Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
1999

LEGISLATIVE ASSEMBLY

Wednesday, 20 October 1999

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

PANGEA NUCLEAR WASTE REPOSITORY

Petition

Mr Kobelke presented the following petition bearing the signatures of 28 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia are totally opposed to the Pangea proposal to locate a high level nuclear waste dump in Western Australia.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 54.]

WORKERS COMPENSATION

Petition

Mrs Edwardes (Minister for Labour Relations) presented the following petition bearing the signatures of 16 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, request that the State Government fund all Aged Care Facilities for the difference between the average for other states for workers compensation premiums to those in force in Western Australia until such times as the workers compensation premiums fall in line with the other states for Aged Care Facilities.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 55.]

MULTINATIONAL PEACEKEEPING OPERATION IN EAST TIMOR

Letters from Prime Minister and Minister for Foreign Affairs

THE SPEAKER (Mr Strickland): I have received a response dated 13 October from the Prime Minister to a letter sent on 23 September on the motion of this Parliament's support for the multinational peacekeeping operation in East Timor. I have also received a letter signed by Hon Alexander Downer, Minister for Foreign Affairs, on the same matter.

[See papers Nos 244 and 245.]

MILITARY SERVICE

Statement by Minister for Labour Relations

MRS EDWARDES (Kingsley - Minister for Labour Relations) [12.06 pm]: Members will be aware that the defence forces have called for volunteers from their reserves to undertake full time military service. This would be as part of the peacekeeping force in East Timor or in support service in the defence forces within Australia.

I inform the House that government agencies are setting a positive example in this issue, and I urge employers in the private sector to follow suit. Government agencies are allowing all public sector employees who are members of the defence force reserves to take unpaid leave, with the right to return to their former positions. The period of leave will not be counted for the calculation of annual or sick leave entitlements, as these will accrue with the defence forces. However, service will count towards long service leave. In addition, employees can choose to use any accrued paid leave entitlements.

The Western Australian Government strongly encourages all employers to support Australia's peacekeeping initiatives in East Timor. We urge employers to grant unpaid leave to employees who are members of the defence force reserves, with a right to return to their job. Western Australia's flexible labour relations system enables employers to provide leave to reservists. Unpaid leave can usually be taken under workplace and enterprise agreements. Employers and employees can also agree on any alternative leave arrangements on an individual basis. Employers can use options such as contract, temporary or casual employees to ensure productivity is maintained while employees take military service.

The Department of Defence is understood to be negotiating with employers of key reservist personnel regarding their release for service in East Timor and subsequent return to employment. Employers in the private sector have an opportunity to make a worthy contribution to Australia's peacekeeping initiatives by supporting their employees' involvement. Any employer who wants additional information may contact the Department of Productivity and Labour Relations on 1300 655 266.

I table a Department of Productivity and Labour Relations circular to departments and authorities, No 8 of 1999. I also table relevant advice from the Government Employees Superannuation Board.

[See papers Nos 242A-242B.]

HEALTHDIRECT

Statement by Minister for Health

MR DAY (Darling Range - Minister for Health) [12.08 pm]: Last week the Health Department's telephone triage service, HealthDirect, was awarded the Premier's Award for Customer Focus. HealthDirect, which first began operating in May of this year, is a 24 hour a day, seven day a week call centre staffed by registered nurses. While it does not supply a diagnostic service over the phone, it does allow the public to access the most appropriate health service provider in the most appropriate time frame.

In just the four short months since the first call was received, HealthDirect has grown at a phenomenal rate, with in excess of 51 000 calls up until the end of September. This means more than 400 people a day are calling HealthDirect for advice - approximately 3 000 calls a week. I am advised that the public who contact HealthDirect are more than happy with this service. While it aims to complement the triple-zero service for emergencies, on a number of occasions people's lives have been saved.

In particular, a story featured in the health and medicine section of *The West Australian* newspaper recently told the story of a middle aged woman who was feeling unwell. After talking with the woman, the registered nurse was concerned that she needed to seek urgent medical advice. On presentation at hospital, her doctor advised her that she had suffered a heart attack. That woman had not intended to seek medical attention until HealthDirect had urged her to do so. HealthDirect also played an important role during the recent enterovirus health warning by providing information and answering questions from many concerned parents. During this period, call numbers to HealthDirect rose to more than 1 000 a day.

HealthDirect was established as a pilot project in the Perth metropolitan area with joint funding from the State and Commonwealth Governments. In fact, the ACT Government recently called for tenders for a similar service. It is the first service of its kind in Australia, and there has been significant interest from Health Departments in other States. From the figures that I have quoted, the value of this pilot project and its acceptance by the general public is not in question. With such overwhelming results, we are keen to make this service available to all Western Australians as soon as possible. On the surface, it may seem that it would only require the flick of a switch to give access to HealthDirect to Western Australians living in rural and remote areas. However, behind the scenes, a lot of preparatory work and liaison needs to occur. A service of this type cannot work effectively without establishment of a network of links with the many health services in the community. To this end, work is progressing to establish those links and gather health service information in rural and remote areas.

I am pleased to advise today that a phased implementation of HealthDirect to rural and remote areas is planned to start within the next few months. It is pleasing that we are able to start rolling out this service just six months after the pilot program began operating in the Perth metropolitan area. The first country area to benefit from this important service will be in the State's north. From there, as the information is gathered, checked and rechecked, other areas will be introduced to HealthDirect.

I am sure that all members will agree with me that HealthDirect is an exciting and innovative service that lives up to the Government's commitment of improving access to health services closer to home, and I congratulate all those who have been involved in developing the service so far.

CADETS WA REVIEW

Statement by Minister for Youth

MR BOARD (Murdoch - Minister for Youth) [12.11 pm]: I inform the House of the independent review of the Cadets WA program. The report, entitled "Accepting the Challenge", was prepared by Alf Standen from Training and Assessment Services after an open tender process. It was conducted between 10 April and 31 July 1999. The findings of this evaluation are based on written and verbal advice received from school principals, unit coordinators, instructors and the cadets themselves. Indirectly, the report also contains information from parents and community organisations.

I am pleased to announce that the report gave an extremely positive analysis of the Cadets WA program. Three of the report's principal findings were that the Cadets WA program is highly respected by schools, young people and the community and is achieving the objectives of the program; the program is adequately funded and does not put a drain on other resources of schools, community groups or parents; and there are opportunities to expand the program and improve the quality of the outputs. The review also referred to an emerging need for qualified instructors. This is a challenge which the Government is planning to meet through the introduction of a training course with Leadership WA. Overall, the evaluation identified Cadets WA as a program of significant merit, which is addressing the needs of schools, individuals and the community.

Cadets WA was introduced by the Government as a pilot program in 11 schools in 1996. There are now 149 Cadets WA units, and another 30 or 40 schools are expected to have units by next year. The rapid growth of the program is a reflection of the success which Cadets WA has been with schools, the community and, most importantly, with young people themselves. The information gathered about the views of the cadets was very positive. Over 90 per cent of those

interviewed indicated that they had learned to be more responsible for their actions, they were learning to be good team members, and they felt better about themselves as a result of their involvement with Cadets WA.

More than 7 000 young Western Australians and adult instructors are part of Cadets WA. With the recommendations from the review and the announcement last week of commonwealth government support for a national youth development program, I am sure that Cadets WA will continue to play a valuable role in the community. I now table the review of the Cadets WA program, "Accepting the Challenge".

[See paper No 243.]

CRIMINAL CODE AMENDMENT BILL 1999

Assent

Message from the Governor received and read notifying assent to the Bill.

HORTICULTURAL PRODUCE COMMISSION AMENDMENT BILL 1999

Third Reading

MR COWAN (Merredin - Deputy Premier) [12.13 pm]: I move -

That the Bill be now read a third time.

DR TURNBULL (Collie) [12.14 pm]: Due to my absence yesterday, I was unable to contribute to the second reading debate and consideration in detail discussions on this Bill. The Horticultural Produce Commission Amendment Bill has an important part to play in the future of the agricultural and primary industries of Western Australia. I have had extensive discussions with the primary producers in my electorate, in particular the fruit growers association, who will be affected by the creation of the new Agricultural Produce Commission. It was on the basis of discussions with the fruit growers and officers of Agriculture Western Australia and the minister's office that the amendment to clause 10 of the Bill was drafted. This amendment, which was passed last night, is important in that it emphasises that each producers' committee is an autonomous body. There is no cross-subsidisation between any of the other commodity committees.

The purpose of the commission is to provide a service for which fees will be charged. It is important that specific producer committees have the power to determine what services will benefit their commodities, and also have an influence in determining what the fees will be. It is also important that the commission have regard to that advice and then perform the functions necessary to implement it. This clause is an important addition to the Bill in clarification of how the commission will relate to the producer committees.

The producer committees have operated fairly well with groups such as the fruit growers. However, as members know, unfortunately the shortcomings of legislation usually appear only when there are problems. There have been a few problems in the horticultural industry in the not too distant past. These have emphasised that it is important that producer committees have a strong position in relation to the commission. When it comes to the expansion of the role of the proposed Agricultural Produce Commission, it is important that the commission commence its activities in all those other primary industry areas of Western Australia on a good footing and with a strong understanding of the relationship between the producer committees and the commission. It is also important that there be an understanding of the relationship between the peak bodies of the different types of produce in Western Australia and the producer committees which will be formed under this Bill.

It is difficult, and most likely impossible, to incorporate within the legislation a description of how the peak bodies of the different industries will relate to this new Agricultural Produce Commission. Therefore, as the minister said in his closing comments last night, a lot of detail about how this legislation will operate will be contained in the regulations that will be passed after the Bill is in place. I can assure members that the producers of the various commodities will be closely examining the regulations and how they will relate to their industries.

In the negotiations the fruit growers, horticulturalists and the vegetable growers have had with Agriculture Western Australia and the minister's office, it has become apparent that clarification of how the peak bodies will relate to the producer committees is necessary. Agriculture WA and the minister's office have assured us that a "memorandum of understanding" will be drafted and discussed with the producer bodies so that the relationship between the peak bodies and the producer committees will be on a sound and well understood basis regarding all commodities in Western Australia.

I am very pleased that this legislation is supported by the Opposition, which has participated in negotiations on a few amendments to improve it. An amendment has also been moved to provide that if an election is called for to appoint members to the producer committees, one will be held. It will reassure people who were concerned that the producer committee would be appointed by the minister, that it will not be the case and the producer committees will be representative of all the people who have a stake in that commodity.

This legislation is also very important for those shires and localities that want to enter into the fight against fruit fly. It will ensure some control and that fees can be charged for the management of commodities, particularly fruit trees which are not commercial, but which are being plagued by pests that are detrimental to not only commercial growers but also domestic growers. The legislation will provide a very important service by allowing local people to control pests even if they are not impacting on commercial production. The obvious example in this situation is the fight against fruit fly. In my home town of Collie, the people involved are eagerly looking forward to the implementation of the Bill. An active group is working very hard on the implementation process. We look forward to the speedy passage of this legislation.

Thank you, Mr Speaker, for this opportunity to make some comments during the third reading debate. I support the Bill and look forward to the negotiations in the development of the regulations.

Question put and passed.

Bill read a third time and transmitted to the Council.

NEW TAX SYSTEM PRICE EXPLOITATION CODE (WESTERN AUSTRALIA) BILL 1999

Cognate Debate

MR SHAVE (Alfred Cove - Minister for Fair Trading) [12.24 pm]: I move -

> That leave be granted for the New Tax System Price Exploitation Code (Western Australia) Bill 1999 and the New Tax System Price Exploitation Code (Taxing) Bill 1999 to be considered cognately and that the New Tax System Price Exploitation Code (Western Australia) Bill 1999 be considered the principal Bill.

In addition I table explanatory memorandums on each of the Bills for the information of members.

[See papers Nos 246 and 247.]

Question put and passed.

Second Reading

Resumed from 23 September.

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [12.25 pm]: I strongly support the Bills.

Mr Osborne: Good speech.

Mrs van de KLASHORST: Thank you. The member for Bunbury said that because he knows I will give a good speech.

As we are all aware, the Commonwealth Parliament has passed a new tax system that will affect prices consumers will pay for goods and services. Under this new system, commencing 1 July, wholesale sales tax will be abolished and replaced by a goods and services tax of 10 per cent. Although I and most Australians support the introduction of the goods and services tax and almost all businesses will be upfront and honest and not use the new tax system as an opportunity to exploit consumers, the State and Commonwealth Governments appreciate that a minority of businesses might - I emphasise might - use the new tax charges as an opportunity to exploit consumers. We must be careful not to suggest that everybody will do this. However, some people may not fully understand the system and some people may not be as upfront as they should be. We must be proactive to protect consumers, especially in the light of the many changes that will occur from 1 July.

In conjunction with the Commonwealth Government's legislation, the State Government has drafted this legislation to ensure that price exploitation does not occur. I commend the Federal and the State Governments for this proactive stance. Once the Bills are passed, they will afford protection for the people of Western Australia.

In his second reading speech, the minister referred to the fact that, although the commonwealth legislation will prevent suppliers from profiteering by failing to pass on to consumers the benefits of lower taxes and by unjustified price increases, it does not cover all activities in Western Australia, especially transactions involving individuals or partnerships. With respect to Western Australia, this Bill will rectify what is seen as a limitation in the commonwealth legislation.

These Bills will prohibit price exploitation, especially when a corporation or person supplies either goods or services at an unreasonably high price when taking into account the new tax system. Both the state and commonwealth legislation combine to allow and fully cover actions that can be taken to prevent price exploitation. They provide for the publication of guidelines limiting unreasonable charges and prosecution of suppliers who indulge in price exploitation, who could face fines of up to $10m. I hope that this significant penalty will be a major deterrent.

In addition, those who exploit the new tax system can be asked to refund moneys to the people they have exploited. Most traders will not attempt to exploit the new tax system. However, consumers will look to government to protect them against those traders who do. We can be sure that market forces will keep prices down, and will force many traders to pass on the savings they receive from the new tax. However, if there are isolated cases of exploitation, this Bill will be important. The Government wants to ensure a strong level of protection for consumers, and this Bill will put that in place. I strongly support the Bill. I commend the Government on the Bill and ask all members in this House to support it.

MR McGINTY (Fremantle) [12.30 pm]: This legislation is welcomed by the Opposition, although it has some doubts as to the extent to which it will be effective. Having said that, this Bill will at least ensure that when the new goods and services tax comes into operation, we have some statutory mechanism by which those people who seek to exploit the new tax system to make windfall profits or to charge unfair prices can be brought to task.

The provisions of this legislation will enable the Australian Competition and Consumer Commission to take action to prevent price exploitation in a number of ways: Firstly, by publishing guidelines on when prices will be considered to be unreasonable; secondly, by issuing notices that specify the maximum price that should be charged for a particular product; and thirdly, by prosecuting suppliers guilty of price exploitation and seeking fines of up to $10m for bodies corporate and $500 000 for individuals. The ACCC will also have the power to obtain injunctions against suppliers who engage in price exploitation and may also make orders to cap prices and require refunds in certain circumstances.

As the minister said in his second reading speech, this legislation is substantially a mirror of legislation which has already been passed by amendments to legislation in the Commonwealth Parliament, principally, the Trade Practices Act. I compliment the people responsible for drafting this legislation, because it is a clever way of the Commonwealth and the State cooperating to achieve a nationally uniform outcome. It does this in a number of ways. Basically, it enacts the provisions of the commonwealth Trade Practices Act, as amended by counterpart commonwealth legislation, as state law, but makes them a breach of commonwealth law. In that way, the Bill incorporates the appeal mechanisms and the administrative law requirements of commonwealth law as applicable to breaches of this state law, and also empowers the Commonwealth to do a range of things in respect of this law as though it were a breach of commonwealth law.

I would like to place on record that this measure of cooperation between the Commonwealth and the State in order to overcome the constitutional limitations on the legislative power of the Commonwealth Parliament is something that we should look at doing more frequently. I say that because of what occurs in a range of areas. Most people in this place would think that the family law arrangements in Western Australia were the best in the Commonwealth. In some respects that is the case because we have adopted a cooperative arrangement between the Commonwealth and the State. However, the difficulty with the existing family law is that any changes in the federal law must then be enacted into Western Australian law - often as late as 18 months afterwards - and we do not have constant uniformity throughout the whole of the Commonwealth of Australia in the implementation of family law. That is one example about which people have come into my electorate office and written to me in recent months and complained that the state Family Court Act has not been amended to pick up amendments to the Commonwealth Act that were made some considerable time ago. That is acting to the detriment of children and of separating couples in Western Australia. This legislation does not suffer from those detriments.

We need to look constantly at ways in which we can have a far greater integration of commonwealth-state law and different mechanisms to achieve that. This is particularly the case following the decisions three months ago in the High Court in the Wakim cases, which have thrown into doubt a number of the previously existing cross-vesting laws of both the Commonwealth and the States in respect of enabling courts of different jurisdictions to deal with both state and federal matters. It is an area of great complexity that is calling out for a new approach to be adopted in these matters. From what I have seen of this scheme it is a neat arrangement.

As has been said, the purpose of this legislation is to ensure that, throughout the Commonwealth, there is uniform action to prevent suppliers from profiteering either by failing to pass onto consumers the benefits of lower taxes on goods and services or by unjustified price increases. It is an anti-profiteering measure. The problem arises because, in introducing its new tax system, the Commonwealth has power to legislate in this way only in respect of commerce and trade, and corporations. It does not have the power to legislate to control the activities of individuals and partnerships, and because of this deficiency the commonwealth law will apply to only part of the commercial sector. In particular, it will not apply to a significant number of non-corporations which engage in trade and commerce within the limits of the State. This legislation is necessary in order to pick up the lower end of the corporate spectrum.

The legislation is good in the sense that it also incorporates into Western Australian law in a unique way the administrative law provisions from the Commonwealth Legislature. As members will be aware, dating from the Whitlam era in the first half of the 1970s, the Commonwealth has had a detailed system of administrative law which makes provision for decisions that affect the rights of individuals to be reviewed as to their merits in the Administrative Appeals Tribunal when a question of law is involved, subject to the provisions of the Administrative Decisions (Judicial Review) Act.

One of the interesting aspects of this Bill is that it fully incorporates the provisions of commonwealth administrative law into the law of Western Australia for the purposes of this legislation. That is an encouraging step forward. I refer in particular to clause 27 of the legislation which will apply the commonwealth administrative laws as laws of Western Australia for matters arising under the code of this jurisdiction. A matter arising under the code of this jurisdiction is taken to be a matter arising under a law of the Commonwealth and not a law of Western Australia. Clause 28 will make commonwealth laws as laws of Western Australia for matters arising under the code and other participating jurisdictions, and a matter arising under the code of another jurisdiction is taken to be a matter arising under a law of the Commonwealth and not a law of that jurisdiction. Two remaining clauses apply commonwealth administrative law to Western Australian law under this piece of legislation. Clause 29 ensures that any power conferred on a commonwealth officer or authority by the commonwealth administrative laws, as applied by clauses 27 and 28 of this legislation, is exercisable in relation to a matter arising under the Western Australian code or the code of a participating jurisdiction. Clause 30 prevents a Western Australian officer or authority from exercising any power that is exercisable by a commonwealth officer or authority under the proposed division. In respect of the administrative laws of the Commonwealth, we are legislating essentially to deem this to be commonwealth legislation and all that flows from that, including that the administrative laws of the Commonwealth will apply as though the Commonwealth had legislated in those areas involving individuals and partnerships that do not fit within the commonwealth corporations power or its trade and commerce power. It is a neat way to address a problem of overlapping jurisdiction to ensure we have uniformity.

Division 3 of this legislation provides for a range of offences that will be committed by people who engage in price exploitation, and I will refer to those provisions briefly. Clause 21 provides that it is an offence against the code of this and other participating jurisdictions, and it is to be treated as though it were an offence against a law of the Commonwealth, even though it is a breach of state law. Clause 22 applies commonwealth laws as being laws of Western Australia to offences against the code in this jurisdiction, and an offence against the code of this jurisdiction is taken to be an offence against the Commonwealth and not against a law of Western Australia. As I said, these provisions are unique. It is not every day that we pass a law to say that a breach is not an offence against the law of this State, but is to be treated as though it is a breach of commonwealth law.

Clause 24 provides that any powers conferred on commonwealth officers or authorities by a commonwealth law, as applied by clauses 22 or 23, is exercisable in relation to an offence against the Western Australian code or the code of another participating jurisdiction. Clause 25 prevents a Western Australian officer or authority from exercising any powers that are exercisable by a commonwealth officer or authority under the proposed division.

A combination of both the offences, on the one hand, and the adoption of commonwealth administrative law and the general scheme, on the other hand, is something that we should be looking more towards. The days when the state boundaries required very much a states' rights approach to these issues, when people would argue that somehow or other Western Australia was different, are diminishing. As Western Australia becomes a part of the international economy, as the world shrinks in terms of communications and the impact of the international economy, the significance of state boundaries is receding and the significance of jurisdictional battles between the Commonwealth and the States should also be diminishing, in my view. For those reasons, I welcome the fact that we are, firstly, adopting the commonwealth scheme to stop profiteering and price exploitation arising out of the goods and services tax; and, secondly, using our legislative power to fill a hole in the commonwealth legislation to ensure the uniform application of these laws to all people engaged in commerce and industry throughout the entire Commonwealth, for those who do not fit within the commonwealth power and to ensure uniformity with the other States and Territories. For those reasons, we are happy to indicate our support for this legislation.

MR McGOWAN (Rockingham) [12.44 pm]: A system is being put in place to attempt to prevent some increases in prices that will arise as a result of the introduction of the goods and services tax. At the outset, I think there will be a substantial increase in the consumer price index as a result of the goods and services tax. The Senate conducted inquiries last year and earlier this year. Last year it found that the estimates provided by the commonwealth Treasury and Treasurer in relation to the inflationary impact of a goods and services tax, being a 1 to 2 per cent increase in the consumer price index as of 1 July next year, were incorrect. We could say that there will be some overheating in the economy leading up to the introduction of the goods and services tax. That would mean price increases in the lead-up to its introduction as a result of inflationary expectations on the part of the consumers, rather than the introduction of this tax.

Some prices will go up naturally; for instance, insurance policies that go over the threshold period might be signed now or extended for a year or two, and a goods and services tax component will be installed into them. The estimate, which was provided by the commonwealth Treasury in the lead-up to the last federal election campaign, of an increase in the consumer price index of between 1 and 2 per cent has been shown, comprehensively, to be incorrect.

At the moment throughout the world there are continuing jitters. The twelfth anniversary of the 1987 stock market crash was either yesterday or is today. The corrections to, and falls on, the stock market happen mainly in October. In past decades, November and October have been the months to watch out for, because these things do not operate necessarily according to -

Mr Shave: I hope you are not scaring all those capitalists out there.

Mr McGOWAN: I think this minister is socialist. I listen to his comments every day. He stands in question time and every day lauds the impact of LandCorp's investment in something or other, the amount of money it is making on behalf of the Government, or the investment in land around Western Australia by the Government.

Mr Shave: I was complimenting the minister.

