in the manner that the Leader of the House might think we support it.

In 1985 the Work Party on Conservation and Rehabilitation in the Mining Industry (WA), which was chaired by Dr P. Playford, completed a report on the gold mining industry. The report was very critical of a wide range of issues in the industry, including end-of-life planning and certain provisions of the Mines Act. In 1995, Colin Branch from the Department of Minerals and Energy, Bill Carr from the Department of Minerals and Energy, Wolf Martinick from the Association of Mining and Exploration Companies, Ben Patrick from the Pastoralists and Graziers Association, Doug Koontz from the Chamber of Mines and Energy, Denny Roberts from the Department of Resources Development, Norm Caporn from the Department of Conservation and Land Management, Robert Griffiths from the Department of Environmental Protection, John Clarke from the Department of Minerals and Energy, Alan Bradley from the Department of Minerals and Energy and I compiled a report for the Minister for Mines, Hon Norman Moore. We came up with 16 recommendations. One was implemented, in part, when the gold royalty was introduced following a motion by my colleague Hon Giz Watson because of the urgent need for financial resources to complete an inventory of abandoned mines. That abandoned mines inventory has in part been completed. If one looks at the document, it is still quite cursory. The first recommendation reads as follows —

It is recommended that administrative procedures should be instituted to guarantee the availability of funds for environmental rehabilitation for all mining projects in the event of a default by the proponent.

We have a bond system, but I am sure that the minister would acknowledge that that system does not provide full rehabilitation. It does not cover the mining companies that default on their requirements. As such, a glaring omission remains. The report also recommended the continuing research of tailing sands, an issue to which my colleague Hon Jon Ford also referred. There is no inventory of the number of tailing sands in Western Australia. It might surprise members to know that if we count the number of tailing sands in Western Australia and average out their varying sizes—they range from several square kilometres to one square kilometre—the average area covered by tailing sands is in the region of 600 square kilometres, which is quite significant. However, we do not know where they are and whether they are lined. We do not know whether they are in a safe state. The 1994 report to the minister clearly identified a number of concerns about several mines that we visited during the process of compiling our report. The eighth recommendation reads —

It is recommended that where tenements situations dictate, waste disposal into a completed pit from mines on adjacent tenements should be considered.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

In part this process takes place, but it is used as an offset for bonds. It is not a compunction by industry. The report also recommends that wherever practicable more pits should be refilled by waste from adjacent mines and by tails waste. The deposition rates for tails wastes into pits is about 6c a tonne whereas building a brand new tailings dam is about 60c a tonne. The report conducted by the Department of Minerals and Energy, the Environmental Protection Authority and the Department of Conservation and Land Management provided a good direction in which the department should move. Unfortunately, it has not followed much of that direction.

Moving on to the proposed regulatory framework and review of existing and proposed statutes, it is pertinent to turn to the “Overview of dangerous goods incident reports 2009”, which was published in March 2010 by the Department of Mines and Petroleum. Members should be concerned about a particular set of statistics in that report. I refer to the number of explosive incidents that occurred in mines between 1991 and 2009. Between 1991 and 2003, the number of incidents ranged between one and five. For some reason there were no incidents between 2003 and 2007. Since then the number of incidents has gone through the roof. An explosion in an underground mine is a very, very serious issue because it can cause deaths. In 2007 there were five incidents in underground mines. In 2008 there were 22 incidents and in 2009 there were 36 incidents. The situation is dangerously out of control. A review of the statutes and regulatory framework for mining approvals and mining occupational health and safety is urgently required. A few minutes ago the minister tabled a report titled, “Department of Mines and Petroleum — Investigation in relation to Complaints about Resource Safety Division”. As the minister would know, Hon Jon Ford and I have asked a number of questions that have led to the resolution of a number of safety and health concerns at different mine locations.

When we turn to the report, it is interesting to note that it identifies a couple of important points. I will turn to those. It identifies that one of the problems in occupational health and safety, from our perspective, is the ability to report pressure on, or indeed bullying of, underground workers or mineworkers. It identifies that most mineworkers who were interviewed had an expectation that the Resources Safety division should have an enforcement rather than a consultative role. The report actually identifies that the prosecution of an offence is regarded as a last resort, except in the case of death or serious injury. In my view, that is like saying, “We won’t prosecute until you kill somebody.” It is a completely wrong attitude in the industry. It reminds me of a position that was once taken by Homeswest in the Pilbara when it said, “We won’t put shutters on houses in the Pilbara to protect against cyclones because nobody has been killed yet.” It is about shutting the gate after the horse has bolted. I certainly believe that if one of the considerations in the current mining jurisdiction is that a prosecution for an offence is regarded as a last resort, quite clearly we must support this motion.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [11.01 am]: Regrettably, I have only 15 minutes. This motion contains a range of different matters that could take 15 minutes each without any trouble at all. I will therefore do my very best in the short period I have to respond to some of the issues that were raised.