Mr McGOWAN: That is not something we would be caught doing. According to the definition I learned when I studied - maybe it has changed in the past few years - that is socialism. It is interesting to hear the minister talk about capitalists - he looks like a socialist, he acts like a socialist, he walks like a socialist; therefore, by definition, he must be a socialist!

Mr Shave: A few of my socialist friends would have a very poor view of the member, having made those comments.

Mr McGOWAN: It distresses me to call the minister a socialist! I am sure it also distresses the member for Fremantle.

Mr McGinty: He used to be a member of the Labor Party. The member for Alfred Cove was a good socialist when he was a member of the Labor Party. I think he has lost his way lately.

The SPEAKER: Order! I think we will return to the Bill!

Mr McGOWAN: I agree, Mr Speaker. I ask the member for Alfred Cove not to provoke me with some of his socialist utterings in question time in the future.

I return to the inflationary impact of the goods and services tax. At the moment it appears that the world share market may go through some corrections. There is some speculation that a major correction, which might equate to a crash, is coming down the line. In this context, there will be a tightening of monetary policy to prevent inflationary consequences. Most economists envisage that a goods and services tax will have a bigger inflationary impact. The Senate inquiry held earlier this year also found there would be a bigger inflationary consequence as a result of the imposition of the goods and services tax, than was envisaged. In that context, we shall have a tightening of monetary policy which means that interest rates will go up. The introduction of the goods and services tax may have some very negative consequences for the Australian economy and Australian families, particularly if interest rates rise and we see a shock in the world stock markets. To introduce a change to the taxation system of such breadth at this time is very dangerous. We will observe what takes place until July of next year but the Australian economy will be going through a very risky course of action. Inflation has been squeezed out of the system over the past 15 years.

Mr Shave: It will be like heaven: Once you come out of the tunnel, it will be all bliss.

Mr McGOWAN: Having listened to the member for Alfred Cove over the past week, I would have thought that heaven to him was Russia in 1918 when the socialist revolution took place. That would have been his dream economy, because the land was liberated from private individuals and put into the hands of government.

Inflation has been squeezed out of the system, but an inflationary tax like this will come in as interest rates go up, which will naturally have an effect on the consumer price index. When this involves corrections in the share market, it will be very dangerous. Although I do not support the GST, if we are to have one, we must make efforts to prevent profiteering and unnecessary price-jacking on the part of businesses around Australia. I find it difficult to grasp how the 1.7 million businesses which will be imposing a GST on the people of Australia will be watched over by somebody. I do not see how the Australian Competition and Consumer Commission can possibly police such a wide-ranging tax which will be imposed by so many businesses around Australia. The vast majority of businesses are not corporations. At the moment the competition and consumer code is administered by the ACCC. It applies to corporations under the corporations power of the Commonwealth.

The vast majority of businesses are not companies. The people involved do not seek the benefits of company tax rates, which are 36¢ in the dollar. They do not see the need for incorporation and limited liability because that may not give them taxation benefits. An enormous load will be put on the ACCC in administering this code. With 1.7 million businesses, I do not see how it can possibly police a code like this. When this tax is brought in on 1 July, we will see enormous increases in prices across a whole range of industries. We will also see that the ACCC's task of policing this tax will not be effective. It is admirable that some effort is being made, but I feel that the effort will be in vain owing to the scope of the task that has been put on those who are required to enforce this.

In past weeks I have raised problems relating to local government, which is one of my shadow portfolio areas. The goods and services tax will be imposed on a number of local government activities. It will increase their costs and they will have barely any assistance in the administration of the GST. I have raised the problems of sporting groups - sport being another of my shadow portfolio areas - and the fact that they will have a GST imposed on their sponsorships, which I am sure will be very hurtful for them.

I have also raised various problems relating to small businesses and the impact that the GST will have on their operations through the administrative time and expense that will be imposed on them. Overall, the GST will be a very negative tax for all those groups. From 1 July of next year, despite all of these efforts, there will be a great deal of chaos amongst the businesses and groups that are required to put this regressive tax into effect.

MR KOBELKE (Nollamara) [12.55 pm]: Although we support these two Bills, it needs to be clearly stated again that the Labor Opposition is totally opposed to the goods and services tax in principle. The GST is a regressive and unfair tax. Despite the huge amount being spent by the Government in trying to promote and sell the package, we believe that, on the whole, the tax will disadvantage Australia and will be more costly to administer and more easily evaded than is the current system. Although the GST has advantages in some areas, the overall result will be a negative impact on the national economy and the economy of this State. Those are matters for political debate which do not relate specifically to the matters in this Bill.

The GST legislation has now passed through the federal Parliament and is a fait accompli. The Parliament of Western Australia is left to look after some of the mechanics that must be correctly administered to ensure that the interests of this State and its people are protected as far as possible. These two Bills seek to protect Western Australians and people doing business in Western Australia against exploitation. The Commonwealth has passed laws and has a code by which it will seek to minimise and eliminate exploitation in the form of increased prices and other rorts which may occur through the implementation of the new tax system. The commonwealth legislation cannot apply to two areas. Therefore, these Bills extend the regulatory regime and protective system, which the Commonwealth has put in place, into the state jurisdiction. In fact, in one of the Bills the word "jurisdiction" is used synonymously with "State", so when we talk about the law applying to this jurisdiction, we mean to the laws of the State of Western Australia.

People will be ripped off through the implementation of the GST in two distinct areas, one of which is through genuine errors. Because of the complexities of implementing the new system and the considerable costs which will impinge on a whole range of industries, particularly in the small business area, operators will simply try to cover their costs by increasing prices. It may be that, in a technical sense, they will have acted in error and will have placed an additional price on goods or services and that may be found to be not proper or appropriate. In that sense they may contravene the code and the regulations which are covered by this legislation. There is room for genuine error that can lead to price increases that will not be judged to be reasonable and proper in accordance with the application of the GST. On the other hand, some operators will see in the uncertainty of the changes taking place the opportunity to increase prices improperly and to obtain windfall profits. There will be no argument from members that there should be a law that can effectively minimise, and hopefully prevent, that sort of deliberate exploitation of customers. We all know that certain elements in our community will seek to exploit any situation regardless of the rights of others. We need laws of this nature to protect the public.

In areas as complex as this, we can create major problems for those people trying to run their businesses properly. I refer to people of integrity and standing and who do not in any deliberate way attempt to trick and exploit people. We must always face this balancing act. I am not familiar enough with the code that we are implementing to know how well that balancing act is being done. I accept on the Government's recommendation and given that it has been looked at by the Commonwealth and all the States that it will achieve a reasonable balance. I simply must take it on faith; I do not have the expertise to make an informed judgment.

Mr Bradshaw: Have you done any research about what happened in New Zealand? I have not. Was there exploitation when its GST was introduced?

Mr KOBELKE: I do not know. It is difficult to compare countries because they are moving from different systems to tax arrangements that differ internally and between countries. I cannot provide any extra information about New Zealand.

I have grave doubts about how effective this legislation will be. It is a difficult area in which to work. In trying to be wary of that balance and appropriately not wishing to be too harsh on the majority of companies that will do the right thing, the Commonwealth Government has left too big a gateway for the small number of people who have no respect for the rights of others to get away with whatever form of exploitation they may seek to pursue. It is difficult to ensure that legislation of this nature is effective. In some areas the Australian Competition and Consumer Commission has been like a dog with a bone; it has been very determined and pushed a hard line. Its public utterances have suggested that it will be very vigilant and forceful in achieving the objectives of the code. Whether it will be effective, only time will tell.

I refer members to the New Tax System Price Exploitation Code (Taxing) Bill. The Bill is unusual in that its effective content is shorter than the long title, which is -

A Bill for

> **An Act to impose certain fees referred to in section 34(2) of the *New Tax System Price Exploitation Code (Western Australia) Act 1999* to the extent that any such fee may be a tax.**

The short title has 34 words. Clause 3, the only effective clause in the Bill, is headed "Imposition of tax" and it provides -

> To the extent that any fee referred to in section 34(2) of the *New Tax System Price Exploitation Code (Western Australia) Act 1999* may be a tax, this Act imposes the fee.

That is 32 words. It is extraordinary; we have a long title longer than the effective clause in the Bill.

I turn now to the more substantial piece of legislation - the New Tax System Price Exploitation Code (Western Australia) Bill. The first comment I will make relates to the nature of the Bill, which adopts commonwealth legislation. I will go through a couple of parts of the Bill to point out some aspects of its structure and some points that I wish to emphasise. In brief, it simply takes the commonwealth code from the Trade Practices Act and attaches it as an appendix to the Bill. The procedures in the commonwealth legislation are simply given effect within the State of Western Australia.

As the member for Fremantle said, all the administrative procedures that apply in the Commonwealth then become applicable to matters in the jurisdiction of Western Australia. We are simply handing over an area of jurisdiction holus-bolus to the Commonwealth. There appears to be no other way to go. The member for Fremantle suggested that the structure and drafting had much merit. However, with this measure, the move to support the GST and the new taxing regime, the Government is placing Western Australia in a position of even greater subservience to the Commonwealth Government. We are abdicating more responsibilities and legislative, financing and taxing powers to the Commonwealth. This Government has crowed about supporting States' rights. It wants to stand up for the rights of Western Australia and not allow the Commonwealth to assume more and more powers over our state parliamentary system. This Bill is another clear example of the Government's handing to the Commonwealth responsibilities which were and are in the jurisdiction of the Western Australian Government.

That is very different from what members opposite did in opposition. There was a clear agreement across all States in 1990 that the Corporations Law had to be nationalised; there was no logical argument against it. On 20 October 1987, we had a huge crash on the stock market. At that time we also had enormous growth in information technology and computers and the start of e-commerce. All those things were happening on a national and international scale. It made no sense not to have a national Corporations Law applying to companies at a state level. There was no credible, logical argument for not having a national Corporations Law. This State, along with the other States, agreed to hand those powers to the Commonwealth. However, we had the ludicrous situation of the Liberal-National Party Opposition's opposing that move on the basis that we could not give any powers to the Commonwealth and in so doing reduce the legislative powers of the State. We got to the absurd situation in which every State in Australia except Western Australia was working with the Commonwealth to have those laws effective from 1 January 1991. Late in 1990, because the opposition parties then had the majority in the Legislative Council, they blocked that legislation. That legislation was similar to these Bills in that it ceded to the Commonwealth certain powers that apply to the Western Australian jurisdiction. The other five States and the Commonwealth were working together, and Western Australia was out on a limb.

Once the opposition Liberal and National parties blocked the legislation, they realised, through the pressure of the business community, how absolutely stupid that move was. We had the unprecedented situation of Parliament being recalled between Christmas and New Year's Day. We came back and sat on 27 December 1990 to fix the stupid decision made by the Liberal and National parties to block the implementation of the Corporations Law in Western Australia. Now, the Government has no problem handing legislative power to the Commonwealth through the Bills before the House. The next time government members cry about being State's righters and not allowing the Commonwealth to have any more power over the States, they should realise it would be hypocritical in light of this legislation. The point must be made that Western Australia can no longer stand alone in a range of areas. We must take a national approach. Even this week the Premier is still playing with the silly idea that Western Australia could somehow secede from the Commonwealth. There would be no net advantage if Western Australia went down that road. It is a way of playing to a very small audience about Western Australia's problems in dealing with the Commonwealth. There are major problems looking after the rights of Western Australia because of the powers the Commonwealth can use to dominate it, particularly in the area of finance. However, these problems should be

addressed in a way which produces results and not by grandstanding on the issue of State's rights and then handing over holus-bolus a whole range of financial powers to the Commonwealth simply because it suits the political agenda of the current Government. The current Government wishes to back its Liberal colleagues in government at the national level.

I have grave misgivings about the approach being taken. That is not meant as a criticism of the Government. Once the State is locked into the goods and services tax, these things have to be put in place. However, the State will end up with a complex set of laws whereby commonwealth laws are applied to state laws. If there is cooperation and everything is working well, Governments will not run into any real problems with that legal structure. However, as soon as things go wrong and someone takes a challenge to the High Court that knocks out a piece of the law or the Commonwealth and State Government are at loggerheads, this complex structure of interposing laws of the Commonwealth and the State is ripe for the creation of a legal morass. More problems will be created. I make that very clear. In a few years' time we shall see whether my words prove to be true or if I am being over-pessimistic. I do not think this will suddenly pop up in two or three years. The legal structure being created means that commonwealth law applies to the States and the States will cede certain powers but still retain their basic powers under the Constitution. This will lead to major problems when there are disputes that shift those boundaries. It will work well while there is a cooperative approach, but without that approach, this style of legislation opens up a Pandora's Box. That may not be such a big problem with these particular Bills. My understanding is - the minister can correct me if I am wrong - that the Bills have an effective sunset clause. The Bills only apply up until 1 July next year when the GST is fully implemented, and for the next two years. I understand the Bills have no effect after that.

Mr Shave: That is my understanding, but I will confirm that.

Mr KOBELKE: I will go through some of the provisions within the New Tax System Price Exploitation Code (Western Australia) Bill. Clause 22 is headed, "Application of Commonwealth laws to offence against New Tax System Price Exploitation Code of this jurisdiction". It states -

> (1) The laws of the Commonwealth apply as laws of this jurisdiction in relation to an offence against the New Tax System Price Exploitation Code of this jurisdiction as if that Code were a law of the Commonwealth and not a law of this jurisdiction.

"Jurisdiction" is defined in the Bill as this State. My understanding of that, and what the minister said in his speech, is that the Commonwealth's New Tax System Price Exploitation Code will apply as a Western Australian law. It will apply to any areas in which people seek to use the GST changes as a means of exploiting or overcharging people and seek to make windfall profits by charging a higher price for goods and services under the guise of the tax change. The Bill's intention is to give those powers to the Commonwealth. Those powers are not fully set out other than as they have already been alluded to. The Bill's appendix is the relevant part of the Trade Practices Act. That Act does not form part of the Bill and will not be part of the law. Clause 3(4) states -

> The Appendix at the end of this Act does not form part of this Act.

The appendix is in the Bill for the information of members and the general public who pick up a copy of the Act when it is law. However, it is not part of the State's law. It remains with the Commonwealth, but has application to the Western Australian jurisdiction. I am not clear on the application and the potential retrospectivity of the legislation. The Minister for Fair Trading said in his second reading speech -

> The code empowers the ACCC to monitor and report on prices in the 12 months leading up to . . . the introduction of a goods and services tax.

That period is from 1 July this year until 30 June 2000. The minister also said -

> While the GST will not commence until July 2000, the commonwealth code commenced on 9 July 1999 . . .

I take it that when these Bills become law, the commonwealth laws and its power will apply to Western Australia from 9 July 1999. Is this legislation retrospective?

Mr Shave: Again, that is my understanding. That is appropriate. Once the legislation is passed it applies from that date.

Mr KOBELKE: At this stage I do not mount any criticism because it is retrospective. I just want to be sure that it applies. It opens up questions about the effectiveness of the legislation for that period. Part of the process is monitoring prices, giving advice where a particular business may operate in a way that is seen as exploitative and then actually taking action to fine or prosecute where there is a clear case of exploitation or overpricing. One wonders how the Australian Competition and Consumer Commission will handle a case where someone has improperly applied a GST prior to that date. Will they simply get a warning and be told not to do it again or is there now a basis for taking stronger action? I am not sure whether the Minister for Fair Trading has jurisdiction over that matter because it will be for the Australian Competition and Consumer Commission to decide how it will implement that. The retrospective application of this code raises problems. I am not perfectly clear about the way the code will be applied. It may be a largely administrative matter with the ACCC. In the appendix of the code, section 75AU of the Commonwealth Trade Practices Act is headed "Price Exploitation in relation to New Tax System changes." Clause (1) states-

> A person contravenes this section if the person engages in price exploitation in relation to the New Tax System changes.

The definition of price exploitation is one which will come down to fine detail. I do not have time to tease that out. The commonsense interpretation is that if someone suddenly put up a price on the excuse of the GST and could not justify it, it would be accepted as price exploitation.

The first clause which makes the code applicable to state government instrumentalities is clause 13 of the Bill headed "Application law of this jurisdiction". It states -

> The application law of this jurisdiction binds (so far as the legislative power of Parliament permits) the Crown in right of this jurisdiction and of each other jurisdiction, so far as the Crown carries on a business, either directly or by an authority of the jurisdiction concerned.

My understanding of that is that it is clear that AlintaGas, Western Power and other Government instrumentalities and departments that provide a service have to comply with the Commonwealth code. They could have action taken against them if they were seen to be taking actions that were exploitative over the introduction of the GST. That should be taken in the context of clause 16 which indicates that the Crown is not liable to pecuniary penalty or prosecution. However, subclause (3) states-

> The protection in subsection (1) or (2) does not apply to an authority of any jurisdiction.

That means an authority of the State of Western Australia is not liable for penalty or prosecution because it is the Crown. To my reading of that, instrumentalities are required to act in good faith and be careful that they do not increase prices in the changes to be implemented simply to earn extra income. I have a specific example which I hope the minister will follow up. I hope that if we can get some publicity for this issue, people who have been affected may come forward. A person came to see me this week. I will not name her because she may not be ready to go public. However, if she wishes to go public, I will give her details to the minister so that he can pursue the matter. The woman rang Pinnaroo cemetery at about 11.00 am on Friday, 15 October because she was seeking a niche in a wall for the ashes of a relative. She was told that the niche in the wall cost $430 plus a GST of $43. On Monday, having agreed in discussions with members of the family that they wanted it, she rang again and this time spoke to an administrator at Karrakatta cemetery. It was confirmed that the cost of the niche was $430 plus a 10 per cent GST of $43. The woman is involved in a company and has had discussions about how the company will implement the GST. She therefore thought that it was improper for a government instrumentality to impose a GST on a niche in a wall that had already been constructed. She raised her concerns with me as it was not in keeping with the law. The GST does not start until 1 July 2000. She was told that she had to pay it. However, if later it was found that she did not have to pay the amount, it would be refunded. The people at the Cemeteries Board were clear that she had to pay the 10 per cent GST now. When she said that she would take the matter to her member of Parliament, she was told in a later phone call that she did not have to pay the GST. The lady was concerned that although she had discovered that she did not have to pay it, how many other people have been caught by it and have paid for something not due at this time?

The people implementing the scheme may have got it wrong and they should apologise and correct the mistake. I hope that someone at the Cemeteries Board is not trying to run something on the side to help bolster the coffers of the instrumentality by introducing the GST well ahead of the due introduction date. I am concerned that a government instrumentality is not doing the right thing. It should be pulled into line and have the facts explained to it. I accept that this was an error in good faith and that someone has not done his homework properly. It emphasises the complexity of the issue for so many small businesses and companies. People are being confronted by a range of new requirements - many agencies and businesses are struggling to survive. They are trying to make ends meet in competitive markets, although I am not sure how competitive the Cemeteries Board is because there is not much choice. Many small businesses are stretched to the limit trying to keep business running and make a profit. The extra cost involved in employing consultants and accountants to advise them, to commit their own time, to read the information and to understand what is required will provide more opportunity for people to get it wrong.

It does not mean that we can allow consumers to be exploited. It will be a difficult balancing act and I think the Minister for Fair Trading will have to play a major role in upholding standards and ensuring people are educated about the requirements involved in implementing the new system.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [1.26 pm]: I thank the members for their contribution to the debate. As was stated in the second reading speech, the objective of the Bill is to prevent price exploitation under the Commonwealth Government's new tax system. The purpose of the New Tax System Price Exploitation Code is to prevent suppliers from profiteering in the transition to the new tax system. A number of issues have been raised by members. The member for Fremantle talked about the benefits arising from the Federal Government controlling price exploitation. I concur with that. It is necessary because people are buying and selling across boundaries in Australia and internationally. Unless federal legislation controls it, it will be very difficult to control it at the state level. The member for Rockingham pointed out that he was concerned about price increases from 1 July 2000. The Government has agreed to a $12b cut in personal income taxes from that date. That will be beneficial to everybody who pays income tax. The tax-free threshold will increase from $5 400 to $6 000 and the lowest marginal tax rate will be cut from 20 per cent to 17 per cent. That will affect a lot of low income earners. The marginal rate for middle income earners will be cut to 30 per cent from 34 per cent or 43 per cent. That is a significant reduction. The extension of family assistance with the withdrawal of family benefits will be cut from 50 per cent to 30 per cent. The income threshold will be increased to $28 200. Pensions will be increased and self-funded retirees will receive new savings bonuses. Pensions, allowances and benefits will be increased by 4 per cent in nominal terms and the increase will be indexed to maintain its real value. This compensation will be increased as required to guarantee a 2 per cent increase in real terms. A one-off, untaxed bonus of up to $1 000 will be provided to aged persons and $2 000 to self-funded retirees.

Mr Kobelke: I assume these measures are intended to compensate people for the extra costs incurred by the goods and services tax?

Mr SHAVE: Yes.

Mr Kobelke: Not compensation measures for the expected exploitation?

Mr SHAVE: No; perhaps I should have made that clear. The member for Rockingham, in his eloquent speech, said there would be a price rise. He was referring not to exploitation but, rather, to his belief about the damaging effect of the GST.

Mr Kobelke: Do you pride yourself on being close enough to small business to know how things are going and what they are thinking?

Mr SHAVE: Yes.

Mr Kobelke: Are you honestly picking up vibes from small businesses, in the political line that you and the Federal Government are running, about tax incentive credits actually helping to balance out most of the tax increases and the low level administrative costs? That is not what I am getting.

Mr SHAVE: There will always be scepticism. It is incumbent on the Federal Government between now and 1 July next year to clearly outline the paperwork that small business will have to produce as there will always be that concern. Unless people are absolutely certain of what government agencies are saying to them, there will always be a level of scepticism. People will be concerned until they are given the guidelines on the type of form that they will have to fill in, which is natural with small businesses because traditionally they are effectively government tax collectors; and they resent that. I used to resent it, as a small business proprietor prior to coming into this place. If I were sitting in the marketplace now and people were saying, "It will be easy; trust me, I am from the Government" I would believe it when I saw it. The proof will be in the pudding. If the Federal Government does not ensure that it is an easy process and small business is able to handle it in a reasonable fashion, it will pay the political price for its actions.

Mr Kobelke: You would rather characterise it as a healthy scepticism than as a well-founded concern that the impact on small businesses could be detrimental?

Mr SHAVE: I am assured by my federal colleagues that by 1 July any concerns that some of my small business constituents might have will be fully addressed.

In answer to the member for Rockingham, all of these elements of the tax reform package will compensate taxpayers. The Commonwealth has estimated that the GST increase will be around 2 per cent and it will be a one-off increase. For the interest of the member for Nollamara, I did some general sums for a hotel by adding on the 10 per cent increase and giving a credit on the cost. I also worked it across a range of businesses. It will affect some businesses differently from others. It is simple for a wholesaler working on a small margin where the cost of the product in is very close to the cost of the product out. However, when running a hotel or a motel where a liquor product is bought in and sold through bars and accommodation is sold through hotel rooms, the cost of the product in for the rooms is different from the cost of the product in and out of the bottle shop. Therefore, people with a diverse business will want to be assured by the Federal Government that it will not be too difficult. The hotel and tourism industries at a national level have some concerns. A 10 per cent increase on hotel rooms of $200 to $250 a night will add $20 to $25 to the standard rack rate. Those establishments have expressed their concerns to the Federal Government. Some people would say that people who can afford to stay in a room at $250 a night can afford to pay anyway. That is not an argument to which I totally subscribe. It will have an effect on a great number of businesses, including government agencies, in their sending people to conferences. I will not include politicians attending conferences, because people do not care too much about politicians. However, I do not deny that there is concern about government spending in other areas and it will be up to the Federal Government to ensure that it addresses those issues at the appropriate time.

I will address a couple of comments of the member for Nollamara about retrospectivity. I am told that the legislation will not be retrospective in every State. It will be the responsibility of the fair trading or consumer affairs departments in those state Legislatures to take action when unfair pricing occurs. I welcome the example given by the member for Nollamara. If the Ministry of Fair Trading receives a complaint of exploitation, it will take appropriate action against those responsible where it occurs under the Fair Trading Act. I take the point made by the member for Nollamara that some people may add the GST figure in error; I would like to think that is right. However, if it is not right and retailers are not prepared to acknowledge those errors, we will continue to make them aware of the fact that it is improper to apply a GST. If people take action to exploit the public, the Ministry of Fair Trading will take action where it can. However, I point out that in many instances since 1 July this year prices have not increased but have decreased because of the reduction in sales tax on goods being applied to many businesses. I would like to think that many of those businesses have passed on that decrease already to the consumers.

Mr Kobelke: Something you just said has opened up another question. Your suggestion is that the Ministry of Fair Trading will be involved in this area. I assumed that it would have no powers of enforcement of the code. Can you explain how the Ministry of Fair Trading will work cooperatively with or as an integrated part of the Australian Competition and Consumer Commission in these matters?

Mr SHAVE: If we receive a complaint after the legislation is passed, we will hand it over to the ACCC because the powers are clear. The ACCC is not empowered to take action until the legislation is passed. We will therefore not be working jointly with the ACCC up to the point of the legislation being passed. Currently, if someone is clearly exploiting a consumer, a number of options exist under the Fair Trading Act to resolve those issues. One of our last options is to name someone. For example, if the Pinnaroo Memorial Park was charging a GST, we would contact the people responsible and tell them that it is improper and that they should not be doing it as the GST is applicable from 1 July next year, and we would

encourage them to refund the money. If they did not refund the money, one of our strong options is to name the business. A great deal of damage can be done by the Ministry of Fair Trading exposing a business for falsely charging people by causing them to believe they must pay the GST. That is not an action we like to undertake regularly, because it could be a bill of $100 and it could cost a business $100 000. We have done it; I have named a couple of businesses at times. It has caused those businesses to go into liquidation and become defunct. It is not something we do lightly, but it is an option. Under the Fair Trading Act certain fines are applicable for people who act improperly. Our best way of controlling these people is to say that we will name them unless they desist from what they are doing. That usually creates a very quick response from people who tend to take advantage of other people.

Mr Kobelke: Has the ACCC given you any undertaking as to the level of staffing or resources it will put into WA?

Mr SHAVE: I assume that it has. I do not have the detail, but I will get it for the member for Nollamara. I have quite a number of detailed notes in relation to it. However, I do not have those specific figures in front of me. Obviously, if we know that what the Australian Competition and Consumer Commission is proposing is inadequate, we will approach it about that. In regard to exploitation, a number of publications have been put out. If members would like copies of the ACCC publications on exploitation and advising small businesses of what they should and should not do, I am happy to provide those for members.

I have covered most of the issues that were raised. I thank the members of the Opposition for their contributions. If, at any time between now and when the Bills are passed, members have any specific issues or constituents bring them clear examples of people trying to exploit the situation, I would welcome that information. The Ministry of Fair Trading will certainly take the appropriate action to rectify any exploitation. We have not had a lot of complaints of the sort raised by the member for Nollamara.

Mr Kobelke: Have you had some?

Mr SHAVE: Not to my knowledge. I have not seen any direct letters. They may have come into the department and been handled at a departmental level, but my advisers have indicated that they have not received any complaints. Once again, I will check that for the member and give him some details of whether the Ministry of Fair Trading has received anything at a departmental level and whether anything has come into my office over the past two or three months. I am a little cautious. I read my mail. Everything is photocopied and put into a file, but over the past five or six days I have not looked at the letters that are going through the system in my office. Until that time I had not received any advice.

Mr Kobelke: Would you be willing, not necessarily to table a report, but to provide us with a short report as to the number of complaints received relating to potential exploitation under the goods and services tax by category, if there are broad categories?

Mr SHAVE: If they are in categories and that is practical, I am happy to give the member that information.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: The New Tax System Price Exploitation Code text -

Mr KOBELKE: Clause 4 gives status to the New Tax System Price Exploitation Code of the Commonwealth, which is a schedule version of part VB of the Trade Practices Act; it is that part of the code which is attached as a schedule to the Bill. When the Commonwealth Government changes that law of the Commonwealth, as it has the right to do, by legislative or regulatory means, is there any established practice whereby the States will be consulted or are we handing the whole thing over to the Commonwealth and the State will have no say on and no responsibility whatsoever for what may be the applicable law here under the code?

Mr SHAVE: I am advised that under clause 6 of the Bill we have the power to either accept or reject the amendments. If the Commonwealth does not consult and we are not happy, we can reject the code.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Future modifications of New Tax System Price Exploitation Code text -

Mr KOBELKE: The minister says that, under clause 6, the State can reject changes made by the Commonwealth. I am not sure how effective that would be. I accept the legislative powers, as the minister has stated. In terms of the functioning of the code and the protective processes, if the ACCC is doing it as a national body, and we are looking at a seamless approach right across Australia, can the State have a code which applies to Western Australia in a different way from that which applies to the rest of Australia? I cannot fathom how that would be workable. I would appreciate the minister's commenting as to whether the code applying to WA could be different from that applying to the rest of Australia. What are some of the implications of that? Are we locked into a situation in which we must accept the code, unless we can get all the States to gang up on the Commonwealth and do something across the States which is at variance with the wishes of the Commonwealth?

Mr SHAVE: The point the member makes is correct. The problem is that much of this purchasing and selling will be across boundaries interstate and we need agreement; it will not be possible for an individual case to apply to Western Australia. If the Commonwealth were being unreasonable, I anticipate that the various state jurisdictions would get together and gang up on the Commonwealth - as they should and as has happened in the past, particularly at Premiers Conferences. That is the only way to effectively resolve the issue. If it is to be controlled by the Federal Government - the member for Fremantle commented that it will essentially be handing over powers to the Federal Government - it cuts both ways. The Federal Government needs our acceptance to make its changes. Western Australia must agree to any changes and make those changes work.

I understand the member's concerns, but in practical terms this will be administered as a federal jurisdiction and the power will be taken out of our control. I am not totally opposed to that, because it would be very difficult for a state jurisdiction to monitor what is being charged in Queensland, New South Wales and so on. Also, although the cost involved should not be the primary consideration, it is a consideration. I am comfortable with the Federal Government being responsible for these costs. In fact, it is commonwealth legislation and, whether a Labor or Liberal Government were in office, I anticipate that if WA did not get a fair go, the matter would be taken up with the Commonwealth. The member raised the point about the staff numbers and what has been offered in administrative capability in Western Australia, and I will check that.

Mr KOBELKE: The minister said that the Commonwealth needs the agreement of the State for these changes. Does that amount to a full power of veto for the State in respect of any changes proposed by the Commonwealth?

Mr SHAVE: It is not a veto as such but if WA does not agree, the change does not happen. It is a practical process but indirectly WA has the capacity to ensure that what is happening is reasonable.

Mr KOBELKE: Does it come down to a clear undertaking as part of the intergovernmental agreement that the State's approval will be sought or is it a clear legislative requirement that the State must concur with any changes before they can be enacted?

Mr SHAVE: No, it is neither of those; it is just a practical issue in the agreement.

Mr KOBELKE: The minister also indicated that the Commonwealth through the Australian Competition and Consumer Commission would pick up all the costs of running this regulatory and policing regime. We are aware from the other GST Bills debated yesterday and last week that a major cost is involved in administering the GST. I am not sure whether the funding required for the ACCC's role is totally divorced from those administrative costs, or whether there are some common elements. I want to be clear that the costs for the ACCC policing this legislation are separate from the administrative costs, provided by the Treasurer, which the State must pay the Commonwealth. Are there potential areas of overlap which could lead to cost shifting by the Commonwealth, which would mean the State paid for some of the costs of the ACCC and the powers it is given under this legislation?

Mr SHAVE: I am advised that the ACCC will receive separate funding - not from the State Government but from the Commonwealth.

Mr KOBELKE: That does not answer the question. It may be the Treasurer's responsibility and perhaps the minister cannot easily provide the answer at this stage. It is important that we understand what financial arrangements the Commonwealth has made for the ACCC. We accept that the Commonwealth will finance those aspects of the operations of the ACCC which relate to compliance in Western Australia with the laws now being passed. The issue is whether the Commonwealth then will bill the States for all or part of the role the ACCC plays when policing this legislation. We know that the State must contribute to the administration costs of the GST to the Commonwealth. That is part of the intergovernmental agreement. We understand that relates to the collection side of the GST. It may also relate to the enforcement side and the operations of the ACCC. Does the legislation require the State to meet those costs or have they been excluded from the charges which the Commonwealth will levy against the States?

Mr SHAVE: I understand that the costs incurred by the Australian Taxation Office are met by the State.

Mr Kobelke: Are none of the costs of the ACCC in respect of compliance with this legislation included in those figures?

Mr SHAVE: No. I am advised that they are not.

Clause put and passed.

Clause 7: Interpretation of New Tax System Price Exploitation Code -

Mr McGINTY: My question relates to the provisions of clause 7(2)(a) which deem the provisions in this Bill to be commonwealth law. Can the minister give an example of where this has occurred in the past and a state law has in its own terms been deemed a commonwealth law? It seems to be a neat way of proceeding in this matter, so I do not raise it in a critical sense in any way. I am interested in any precedent and where this approach has been adopted in the past to better integrate commonwealth and state laws.

Mr SHAVE: The two examples I have been given are the Corporations Law and the competition policy code. There are others. If the member would like details of those other examples, I am happy to provide them.

Mr McGinty: Yes, I would like the details.

Clause put and passed.

[Questions without notice taken.]

Clauses 8 to 15 put and passed.

Clause 16: Crown not liable to pecuniary penalty or prosecution -

Mr KOBELKE: I wish to get the minister's comments on the record in terms of the effect of this clause. It is titled "Crown not liable to pecuniary penalty or prosecution". Subclause (3) states-

> The protection in subsection (1) or (2) does not apply to an authority of any jurisdiction.

I take it from that that if an authority of the Government of Western Australia were liable for a pecuniary penalty or prosecution, it could flow through to the Crown in terms of the Crown standing behind it, but the Crown itself could not be subject to the penalty. Let us take the hypothetical case of a government agency of little substance, a very small instrumentality, which gets things totally wrong, incurs a major penalty and has a problem paying. I assume the Crown would stand behind that instrumentality. The hypothetical case I am raising is a long shot, but I want to be sure as to the effect of clause 16. In a situation like that, if action were taken against a government instrumentality, the clause would have effect and the penalty would have to be paid - there is no way it could get out of it by any other loophole - but one cannot take action against the Crown itself with respect to the provisions of the code. I seek the minister's clarification of those points.

Mr SHAVE: The comments the member made are correct inasmuch as it would be liable and my view is that the Government would be required to stand behind that authority as a matter of course.

Clause put and passed.

Clause 17: This Part overrides the prerogative -

Mr KOBELKE: The question I wish to ask on this clause is referred to in a number of clauses where the issue of "other jurisdictions" is raised. I am unsure as to the intention of the legal wording. According to the explanatory memorandum, clause 17 is intended to make -

> it clear that where, by virtue of this Part, a law of another participating jurisdiction binds the Crown in right of Western Australia, that law overrides any prerogative right or privilege of the Crown (eg. in relation to the payment of debts).

Other provisions also relate to this jurisdictional crossover or extra-territoriality. Are we talking about matters which relate to trade across the States and making sure they are captured or does the provision relate to instances other than just interstate trade?

Mr SHAVE: Normally one cannot override legislation of a State in its own province. However, if we had a trading concern operating, for example, in South Australia, this legislation provides for that State's legislation to apply to our body.

Mr KOBELKE: I take it that this clause and the other clauses which relate to "other jurisdictions" are designed to make the ACCC's management and assurance of compliance with the code under this legislation seamless across the States. Whether it is South Australia's jurisdiction applying to Western Australia or Western Australia's jurisdiction applying to the other States, where a case arises which has cross-state boundary implications it must not fall over on a technicality, and these clauses seek to cover such potential situations.

Mr Shave: Yes.

Clause put and passed.

Clauses 18 to 33 put and passed.

Clause 34: Fees and other money -

Mr KOBELKE: I will make a brief comment on this provision for the record. We find here that fees and other moneys that arise from taxes or penalties relating to the enforcement of the new code go to the Commonwealth. Given that the Commonwealth is meeting the costs, that seems appropriate and the minister confirmed that earlier; but it needs to go on the record because it was not raised in the second reading speech or debate that the ACCC, as a Commonwealth entity, is the recipient of any fines or penalties that arise from enforcement and clearly if the ACCC collects these moneys, they go to the Commonwealth. That reflects that we are dealing here with a whole range of procedures which rest totally with the Commonwealth. It is state jurisdiction that we are ceding to the Commonwealth. It is not only commonwealth law over which the Commonwealth has control, but also the costs of enforcement relating to the ACCC will be met by the Commonwealth and, conversely, the collection of all fees from penalties and fines will also flow through to the Commonwealth.

Mr SHAVE: The points the member made are correct. My interpretation of the clause is as the member has put it.

Clause put and passed.

Clause 35 put and passed.

Clause 36: Regulations relating to administration and enforcement -

Mr SHAVE: I move -

> Page 22, after line 25 - To insert the following -

"federal court" means the Federal Court of Australia or the Family Court of Australia.

Page 23, after line 20 - To insert the following -

(4) Without limiting subsection (2) -

(a) this Act is not to be regarded as conferring jurisdiction on a federal court, either directly or indirectly; and

(b) applied provisions that would exclude the jurisdiction of any or all State courts are to be regarded as being modified so as not to have that effect.

(5) Paragraph (a) of subsection (4) does not operate to the extent that, but for that paragraph, a federal court could validly exercise jurisdiction (such as accrued jurisdiction) in connection with this Act or applied provisions.

Mr Kobelke: I seek some explanation from the minister.

Mr SHAVE: The advice from parliamentary counsel is that these amendments are necessary as a result of a recent High Court decision that prevents state jurisdiction being given to the federal court. The price exploitation code legislation is similar in all States and is close to template legislation. The suggested amendments will have the same effect as those in other States, such as the amendments in the Price Exploitation Code (New South Wales) Bill 1999. The definitions of "Federal Court" and proposed subclause (4) are self-explanatory. Proposed subclause (5) seeks to ensure that a Federal Court can still deal with issues under the State Act and code where general legal principles would also allow it to do so. Under the principles of accrued jurisdiction it is proper for a Federal Court to deal with an issue that would normally be outside its jurisdiction, if it does so in order to deal with the "whole" of a matter, at least one aspect of which is within its jurisdiction under chapter 3 of the Commonwealth Constitution. This is a practical doctrine aimed at enabling different claims arising out of common transactions to be dealt with as one matter if the claims are so related that the determination of one is essential to the determination of the other. Its continued operation was reaffirmed by the High Court in the Wakim decision.

Mr KOBELKE: I think that is as clear as mud!

Mr Shave: Absolutely. If you understand it better than I, God bless you. Would you like my shortened version?

Mr KOBELKE: I would appreciate the minister's helping me to make sense of what he said.

Mr SHAVE: My general view is that the amendments are aimed at strengthening the legislation to ensure that lawyers who might like to see their clients avoid paying the appropriate penalties through state jurisdictions, or any other areas, are encapsulated under the legislation.

Mr KOBELKE: I am happy to admit that I did not understand the long explanation given by the minister, possibly because of my lack of legal training and, I suspect, because of that High Court decision which has thrown into some confusion the transferring of jurisdiction between state and commonwealth to various courts. Did a part of the answer address that jurisdictional problem arising from the High Court decision?

Mr Shave: Yes.

Mr KOBELKE: Can the minister say whether this is a solution or the best possible holding position at this stage, given that constitutionally the matter is still being sorted out?

Mr SHAVE: The member for Nollamara's assessment of the situation is correct; it is an interim solution until further legislation and changes are made.

Mr KOBELKE: There is one final matter under clause 36 which also relates back to clause 35; that is, we are giving the power to make regulations in clause 35, and clause 36 refers to regulations relating to administration and enforcement which is what we are dealing with and which the minister is amending. I will pass over the amendments moved by the minister relating to the application to the Federal Court and the Family Court of Australia and ask what are perceived to be the areas where the State needs to make regulations? I again put on the record that we are dealing with a commonwealth code to be enforced by a commonwealth agency which has commonwealth administrative procedures behind it and is a totally commonwealth operation. I am, therefore, not clear about why we need the regulating power. Is it just a safety catch? Is it necessary and is it clearly envisaged that there are some areas relating to the courts, or relating to federal officers pursuing matters of investigation, where there is a need to use regulations to provide for administrative means or powers?

Mr SHAVE: Clauses 27(3) and 28(3) of this Bill are two examples of the capacity to modify the commonwealth laws so that they fit in with our jurisdiction and provide the flexibility that we are endeavouring to achieve.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 37 put and passed.

Title put and passed.

NEW TAX SYSTEM PRICE EXPLOITATION CODE (TAXING) BILL 1999

Second Reading

Resumed from 23 September.

Question put and passed.

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

TITLES (VALIDATION) AND NATIVE TITLE (EFFECT OF PAST ACTS) AMENDMENT BILL 1999

Second Reading

Resumed from 16 September.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [3.01 pm]: The legislation before the House today is not new legislation; it is the Government seeking to renew an argument which we had in this place and in the upper House at the end of last year and at the beginning of this year. The technical purpose of this legislation is to overturn upper House amendments to the legislation we debated earlier this year and to restore the Government's original Bill. The real and political purpose of the legislation is to promote division within the community, to scare people and to win votes on a dubious premise. I say very firmly and clearly that the Labor Party supports the protection of the property rights of Western Australians, it supports the protection of the property rights of indigenous Western Australians, and it supports the protection of the property rights of non-indigenous Western Australians. The property rights of non-indigenous people are best protected by validation of their existing titles. I state very clearly and proudly that the Labor Party has supported all of the title validation measures put to this Parliament.

The legislation is entitled the Titles (Validation) and Native Title (Effect of Past Acts) Amendment Bill. Despite that title, it does not really deal with titles validation. All the titles which can be validated under commonwealth law have been validated by this Parliament. However, because of this Government's cavalier approach to native title matters, some titles cannot be validated by this Parliament under existing commonwealth law. The situation is that if Governments ignored the future act processes of the Native Title Act on leasehold land before the Wik decision, the titles which they issued during that period can be validated by this State Parliament and have already been validated by this State Parliament. However, if Governments ignored the future act processes of the Native Title Act on vacant crown land prior to the Wik decision, there is no power for this Parliament to validate the titles which it issued during that period. The Parliament is allowed to validate titles for intermediate acts, which are defined in part as those that took place on leasehold land. The Parliament, however, cannot validate other than intermediate acts for the relevant period. Acts that took place on non-leasehold land or vacant crown land, which constitute the issue of titles, cannot be validated. That is what this Government did. It ignored the future act processes of the Native Title Act and issued titles on vacant crown land after the High Court had found the State's native title legislation to be unconstitutional and had found the Commonwealth's native title legislation to be valid. This State issued titles on vacant crown land following those court decisions. As a consequence, it has been left with a difficulty. There are titles underlying major resources development projects in this State which this Government cannot validate. This Government and this Parliament cannot validate those titles because of the cavalier approach of the Government to the future act processes of the Native Title Act.

There is unfinished business with regard to titles validation, and it is unfortunate that the Government is not yet dealing with that unfinished business. The Government owes the resources industry and the public an explanation. The Government should explain how it proposes to validate those titles which it issued in cavalier defiance of the Native Title Act on vacant crown land. The titles cannot be validated by legislation from this Parliament under the commonwealth Native Title Act. The Government will have to find some other way to validate those titles. I would be interested to know how the Premier proposes to fix that particular legal difficulty. We have heard a lot of propaganda from the Government. We have heard a lot of argument from the Government on the 1 300 leases and the extinguishment of title on those leases, but we have heard nothing from the Government on the more important issue of how to validate titles which are potentially invalid and which, moreover, underlie major resource development projects.

As I have said, this legislation does not deal with the validation of any titles. All the titles which can be validated by this Parliament have been validated with Labor support. This legislation deals with the extinguishment of native title as a result of past acts; in particular, it deals with the extinguishment of native title on 1 300 leases. Some of those leases are residential and commercial leases. The Premier poses as the champion of residential and commercial leaseholders who, he says, will have to fight for their land. This is dangerous, unprincipled nonsense. I will go through the arguments to explain how those leaseholders are protected and how native title has already been extinguished by common law and by the Acts of this Parliament on their residential and commercial leases.

The relevant section of the principal Act is headed "Confirmation of past extinguishment of native title by certain valid or validated acts". According to the Government, we are dealing only with confirmation of extinguishment which has already occurred. According to the Government, the existing legal position is that no native title exists on these leases. The Government is purporting to ask us to confirm the existing legal position that no native title exists on these leases. Unfortunately for the Government, the statutory law passed by this Parliament, in interaction with the Native Title Act passed by the Federal Parliament, already confirms this extinguishment. Section 12I of the Titles (Validation) and Native Title (Effect of Past Acts) Act is headed "Confirmation of extinguishment of native title by previous exclusive possession acts of State, other than public works" and it states -

> If an act is a previous exclusive possession act under section 23B(2) of the NTA (including because of section 23B(3)) and is attributable to the State -

It later states -

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

It later states -

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

In other words, there is a statement in black and white, which is statutory law, that a previous exclusive possession act covered by certain sections of the NTA extinguishes native title in relation to the land or waters covered by the lease concerned. Naturally, to find out what type of leases are subject to that statutory law extinguishment, one needs to turn to the Commonwealth Native Title Act. At section 23B are the sections referred to in the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995. I quote the sections referred to in the State Act. Section 23B(2) of the Native Title Act states -

> An act is a previous exclusive possession act if:
>
> (a) it is valid . . .
>
> (b) it took place on or before 23 December 1996; and
>
> (c) it consists of the grant or vesting of any of the following:

I will omit some words and go to the subparagraphs referred to in the State Act. The Native Title Act refers to the grant or vesting of any of the following -

> (ii) a freehold estate;
>
> (iii) a commercial lease that is neither an agricultural lease nor a pastoral lease;
>
> (iv) an exclusive agricultural lease (see section 247A) or an exclusive pastoral lease (see section 248A);
>
> (v) a residential lease; . . .
>
> (vii) what is taken by subsection 245(3) (which deals with the dissection of mining leases into certain other leases) to be a separate lease in respect of land or waters mentioned in paragraph (a) of that subsection, assuming that the reference in subsection 245(2) to "1 January 1994" were instead a reference to "24 December 1996";
>
> (viii) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

It can be seen from the interaction of those two pieces of legislation that this Parliament has already said that exclusive possession acts, constituted by residential or commercial leases, extinguish native title. There is now a twofold extinguishment of native title. There is the common law, which the Government says has already extinguished native title on these commercial and residential leases, and an Act of State Parliament that says native title has been extinguished on these commercial and residential leases. Moreover, the facts on the ground, in particular in the goldfields, confirm that native title has been extinguished on residential leases.