Hon Jon Ford talked about the harmonisation of workplace laws. That is in fact happening. A national process is being undertaken. The only problem is that the New South Wales government has now reneged on what had already been agreed to by the various states and the commonwealth because it wants to retain the right of union control over the workplace and the reverse onus of proof that apply in New South Wales. I would be interested to know what the Labor Party in Western Australia thinks about that. The government, as has been explained on a number of occasions, is going through a process —

Hon Kate Doust: Has your government signed up to that arrangement yet? You certainly hadn’t signed up to it when Buswell was the Treasurer.

Hon NORMAN MOORE: Mr Deputy President, I am not going to answer interjections, as I do not have enough time today. But I am happy to argue about this at any other time when I have unlimited time, as I can tell the member that that is what it would take.

Several members interjected.

The DEPUTY PRESIDENT (Hon Ken Travers): Order, members! The Leader of the House has indicated that he does not want to take interjections. It is a limited-time debate, so I urge members to cease interjecting.

Hon NORMAN MOORE: This motion seeks to appoint a select committee to inquire into mine safety and the approvals process in Western Australia. The same motion was moved by Hon Jon Ford in June this year. I would have thought that he would at least get a bit original and come up with some new idea. The house did nothing at that time, other than explain to the —

Hon Ljiljanna Ravlich: You sat here for eight years and didn’t do anything.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

Hon NORMAN MOORE: Mr Deputy President, the member over there, Hon Ljiljanna Ravlich, took exception to any member interjecting on her. I now take the same exception.

The DEPUTY PRESIDENT: Order, members! I made the point to the house only a few seconds ago that this is a time-limited debate, and the Leader of the House has indicated that he has a lot of material that he wants to get through in that limited time. So, members, please do not interject or I will have to take action.

Hon NORMAN MOORE: The Labor Party in office in 2004 did nothing with the Ritter inquiry. In 2005 nothing happened with the Mine Safety Improvement Group report. In 2007 there was the Hicks review. Do members know what happened with the Hicks review? It sat on a shelf. It was actually made public by me. The relevant department did not even get a copy of it. I made it available to Parliament. Then we had the Kenner review, which was a statutory requirement, to investigate the Mines Safety and Inspection Act, which was delivered to me and which we are now implementing. That is what is actually happening. To seek another inquiry is the way the Labor Party works in office—let us just have another inquiry. It did not do anything. We have gone down the path of cost recovery. I took the hard decision to say to the industry, “You are going to start paying for mine safety.” And they are paying for it. But the former government did not have the guts to do it. We are changing the way in which mine safety is managed. Hon Jon Ford quite rightly pointed out that we are a mile behind the petroleum sector. But did Hon Jon Ford start doing anything about it? He was actually the minister in the former government, and nothing happened. That is all happening now as a result of the Kenner inquiry and the fact that we are moving into a uniform system across Australia. We are therefore working very hard to improve mine safety in Western Australia by making the hard decisions.

The member talked about approvals. There is an independent assessment of the approvals processes. *RESOURCESTOCKS* magazine has an annual assessment of all the mining jurisdictions around the world and rates them according to how attractive they are. In 2008, when we became the government, we were last of the Australian states. In 2009 we were second last. In 2010 we are now second. Australia, on the other hand, was third last year and is now twenty-sixth, which is a reflection of the Labor Party’s federal government attitude towards the mining industry.

Hon Jon Ford talked about having a single minister for everything. I would not mind being that minister, but I doubt that Hon Jon Ford would be happy if I were the Minister for Environment; I doubt that he would be happy about that at all. However, we do have an example of a minister responsible for the Department of Industry and Resources, Fran Logan, who was an absolute and total disaster. The department was split so that we could have two departments with a particular job to do and a particular focus.

Hon Ljiljanna Ravlich does not know what she is talking about. I have explained to this house on about four occasions now, but she just does not listen, that Hon Brendon Grylls had no involvement whatsoever in the Balmoral South project. The Environmental Protection Authority made a decision that there ought to be a bond, because it believed there was not going to be a bond under the Mining Act, as it was a state agreement act—a state agreement act brought in by the Labor government, by the way. And I might add that the Labor Party got a donation from Mr Palmer after the state agreement act was passed. Who spent that, I wonder.

Hon Ljiljanna Ravlich: Well, I didn’t.

Hon NORMAN MOORE: Did Hon Ljiljanna Ravlich spend it?

Hon Ljiljanna Ravlich: What a load of rubbish!

The DEPUTY PRESIDENT: Order! Members and Leader of the House, I have made it very clear to members on my left that they should not be interjecting. I would also urge the Leader of the House to address his comments to me and not make comments that seek interjection from members on the other side because of the limited time; otherwise it will become impossible for me to keep order in the house.

Hon NORMAN MOORE: Thank you, Mr Deputy President; I take your advice.

The EPA made a decision that there should be a bond because it believed that a bond would not apply under the state agreement act. When that was decided, the Department of Mines and Petroleum had legal advice provided to it that said that under this state agreement act there can be a bond, and that bonds are provided for the rest of the mining industry, except state agreement acts, under the Mining Act. That is what we are going to do; and it was decided by the Minister for Environment that it was more appropriate for the Department of Mines and Petroleum to implement the bond. There will be a bond on this project, and it will be more than \$45 million, I suspect, but it will be managed by the Department of Mines and Petroleum, as it should be. If the Labor Party wants bonds to be implemented by more than one agency, it should please say so. Just do not forget that the Labor Party got money from Mr Palmer after the Labor government got its state agreement act passed.

Hon Adele Farina interjected.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

Hon NORMAN MOORE: Hon Adele Farina talked about coal in Margaret River. I would like to have a lot of time to talk about this, because what the member is saying is that the Mining Act's provisions on property rights should be changed. There is a thing called a property right in this country. I actually believe that property rights are important. Just as I believe Hon Adele Farina might think her freehold title is important, mining companies believe that their mining leases are important. A mining lease is in fact a property right as determined by the High Court of Australia; it has come to that conclusion. In Margaret River some mining leases were granted to mining companies by former state Labor Party mines ministers. They made the decision to give these companies property rights and now Labor Party members are saying to me that I should take them away. Is that what they are saying?

Hon Adele Farina interjected.

Hon NORMAN MOORE: That is what the member is saying, Mr Deputy President. As far as I am concerned, I am not about taking away people's property rights; indeed, I cannot take them away. There is no provision in the Mining Act for me to take away these particular tenements which had been granted properly and which are in good standing. The member knows that. I did not grant them; I inherited them, and I am not about to change the property rights rules because this member does not like what is happening.

Let me also say this about Margaret River: companies that have property rights that are called mining leases are entitled under the Mining Act to make an application to mine. The mining lease does not give them a right to mine; it gives them tenure, and that is it, ahead of anybody else. That tenure is the same as that for anybody else's freehold property. They can make an application under the Mining Act to start or operate a mine. Once that application has been received—this company has not yet made an application to mine—it will be assessed under all the processes of government. There is no question that the Environmental Protection Authority will do the job. The environment section of the Department of Mines and Petroleum gets involved only in minor issues in relation to the environment. Any major environmental issues are automatically taken up by the EPA, and that is the way it was when Labor was in government and that is the way it is now. It would be ridiculous if every single environmental issue from clearing a couple of twigs off a bush on a mining tenement right through to establishing a mine at Margaret River had to go to the EPA. The EPA does the big ones. There is no question that any application to mine at Margaret River will go to the EPA. The reason is that there are significant potential environmental problems. Members opposite can forget the commercial issues that some of their supporters are pushing. In my view, there is a significant issue with the aquifer. But I am not the Minister for Environment and I am not the EPA; I just administer the Mining Act.

The member said that there should be changes to the Mining Act. One of these days she might send me a note saying what she thinks they should be; I would love to read about it. If she believes that rights conferred under an act of Parliament should be taken away arbitrarily, she should tell me how she believes that should happen, because that is not something that I support as a matter of fundamental principle. Members opposite should not blame me for the fact that there are mining leases in Margaret River. I did not grant them; they were granted by former Labor mines ministers. If the Labor Party in the late 1980s had had the same concern about the Margaret River environment as Hon Adele Farina seems to have at the moment, why would it have granted mining leases? It did not have to grant them. Mining leases are granted for 21 years and are renewed by right.