That extinguishment is being recognised by native title parties and claimants. The commonwealth Native Title Act in its amended form requires a new registration test for native title claims. That test applies not only to new claims, but also retrospectively to existing claims. In other words, all native title claims are subject to the new registration test. This application retrospectively of the new registration test has resulted in substantial amalgamation and amendment of existing native title claims. Those claims are being amended to exclude areas covered by residential leases, in particular in the goldfields. In other words, on the ground in Kalgoorlie native title claimants are recognising that common law has extinguished native title on residential leases, and statutory law passed by this Parliament has confirmed that.

If claimants do not recognise those particular aspects of the common law and statutory law, the courts will recognise those aspects and recognise them absolutely. If these matters come before the courts, if anybody is foolish enough to think native title has survived on a residential lease where someone is living in a house on the property, the courts will rule absolutely against them and confirm that native title has been extinguished.

I advance the next part of my argument with some caution. I will put forward a hypothetical case and say clearly at the outset that native title does not exist on these residential and commercial leases. However, I want to deal with a hypothetical case in which native title might be found to exist on one of these leases. I argue that if in the remote chance that native title were found to exist on a leasehold property, it would not interfere at all with the property rights of the leaseholder.

This is a hypothetical discussion with regard to residential leases in Kalgoorlie, but the discussion may apply to some of the other 1 300 leases outside the goldfields area. It may apply to a small proportion of those leases. The difficulty with this argument is that we do not know which leases it may apply to. In the event that native title is found to exist on one of those 1 300 leases, the operation of the commonwealth Native Title Act ensures that leaseholders' rights prevail absolutely over native title rights when there is any inconsistency. In other words, no right of the leaseholders is at all affected by any native title right. Not only that, but also if the lease expires and the leaseholders wish to renew the lease, the leaseholders can renew

the lease without going through the future act processes of the Native Title Act. The leaseholders' rights are absolute in the event of any inconsistency with any native title, and they have renewal rights without the need to go through the future act processes of the Native Title Act.

It needs to be made absolutely clear that Acts of Federal Parliament and this State Parliament have already validated the titles of these leaseholders. The titles are valid and the title rights prevail over any inconsistent native title. The common law has extinguished native title on residential and commercial leases. Statutory law, endorsed by this Parliament, backs up that common law extinguishment. In any case, the native title claims are being amended to recognise the common law and statutory law provisions and to delete any reference to the commercial and residential leases in native title claims. My argument is that the leaseholders are already protected. Their property rights are already protected, as they should be, with the support of this Parliament and the Labor Party.

The question that arises, therefore, is why not put in the full schedule anyway? The Government wants to extinguish native title on a six-page list of leases running into hundreds of different types of leases. In view of the arguments that I have just put, why would Labor not simply accept the Government's view and legislate the extinguishment of native title of all of the different types of leases embodied in that six-page schedule to the commonwealth Native Title Act? I will answer that question by coming back to first principles. Labor wants to protect people's property rights. It wants to protect the property rights of leaseholders as well as the property rights of indigenous people. The problem with legislating extinguishment of all the leases on the full schedule is that the full schedule extinguishes native title; in other words, it takes indigenous property in many areas outside the goldfields. Therefore, we might provide a gold-plated guarantee to the leaseholders to reinforce the protection they already have, but if we did that, it would be at the expense of taking away indigenous property rights in areas outside the goldfields.

I do not want to overstate this case. In many areas outside the goldfields, implementing legislative extinguishment of native title rights via the schedule will only confirm the effect of common law. However, in some cases we will go beyond the common law if we accept the Government's legislation. There is one particularly pernicious effect of the Government's legislation, and that is that the extinguishment of native title rights will happen whether or not the lease is current. Even if a lease expired many years ago, the extinguishment of native title rights will still occur. Even if the land now looks like, and is, vacant crown land, the fact that it had a lease on it between 1920 and 1928 will cause native title to be extinguished. Even if the lease was never taken up, and even if the person who was granted the lease never did anything to exercise his property rights in accordance with that lease, native title will still be extinguished. I do not regard it as fair that when a lease was issued for a short period in the early part of this century and was never taken up and the land is now vacant land, indigenous property rights can still be taken.

Some of the leases on which native title will be extinguished by this legislation have been found by the Federal Court of Australia not to have extinguished native title. The Government claims in its legislation that what it is doing is simply confirming the past extinguishment according to common law. However, when the courts have examined the common law situation, they have found that native title has continued to exist on some of the leases on which this Government is asking Parliament to extinguish native title. The court decision to which I refer is the decision of Justice Lee on 24 November 1998 in the Miriuwung-Gajerrong case. Mr Justice Lee found that native title had survived on special leases under section 152 of the Land Act 1898 (WA) and sections 116 and 117 of the Land Act 1933 (WA); on special leases under section 116 of the Land Act 1933 (WA) for grazing purposes; on special leases for cultivation and grazing; on special leases for market gardening from year to year; on special leases for canning and preserving works - with no evidence of works or improvements. He found that native title had survived on a special lease for a tourist resort for 21 years and authorising works where no work was carried out, and he found that native title had survived on leases of reserves under section 41a of the Land Act 1898 (WA) and section 32 of the Land Act 1933 (WA).

All those leases which I have just quoted and on which Justice Lee found native title had survived are in the schedule. Justice Lee of the Federal Court found that native title survived; Hon Richard Court in the Parliament of Western Australia seeks to legislatively extinguish native title on those very leases. That is the unfairness of this legislation. On this side of the Parliament, Labor wants to protect the property rights of leaseholders and indigenous people. Labor thinks that the property rights of leaseholders are protected by the existing common law and the existing statutory law. However, it believes that this legislation will take away the property rights of indigenous people on leases outside those residential and commercial leases in the goldfields.

Why have we got to this position? It is because this schedule for extinguishment was not negotiated with the Aboriginal people. This matter could have been solved last year if there had been negotiations between the Government and indigenous representatives. The Government and indigenous representatives could have discussed what leases they believed extinguished native title, and there could have been a common agreement on a schedule. This Government, typically, in accordance with its history, failed to conduct proper negotiations with indigenous representatives.

There was a chance of solving this matter by negotiation this year. The Government has given the Opposition and the public a list of the 1 300 leases that it says are covered by the schedule. This list could have been the subject of discussions with indigenous people. It would have been a time-consuming and laborious operation, but with only 1 300 leases, in principle the Government could have sat down with indigenous representatives and gone through every one of those leases and come to an agreement on whether native title was extinguished on each and every one of those leases. I think that in the end there would have been substantial agreement. In the end, perhaps the Government and indigenous representatives would have been arguing over a small number of leases only. Instead of that, we have this legislative approach, this indifference to the rights of indigenous people and this refusal to negotiate. In fact, what we have is the promotion of division and discord and the political exploitation of people's legitimate fears on native title issues.

The Premier has complained about the rights of these leaseholders being infringed. He has purported to champion the interests of these leaseholders. In one respect the Premier is right. The interests of these leaseholders are being impacted upon - but by his Government! I will quote from a letter written to the Minister for Lands by my colleague, the member for Kalgoorlie. She wrote to the Minister for Lands on 9 December 1998 and said -

> Dear Minister,
>
> . . .
>
> I have been approached by the leaseholders with respect to 8 Tupper Street, Kalgoorlie.
>
> Mr and Mrs Hall purchased the property in 1992 at which time the half yearly rental was $60.00.
>
> In subsequent years this has increased sharply to the current situation of half yearly rental of $1300.00.
>
> I note that Mr Hall has 2 dependant children and his wife does not work.
>
> The yearly impost of $2600 is required to be paid in addition to the City of Kalgoorlie-Boulder rates of about $800 per annum.
>
> Could you please advise the reason for the sharp increase and set out all half yearly rental increases since 1984.

The member for Kalgoorlie concludes her letter by saying -

> Please let me have your response as soon as possible and advise what repayment arrangements may be made in the interim for my constituents.

Further correspondence occurred between the member for Kalgoorlie and the Minister for Lands. On 20 May 1999, the Minister for Lands again wrote to the member for Kalgoorlie. In part of that letter he dealt with the case of Mr and Mrs Hall and wrote -

> I have been informed that DOLA has requested the VGO to also review this valuation.

So far so good, but let the House hear what the minister then says -

> Furthermore, the department will be discussing with Mr and Mrs Hall the possibility of varying or surrendering the current lease and issuing a new lease with more regular rent reviews. This will avoid the dramatic increases in rent brought about as a result of the rent remaining fixed for ten year periods.

We should reflect on what the minister said. He will discuss with the leaseholders the possibility of their surrendering their current lease. Who is trying to take their property? Is it a native title party? No, it is the State Government. Where is the real threat to these people coming from? The real threat to their standard of living and their property rights is coming from the Premier's own Government. It is not a native title party who wants to take the land, but one of the Premier's departments which wants to charge $2 600 a year when the original price in 1992 was only $60 per half year.

The minister also proposes issuing a new lease with more regular rent reviews. In other words, he is proposing to increase the rent more frequently.

Mr Court interjected.

Mr RIPPER: The Premier can speak later.

The effect of that will be that those leaseholders will pay even more. An organisation is out to get these leaseholders. It is called the coalition Court Government of Western Australia. It is hitting these leaseholders with massive increases in rent and all the Minister for Lands can suggest is varying or surrendering the current lease and having more regular rent reviews so that the rent increases more frequently rather than in large amounts every 10 years.

I will deal now with the issue of public works. When this legislation was originally presented to the Parliament, the upper House wanted to avoid any unnecessary extinguishment of indigenous property rights. Members on this side of Parliament wanted to preserve both indigenous and non-indigenous property rights.

Common law extinguishes native title when a public work has been constructed. There is a question of fairness. Is it fair that native title be extinguished on the whole parcel of land, not just the section on which the public work has been constructed? Is it fair that native title be extinguished when the public work is long defunct? Under the Government's original legislation, if a tiny public work were in a small corner of a large parcel of land the tiny public work could have extinguished native title over the entire parcel. Also under the Government's legislation, if a public work had existed on a piece of land during the 1940s for perhaps only three or four years before it was demolished, although the land might now be totally free of buildings, native title would still be extinguished on that land.

The Opposition's answer to the question I asked the House was that it was not fair to extinguish native title over a whole parcel of crown land when a tiny public work occupied a small portion and it was not fair to extinguish native title simply because a short-lived public work had been on the land. The Government says that is a problem for future public works constructions. It says native title might make it difficult for public works, such as schools or hospitals, to expand.

There is no difficulty. This is either a difficulty of the Government's imagination or it is a propaganda strategy. If the Government wishes to extend a public works within the purposes of the reservation, it can do that without going through the future act provisions of the Native Title Act. There is no difficulty for the Government in expanding a hospital or a

school, even though native title has been extinguished only on the footprint of the existing building. If the Government is acting within the purposes of the original reservation, it can proceed without going through the future act processes of the NTA. As I rejected them earlier this year, I reject the Government's position on our amendments regarding public works and our amendments to the schedule of leases that will govern extinguishment of native title.

In summary, my position is that leaseholders' property rights are fully protected and native title is extinguished on their leases by the operation of common law and by the operation of black and white statutory law passed by this Parliament. To protect the property rights of residential and commercial leases, the full schedule of extinguishment proposed by the State Government is not needed. If the Government thinks that the schedule is needed, a decent and non-divisive approach to the issue would have been to negotiate with indigenous interests. There were at least two opportunities to negotiate with them: When the schedule was first being negotiated with the Commonwealth Government and earlier this year when the list of the 1 300 leases was released.

The Government has not genuinely negotiated with indigenous interests to try to reach a solution to this issue. Rather than negotiate, the Premier prefers to promote division and exploit fears for political advantage. He prefers to litigate, legislate and lacerate. The Australian Labor Party opposes this legislation.

MR COURT (Nedlands - Premier) [3.38 pm]: I thank the Deputy Leader of the Opposition for his comments on this legislation. What a different Chamber it is now that we are debating this Bill. The Labor Party feels so strongly about it that only one other opposition person is present.

Mr McGowan: It is the big guns.

Mr COURT: Two opposition members are in the Chamber, one of whom is the member who just spoke.

Mr Ripper: How many are on the government side?

Mr COURT: There are five.

Mr Ripper: Thank you.

Mr COURT: When this legislation was debated, the Opposition went to the barricades and built up a shock horror scenario about it. I think the Opposition realises it has got it wrong with a capital W.

Mr Ripper: I do not think the Premier listened to me.

Mr COURT: I did listen to what the Deputy Leader of the Opposition said.

Mr Ripper: If the Premier had listened he would see where he is wrong.

Mr COURT: I will comment on what the Deputy Leader of the Opposition said. He started his speech by saying that a series of resource projects did not have their titles validated.

Mr Ripper: That is right. You cannot constitutionally and collectively validate titles issued post the Native Title Act and pre-Wik when those titles were issued outside the future act processes of the NTA on vacant crown land. The Premier knows that he has a problem and he must deal with it sooner or later. I will be interested to hear how he proposes to deal with it.

Mr COURT: Those titles were validated with the balance of the legislation that went through the Parliament.

Mr Ripper: The Premier might think that he has validated them, but he cannot validate them because the power given under the NTA applies only to intermediate acts. Intermediate acts cannot take place on vacant crown land, so the Premier is in trouble.

Mr COURT: That happened on 20 April. The Bill that we are now debating does not deal with validation, because that has already been done. The Bill we are debating will provide certainty for those 1 300 scheduled leases and will address the Opposition's amendment in relation to public works. The Opposition said in relation to these leases that the decision in the Miriuwung-Gajerrong case showed that there can be native title on these leases.

Mr Ripper: On some of the leases.

Mr COURT: The Deputy Leader of the Opposition knows that decision has been appealed. Since then, another decision has been made by the Federal Court which confirms extinguishment on these types of leases in South Australia. It confirms extinguishment under the Native Title Act and our state legislation. The Deputy Leader of the Opposition conveniently forgot to mention that. He knows the political dilemma the Opposition has got itself into because a large number of those leaseholders who have homes on such leases are Labor supporters in Kalgoorlie. If this Bill is not passed, they will be subjected to ongoing uncertainty, and they would need to be involved in litigation to protect their interests.

When this issue was debated originally in this House, the Leader of the Opposition stated that the native title parties would not lodge claims over the 1 300 scheduled leases, and that even if they did, the claims would not be registered by the National Native Title Tribunal. We asked how the Opposition could guarantee that unless it had done some deal so they would withdraw their claims or whatever. The Leader of the Opposition was wrong. Claims have been registered over 66 per cent of the State. These claims cover many of those scheduled leases.

Mr Ripper: We were referring to residential and commercial leases, not the whole 1 300.

Mr COURT: The tribunal has registered the claims because they cannot make judgments about the type of lease involved.

Unless the lease is specifically described in the confirmation provisions as, for example, are the conditional purchase leases, the tribunal will register the claim. Some claimants have specifically excluded some of the scheduled leases from their claims. However, these exclusions relate only to lease areas of fewer than 5 000 square metres in town sites that are currently in use for residential or commercial purposes. The problem is that most of the scheduled leases to which we have referred are larger than the 5 000 sq m and many are in areas outside of the township boundaries. Let us put on the record that the Opposition said that the parties would not lodge claims.

Mr Ripper: On residential and commercial leases.

Mr COURT: No, the Opposition said that the parties would not lodge claims over the 1 300 schedule leases. Those leases are subject to registered native title claims. It is now up to the leaseholders and the State Government to present specific evidence on individual leases to the court to establish that native title has been extinguished. That is unnecessary, time consuming, and costly for the leaseholders, taxpayers and for the native title claimant. Let us put on the record that it was not all that long ago - just prior to Christmas - that we debated this legislation and the Opposition said that a certain set of circumstances would occur. That has proved not to be the case.

I refer to the resource projects that were mentioned earlier.

Mr Ripper: The Government messed up and went outside of the NTA and issued titles over vacant crown land which it now cannot validate. That is threatening those resource developments.

Mr COURT: No. They were validated because they were not on vacant crown land.

Mr Ripper: Some of them were on vacant crown land.

Mr COURT: I just said that they were validated because they were not on vacant crown land.

Mr Ripper: The Premier gave us a schedule of those titles and the schedule listed the underlying tenure which, in certain circumstances, was vacant crown land. The Premier is not correct in his assertion. The Premier is contradicted by the information he gave to the House.

Mr COURT: This debate has a smell about it.

Mr Ripper: It has the smell of political opportunism on your part.

Mr COURT: No. It has the smell about it of an Opposition that has got it wrong and does not know how to get out of a situation.

Mr Ripper: There is a situation that the Premier does not know how to get out of. He does not know how to validate those titles.

Mr COURT: That was done in the previous legislation. The six pages on the schedule cover 0.01 per cent of the State. More than 90 per cent of this State can be claimed. That 0.01 per cent would not be a big deal except to those people who have homes and businesses and who want to expand their properties, and they cannot.

Mr Ripper: What proportion of the State is your backyard? If someone wanted to take the Premier's backyard, would he regard that as an important issue?

Mr COURT: The Deputy Leader of the Opposition has confirmed my point: This is someone's backyard. This is the backyard that the Opposition said could not be claimed. It has been claimed. The point I have made is that in Kalgoorlie, properties do not have that certainty.

Mr Ripper: The common law and the statutory law have extinguished native title.

Mr COURT: If that is the case, why is the Deputy Leader of the Opposition worried about the legislation?

Mr Ripper: If that is case, why is the Premier worried about the legislation?

Mr COURT: I am not worried about it. I am only trying to get it through.

Where is the interest in this legislation that previously was so abhorrent to members opposite?

Mr Ripper: Look behind you Premier. How many people do you have behind you? I can see only four.

Mr COURT: The Government has supported the legislation. Does the Deputy Leader of the Opposition feel so strongly about it that he would divide on it?

Mr Ripper: Yes, we will divide on the second reading.

Mr COURT: If the Opposition supported this legislation, these people would have certainty and they would not have to face costly litigation on claims over their properties, about which even the Opposition is now saying they do not have to worry. The Opposition said previously that these people did not have to worry about anything, because there would be no claims. That has proved to be wrong.

My final comment is about pubic works. I call this the footprint amendment. It relates to where there is land for a public work. A school can be built on that land and title will be extinguished for the land on which the school is built, but not the land around it. If people want to build on that land, they must go through the native title process to do it. It is absolutely

absurd. Those opposite were hell-bent on putting that provision in the legislation. I am sure even they realise it is just administrative nonsense to put it in the legislation. I thank the member for his contribution to the debate.

Question put and a division taken with the following result -

Ayes (29)

Mr Ainsworth	Mr Day	Mr McNee	Mr Sweetman
Mr Baker	Mrs Edwardes	Mr Nicholls	Mr Trenorden
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Omodei	Mr Tubby
Mr Board	Mrs Holmes	Mrs Parker	Dr Turnbull
Mr Bradshaw	Mr House	Mr Pendal	Mrs van de Klashorst
Dr Constable	Mr Johnson	Mr Prince	Mr Wiese
Mr Court	Mr Masters	Mr Shave	Mr Osborne *(Teller)*
Mr Cowan			

Noes (12)

Mr Carpenter	Mr Graham	Mr Marlborough	Mr Ripper
Dr Edwards	Mr Kobelke	Mr McGinty	Mrs Roberts
Dr Gallop	Ms MacTiernan	Mr McGowan	Mr Cunningham *(Teller)*

Pairs

Mr Barnett	Ms Anwyl
Dr Hames	Mr Brown
Mr Kierath	Ms Warnock
Mr MacLean	Mr Riebeling
Mr Marshall	Mr Thomas
Mr Minson	Mr Grill

Question thus passed.

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

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) BILL 1999

Consideration in Detail

Clause 1: Short title -

Mr DAY: I move -

Page 1 - To delete "*Facility*".

Dr GALLOP: The Government has indicated to the Opposition that its view is that the current definition does not adequately deal with the storage of waste in non-installations, such as disused mine sites. This is essentially a matter of semantics. The Opposition has no difficulty with the Government's amendment, which is not inconsistent in any way with what we are attempting to achieve. We are happy to accept it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Mr DAY: I move -

Page 2, lines 6 to 12 - To delete the lines and substitute -

"**nuclear waste**" means any radioactive substance -

(a) which is derived from any source including a nuclear reactor, a nuclear weapon, a nuclear weapon facility, a nuclear reprocessing plant or an isotope enrichment plant; and

(b) for which no further use is envisaged,

except for any radioactive substance which has been -

(c) generated in Australia otherwise than from waste radioactive substances imported into Australia; or

(d) used under a licence, registration, exemption, disposal permit or temporary permit under the *Radiation Safety Act 1975*;

The purpose of moving this amendment is to amend the proposed definition of nuclear waste. Putting in place the proposed amendment would broaden the definition of nuclear waste to cover material from any source rather than it being slightly

more limited in the current definition. In part, it spells out more fully exactly what is nuclear waste and its sources. It is also moved to make clear that it is material for which no further use is envisaged. The Radiological Council would decide that. However, if ever there was any prospect of the council giving approval to the storage of such waste, as we will make clear through an amendment at a later stage, it will be necessary for the matter to be referred to and considered by both Houses of Parliament. In proposed paragraph (c) "generated in Australia otherwise than from waste radioactive substances imported into Australia" refers to the possibility of any material being imported for appropriate use in Australia, in which case it would be reasonable for it to be stored in Australia once it became waste material.

The DEPUTY SPEAKER: I remind members that it is the Leader of the Opposition's Bill. If members have questions, by all means they may ask them of the Leader of the Opposition.

Dr GALLOP: It seems on the surface at least that what the Government has done with the amendment is not quite as the minister described it. The amendment is placing a qualifier on the radioactive material that counts as waste by saying that it is waste for which no further use is intended. In our original definition, we are dealing with all radioactive waste, except that which has been generated in Australia or material that has been used under licence for scientific, industrial or medical purposes in accordance with the provisions of the Radiation Safety Act 1975. The Government's definition does not include all of that radioactive waste but only that for which no further use is intended. Does this amendment not limit the definition rather than broaden it? I have raised this issue with the officers in discussions before we came into the Chamber: Who will determine "for which no further use is envisaged", and is it a strong basis upon which to have a definition in a Bill of this type?