Hon Adele Farina: Under your interpretation.

Hon NORMAN MOORE: Under everybody's interpretation, except Hon Adele Farina's. That is why I say that I would not give her a dollar for her legal advice, because every other bit of legal advice, and, indeed, case law and judgements in courts, has upheld the view that a mining lease can be renewed for a further 21 years as of right, and there is some discretion for the Minister for Mines and Petroleum on further renewals. That is what everybody believes to be the case. That is what I believe to be the case.

Hon Robin Chapple made a number of comments. As usual, he talked about the mining industry being almost a vandal of the environment. He said that it is not doing the job properly and needs to get its act together because there are all these abandoned mines and tailings dams around the place. He also said that the bond does not work, there needs to be an inventory of tailings dams, there are explosive issues and it is blowing out of all proportion—excuse the pun. I do not know why the member does not just say that it should be closed down because it is too hard, it is doing too much damage and it is causing too much trouble, and that everybody should go off and sit under a tree or engage in the tourism industry or something like that, which is what I think the Greens (WA) think we should all be doing. Whenever anybody wants to do anything in Western Australia, whether it be to dig a hole in the ground or to catch a fish, the Greens say that people cannot do it because it will destroy the environment. I do not know what they expect human beings to do for the rest of eternity if we do not have any economic development, because people simply cannot spend all their lives sitting under a tree contemplating the meaning of life, which is what I suspect the Greens would like to be doing.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

I tabled today the PricewaterhouseCoopers report into the matters raised by the honourable member and, indeed, by the Leader of the Opposition, Eric Ripper, who came out in the *Kalgoorlie Miner* and cast aspersions on the work ethics, capacity and dedication of officers who work in the Kalgoorlie office of the Department of Mines and Petroleum. As a result of that, I had an inquiry done by PricewaterhouseCoopers, and when members read it, they will find that it says that those officers did their job to the best of their ability within the constraints of the act.

Hon Robin Chapple interjected.

Hon NORMAN MOORE: They are not there to make their own judgement about what the act should or should not do; their job is to implement the act. This is the same act that was around when Hon Jon Ford was in government because I have not changed the Mining Act since I came to office. There has been no change at all; it is the same act that the previous government operated under. These officers did their job according to the requirements of the act and the regulations, and they should be given credit for that, not be criticised on the front page of the local newspaper by the Leader of the Opposition. I would have thought that Hon Robin Chapple also might like to apologise to them, along with Eric Ripper. I sure hope that that happens in due course. If members opposite want to use the cowards castle process, as Hon Ljiljanna Ravlich does, of getting up, throwing mud around the place and doing people over, when they get caught out for getting it wrong, they should apologise. That would be a good idea.

Hon Robin Chapple interjected.

Hon NORMAN MOORE: I do not have time to respond to that interjection, other than to say to the member that he needs to give some serious thought to what he said, as does Mr Ripper.

Returning to the motion, which is virtually identical to a motion moved in June, which called for —

Hon Adele Farina interjected.

The DEPUTY PRESIDENT: Order, members!

Hon NORMAN MOORE: Can I make a suggestion to Labor Party members? If they really do not like the Mining Act, they should do two things. Firstly, they should come out with a new policy, which they never did when they were in government, because they have now decided that some things are no good. If they want to get rid of property rights, they should have a law that provides that the government can arbitrarily take away property rights. That is exactly what members opposite are asking for. I will give them further advice.

Hon Adele Farina interjected.

The DEPUTY PRESIDENT: Order! The Leader of the House has the call.

Hon NORMAN MOORE: Secondly, why do they not take advantage of the processes of the house, when we finish with Hon Ljiljanna Ravlich's motions sometime between now and 2030, and put a motion on the notice paper so that we have four hours to consider these issues? They should move a substantive motion for the appointment of a select committee to do all the things that they want to do, such as take away property rights. If they put a motion on the notice paper, we could then have a proper debate for four hours on that substantive motion. The only problem is that members cannot get a motion on the notice paper, and do they know why? They cannot do that because we are debating something that happened two years ago. I nearly used an adjective that I should not have used, Mr Deputy President! That is my advice to members opposite. Instead of giving me 15 minutes in which to answer all the issues that they have raised today, they should put a motion on the notice paper so that we can have a four-hour debate.

The DEPUTY PRESIDENT (Hon Ken Travers): Before I give Hon Sally Talbot the call, I remind members that this is a time-limited debate in both the length of time that members have to speak and the total time for the debate. It is common for members not to seek interjections. I also say to members that if they refer to other members in the chamber or use particularly provocative language, that will invite interjections, which makes it extremely difficult for the Chair to call to order other members who respond to that provocative language. I urge all members, when they make contributions to a debate, to think about the two aspects of what makes this chamber work.

HON SALLY TALBOT (South West) [11.18 am]: I will do my best to avoid provocative language, but it is not easy following the speech of Hon Norman Moore, who has a reputation for being both arrogant and grumpy. But every now and then, he exceeds even those high standards of arrogance and grumpiness that he has displayed thus far.

The DEPUTY PRESIDENT: Order, members! I remind members of the comments I made not so long ago.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

Hon Peter Collier: Obviously, they weren't listening.

Hon SALLY TALBOT: Thank you, Mr Deputy President; I always listen very carefully to your advice, as you know.

I must point out that Hon Norman Moore said that it was a shame that he had only 15 minutes because there were a lot of substantive things that he wanted to say. I then started to watch the clock and I can tell honourable members—in case they were not all watching with the same degree of attention that I was—that he had one minute, 29 seconds left when he said, “I will now turn to the motion”. I think I know why. I think it is because Hon Norman Moore would have gone into his party room this morning and said, “Listen, guys, I think we should support this motion because I could really do with some help here. I have a terrible job in this Parliament. I go in there and day after day Hon Jon Ford stands up and asks me difficult questions about workers’ safety in mines. Hon Adele Farina, representing the people of Margaret River and the South West in general, tries to draw me out on whether I am going to approve a coalmine in Margaret River, in the middle of that fantastic area of tourism, wine, orchards and all sorts of things. A raft of other members opposite ask me questions, including Hon Robin Chapple, who clearly knows more about the mining industry than I do. I really need some help. Let us support this motion and then we can get all this out in the public arena; we can have a proper, thorough cross-party inquiry. Everyone can have their say and that will make my job much easier.” But, of course, his party room would not have allowed him to do that so the poor man had to come in here and mount some kind of ridiculous, spurious defence of something that I assume is his opposition to the motion, although he did not actually get around to saying that.

I will tell members what I think this government is trying to do. I think, every man jack of this government is trying to avoid scrutiny as best they can. I will give the house three quick examples from my observations of how they are doing that, why they are doing that and the areas in which they are desperate to avoid scrutiny. The first is that I am sure Hon Norman Moore, as Minister for Mines and Petroleum, helped Hon Donna Faragher, as Minister for Environment, to avoid a public inquiry into uranium mining in Western Australia. I am certain Hon Norman Moore aided and abetted the argument that there should be no public inquiry, when it is absolutely crystal clear under the provisions of the Environmental Protection Act that such a measure was available to the government. But the government deliberately chose to ignore it because it does not want a public inquiry. The government is frightened; it is running scared of some of the evidence that we have of the way the government is mismanaging the whole mining industry.

Hon Norman Moore interjected.

The DEPUTY PRESIDENT (Hon Ken Travers): Order! Leader of the House, as the Chair always does, I am giving a degree of latitude. But as other members earlier in the debate sought to not have interjections, I urge all members to continue that practice for the last eight minutes remaining of this debate.

Hon SALLY TALBOT: Thank you, Mr Deputy President. That is the first area in which the government demonstrated that it was strongly resistant to any kind of real scrutiny of what it is doing—no public inquiry into uranium mining. Secondly, just this week in this place the Minister for Environment defended the indefensible. A government officer went to South Australia using public money to participate in discussions about the regulation of uranium mining in this state, the maintenance of tailings dams and the transport of uranium through local communities, but no written report of that trip was prepared. It was taxpayers’ money. Can members imagine if honourable members failed to submit a report on their spending of taxpayers’ money on trips such as that, how this mob opposite would take to the high moral ground and say that they have to put in a report? Not only did that officer not put in a report; clearly, the Minister for Environment is perfectly happy with that. I wonder why. I can only imagine that that officer might have come back with certain impressions of the way the industry is regulated in South Australia. Perhaps he gained certain impressions that relate to the absolutely nonsensical proposition that the mines minister has put to us—that we already mine mineral sands, therefore uranium mining will be hunky-dory.