Mr DAY: When members consider the proposed amendment as a whole, I do not think they will find that it is restricting the issue at all but really broadening it. As to who would determine what may be regarded as having further use, as I indicated earlier, the Radiological Council would consider that issue, given that an application for such storage would be made to the Radiological Council. I also explained earlier that in the extremely unlikely event that the Radiological Council considered any application should possibly be approved, it would be necessary, under a later amendment, for any such application to be referred to and considered by both Houses of Parliament. Even if the Radiological Council believed that no further use was envisaged and that for some reason storage in this State should be considered, both Houses of Parliament must agree. We believe is a very strong control that means the will of Parliament will be exercised.

Dr GALLOP: The Opposition is concerned about the change in definition in Clause 3. This concern comes from the following comments the Premier made in the debate on 13 October -

> My advice is that the Bill's definition of nuclear waste would capture matter that is useful and is not nuclear waste as the term is understood by the industry. What the industry calls useful is a matter for our legal advisers to address.

The Opposition's definition of nuclear waste was "any radioactive material derived from the operations of a nuclear reactor, nuclear weapons facility, nuclear reprocessing plant or isotope enrichment plant". In Parliament last week, the Premier said that the Opposition's definition would "capture matter that is useful and not nuclear waste". Is the Government saying there is some sort of nuclear-related radioactive material that is not waste and therefore cannot be included in a definition? If that is the case, is the Parliament creating a loophole? I take all the minister's points about section 41, which the House will deal with down the track. The Opposition agrees with the Government's amendment on that. Can the minister understand my concern? I want clarification that this Bill will not create the potential for radioactive material to enter the State because it is not classified as nuclear waste.

Mr DAY: I am advised that the common understanding of "radioactive waste" means waste materials containing radioactive substances for which no further use is envisaged. The definition in the proposed amendment comes from that common understanding. There is no intention to create a loophole. The Government's intention is to tighten up the definition so that it achieves the Leader of the Opposition's aim.

Mr BAKER: I support the amendment. I note that the Leader of the Opposition has not yet indicated whether he supports the amendment to the clause. The definition in the Bill advocated by the Leader of the Opposition does not purport to define "waste" within the term "nuclear waste". For that reason, the definition in the Bill is full of loopholes. The definition proposed by the Minister for Health closes that loophole in respect of the future use of radioactive material. The definition in the Bill is very broad, whereas the nuclear waste definition in the minister's amendment - especially the "waste" aspect - closes off the loophole from changing future intentions. It is also interesting to note that the word "envisaged" is not defined. In these circumstances, the rules of statutory interpretation permit people to resort to the Oxford Dictionary to determine what a word means. It is clear that word includes the term "contemplate". This amendment improves this aspect of the definition of the Bill. For that reason, I support this aspect of the minister's definition.

Dr GALLOP: The Opposition will certainly not hold this Bill up in the Parliament. The clause will go through this Chamber. The Opposition may revisit the question of the definition in the other House to make absolutely certain that we do not create two sorts of radioactive material and weaken the intentions of the Act by inserting the phrase "for which no further use is envisaged". I accept the minister's position in that it is not the intention in this issue. The Opposition will accept the amendment, but it is a complicated matter. The Opposition took a lot of advice on its definition of nuclear waste. It believes the definition did what it was intended to do. The Opposition will accept the amendment because it is important that it gets parliamentary support for the legislation. However, the Opposition may raise the issue in the upper House after looking at the issue further. On the other hand, it may not. It depends on further advice.

Mrs van de KLASHORST: I also support the amendment. The Bill states -

"nuclear waste" means any radioactive material derived from . . .

The amendment says from "any source". The Bill limits the sources, and one could shoot holes through its definition. The amendment says "from any source including a nuclear reactor, a nuclear weapon, a nuclear weapon facility". I support the amendment because it tightens up the Bill.

Mr MASTERS: I seek guidance from the Leader of the Opposition, as the mover of the Bill, and the Minister for Health, who is seeking to amend the Bill on behalf of the Government. I seek guidance on the clause's intentions for mining industries in Western Australia that may produce radioactive substances, either as a standard saleable product such as uranium or as a potential by-product such as monazite. No uranium mining occurs in Western Australia at the moment but 11 or 13 potential economic deposits are located throughout the State. I would be extremely concerned if either definition of nuclear waste was interpreted in such a way as to place controls, restrictions or bans on the production of uranium from mining operations. These operations may include deposits such as Kintyre, east of Newman, where uranium is a by-product and copper is the primary metal.

The Leader of the Opposition is well aware that I was formally employed by the Western Australian mineral sands industry. Monazite was a by-product of that industry until the 1980s. Monazite is officially classified as a low-level radioactive substance. Even when it was sold to the French company Rhone-Poulenc Chimie Australia Pty Ltd, there was no use for thorium, which is the radioactive component of monazite. It was primarily the rare earth oxides being extracted. Nonetheless, monazite remains a radioactive material. At the moment there is no market for monazite for a number of different reasons. The main reason is that the rare earth oxide can be derived from other minerals, including deposits in South Africa and Russia. There are three mineral sands companies in Western Australia at the moment; that is, Iluka Pty Ltd, the Tiwest Pty Ltd group north of Perth and Cable Sands (WA) Pty Ltd. I seek assurances that the definition in the legislation would not place controls on those companies if they wished to stockpile an intermediate or final product containing monazite, which is a radioactive substance by definition, on their own premises and within their granted mining leases. The amendment states "for which no further use is envisaged". I am concerned that the Bill's provisions would apply to a mineral sands company that might store monazite or another radioactive material for which no further use is envisaged in the short term but where there may be a market in the medium to long term.

The original definition of nuclear waste, as proposed by the Leader of the Opposition in the Bill, refers to any radioactive material. Clearly, monazite is a radioactive material. Can the Leader of the Opposition and the Minister for Health give some guidance, and hopefully an assurance, that the definition of "nuclear waste" will not in any way preclude the production of uranium, monazite or any other natural radioactive substance in Western Australia?

Dr GALLOP: The intention of the Australian Labor Party's legislation, and indeed from what I have read of the Government's amendments to it, is to deal specifically with proposals like the Pangea Resources Australia Pty Ltd proposal to set up a nuclear waste facility in Western Australia. Indeed, the definition that we and the Government propose makes it clear that radioactive material that is used under licence for scientific, industrial and medical purposes in accordance with the provisions of the Radiation Safety Act is exempt from the legislation. The definition of "nuclear waste" makes it clear that it refers to nuclear waste from nuclear reactors, nuclear weapons facilities, nuclear reprocessing plants or isotope enrichment plants. The problem is that there is a great deal of this waste all over the world and Pangea wants to put it somewhere. This legislation is intended to say, "No, it will not come to Western Australia." The legislation is clear on that, even if it is amended as the Government intends to amend it. The Labor Party will oppose uranium mining in Western Australia but that is another issue for another day.

Mr DAY: This legislation will not preclude the storage of monazite for two reasons: First, monazite is now returned to the mine site from where it was mined and there is, therefore, no prospect of it being stored elsewhere; there is no market for that material these days. Secondly, as the Leader of the Opposition has indicated by the proposed amendment, in particular paragraph (c), material which is generated in Australia otherwise than from waste radioactive substances imported into Australia is excluded from the provisions of this legislation. Therefore, anything like that mined in Australia would not be caught by this legislation. When I referred to the definition of radioactive waste earlier, I should have indicated that the definition was taken from the 1992 code of practice for the near surface disposal of radioactive waste in Australia produced by the National Health and Medical Research Council.

Mr MASTERS: I am pleased about the comments made by the two speakers. I note the Leader of the Opposition did not clearly state that this Bill, in an amended or other form, will not be used in an attempt to prevent uranium mining or production of monazite, or whatever. It would be nice to have that on the record.

Dr Gallop: I assure the member for Vasse that the Australian Labor Party opposes uranium mining but this is not the intention of this Bill.

Mr MASTERS: I thank the Leader of the Opposition; that is what I was hoping for. If *Hansard* can record that I will be a happier person.

The question I pose to the Minister for Health - the Leader of the Opposition might also be able to provide advice - relates to my concern about the absence of a definition of the word "nuclear" because naturally occurring radioactive substances and a wide range of uranium-bearing minerals exist in addition to monazite which is a thorium-bearing radioactive substance. For example, the member for Murray-Wellington, who is not in the House at the moment, would be very well aware of the fact that some years ago Rhone-Poulenc Australia Pty Ltd proposed to build a monazite processing plant in the Pinjarra area; prior to that there had been proposals for processing plants for monazite in the Eneabba area. My understanding of the term is that a "nuclear reprocessing plant" does not include the processing of monazite. However, I again express some caution

that if there is a definition of the word "nuclear" or an exclusion given to the mining of minerals from Western Australia that produce naturally occurring radioactive substances or materials which cannot fall within the definition of "nuclear waste", the mining industry would be more comfortable that this Bill, when passed into legislation, will not be used to try to prevent its otherwise legal activities from occurring.

Mr DAY: I am informed that in the context of this Bill the word "radioactive" is equivalent to the word "nuclear" as defined in the regulations of the Radiation Safety Act 1975. Therefore, a reference to radioactive material is a reference to nuclear material and vice versa. I hope that explains the issue for the member for Vasse.

Mr MASTERS: It actually makes me a little more nervous because if there is no differentiation between "nuclear" and "radioactive" as it applies to materials or substances, my concerns are heightened rather than lessened. I do not wish to pursue this issue to the extent that members will be wasting a great deal of time on it.

I direct one final comment to the Minister for Health who indicated that monazite is currently being disposed of back into the mineral sand deposits from which it is derived. Having been a senior management employee of one of those companies, I suggest that if I were still in that industry I would be stockpiling monazite, not for its thorium content but, instead, for its rare earth potential. Although it is a radioactive substance, in my view it is a mineral that one day will be required by an expanding world which demands high technology equipment. I point out to members that the rare earth oxides that are derived from monazite are present in just about everything that we use. For example, the glasses that I am wearing have a coating, I think, of yttrium oxide. All television sets have rare earth oxides built into them. X-ray fluorescent machines and a wide range of high-tech equipment use rare earth oxides these days. If I were in the shoes of a mineral sand mining company executive, I would be stockpiling monazite right now for the years in the future when that material will become a valuable resource. However, minister, that is a decision that is beyond our capabilities and as long as I have my concerns registered, I appreciate the effort.

Mr DAY: I am advised that monazite is currently returned to the mine sites, as I indicated earlier. However, that does not preclude it being recovered at some future time if there is a market and a useful purpose for it. I referred to current practice but that does not mean that will always be the case.

It is my intention after this amendment is dealt with to move another amendment which will define "radioactive substance" and relate that definition to the meaning given to it in section 4 of the Radiation Safety Act 1975. Part of that section reads -

> **"radioactive substance"** means any substances, whether natural or artificial, and whether in the form of a solid, a liquid, a gas, or a vapour, or any compound or mixture, including any article that has been manufactured or subjected to any artificial treatment or process, which consists of or contains more than the maximum prescribed concentration of any radioactive element, whether natural or artificial;

That is the definition in the existing Radiation Safety Act. That definition, as members have heard, includes reference to material containing more than the maximum prescribed concentration of any radioactive element. The maximum prescribed concentration is determined by the Radiological Council and published in its regulations. Obviously, material with concentrations below that level would not be considered radioactive for the purposes of this legislation or the Radiation Safety Act. Low level material would not be caught by this legislation or the Radiation Safety Act 1975.

Mr BAKER: I am in two minds as to whether to support the definition in the Leader of the Opposition's Bill or the new definition proposed by the Minister for Health. I do not want to waste the time of the House on this point, but it is important that we have the best definition of the two. Can the Leader of the Opposition explain why he decided to restrict his definition of nuclear waste to any radioactive material derived from only five sources rather than from any source?

Dr Gallop: In definitions like this, the Government and the Opposition take advice from scientists and those involved in the field, and that is the basis on which we came up with this definition. It has been amended by the Government in one respect.

Mr BAKER: I am concerned that the best definition be imported into the Bill, and I am in two minds as to whether to accept the Opposition's definition or the amendment proposed by the Minister for Health. Does the Leader of the Opposition think the minister's definition is far more appropriate and broad ranging, or is he saying that it does not matter, and it is six to one and half dozen to the other?

Dr GALLOP: The Opposition will accept the amendment moved by the Government. At this stage we see no problem with the amendment. I raised a question about it that we are considering in our approach, but I am confident that should that question lead to further inquiries of the Government in the upper House, we can deal with it. At this stage the Opposition is happy to accept the Government's amendment.

Mrs van de KLASHORST: I refer to proposed paragraph (c) which excludes any radioactive substance which has been generated in Australia otherwise than from waste radioactive substances imported into Australia. I do not understand what those substances could be. Will the minister explain that paragraph? What is waste radioactive material imported into Australia, because I thought we only exported it and did not import it?

Mr DAY: The purpose of proposed paragraph (c) is to stop people circumventing the provisions of proposed paragraphs (a) and (b), under which they could import material, argue that it had a useful purpose, and use it for only a short period, after which it would become waste. People might seek to get around the intent of this overall amendment. It would allow for material to be imported that hypothetically could be considered waste overseas, but may have a useful purpose in Australia, where it could be reprocessed and used for, say, power generation at some stage in the future. If it had a legitimate purpose, it could be imported.

Mr BAKER: I return to the question I posed to the Leader of the Opposition. Once again, I do not want to delay the passage of this Bill, but it is important to ensure that the legislation is as watertight as possible, and has no loopholes. I am sure the vast overwhelming majority of the Western Australian community supports us in that regard. I do not want to labour the point, but I have a choice of supporting the definition proposed by the Leader of the Opposition or the definition proposed by the Minister for Health. I have some concerns about the Opposition's definition because it seems to be restricted to five sources of radioactive material. The definition in the Bill states that nuclear waste -

> means any radioactive material derived from the operations of a nuclear reactor, nuclear weapons facility, nuclear reprocessing plant or isotope enrichment plant . . .

The Leader of the Opposition will agree that his definition has only five categories of sources for the derivation of material of this kind, whereas the definition proposed by the Minister for Health, rather than stating definitive sources, gives an example of a source and uses the word "including" rather than "means". Will the Leader of the Opposition explain why he wants to limit the application of this definition to only five sources? Once again, my concern is that, as members, we should ensure that the best possible definition of nuclear waste is imported into the Bill. Once again, I wonder whether I should support the definition of the Leader of the Opposition or the definition proposed by the minister.

Dr Gallop: We will support the Government's definition in this Chamber.

Mr BAKER: It may well be that the Opposition will support the Government's definition in this Chamber, but I must consider my own position and whether I will support the Government's definition.

Dr Gallop: Make up your own mind.

Mr BAKER: In that regard, is it the view of the Leader of the Opposition that the Government's definition is much broader than his proposal and, hence, would catch more sources of radioactive material?

Dr Gallop: We raised the question of material for which no further use is envisaged. I explained our position and we will accept the Government's position.

Mr BAKER: The Leader of the Opposition received assistance in drafting his Bill. He may support the Government, but I want clarification of the Opposition's intention. Why in his Bill did he limit the sources to five?

Dr Gallop: We took advice from scientific opinion on the definition and that is what they gave us.

Mr BAKER: Was the Leader of the Opposition told there are only five possible sources for radioactive material?

Dr Gallop: That is the definition they gave us.

Mr BAKER: Did the Leader of the Opposition accept that definition?

Dr Gallop: What is your knowledge of nuclear physics?

Mr BAKER: Did the Leader of the Opposition accept the definition, because it seems he has now changed his mind and wants to support the Government's definition?

Dr Gallop: We are bipartisan in our attitude to this. Has the member not noticed?

Mr BAKER: There is no issue there. Will the Leader of the Opposition answer the question for my peace of mind? Which definition is the best definition - that of the Leader of the Opposition or the one advocated by the Minister for Health? It is very important that the definition be as broad as possible. I am applying the broadness test.

Mr Pendal: We are all supporting the amendment. You should divide on the question.

Dr Gallop: The member for Joondalup can go on one side and the rest of us will all go on this side.

Mr BAKER: Not at all. I want to ensure we are fully debating the definition. I certainly do not want to waste the time of the House, but I want to know the Leader of the Opposition's view because it may assist me to form my own view.

Mr Pendal: You are wasting the time of the House.

Mr BAKER: The Leader of the Opposition is not answering the question.

Mr Pendal: The Leader of the Opposition said he will support the amendment. What is there to debate?

Mr BAKER: The Leader of the Opposition has said he will support the Government's amendment, but I must form my own opinion.

Mr Pendal: There is other business we should attend to after this very important issue.

Mr BAKER: This is a very important Bill and I would like it to be given absolute priority during private members' time.

Mr Pendal: It is, but you are wasting time.

Mr BAKER: I am not wasting time at all. We are debating the adequacy of the definition of nuclear waste, as proposed by the Leader of the Opposition in the Opposition's Bill. Will the Leader of the Opposition explain why he decided to restrict the definition to five sources of radioactive material?

Mrs van de KLASHORST: Does paragraph (d) of the minister's amendment mean that every time radioactive material is used in Western Australia a licence must be issued? If so, why is the amendment necessary? Does that solve the problem raised by the member for Vasse in that some of the mineral sands waste is not covered by it?

Mr DAY: As I indicated, any material that is generated, produced or mined in Australia will not be covered by this Bill. The Bill refers to material which is imported into the country and which is regarded as waste. The scenario described by the member for Swan Hills referred to material generated or mined in Australia; therefore it would not be covered by this Bill.

Amendment put and passed.

Mrs van de KLASHORST: The definition "nuclear waste storage facility" in the Bill refers to any installation for the storage or disposal of any nuclear waste. The member for Vasse queried this point. Can nuclear material be stored which is not being used but which could be considered as waste in today's society? Is the Government accepting what appears to be a very broad definition? A nuclear waste storage facility could be anywhere in Western Australia. How would that be tailored to the Pangea situation?

Mr DAY: I think this relates to some of the previous discussion. As I indicated, any material that is generated or mined within Western Australia or Australia would not be covered by the definition as it is now amended. That should allay the concerns of the member for Swan Hills. I understand she is concerned that the legislation will cover material we produce here, given there are legitimate purposes for it. That is certainly not the intention. I do not think anyone can read that into the amendment.

I move -

Page 2, lines 15 to 18 - To delete the lines and substitute -

"**public moneys**" and "**moneys of a statutory authority**" have the meanings given to them by section 3 of the *Financial Administration and Audit Act 1985*;

"**radioactive substance**" has the meaning given to it by section 4 of the *Radiation Safety Act 1975*.

The reference to public moneys and moneys of a statutory authority is intended to ensure there is uniformity between the terminology in this Bill and the Financial Administration and Audit Act. It is desirable that common language exists across legislation wherever possible. This amendment will achieve that.

The amendment defining radioactive substance is proposed to maintain uniformity with "radioactive substance" defined in section 4 of the Radiation Safety Act. The amendment should attract little controversy and should be supported.

Mr BAKER: I support the amendment. These amendments will have the effect of further closing many of the loopholes in the Bill introduced by the Leader of the Opposition. The minister's amendment refers to "radioactive substance"; whereas the Labor Party's definition refers to"radioactive material". Is the definition of radioactive substance inserted because there is a statutory definition of that term in the Radiation Safety Act, or is it because something hinges on the difference between the word "substance" and the word "material"?

Mr DAY: I am informed that "radioactive substance" is defined in the regulations of the Radiation Safety Act, whereas "radiation material" is not so defined. Therefore it is appropriate to have uniformity between this Bill and the Radiation Safety Act for simplicity and clarity.

Dr GALLOP: The amendments moved by the Government are designed to bring about uniformity in terminology and the Opposition has no difficulty with them.

Mr BAKER: There is certainly a need for uniformity. However, the definition goes far beyond merely achieving uniformity. It broadens the definition of "nuclear waste". Is it the minister's view that "radioactive material", as included in the definition of nuclear waste in the Bill, includes gases or vapours?

Mr DAY: As I indicated earlier, there is no definition of radioactive material as such. However, included within the definition of "radioactive substance" in the Radiation Safety Act is reference to "any substance, whether in the form of a solid, liquid, gas or a vapour". Therefore clearly all those different forms of matter to which the member referred will be covered by this legislation.

Mr Baker: As you have adopted the statutory definition of radioactive substance under the Radiation Safety Act, that gives the definition of nuclear waste a much broader application.

Mr DAY: As I indicated earlier, it is intended that the definition of nuclear waste be broad. Paragraph (a) of the amended definition of "nuclear waste" refers to "any source including a nuclear reactor" therefore not restricting the definition to any particular source, although it mentions some examples. It also indicates it may come from any source including those. That certainly broadens the definition. We believe it is more comprehensive and will achieve the aims of the Bill more clearly.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4: Objects of Act -

Mr MASTERS: I want to move an amendment on page 2, lines 20 to 24, to delete the lines and substitute other words.

Dr Gallop: We cannot have this.

Mr MASTERS: I want to do so for the same reasons I explained in this place last week.

Dr Gallop: The member has not given us any details of this amendment. We cannot consider it. How does he expect the Chamber to work if members produce amendments on detail like that?

Mr MASTERS: The amendment is available.

The DEPUTY SPEAKER: The member will have to vote against the clause and then move the amendment.

Dr Gallop: This is ridiculous.

Mr MASTERS: I sought advice from the Clerk.

The DEPUTY SPEAKER: The member is about to get that advice privately from the Clerk.

Mr MASTERS: I understand that I must wait for the amendment to be moved by the minister.

Mr DAY: I move -

> Page 2, line 23 - To insert after "State" the words "or the use of any place in this State for the storage or disposal of nuclear waste".

The intention of this amendment is to make it clear that the legislation will apply to the proposed storage or disposal of nuclear waste in any place within the State, whether it be a constructed facility, an old mine shaft or a hole in the ground. We have been concerned that the objects referred to in the Bill are unduly restrictive in that they refer to only the possibility of storage in a facility; that is, some sort of constructed facility, or building, or whatever the case may be. By agreeing with the amendment, we will make the objects much more comprehensive and will make it clear that they are intended to cover any place in the State where it may be proposed that the material be stored. I refer to the previous amendment to the short title. The deletion of the word "facility" relates to the same purpose as that which is contained in this amendment, given that we are not trying to focus on just one facility, but on the possibility of storage of this material in any place in the State.

Dr GALLOP: The Opposition accepts the amendment. Our interpretation was that the Bill would cover all circumstances in which there is a proposal to store nuclear waste. Nevertheless, we are very happy to broaden it to make it clear that it covers places as well as facilities, and we accept the amendment.

Mr MASTERS: I have been advised that I need to foreshadow the motion which I hope has been distributed to members. I, therefore, hope the amendment by the minister will be defeated, not because it is unacceptable, but because the original clause as put forward by the Leader of the Opposition is defective, as I have said previously in this place. If the Bill goes ahead and states that objects of the legislation are to protect the health, welfare and safety of the people of Western Australia, and the environment in which they dwell, I see that as a red rag to a bull, the bull being Pangea Resources Australia Pty Ltd. Pangea will see it as a challenge to show to the people of Western Australia that a proposed nuclear waste repository can be constructed and operated in a way that their health, welfare and safety as well as the environment are protected. Given the billions of dollars at stake in this issue, it would be peanuts for Pangea not to accept the challenge and try to convince the people of Western Australia that it can meet the objects of this legislation in terms of their protection of health, welfare and safety, and the environment. For that reason, I hope my colleagues on both sides will see the deficiency in the original drafting of this clause. If the amendment relating to the objects is defeated, I foreshadow that I will seek to move this amendment. I hope members now have a copy of it.