The third area in which this government is obviously desperate to avoid scrutiny is its lack of support for this motion. What is this motion about? This motion is about protecting the safety of people at work; it is about protecting workers’ jobs because the mining industry is a major provider of jobs in this state. Yet this government is perfectly happy to let all the local content provisions slide, while the government runs and hides all over the place. There is no commitment to making the profitability of the mining industry match proper jobs for workers so that we can support the manufacturing industry and have in place proper apprenticeships and traineeships across the whole Western Australian community, including the Indigenous community. Hon Peter Collier should have spoken on this motion to take up those issues that we might finally get on the record, if there is a proper inquiry. This motion is about protecting workers and the environment. Most of all it is about protecting the interests of the state. That is why we on this side of the house will support it.

Hon Jon Ford; Hon Ljiljanna Ravlich; Hon Adele Farina; Hon Robin Chapple; Hon Norman Moore; Deputy President; Hon Dr Sally Talbot

HON JON FORD (Mining and Pastoral) [11.25 am] — in reply: I thank the various members for their contributions on this important issue. In his response, the minister talked specifically about the government's great performance in this area. He quoted a commercial publication that deals with investment to illustrate a pat on the back for the government's performance. This motion is about the people of Western Australia. Who is representing the people of WA? Who is making sure their interests are looked after? I said at the very start that governments and the Parliament fail in the area of protecting workers. I note that in his reply, the minister failed to talk about the most important constituency stakeholder—that is, the workers in their jobs and the people who are impacted on by mines approvals. Not once did he talk about that. He would not recognise the issues Hon Adele Farina talked about and the confusion and disempowerment the people in Margaret River currently feel. Rightly or wrongly, that is their perception. He fails to even acknowledge that. That in itself is support for this motion. The minister did not acknowledge that, as a state, we keep failing to protect workers.

Hon Norman Moore: Come off the grass.

Hon JON FORD: I will give the minister an example. In a media statement on occupational safety and health about harmonisation, the then Treasurer and Minister for Commerce said —

While Western Australia is prepared to accept the vast majority of recommendations of the review panel, the Government told today's WRMC that it was unable to support the recommendations regarding:

- The introduction of a conciliation concept for resolution of issues

Why would he oppose that? To continue —

- Power for Health and Safety Representatives to stop work

Why would he oppose that? Because the government believes that safety issues brought up by workers is an industrial relations issue, not a safety issue. To continue —

- Reverse onus of proof for discrimination issues
- Level of penalties

I can tell the minister, that is why I have serious concerns. He tells us that he is leading the charge for reform on safety. But he makes comments when those issues are raised in this place. One of those is: "If you want to shut down the mines, just tell us." Another senior minister has said that health and safety representatives should not be able to hold up the job. I can tell the Minister for Mines and Petroleum that that is contemporary safety practice. It has been in the oil and gas industry for years and years. In 1989 the then chief executive officer of Woodside stood up in front of his workforce and said, "If you find anything that is unsafe, you can shut down the plant and we will support you in that position. Even if subsequent investigation of that finds out that you erred in your perception, we will still support you." There were fears among management that that would lead to the whole plant being shut down—up and down, up and down. It did not happen once, because at that moment, everyone in that employment believed they were empowered to look after themselves and their work colleagues. There was no pressure to have production as a higher priority than people's safety. All the priorities that the minister refers to are about advancement for commercial gain, which is important for state development, and making sure the approvals suit the benefactors of the company, which is important to the companies. The minister does not put any priority on processes that meet the concerns of Western Australians about approvals and safety.

Hon Norman Moore: The member sat on his bottom the whole time he was minister!

Hon JON FORD: The minister accuses us of not doing anything. We did a number of reports. We brought the two departments together.

The DEPUTY PRESIDENT (Hon Ken Travers): Order! We have been very good and with only 20 seconds left in the debate, we have lost it again. Please let us finish the debate during the last 20 seconds.

Hon JON FORD: We brought the departments together because we believed that that was better. When I was minister, I put companies on notice that I would close them down if they could not prove that a workplace was safe. The minister did that once, but he does not do that anymore. It was the Australian Labor Party that called for the introduction of the safety levy. Support the motion.

Motion lapsed, pursuant to temporary orders.