Mr DAY: The foreshadowed amendment would not be accepted by the Government. It appears to be more restrictive in a sense. We believe that the Bill, as we believe it ultimately will be amended once all of the processes are completed, will make it very clear that if there is any intention to apply for, or to give consideration to, the possibility of storage of imported nuclear waste in Western Australia and if the Radiological Council was of a view that for some reason it may be appropriate, it would be necessary for the matter to be referred to, and agreed by, both Houses of Parliament. The amendment which I will seek to move later, together with the objects currently in the Bill and the amendment I have just moved will form a comprehensive statement of the objects and will be a most appropriate description of them. Together with the other provisions in the Bill, we think the situation will be well and truly covered.

Mrs van de KLASHORST: In my speech during the second reading stage, I commended the Government on the objects of the legislation; that is, to protect the health, welfare and safety of the people of Western Australia. I strongly support this amendment moved by the minister. As I have said, the world has a large amount of waste to deal with. Countries are looking for a site that will provide for deep geological disposal of nuclear waste. That is the only safe long-term solution, so the experts say. Because nuclear waste has a long radioactive life, it must be isolated from the biosphere for hundreds, if not thousands, of years.

The DEPUTY SPEAKER: I remind the member that this is not a second reading debate. We are discussing a clause.

Mrs van de KLASHORST: Perhaps small amounts of that nuclear waste could be stored in several areas in Western Australia, rather than putting it all in the one place. This amendment will stop somebody from trying to get over the legislation by putting some nuclear waste in one place, and another small amount in another, and so on, so we will end up with one large disposal site all over Western Australia. I strongly support the amendment moved by the minister. The objectives set out in the amendment tie in with the Act; that is, to protect the health, welfare and safety of the people Western Australia.

Mr BAKER: I support the amendment. It has brought up another of the many defects in the Bill introduced by the Australian Labor Party.

Dr Gallop: It is like all your Bills that come in.

Mr BAKER: That is not the case at all. We have cleaned up so many of these clauses it is not funny; it is an ongoing process. We waste a lot of time cleaning up the defects in the legislation introduced by the Opposition.

Mr Pendal: I think we are affecting the bipartisanship we achieved a week ago, because we are squabbling over matters that are inconsequential.

Mr BAKER: We are dealing with matters that are very consequential. I have a question for the minister, but I would first like to make some comments with regard to the objects clause. My understanding is that there is a provision in the Interpretation Act which states the extent to which objects clauses can be referred to in interpreting a statute. Section 18 of the Interpretation Act states -

> In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.

I refer to the amendment moved by the minister to insert in the definition of "nuclear waste" a new paragraph (b) which states "for which no further use is envisaged". The Leader of the Opposition raised some concerns about whether that new paragraph would include a situation where what would otherwise be waste was imported into Australia and stored, with the intention of perhaps re-utilising that waste in the future. Would the amendment that the minister is proposing to the objects clause, which would prohibit waste being stored or disposed of in Western Australia, have the effect of clarifying the apparent uncertainty with regard to new subparagraph (b)?

Mr DAY: The member for Joondalup is asking whether section 18 of the Interpretation Act, together with the objects clause of this Bill, can be used to resolve the concerns raised by the Leader of the Opposition with regard to new paragraph (b). The objects clause of the Bill, together with section 18 of the Interpretation Act, will make very clear the intention of this Bill and what we are seeking to achieve; the overall outcome will be that such material can be stored or disposed of in Western Australia only with the approval of both Houses of the Parliament.

Amendment put and passed.

Mr MASTERS: On the basis that I was the only person who voted against that amendment, I will not move the amendment that I foreshadowed.

Clause, as amended, put and passed.

Clause 5: Relation to other laws -

Mr DAY: I move -

> Page 2, line 26 - To delete "Act or".

Those words are superfluous and do not add anything to this legislation; therefore, it is appropriate to delete those words.

Amendment put and passed.

Mr DAY: I move -

> Page 3, line 1 - To delete "under this" and substitute "of this".

The intention of this amendment is to tidy up the legislation by using more appropriate words, as advised by parliamentary counsel.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6 put and passed.

Clause 7: Prohibition against constructing or operating a nuclear waste storage facility -

Mr DAY: I move -

> Page 3, line 11 - To insert after "facility" the words -
>
> in the State or use any place in the State for the storage or disposal of nuclear waste

This is similar to a previous amendment and is intended to ensure that the legislation refers to any location in the State where this material is proposed to be stored, rather than simply to a constructed facility; therefore, it will broaden the effect of the legislation and make it very clear that it will apply to any place in the State, whether it be a mine shaft, or whatever.

Amendment put and passed.

Mr BAKER: Is it the minister's view that the word "operate" in subclause (1) will include the transportation of nuclear or radioactive substances?

Mr DAY: I am advised that the word "operate" will include any activity that is incidental to the storage of nuclear waste; therefore, the transportation of such material will be covered.

Mr MASTERS: I hope members will excuse my ignorance, but will the proposed fine of $500 000 in subclause (2) be applied on a daily basis or per conviction for the offence?

Mr KOBELKE: The intention is per conviction.

Mr DAY: I also indicate that under the sentencing legislation which operates in this State, the maximum penalty for a body corporate is five times the amount which is indicated in clause 7; therefore, it will be a maximum of $2.5m for a body corporate.

Mr MASTERS: Assuming that a company such as Pangea were to establish - I will not suggest how - a nuclear waste dump in Western Australia and it took one or two years for the offence to go to court and be registered against that company, a fine of $2.5m that was imposed every one or two years would be of no consequence whatsoever considering the economics of the overall project. Would other Acts of this Parliament provide the legal power to prevent that illegal activity?

Mr KOBELKE: The member is really boxing at shadows. If an organisation sought to set up such a facility, a range of other legislation dealing with radiation safety, transportation, etc, could be used, and clearly it would also be contrary to this Act. While the penalties are a final stage that must be applied to prevent any organisation establishing such a nuclear waste storage facility, a range of other issues would have to be taken into account before the matter could proceed that far.

Mr MASTERS: I appreciate the comments and accept them. Nonetheless, if the Parliament were to provide a penalty for a person or corporation contravening subclause (1), presumably it would be with the intention of having it applied in the future. Should we be considering the additional imposition of a penalty for every day that this legislation is being breached by the convicted person or corporation?

Mr BAKER: We should not lose sight of the fact that many provisions of the Criminal Code of Western Australia apply to all statute law, particularly those provisions dealing with "attempts". While on the face of it, this clause creates an offence if a person constructs a nuclear waste storage facility, we must bear in mind that under the Criminal Code it would be possible to charge a person with "attempting" to construct a nuclear waste facility. The term "attempt" is very broad and would include preparatory acts prior to the construction. The Criminal Code provides that a person attempts to do something if he has an intention to do something and he evidences that intention with an overt act of some kind. While on the face of it this clause applies only in the first instance to the construction proper, it will also apply to the attempted construction, which commences much earlier.

Mr DAY: In relation to the matter raised by the member for Vasse about the possibility of penalties, I am advised that the Nuclear Activities Regulation Act provides for the following penalties: A fine not exceeding $50 000, imprisonment not exceeding five years or both; and, in the case of a continuing offence, a further fine not exceeding $50 000 for each day after the first day on which the offence is found to have been committed during which the offence is found to have continued. It is likely that the regulations will contain some reference to other legislation such as the Nuclear Activities Regulation Act. Together with that, the penalty provided for in this Bill and the other actions that can be taken by the Radiological Council and through the court system, there will be ample opportunities to ensure that effective action can be taken against anyone who seeks to operate or construct such a facility.

Clause, as amended, put and passed.

Clause 8: Offence by corporation -

Mr DAY: I move -

Page 3, line 20 - To delete "and" and substitute "or".

This is probably a drafting error. It would clearly be a more comprehensive statement of the possible offences if the word "or" were used so that not all of the conditions would need to be complied with.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 9: No advances for encouraging or financing development etc. of nuclear waste storage facility -

Mr DAY: The Government intends to oppose this clause, and I foreshadow an amendment to insert a new clause if this clause is defeated. The Government's proposed clause 9 will be a more appropriate statement of the intention of this clause.

Clause put and negatived.

New clause -

Mr DAY: I move -

Page 4, after line 5 - To insert after clause 8 the following new clause to stand as clause 9 -

9. No public expenditure on storage or disposal of nuclear waste

No public moneys or moneys of a statutory authority are to be expended or to be granted or advanced to any person -

(a) for the purpose of; or

(b) for the purpose of encouraging or financing any activity associated with,

the development, construction or operation of a nuclear waste storage facility in the State or the use of any place in the State for the storage or disposal of nuclear waste.

The Government believes that this clause contains broader provisions than those in the defeated clause. It wants to make it clear that, as well as the Government's not being able to advance moneys for any proposed activity relating to the construction of a nuclear waste storage facility, government departments or agencies should not be able to spend time considering applications for such a proposal or funding for the construction of such a facility. It would clearly be inappropriate if agencies or officers within government departments were spending significant time considering such applications when there was no prospect of their being approved. This proposed new clause is more appropriate than the defeated clause.

Mrs van de KLASHORST: Does this also refer to any organisation or person that might be using government money to run a charitable or non-profit organisation?

Mr Kobelke: Like the Friends of Pangea WA Inc?

Mrs van de KLASHORST: The amendment refers to statutory authorities. Someone might have started a mining company years ago and have been given some assistance.

Mr DAY: This proposed clause is intended to cover the situation in which any consideration is being given to advancing public moneys for the purpose of encouraging or financing any activity associated with the development, construction or operation of a nuclear waste storage facility in the State. I cannot see how any charitable organisation -

Mrs van de Klashorst: Perhaps it could be a non-profit organisation.

Mr DAY: It would cover any not-for-profit organisation that hypothetically was proposing to construct a nuclear waste storage facility. I cannot see any situation in which that would be the case. In the unlikely event that it occurred, it would apply as much to that organisation as it would to a profit-making organisation.

Mr BAKER: I do not want to delay the passage of this Bill through the consideration in detail stage. I support proposed new clause 9 which is far more broad ranging and comprehensive than the clause being advocated by the Leader of the Opposition. Proposed new clause 9 states that no public moneys or moneys of a statutory authority are to be expended or to be granted or advanced to any person for the purposes set out in the clause. It does not contain a provision which makes it an offence to advance moneys contrary to that clause nor does it state what will happen as a consequence should the provision be breached. Does the minister intend to create an offence later on or will a general offence provision be relied upon which will refer to an offence being a breach of any duty in the Act?

Mr DAY: It would be an offence for people to be involved in activity contrary to what is indicated in proposed new clause 9. It is correct that no specific penalty is indicated in the clause but effective legal action could be taken against anybody who sought to be involved in such activity.

Mr Baker: Where is the offence provision in this Bill or any other Act that would be relied upon were proposed new clause 9 to be breached? Normally, a clause in the Bill would state that it is an offence to do something; or a person who does or does not do something commits an offence.

Mr DAY: My legal advice, in response to another lawyer, is that it could be in the sentencing legislation.

Mr MASTERS: I support the amendment but, unfortunately, there was noise in the House while the minister was speaking to it and I did not catch some of his words when he said that public servants, contrary to the intent of the amendment, might still use their time to provide assistance to the creation or operation of a nuclear waste repository in Western Australia. Obviously the Government of the day, one would think, would discourage public servants from allocating any work time to such a cause. Does this clause deal with that prospect or is it the direct expenditure of public moneys that the amendment seeks to control?

Mr DAY: The intention is that there should not be any expenditure of public moneys on such activities as indicated in proposed new clause 9 which implies that no paid, work-related time of public servants would be allocated to such activities. The short answer to the member for Vasse is yes.

I return to the point raised by the member for Joondalup where I indicated that the offence provision could be contained in the sentencing legislation; if it is not there, it is probably in the Justices Act. However, we will take that question on notice to get a definitive answer.

New clause put and passed.

Clause 10: Consequential amendments -

Mr DAY: I move -

Page 4, lines 23 and 24 - To delete the lines and substitute -

(2) This Act does not affect the operation of the *Nuclear Waste Storage (Prohibition) Act 1999* and nothing in this Act authorizes the doing of anything that is prohibited by that Act.

I am advised that the Nuclear Activities Regulation Act focuses on the nuclear fuel cycle activities that occur in Western Australia; for example, activities related to mining, production, storage and disposal of nuclear material. That Act provides for regulations to introduce codes of conduct to regulate or perhaps even prohibit such activities. It is not designed to deal with the importation of nuclear waste. However, to cover the contingency of conflict between the Bill that we are debating today and the Nuclear Activities Regulation Act, it is necessary that this amendment be agreed to in order to clarify the intent of the legislation.

Amendment put and passed.

Mr DAY: I move -

Page 4, after line 25 - To insert the following -

(2) After section 41 of the *Radiation Safety Act 1975* the following section is inserted -

" **41A. Restriction on authorization of storage or disposal of nuclear waste**

(1) In this section -

"authorization" means a licence, registration, exemption, disposal permit or temporary permit under this Act;

"nuclear waste" has the meaning given to it by section 3 of the *Nuclear Waste Storage (Prohibition) Act 1999*.

(2) Despite anything in this Part, an authorization relating to nuclear waste is not to be granted or effected unless both Houses of Parliament by resolution consent to the authorization being granted or effected, and then only on such terms and conditions as are specified in the resolution. ".

This is the most significant amendment being moved to this Bill and is very well spelt out. The amendment makes it clear that were the Radiological Council to be satisfied that a legitimate purpose will be served by allowing the storage of such material in Western Australia, the matter must be referred to both Houses of Parliament and both Houses of Parliament must give their approval to such authorisation being granted by the Radiological Council. The amendment clarifies that the Parliament will have a role in determining the success of any such application in the future. Were an application to be made to the Radiological Council and the council disapprove it, the matter need not be referred to Parliament. However, that is a simple, common sense situation as there is no point in referring something to Parliament if there is no intention that it be approved in the first place.

Mrs van de KLASHORST: Does this mean that despite what we are doing today, under the Radiation Safety Act 1975, the Radiation Council could, under certain circumstances, still issue a permit to store high level nuclear waste? I did not hear what the minister said. Could he explain it again? I understand that the Radiological Council can still override this Act, if it so wishes, and this amendment will strengthen that position. Have I read that correctly?

Mr DAY: The intention of this amendment, as I said, is to ensure that were the Radiological Council to determine that a legitimate purpose existed and approval were to be granted for the storage of nuclear waste, the matter would have to be referred to both Houses of Parliament and both Houses of Parliament must approve such an authorisation by the Radiological Council. The definition, which has now been agreed to, clarifies that "nuclear waste" includes any material imported into Australia. Material which is generated in Australia would not be caught by the provision in the amendment we are now debating. In other words, material generated in Australia would not need the authorisation of both Houses of Parliament to be stored in Western Australia. Any material imported into Australia which is covered by the definition of nuclear waste now agreed to would be covered by this amendment.

Mr BAKER: I support the amendment. If this amendment is not accepted - the indications are that it will be - what will be the net effect on this Bill, which has now been substantially amended?

Mr DAY: If this amendment were not agreed to, there would be a certain degree of doubt about the effectiveness of the legislation in preventing such material being stored in Western Australia. It is extremely unlikely that approval would be given by the Radiological Council for the storage of nuclear waste, as now defined. However, in the event that this amendment were not agreed to, it would be theoretically possible for the Radiological Council to give approval if it were satisfied that there was a legitimate purpose and that appropriate conditions would be applied. The reason for that is made clear in clause 5. The Radiation Safety Act effectively overrides the provisions of this Bill, in the event that there is any conflict between the Radiation Safety Act and the provisions of this Bill. This Bill provides that it is to override all inconsistent written laws, except the Radiation Safety Act 1975 and the regulations made under that Act. This inconsistency clause raises a number of issues or possible interpretations. One interpretation is that if the Radiation Safety Council issues authorisations under the Radiation Safety Act, that Act prevails; in other words, the prohibition in this Bill will fall away. The other interpretation is that even if the Radiation Safety Council issues necessary authorisations under the Radiation Safety Act, the prohibition in the Bill prevails because there is no inherent inconsistency between this Bill and the Radiation Safety Act. The amendments to the Radiation Safety Act proposed by the Government are essential in that they raise the bar, so to speak, by which the Radiation Safety Council may issue relevant authorisations under the Radiation Safety Act. That clearly spells out the purpose of this amendment and the effect if the House does not agree to the amendment I have moved.

Mr KOBELKE: The minister has made it clear that the amendment he has moved will cover a very slight chance of a loophole. This Bill does not derogate from the Radiation Safety Act. The Labor Party Bill did not interfere with the legitimate use and disposal of nuclear waste. Nuclear waste used for medicinal, industrial and scientific purposes is being dealt with and disposed of in Western Australia. The Leader of the Opposition acknowledged in his second reading speech that the Radiation Safety Act provides a regulatory regime for the proper management of radioactive waste. The minister is saying that the Labor Party's proposal in this area gave rise to a loophole, but he has acknowledged that it is unlikely that the loophole would ever be utilised or come into effect with regard to matters involving high level nuclear waste storage.

The Opposition believes the council could not approve such a facility under the Radiation Safety Act, but the minister believes there is the slightest possibility for it to slip through. On that basis, the Opposition accepts the amendment as additional tightening up of the legislation. New section 41A will address this possible contingency, by referring to the Parliament applications for authorisations relating to nuclear waste. The new section refers to applications for authorisation relating to nuclear waste, rather than specifically to applications for disposal and storage of nuclear waste. This is due to concerns that applications may be dressed up, and not expressed as storage or disposal applications. The Labor Opposition is willing to accept this amendment as a tightening up of the legislation. Although it may not be necessary, it is worth crossing the t's and dotting the i's to ensure the Bill has the full effect for which it is designed.

Amendment put and passed.

Clause, as amended, put and passed.

Title -

Mr DAY: I move -

> To delete **"establishment of a nuclear waste storage facility in Western Australia, to amend the *Nuclear Activities Regulation Act 1978"*** and substitute the following -
>
> > **storage or disposal in Western Australia of certain nuclear waste, to amend the *Nuclear Activities Regulation Act 1978* and the *Radiation Safety Act 1975*,**

If members agree to this amendment, the purpose of the legislation will be made clearer, particularly in view of the amendments which have now been agreed to. The proposed new title more appropriately describes the purpose of the legislation. It also makes it clear that the legislation is intended to cover not only a constructed facility, as far as the storage of nuclear waste in this State is concerned, but also any proposal to store the nuclear waste in an old mine or some other non-constructed facility, such as a hole in the ground.

Mr BAKER: I support the amendment and I do so because it is interesting that, to date, during the detailed consideration of the Bill, the Leader of the Opposition has raised only one concern in relation to all the amendments proposed and passed by members in this Chamber; that is, the amendment to the definition of nuclear waste and, specifically, paragraph (b) of that amended definition, which reads "for which no further use is envisaged". In my view the new object of the clause the minister has inserted will have the effect of negativing the ambiguity in the intention of that paragraph.

The amendment to the name of the Bill also does that, and makes it clear that the Parliament intends to ban the storage and disposal of radioactive substances in Western Australia. I accept that when interpreting a statute, one cannot refer to the title of an Act to assist with any ambiguities or absurdities which may arise. We have had this debate many times before in the House. The name of a Bill is very important indeed, because it can explain to members of the public what the Parliament seeks to achieve within the body of the Bill. In any event, this clause certainly does that and clearly indicates that the Parliament is seeking to ban the storage or disposal, and not just the disposal, of any such substance. That is very important indeed.

Amendment put and passed.

Title, as amended, put and passed.

PLANTATION ESTATE, REVIEW

Motion

DR EDWARDS (Maylands) [5.41 pm]: I move -

> That this House condemn the Government's lack of interest in Western Australia's plantation estate, including the totally inadequate time frame and scope for the plantation review.

There has been a lot of debate about this State's plantation resource and we are about to have an inquiry. The Opposition is pleased that at least an inquiry is to be held. However, it will not address the heart of the issue. The inquiry also has other problems relating to the time frame and the methodology.

I will talk about the controversy surrounding Western Australia's plantation resource. There have been many arguments since Dr Judy Clark, a resource economist in the Centre for Resource and Environmental Studies at the Australian National University, published a paper on the availability of the plantation resource in Western Australia in 1996. I believe Dr Clark is a credible person. She has completed her doctorate in this area, specifically on the topic of an Australian assessment of the resource availability of plantation timber. She should know what she is talking about. Dr Clark says plantations contain an estimated 1.2 million cubic metres of plantation sawlogs. A significant volume of timber is not being utilised or harnessed

in Western Australia and that timber could be used if the State put its mind to it. Dr Clark's figure is equivalent to four years of plantation processing at the current level. If it is true, this represents a huge opportunity. It is obvious why people are interested in the plantation resource. For some time members on this side of the Chamber have argued for a shift from native forests toward plantations. The Opposition's policy was amended in May and reflects that philosophy. The Government has made similar statements in the past few months with the modifications to the Regional Forest Agreement. The community wants to know if there is a resource that can help Western Australia move away from native forests and into the plantation sector. Dr Clark has done a lot of work in this area and, to outline her arguments, I will rely on a paper she presented to a 1998 National Trust seminar.

Her first argument is that Western Australia is not using its burgeoning plantation resource to reduce the logging pressure on native forests. She backed that up with information from Department of Conservation and Land Management annual reports and figures from CALM and the Australian Bureau of Agricultural and Resource Economics. There is a sustainable plantation supply that can be used and Western Australia can almost double its plantation wood product. Dr Clark outlined the products coming from native forests and plantations and the immediate plantation potential. Her figures are very revealing. They are broken down into products such as veneer and laminated veneer lumber, wood-based panels and sawn timber. Dr Clark has done a lot of work in this area and presents a very cogent and revealing argument. She argues that Western Australia can increase the sustainable level of plantations by drawing from its plantation sawlog stockpile. She provided a graph of the plantation sawlog stockpile; that is, the amount of timber she believes is standing in the south west that could be available for logging. Dr Clark argues that if the timber is harnessed and brought on stream, it would lift the amount of sustainable sawlogs and help ease the pressure on the native forests. Dr Clark's figures indicate that plantations currently provide 37 per cent of Western Australia's wood. That figure would double if the sawlog supply was harnessed properly. She also says that Western Australia's plantation sawmilling timber industry could shift to processing at a higher level. Her arguments indicate supply, the potential for jobs and value-adding. These things are all dear to the heart of every member of Parliament.

Dr Clark has done further work studying products that could come from plantation timber. She has investigated where building materials are sourced, the high manufacturing proposals available and the plantation processing opportunities Western Australia could have if it harnessed the plantation timber she says is out there. Many opportunities could be supported if her data is true, such as expanding the Wespine Industries Pty Ltd operation in Dardanup to the 400 000 cubic metres a year it is working towards. Dr Clark talks about the possibility of a new radiata pine sawmill, a pinaster plantation sawmill and a new high-density fibreboard plant.

Members of Parliament try to read and understand things. Often we know an argument looks good but we do not have the background or the information to truly evaluate it. Questions still have to be asked. One of Dr Clark's greatest arguments is her projection that there could be 800 new jobs in the plantation sector if this resource is harnessed. Until recently, the Government's response has been that Judy Clark is wrong and it has ignored what she is saying. Members on this side of the House are disappointed that the plantation issue was not looked at in detail during the Regional Forest Agreement process. Scant attention was paid to the plantation sector and the job opportunities that would arise, particularly from processing. This was not factored into the calculations.

Western Australia's plantations have other problems. About this time last year, I asked the Minister for the Environment about the area of the State being utilised for timber plantations. The answer I received late last year was that CALM does not and cannot, for commercial reasons, maintain complete records of plantations that it does not own or manage. I received another answer earlier this year which said that neither CALM nor the Australian Bureau of Agricultural and Resource Economics has comprehensive data on the condition of the growing stock or the future harvest potential of private plantations. We know CALM has a lot of information about public plantations that it owns or manages, but we do not know about many of the private plantations. Two problems immediately present themselves. These are the information presented by Judy Clark, a resource economist and specialist in this area, and the Government's acknowledgement that it does not have a lot of information about the private plantation sector. These are important issues. There is a lot of heat in the timber debate at the moment and a big community demand that Western Australia move away from native forests towards plantations. The community is crying out that people must be managed through this change. There must be stable employment and employment opportunities for people affected by it. There may be answers in Judy Clark's work.

I refer now to comments by the Department of Conservation and Land Management. When Dr Judy Clark's report first came out CALM basically dismissed it. Its media releases at the time said she had faulty information. CALM made statements to the effect that it was concerned at some of her conclusions, but it believed she was wrong. I think Dr Clark has been treated somewhat poorly by CALM. CALM officers criticised her in that way, but had few dealings with her to properly reason her arguments on academic grounds. Given all her work is resourced in such a way that, to a large extent, she relied on CALM's figures, the department could have put better arguments.

My problem is that if CALM and Dr Clark cannot resolve the situation between them, how can any of us hope to do that? It is in that regard I am disappointed that this review into plantations will not give us the opportunity to tease out exactly what is the situation, particularly with private plantation land.

Mrs Edwardes: It will.

Dr EDWARDS: It is not clear from the terms of reference and it is not consistent with other things the minister has said.

Mrs Edwardes: Essentially the review will be able to address that, particularly under the third item. For commercial reasons, we did not have access to the amount of material or knowledge of the material within private plantations. We expect this review to resolve some of the key issues that you have raised.

Dr EDWARDS: I welcome the minister's statement that is the case because the other point I want to make is that in recent days CALM appears to have found more plantation timber in this State. In the past week or so it has drawn up a table showing the existing commitments for plantation timber. The quantity is now up to 636 000 cubic metres per annum, which is a much higher figure of plantation timber available to the State than was previously available.

Dr Turnbull: Is that pine or pine plus blue gum?

Dr EDWARDS: It is pine.

Mrs Edwardes: What are you quoting from?

Dr EDWARDS: I am quoting from a letter from CALM to Liberals for Forests. One of the issues here is the proposed Sumitano project which will flow from logging at Gnangara. Again, my issue with this CALM letter is that it refers to what is committed and what is uncommitted. The position is unclear in this letter. The impression from this letter seems to be that although extra plantation timber is available - timber that a year ago CALM said was not available, and until a month ago the Minister for the Environment said was not available - it is committed. I will say more about that later.

I am pleased that CALM is now finding information on private pine plantations, for example. It says it has identified 18 000 hectares of private pine plantations in Western Australia. That is a big step forward. I wish we could have received this information earlier. I am pleased CALM is now making the effort and dragging out these figures.

Mrs Edwardes: I think that came about because of the Greenbushes situation. The private sector said that it could provide the timber as part of that project. However, when we investigated it further, the size of the trees did not allow for it to be sustainable in the future. Therefore, whereas some of the timber might have been available in the first year or two, it would not be sustainable for any particular project.

Dr EDWARDS: The minister's comments highlight the difficulty we have had.

The questions I asked last year are the same as the questions I asked earlier this year. Previously we have not been able to get that information. It is a disgrace that Judy Clark had to say all that, because if we compare her comments in the past with the comments in this letter, she has been proved to be right. I hope we have a more independent review than this review so that we can learn much more about the private sector.

I take up the minister's point about the commercial imperative and private people not wanting to say how much plantation timber they have and what they will use it for. However, I have spoken to a number of people involved in the plantation sector who said they were willing to volunteer their figures and their plans. In using the argument of commercial confidentiality we must be careful not to override goodwill in the community to reveal the truth.

Mrs Edwardes: If the timber was available in the private sector, as is being claimed, there is no prohibition or impediment to its selling it. It can sell it. However, timber was not even available to assist small operations for more than a couple of years for the project at Greenbushes. If private operators had the timber there, they could sell it.

Dr EDWARDS: I am not convinced by the minister's comments. What is really going on is revealed in the statement by CALM in its response to Judy Clark's paper on plantations which states that -

> The softwood plantation program is therefore inadequate to provide the resource to replace native hardwoods, even were it sensible to do so.

Our long-term resource planning has never envisaged that a considerable amount of timber would not continue to come from native forests in Western Australia. It is my fear that CALM is so locked into assuming that the native forests will last forever that it has not been interested in the plantation side of the industry, particularly in looking back to see what was done in the past, the mature resources that are available and what can be used. I welcome the minister's comments if they reflect that CALM is changing its stance. I hope it is also changing its philosophy.

I acknowledge the good work CALM has done in the plantation sector, particularly recently. That is well spelt out in its annual report which was released yesterday. However, when we read CALM's response to Dr Clark's paper and see how it has shifted ground over four years, we cannot help but wonder whether initially it was driven by the philosophical view that it did not want to move away from native forests, so why consider another resource.

I turn now to the terms of reference for the review of CALM's plantation forestry operations. I would be delighted if, as the minister says, this review is much broader than that which appears in the terms of reference. Although the body of the terms of reference appear broad, it seems to be limited by the heading which is "Terms of reference for the review of CALM's plantation forestry operations and associated issues". If it is to examine the private sector, that is a big step forward.

Having said that, I have some problems with the terms of reference. My first concern is with the timing. We were told that tenders were advertised on 18 September. I have not been able to find such an advertisement, but I saw one on 25 September. There may have been one before that, but it was advertised on 25 September. Tenders then closed on 12 October and, according to the project milestones, the recommended tenderer was submitted to Cabinet for approval on 18 October. Did that occur?

Mrs Edwardes: Not as yet. It is still to go to Cabinet.

Dr EDWARDS: We are immediately behind the eight ball. There is so little time for the consultant to make what we are now being told is a very broad inquiry. According to this milestone calendar, the consultant was to be appointed on 25 October and, based on the tender document, he had to be available to start work within five days. Presumably he would be

at work by 30 October. The consultant then had to present a draft report on 12 December. I counted the working days on the calendar last night and it is an incredibly small number. He will have to work every Saturday and Sunday. It is a short period in which to ask someone to examine the future of the plantation industry in this State, which is so important.

After the steering committee has examined the first draft, the final report must be with the minister on New Year's Eve. I wish her a happy New Year's Eve. We know what she will be doing on the eve of 2000 - she will be reading this report.

The next issue is that the whole contract is being managed and, to a large extent, overseen by the Department of Conservation and Land Management. It is hardly independent. There is reference to a steering committee but we do not know who will be on it, or who will be driving it. I hope the minister will sort this out shortly. There are other anomalies with the methodology of the review. The tender document makes the comment that, given the short time for the review, it is not expected that the consultant will be able to determine the plantation resource potential of the Department of Conservation and Land Management totally independently. Already it has been said that it is flawed; that we must accept what the Department of Conservation and Land Management tells us. As I have just said, what CALM thinks is going on is evolving, shifting. People are changing their views. The document then states that it is essential that the methods and processes adopted by the Department of Conservation and Land Management be evaluated and an independent assessment made. A helluva lot of different activities will be done in that very short time frame. There seems to be some internal conflict with it, in that the committee will not be able to work out all of the figures of the Department of Conservation and Land Management independently, but equally it must examine its methodology independently. I wish it luck.

The fate of plantations in this State is extremely important. When the Regional Forest Agreement was modified and the Premier put out a media release at the end of July referring to the modification to that agreement, he pointed out that we must also know about the private plantation estate, future logging and manufacturing, and the future of the timber industry in this State. I welcome the assurance of the minister on that. I ask her also to confirm that during the review we will get more information about what is happening in Dardanup. Levels are set out in the Dardanup Pine Log Sawmill Agreement Act that the State must provide to this company. What happens if the company does not want all of that supply? Will it become available to others who are looking for plantation timber? The Act spells out a reason that the review should look at the private sector. The agreement Act imposes commitments on both the Bunnings group and Wesfi Manufacturing Pty Ltd about selling their timber and what can be done with it. The plantations issue is more complex than it appears at first blush.

I will make a couple of quick comments about the valuable work done by CALM in this area. I acknowledge that it has done a lot of work with plantations. Indeed, it has led the field in establishing plantations. It is moving into the wheatbelt areas, looking at carbon sequestration and the way plantations can be used. However, it is not looking to see what is, literally, in its backyard. I was amused to see that.

The Forest Industries Federation (WA) Inc is implementing an independent inquiry into the work of Judy Clark. If it can do that, why can the Government not have a better handle on what is going on in the private sector? In conclusion, there is a lot of debate and concern in the community about the plantation resource. We all need to know the facts and to be informed about exactly what is going on so we can help the shift away from native timbers. I still believe that inquiry is not appropriate, in that it is not independent and the timing is such that it will be rushed. I am not yet convinced - I will wait to hear what the minister says - about its scope and the extent to which the private sector will be looked at. I believe this issue is of concern to all members of Parliament, and I ask them to look at this motion very carefully.

MRS EDWARDES (Kingsley - Minister for the Environment) [6.03 pm]: I will not be able to provide some of those answers, but I will endeavour to get information in response to the queries the member raised. We reject the proposition that we have shown a lack of interest in the plantation estate in Western Australia. Although the member for Maylands has identified some good work by the Department of Conservation and Land Management in this area, I would like to reiterate some of that and then go through some of the issues the member has raised. I am attempting to get further information on a couple of those issues, including the letter the Department of Conservation and Land Management wrote to the Liberals for Forests and the difference in the figures when compared with those referred to in the questions on notice.

Another issue is the Dardanup Pine Log Sawmill Agreement Act. The member for Maylands has mentioned three issues: The time frame, the scope and the methodology. I will address the issue of scope first. The member's concern is whether, under the terms of reference, the consultant has the ability to include information in the report on how the private sector can provide timber to meet the needs of industry, now and in the future. The terms of reference quite clearly identify that the inquiry is to look at, first, the extent to which the current and future plantation resource matches the current commitment - I think that is the issue to which Judy Clark has referred; secondly, whether there are sufficient resources now; and, thirdly, whether there are excess resources over and above commitments so that this industry can readily commit to 800 extra jobs. We, in Government, would like that to be true. On all the information available to me, not just from the Department of Conservation and Land Management but also from the private sector, people who have done independent assessments of the figures provided by Judy Clark, that is not the position. It would have been nice for the production of that amount of timber to create a new industry and those jobs. Concern has been raised about the figures quoted by Judy Clark. We are saying that we wish the situation she paints were true, but it is not. The review will inquire into that matter and attempt to ascertain whether existing commitments are being met and whether the future needs of the industry will be met, so that once and for all we will have an accurate answer.

The fourth term of reference refers to the encouragement of the establishment of private softwood and hardwood plantations. Many people have asked me why the Department of Conservation and Land Management is involved in the future development of maritime pine. We know investment is required to establish maritime pine plantations. Perhaps the situation is a little like that of blue gum plantations: Until the Department of Conservation and Land Management could show large-

scale blue gum plantations could operate profitably, the private sector did not want to become involved. Now the Department of Conservation and Land Management is out of that area, and the plantations are being run by the private sector. Perhaps the same will happen with the maritime pine plantations: We must be able to show that large-scale these plantations are profitable in order to encourage the private sector to invest in them. No interest has been shown by those in St George's Terrace or others in investing in large-scale maritime pine plantations.

Mr Omodei: Why is that?

Mrs EDWARDES: It is because it could not be demonstrated that money can be made out of it. Until that can be shown, we will not get private investment.

I highlight term of reference (5), which refers to the appropriate role of government in promoting plantation development, including the efficacy of corporatisation or placing state-owned or managed operations on a business footing, and the appropriate role of government in existing and future plantations. Again, that addresses the questions raised within the community. We have discussed private investment, and the appropriate role of government to establish the proof that private sector investment can be made. We can consider whether the Victorian model is appropriate. I refer to the way Victoria was able to sell off its plantations, and the advice is that increased levels of investment are occurring in the Victorian industry. Is there benefit in doing that to the scale Western Australia requires?

Also, we need to balance a strong conservation element to our plantations, particularly maritime pine in the lower rainfall areas. We need to be able to demonstrate to farmers that one has an additional environmental benefit in planting maritime pine; that is, addressing the salinity question. Salinity is identified in the state of the environment report as one of the biggest environmental challenges this State faces. The Government acknowledges that it wants to move away from native forest into plantations, as was part of the Premier's decision on 27 July 1999. We must also recognise that the State can address salinity by the further encouragement of share and integrated farming, and getting farmers to plant maritime pine in suitable rainfall areas to address that serious problem.

The other benefit is carbon sequestration relating to the greenhouse protocol signed in Kyoto. The Western Australian agricultural industry provides income and a large number of jobs within Western Australia; therefore, as part of Australia, we help this country meet its targets and, at the same time, accrue the benefit in addressing our salinity problem. Moving away from native forest will result in carbon sequestration to help promote and sustain the State, as well as the rest of Australia.

Term of reference No (5) is critical in considering private and public plantations. The scope of the terms of reference address some of the concerns raised by the member for Maylands. Term of reference (6) refers to the relationship of plantations to our salinity action plan; the creation of the important Gnangara regional park; the benefit of integrated operations; carbon sequestration capacity; and the current supply and management agreements.

Term of reference (7) refers to the native species sandalwood, in terms of both conservation management and plantations. Whether one has a commercial or conservation operation and function, one must consider how the Sandalwood Act and regulations should operate. This applies particularly when considering the proposed changes to the operation of CALM with forest resources, and determining where sandalwood and plantations fit in. We are considering moving plantation and sandalwood across to the proposed forest resources commission. This will be part of separating the commercial aspect from the Department of Conservation and Land Management and keeping the conservation side under the conservation commission.

I have not referred to two terms of reference: No (2) relates to promoting the establishment of an internationally competitive forest product industry, requiring sustainable timber supplies. Term of reference (1) refers to the need to provide a long-term sustainable supply of wood while reducing dependency on native forests. That was the key component of the review. I think all people in this State support moving away from our dependency on native forests.

I reiterate some of the good work done. Western Australia has contributed to plans to triple the areas of plantations in Australia from one million hectares to three million hectares by 2020. If we can attain increased levels of private sector investment, who knows where that could lead, particularly with the salinity and carbon sequestration issues already mentioned?

Initial seed capital from the Government has demonstrated that large scale planting on cleared agricultural land is profitable. Massive interest has been expressed by the private sector. More than 120 000 hectares of short-rotation blue gum have been established in plantations, both public and private, in the high rainfall areas in the past 10 years.

We have seen about 7 000 hectares of maritime pine established in share farming arrangements. A big increase in this produce is planned for 2000. CALM's target is an increase of 150 000 hectares in maritime pine plantations in the next 10 years, and we are working on private investment for a total of 500 000 hectares. We are also carrying out a significant amount of research and development in low rainfall areas. One has seen the introduction of the marri eucalypts. We have given substantial financial and technical assistance to the marri association. In fact, 12 million marri trees were planted in the past six years, and we have a target in 2000 of planting more than five million trees.

Mr Cowan: It is a disgrace. We spent 30 years knocking them down, and 20 years trying to replant them.

Mrs EDWARDES: I allow that comment from the Deputy Premier.

The member for Maylands referred to the fact that we know of 18 000 hectares of private softwood plantation in the south west region. Unfortunately, I have identified that little interest has been expressed in *Pinus radiata*. We understand that

more than 90 000 hectares of blue gum have been planted in the great southern and south west since 1990. We have only just received information from the private sector, and more than 18 000 hectares may exist. However, the 18 000 hectares came to light when we were dealing with the Greenbushes proposal in determining how to continue that plant's operation. The Western Timber Co-operative met with the Premier and me, and on subsequent occasions we corresponded and provided information for the company. We needed detail on the pine resource available. It was not sufficient to know that the operation had sufficient resource for a year or two. One needs a constant supply for any timber project to be viable. That needed to be levelled out. Private plantations have not had a good history with pruning and thinning. A wide variety of thinning and pruning practices have occurred in private plantations, so the quality one might expect to see is not available to be able to operate a viable timber operation.

The information we had with regard to that matter came through the Western Timber Co-operative, but unfortunately it was not sufficient, and it was not sustainable to get that timber operation up. We are finding that it is of neither the quality nor the quantity on a sustainable basis to provide for the timber operations which Judy Clark is maintaining.

Dr Edwards: Do you anticipate making an announcement about Greenbushes in the near future?

Mrs EDWARDES: It is still with the receiver, and we hope to make an announcement as soon as the receiver advises us that its processes have been completed. The receiver is still going through the financial assessments, as I understand it. The Government, like the member for Maylands, and particularly like the Greenbushes and Bridgetown communities, would like to have the matter resolved in a way which ensured that there was a long-term viable timber operation that was value-adding in that region. We hope that is achievable, but obviously it is very much in the hands of the receiver and not in the hands of the Government.

I turn now to the Manjimup nursery, which is world best practice and I suggest is also one of the largest tree nurseries in the world. We have progressively expanded the Manjimup plant propagation centre to meet the increasing demand for tree seedlings. In 1998, that centre dispatched more than 25 million tree seedlings, more than 20 million of which were used to establish new plantations or to replant others that had reached maturity or had been clear-felled. Twelve million blue gums have been planted to satisfy private orders and meet commitments for CALM-managed plantations; two million *Pinus radiata* seedlings have been grown to re-establish clear-felled public plantations; 1.5 million mixed species seedlings have been grown for private orders; more than one million seedlings have been sold to South Australia and Victoria; five million *Pinus radiata* seedlings have been produced for the maritime pine plantation project; and, in addition, the Narrogin nursery has produced about 1.5 million seedlings for farm enhancement programs in the wheatbelt and also for the oil mallee project. We have recently completed the expansion of the Manjimup centre, with a capacity to produce more than 35 million seedlings in 2000. It is a good news story when we are talking about the capacity for Western Australia to move even more into plantations and to produce in its Manjimup nursery more than 35 million seedlings next year; and I commend the department and its officers for doing the research and producing that nursery. The capacity exists to expand that to 60 million seedlings with relatively little expense.

The number of state-managed blue gum plantations has more than quadrupled since 1992. The total area after the 1992 planting was 7 384 hectares. The total area after the 1998 planting is 33 092 hectares. Therefore, blue gum plantations have been established about four times faster under this Government than was the case when the Labor Government was in power. In the six years between 1987 to 1992, state-managed blue gum plantations were established at an average of 1 136 hectares a year, compared with an average of 4 284 hectares a year in the years between 1993 and 1998 since we have been in government.

The member for Maylands referred to the time frame. That issue is also of concern to me. I would like to receive the response by 31 December, but that must be tempered against the possibility of the tenderer doing the work that is necessary within that time frame. A probity auditor has assessed the terms of reference and the way the tender process was carried out, and he has reported that the documentation provided to all the respondents to the publicly advertised tender was considered to contain clear and sufficient information to enable the capable parties to provide a complete and competitive bid to meet the nominated criteria. That tender included a reporting date, and the probity auditor said that the job could be done within that time frame. I have asked how the matter will be dealt with if the review cannot be completed within that time frame.

Dr Edwards: Why not make them work on New Year's Eve instead of you?

Mrs EDWARDES: That sounds like a good idea! Nothing would preclude the successful tenderer from seeking an extension of time to report later if that were necessary, but I do not want that to be for an extended period. I want to ensure that the tenderer has the necessary amount of time to carry out the review, but that the review is done in a timely fashion so that we can get the information back to the community as quickly as possible and everyone is aware of where we are going with regard to plantations now and in the future.

Dr Edwards: Has it been delayed by just one week? Effectively it is about one week behind at the moment.

Mrs EDWARDES: It is effectively only one week behind. The successful tenderer may still be able to complete it within the time frame, but, if it cannot, the tenderer will have the capacity to approach the Government and ask for an extension of time. I am conscious that the time frame may be inadequate, because we want to ensure that a proper review is carried out, but the advice that I have received from the probity auditor gives me some level of comfort, and there is also the opportunity for an extension of time if necessary.

The steering committee comprises representatives from Treasury, Agriculture Western Australia, the Department of Resources Development and the Department of Conservation and Land Management, assisted by a Contract and Management Services officer with regard to the technical issues, and also a probity auditor. I have the names of those

people, and it is fascinating that three of those people have the first name of David, and another person has the first name of Don. I am not sure whether one of the criteria for being on the steering committee was to have the first name of David! It was advertised in *The Weekend Australian* on 18 September, in *The Australian Financial Review* on 24 September, and in *The West Australian* and *The Weekend Australian* on 25 September.

The concerns raised by the member for Maylands about the Judy Clark controversy can be adequately addressed and the Government ensured that the terms of reference allowed that issue to be addressed because we believe it is important to settle the matter. As I indicated, I wish we had the timber. Dr Judy Clark has published probably five different estimates of softwood log availability in Western Australia, she has changed her position and it is important to clarify the position. It is not just the advice I am receiving from the department about Dr Clark's assessment but also private sector companies wanted to know whether that level of extra timber was available. They have indicated publicly to the Government that that timber is not available. The Premier met with Judy Clark in June but unfortunately she was not available to meet with me subsequent to that. I endeavoured to identify the pieces of information she had requested from the Department of Conservation and Land Management but had not received and how I could facilitate that. We do not have a problem with making it all transparent. If there is any way to resolve the impasse over what Dr Clark says is available and what the Government says is available I would be delighted to do that. However, there are two issues. We would be delighted if the timber were available but it is not. The private sector has told us that it is not available. If the private sector has sufficient private plantations, why is it not selling the timber to create these 800 jobs and a new industry. If the timber were available, I have no doubt that the private sector would be only too quick to make money for itself. The Western Australian timber industry is bringing together a cooperative group of plantation companies to help the private sector carry out proper research and development of its own as well as to ensure there is benchmark, a standard, for managing those plantations to ensure the best possible timber is available for the best possible use.

The way plantation timber is being produced at the moment means it cannot be used to replace structural timber. Old-growth karri will not be available from 2004 and there will be a need to meet the industry's requirements for structural timber from plantations. Where will that come from? The timber may have to be imported to meet that need! That would not be the case if the timber were in Western Australia. However, people in the industry are already looking around to find out where they can get replacement timber for the old-growth karri.

The Government has made sufficient increases in the sawlog production to ensure we are meeting the needs of the current contracts. In a number of the next 16 to 18 years there will not be a decent buffer for the contractual and production amounts. If there is a wildfire, there will not be a sufficient buffer for the Government to meet its contractual needs. That matter is of serious concern to the Government and we hope that, with increases in the level of plantation timber since 1993, we will be able to ensure that the State has sufficient plantation resource available for its future needs. That is the footing on which we will base the progress of the State's plantations.

I do not as yet have the answers to the member for Maylands' questions about the state Dardanup Pine Log Agreement Act, nor the Department of Conservation and Land Management letter referring to the plantation timber. However, I will continue to endeavour to get that information. My knowledge of the state agreement Act and the Dardanup agreement is that the Government was advised that they contain a contractual amount. Obviously, given the karri decision, there will be an expansion of that operation in the not too distant future. People will be looking to find out where the future resource will come from to meet the current uses of old-growth karri. As we move out of old-growth timber and into plantation timber, people are asking where that timber will come from. We expect that industry to expand its operation and totally take up the industry's requirements and that commitment to the company is provided under the state agreement Act.

The Government does not support the motion. It believes the terms of reference for the review meet the community's concerns, particularly on whether we have more plantation timber resource than that which has been referred to by the department. We wish there was, but the facts do not support it and this review will identify requirements not only for the current commitment but also for the future of the industry. We believe the successful tenderer will be able to meet the time frame. However, in the event of its requiring an extension, there is a capacity for that to be considered. I regard that as being appropriate because we do not want the delay of a week to unnecessarily limit the best report available, given the work and commitment which has gone into it.

I have demonstrated that the Government is committed to a strong plantation industry in Western Australia. It has already announced publicly that it is moving away from the harvesting of native forests for uses which can be met with the use of plantation timber, and that, with the karri decision effective from 2004, there is a clear need to identify the plantation resource available to meet the current uses of old-growth karri. Since coming into government, the Government has overseen a 400 per cent increase in bluegum plantation establishment than that which occurred in the previous 10 years. We could say that there should be more than there is now so that we could move into plantation timber immediately. However, we cannot go back. If the Labor Government had planted more than it did during its years in government, more resources would be available in the next five to 10 years. However, that did not happen either.

Mr McGowan: And in the time of the first Court Government and the Brand Government.

Mrs EDWARDES: It did not happen, we do not have it and we cannot go back. We have demonstrated a commitment to increasing timber plantations since coming into government in 1993. As a result of the environmental challenge of salinity, this State has the highest rate of planting of any State in Australia, because planting provides us with an opportunity to meet that challenge. It also provides us with an opportunity to meet the needs of Western Australia for continued increased resources development and for meeting our greenhouse targets under the Kyoto challenge by allowing carbon sequestration to be obtained through increased planting. Although we have entered into a couple of agreements with major resource

companies, how carbon sequestration will occur internationally has not yet been identified and is still very much at a pilot stage. Through agreements with companies, they are attempting to secure their rights, so that the benefits will come back to Western Australians. The Premier has been very clear on where we can go with that.

The Government does not support the Opposition's motion. We believe it is flawed because it does not recognise the good work and commitment of this Government towards increased plantations. It also does not recognise the fact that the Manjimup nursery is probably one of the largest in the world and that the amount of seedlings it is producing annually is extensive, and it does not recognise the opportunities that we have provided for the private sector to be involved through our large-scale planting of blue gums and the largest plantings of maritime pine that have ever been undertaken in this State. By demonstrating that large-scale planting will make money, we expect the private sector, as it did with the blue gum plantations, to take over the planting role. The Government does not see its involvement in plantation timbers as one of its future roles. It believes that it should provide the incentive for the private sector to get involved in maritime pine plantations by providing the seed capital and helping with research and development and technical advice as an indication that it does and can work and that the private sector can make money.

As I have said, the Government does not support the motion. We believe that it neither addresses the question adequately nor recognises the strong commitment of this Government to moving away from dependency on native forests to plantations. It does not recognise the work and the commitment that the Government has put in over the past 10 years to move away from the dependency on native forest.

MR McGOWAN (Rockingham) [6.44 pm]: I support the motion put forward by the member for Maylands. Despite the minister's defence a moment ago of the Government's efforts, this is an issue of such enormous importance that regardless of those efforts, not enough is being done. The issue of plantations and forests is of world significance. In the interests of not only the people of this State but also the international community and future generations, we must address the question in the most robust and aggressive fashion. I agree with the member for Cottesloe that forests, the environment and plantations are probably the most pressing and decisive issues that the people of this State have faced this decade.

Members on this side of the House have come up with a very good response to the question of the preservation of old-growth forest, which is one side of the coin. If we win government, it means that those forests will be protected for future generations. The government documentation contains an admission that over the next 10 years, the Department of Conservation and Land Management will be able to develop only 150 000 hectares of plantation forest. Quite frankly, that is not good enough. The rate of expanding salinity in this State means that every hour an extra football field of saline-affected soil is created.

Mr House: Can you substantiate that?

Mr McGOWAN: Read the salinity action plan or any of the documents in the library. I have read them.

Mr House: Can you substantiate a football field an hour?

Mr McGOWAN: It is growing at an enormous rate. If the minister does not think it is a problem, he is wrong. Does he not think it is a problem?

Mr House: Don't be pathetic. I know it is a problem. I asked whether you could substantiate a football field an hour.

Mr McGOWAN: I will go to the library and get the documents if the minister wishes.

Mr House: I only want to know whether you can substantiate it.

Mr McGOWAN: Absolutely. The minister can look in the library. I do not have the documents on me. The minister has a staff of 20. He is wasting the time of the Minister for the Environment and the member for Vasse.

Mr House: You would not know what the bush looked like. You would not know what went on in the bush. You would not have a clue.

Mr McGOWAN: Is that right?

Mr House: Absolutely right.

Mr McGOWAN: The minister can keep wasting his minister's time.

Mr House: You are pathetic.

Mr McGOWAN: Has the minister finished?

Mr House: Come on, substantiate your comments.

Mr McGOWAN: Is the minister saying that I am wrong?

Mr House: Substantiate your comments. You cannot, can you?

Mr McGOWAN: I can.

Mr House: You are doing what you usually do: You are making pathetic comments.

Mr McGOWAN: I can substantiate my comments. The minister should see his mates in Victoria and listen to what they have decided. They intend to walk out of the coalition. The minister should do that rather than enjoying the perks of office, selling Westrail, betraying the bush and not living up to his promise on salinity in the last election.

Mr House: Have you been re-endorsed?

Mr McGOWAN: Of course I will be. The other day I went to the Deputy Premier's electorate where I spoke to people about the role of the National Party. They were from the shires of Narembeen, Kellerberrin, Tammin and Cunderdin, and they were not very happy at all.

Mr Omodei: You did that all in one day, did you?

Mr McGOWAN: No, I went to the great eastern ward and the Country Shire Councils Association in Westonia.

Mr Omodei: Did you see them all in one place?

Mr McGOWAN: Yes, I did.

Mr Omodei: You must have seen a lot of people.

Mr McGOWAN: About 50.

Mr House: That was the first time you had ever been there, was it?

Mr McGOWAN: Yes, it was. I have been to Merredin before but I admit that it was the first time I had been to Westonia. The minister came to my electorate the other day for the first time.

Mr Omodei: What is the name of the chief executive officer of the Westonia Shire Council?

Mr McGOWAN: I cannot recall. The minister is on the ball today and has got me on the name of the CEO of the Shire of Westonia. He is one of the big hitters with questions like that.

Mr Omodei: You are telling us how many people you spoke to but you don't even remember the name of the CEO who is probably one of the most important people in Westonia.

Mr McGOWAN: What is the name of the CEO of the Shire of Tammin?

Mr Omodei: At the moment it does not have one.

Mr McGOWAN: Exactly. That is very good. What is the acting CEO's name?

Mr Omodei: He is the guy from down the road.

Mr McGOWAN: What is his name?

Mr Omodei: He is from Kellerberrin.

Mr House: He is acting CEO.

Mr McGOWAN: Can the minister substantiate that? The minister would not know anything about the bush.

Mr Omodei: The shires have been talking about sharing a CEO.

Mr McGOWAN: They are, and that is very good, but what is the name of the acting CEO?

Mr Omodei: They have opened the position for expressions of interest. You are not quite right again.

Mr McGOWAN: The issue is enormous. The Minister for the Environment gave no answers in her comments on Thursday, 26 August on pine and plantation timber grown on private land. She has not explained why she said on that occasion that pine on private land would not be included in the terms of this inquiry and why she is now saying that it will be. She must address that point. I support the motion moved by the member for Maylands. It is an important issue for the people of this State.

MR MASTERS (Vasse) [6.51 pm]: The motion moved by the member for Maylands attempts to address a very serious issue, and I commend her for raising it. However, it is disappointing that she has used this language to condemn the Government. I will demonstrate why I think the sentiments expressed are inappropriate and therefore should be rejected. I assume that the member for Maylands is not advocating that there be an increase in the number and size of plantations on crown land, particularly that covered by native vegetation.

Dr Edwards: No.

Mr MASTERS: I will refer to a report written last year by the Rural Industries Research and Development Corporation. When that report was written in 1998, this State had experienced five years of coalition government, which had followed 10 years of Labor government. It is important to keep those periods in mind. The report produced by the RIRDC is entitled "Creating a viable farm forestry industry in Australia - what will it take?" It is a short report, No 35, and was written by Jason Alexandra and Michael Hall. The preamble states -

> The research was commissioned at a time of rapid change, and some of the policy reforms identified by the research were adopted by governments during implementation of the research.

In other words, some of the recommendations may be of only historical note.

I will quote from the summary of findings of the report to ensure that we as members of Parliament are educated about the wide range of problems facing industry, private landowners and Governments of all persuasions and at all levels - state, federal and local - in their efforts to create a viable farm forestry industry. The report states -

> . . . research found that a viable farm forestry industry would be possible in Australia if government and industry implement actions leading to:
>
> - explicit policies which define their involvement in forestry generally, and specifically clarify their roles in relation to farm forestry;
> - adherence to competition principles in the forest sector - ensuring that publicly owned forestry enterprises do not compete unfairly with private forestry;
> - transparency and accountability through independent scrutiny of their practices and policies;
> - confidence amongst growers and investors in regulatory and planning arrangements;
> - ongoing investments in the innovation processes needed to accelerate farm forestry development, including sponsoring strategic and applied R&D;
> - assistance for industry initiation with scheduled withdrawal when private enterprise is ready to take on the commercial and further development roles; and
> - the formulation and implementation of cost-sharing arrangements based on a fair split between public and private costs and benefits.

I will not quote at length from this document, but I refer the member for Maylands to it because it contains a number of strong recommendations under the following general headings: What are the general impediments; what are the forest grower and industry impediments; what are the policy and legislative impediments; and what are the investment and competition impediments. All of those sections detail a number of recommendations.

However, table 1 summarises the farm forestry impediments by region. In general terms, the regions are Victoria, South Australia, New South Wales, Queensland, Tasmania, and two regions in Western Australia - WA Albany and WA Esperance. It is significant to note that Western Australia has the lowest number of high impediments to the creation of viable farm forestry in any State of Australia. One can assess the impediments in terms of the number of high impediments that exist in the other States compared with the two regions in Western Australia. Tasmania and South Australia are listed as having only eight high impediments; Queensland and Victoria - the States most geographically and meteorologically suited to farm forestry - have 10 high impediments; and New South Wales has 14. By comparison, WA Albany and WA Esperance have only six and five impediments respectively.

Table 2 details who is responsible for addressing the impediments. The impediments fall into five sectors: Regional committees or cooperatives; the research and development and education sector; the State Government; the Commonwealth Government; and industry. I mention the sectors because the Labor Party had 10 years in government and the coalition has had five years.

Mr Carpenter: How many years?

Mr MASTERS: I am referring to the time at which this report was written; that is, in 1998. Clearly during those 15 years, Western Australia has done more than any other State to remove or reduce the impediments to viable farm forestry.

I congratulate the Government for the commitments it has made to forest management practice as announced by the Premier in July, in particular its commitment to the plantation review, which has been discussed already in this place, and the review of jarrah royalties. I put out a media release in the middle of last year, which stated -

> Higher royalties and whole bole logging will also provide major incentives to private landowners to plant trees on their properties for long-term growth of sawn timber logs.
>
> At present the cost of timber from native forests is so low that sawn timber from plantations is virtually uneconomic, due to the need for landowners to receive a reasonable return on their investment in their land.

I believe, and I hope, that the reviews announced by the Premier in July will address those issues.

I also refer to a comment made by various people about the Judy Clark results. The Department of Conservation and Land Management stated in one of its reports that Judy Clark appears to be advocating the mining of the softwood resource in Western Australia. I hope that is not supported by the Opposition.

Two significant problems must be addressed: First, the right to harvest plantations once they are mature. Farmers and other landowners in the eastern States who have established plantations are now being told that, for environmental reasons, those plantations cannot be harvested. Second, we as a Government and as a community must do more to encourage individual farmers to plant trees, as we cannot force them to do so.

Question put and negatived.

House adjourned at 6.59 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

WELFARE AGENCIES, INCREASED DEMAND FOR SERVICES

506. Mr BROWN to the Minister for Family and Children's Services:

(1) Is the Minister aware of an article that appeared in *The West Australian* on Friday 2 July 1999 under the heading of "Welfare Agencies Near Breaking Point"?

(2) Is the Minister aware that the article referred to a survey conducted by the Australian Council of Social Services which found agencies attributed the growing demand to a greater level of need in the community?

(3) What additional measures does the State Government intend to take to assist those in greatest need?

Mrs PARKER replied:

(1)-(2) Yes.

(3) The Government is undertaking a range of strategies to assist people in poverty, however it is important to note the Commonwealth Government's primary responsibility in this area particularly for income support and emergency relief. Ongoing strategies include the provision of concessions on basic utilities and opportunities for education and jobs. Western Australia responded to the 1996 International Year for the Eradication of Poverty by establishing a Taskforce. The Taskforce report was released, along with the Western Australian Government response on 10 July 1998. The majority of the report's recommendations were supported. One of the Poverty Taskforce recommendations supported by the State Government was the establishment of a statewide No Interest Loans Scheme. The Government has committed $1.5 million over three years to the scheme. It is expected that loans will be available from January 2000 from the WA No Interest Loans Network. The State Government assists low income families and people experiencing short-term financial crisis in a number of direct ways. This assistance includes help for families with an unforeseen crisis, emergency travel and funeral expenses. Family and Children's Services provided $2.6 million in 1998/99 for the family Crisis Program as well as running a Bill Paying Service. Family and Children's Services also provides funds for 51 financial counselling services across Western Australia.

GOVERNMENT CONTRACTS, IN EXCESS OF $50 000

787. Mr BROWN to the Minister for Family and Children's Services; Seniors; Women's Interests:

(1) How many contracts of $50 000 or more (excluding employment contracts) has each department and agency under the Minister's control entered into between 1 June 1999 and 31 July 1999?

(2) What was the amount of each contract?

(3) What is the name of each person/entity with whom the contract has been entered into?

(4) What is the nature of the work or service required by the contract?

(5) What is the completion date of each contract?

Mrs PARKER replied:

(1) Family and Children's Services – 1
West Australian Drug Abuse Strategy Office – 37
Women's Policy Development Office – 4
Office of Seniors Interests – Nil
Family and Children's Policy Office – Nil

(2)-(5) See table below -

NAME OF CONTRACT	AMOUNT OF CONTRACT	NATURE OF CONTRACT	COMPLETION DATE OF CONTRACT
Family and Children's Services			
High Wycombe Out of School Care Centre	$75,000	Out of School hours and vacation care programs	31-Dec-2001
West Australian Drug Abuse Strategy Office			
AASHA Consulting	$63,000	Implementation of Individually Designed Learning Programs to address the problems of Drug Abuse	31-Jul-1999
Next Step Alcohol and Drug Services	$206,000	Parent Drug Information Service.	30-Jun-2001
WA Football Development Trust	$172,500	Drug Free and Drug Aware programmes. 3 year partnership, $50,000 in 98, $57,500 in 99, $65,000 in 2000 based on football seasons. November - October	3 year partnership
Cyrenian House	$647,200	Treatment and Support services	30-Jun-2000
Daughters of Charity Services	$82,600	Treatment and Support services	30-Jun-2000
Holyoake	$682,100	Treatment and Support services	30-Jun-2000
Palmerston	$654,000	Treatment and Support services	30-Jun-2000
Perth City Mission	$396,400	Treatment and Support services	30-Jun-2000
Perth Women's Centre	$96,100	Treatment and Support services	30-Jun-2000
Salvation Army - Bridge House	$292,700	Treatment and Support services	30-Jun-2000
Salvation Army - Harry Hunter Centre	$193,500	Treatment and Support services	30-Jun-2000

Serenity Lodge	$388,300	Treatment and Support services	30-Jun-2000
Wesley Central Mission	$90,100	Treatment and Support services	30-Jun-2000
WANADA	$76,500	Treatment and Support services	30-Jun-2000
Milliya Rumura	$258,400	Broome Sobering up Centre	30-Jun-2000
Garl Garl Walbu Aboriginal Corporation	$258,400	Derby Sobering up Centre	30-Jun-2000
Nindilingarri Cultural Health Services Inc.	$275,300	Fitzroy Crossing Sobering up Centre	30-Jun-2000
Halls Creek People's Church	$270,200	Halls Creek Sobering up Centre	30-Jun-2000
Bega Garbirringu Health Services	$231,800	Kalgoorlie Sobering Up Centre	30-Jun-2000
Waringarri Aboriginal Corporation	$264,300	Kununurra Sobering Up Centre	30-Jun-2000
Salvation Army	$229,000	Perth Sobering Up Centre	30-Jun-2000
Port Hedland Sobering Up Centre Inc.	$297,200	Port Hedland Sobering Up Centre	30-Jun-2000
Roebourne Sobering Up Shelter Inc.	$261,100	Roebourne Sobering Up Centre	30-Jun-2000
NACCHAMSAC	$208,800	Wiluna Sobering Up Centre	30-Jun-2000
Palmerston	$277,500	South Metro Community Drug Service Team	30-Jun-2000
St John of God Healthcare	$277,500	North Metro Community Drug Service Team	30-Jun-2000
Holyoake	$277,500	North East Metro Community Drug Service Team	30-Jun-2000
Perth City Mission	$277,500	South East Metro Community Drug Service Team	30-Jun-2000
Palmerston	$171,900	Great Southern Community Drug Service Team	30-Jun-2000
Centrecare	$263,500	Goldfields Community Drug Service Team	30-Jun-2000
Geraldton Health Services	$292,800	Midwest Community Drug Service Team	30-Jun-2000
Kimberley Northwest Mental Health Services	$252,400	Kimberley Community Drug Service Team	30-Jun-2000
East Pilbara Health Service	$335,300	Pilbara Community Drug Service Team	30-Jun-2000
St John of God Foundation	$193,100	Southwest Community Drug Service Team	30-Jun-2000
Holyoake	$65,400	Wheatbelt Community Drug Service Team	30-Jun-2000
Catholic Education Office	$1,400,000	School Drug Education Project	30-Jun-2000
Life Education WA	$174,000	Provides education and professional development for students, their teachers and parents through the Building School and Community Links for Drug Education initiative	30-Jun-2000
Women's Policy Development Office			
Centrecare (Broome)	$50,000	Regional Domestic Violence Co-ordination	30-Jun-2000
Geraldton Sexual Assault Referral Centre	$50,000	Regional Domestic Violence Co-ordination	30-Jun-2000
Women's Health Care	$50,000	Regional Domestic Violence Co-ordination	30-Jun-2000
Safer WA West Pilbara District Committee	$50,000	Regional Domestic Violence Co-ordination	30-Jun-2000

WELLINGTON DAM, LAND PURCHASE FROM MR WALTER JOHNSON

885. Dr EDWARDS to the Minister for Water Resources:

Who were the three Water Corporation employees who accompanied the chairman of the Water Corporation in the negotiations and the conclusion of negotiations including the execution of documentation for the purchase of the Wellington Dam land owned by Mr Walter Johnson?

Dr HAMES replied:

The Chairman was unaccompanied when he conducted and concluded the final negotiations. The Acting Chief Executive Officer and the Chairman executed the offer and acceptance documents on behalf of the Water Corporation and the Manager, Corporate Real Estate witnessed their signatures.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF TURNOVER

932. Ms WARNOCK to the Minister for Aboriginal Affairs:

Further to question on notice No. 508 of 1999, what was the staff turnover among the staff at -

(a) Level Seven;
(b) Level Six;
(c) Level Five; and
(d) Level Four,

in -

(i) 1999 to date;
(ii) 1998; and
(iii) 1997?

Dr HAMES replied:

(a)-(d) (i)-(iii)

LEVEL	1997	1998	1999
4	4	10	6
5	3	5	5
6	2	8	3
7	2	3	3

* Includes permanent, temporary and contract officers.

QUESTIONS WITHOUT NOTICE

SPEED CAMERA FINES, OWNER ONUS

336. Dr GALLOP to the Minister for Police:

Does the minister agree with Assistant Police Commissioner Mel Hay that the latest version of the Government's owner onus legislation will not close the loophole that sees 20 per cent of speed camera fines go unpaid? Will the minister contradict his assistant commissioner and go on the record as saying that this latest version will reduce the number of fines evaded?

Mr PRINCE replied:

I thank the Leader of the Opposition for the question and for the opportunity to give a brief explanation of the convention that exists between the Government and the Western Australia Police Service. It is entirely appropriate for the assistant commissioner in charge of traffic to make comments of that nature, and I support his doing so. Whether I agree with him is an entirely different exercise. However, it is appropriate for police to express a view and an opinion. What then happens with the democratic process is not necessarily what the Police Service would like to see.

Dr Gallop: I am not interested in the democratic process. Is he right or wrong?

Mr PRINCE: We know that the Leader of the Opposition is not interested in the democratic process, because he comes from a faction-based organisation that crunches numbers and treats Parliament with contempt. What we have by the process that has brought a Bill to this Parliament are the views of the people, and the people are saying that they do not agree with the view that the vehicle owner should be absolutely liable for speeding offences. Those matters will be debated in this Parliament at length. I entirely support the assistant commissioner's making comments. However, as they always have, police officers will enforce the law as it is written and passed, and the law that will come out, presumably in the form in which it is introduced, will be a toughening of the present situation and will lead to more people being apprehended.

WESTERN AUSTRALIAN ECONOMY, PERFORMANCE

337. Mr OSBORNE to the Premier:

When announcing the state budget earlier this year, Treasury made a forecast that the State's economy would continue to grow in the 1999-2000 financial year. How did the Western Australian economy perform in the past June quarter?

Mr COURT replied:

When the budget came down, the Leader of the Opposition and the Deputy Leader of the Opposition preached doom and gloom, saying that the economic forecasts were far too optimistic, et cetera. The forecast was 4.5 per cent growth. I think the forecast of the Chamber of Commerce and Industry of Western Australia was 2.5 per cent growth. The Opposition basically said that we had it wrong.

In the June quarter, the economy grew by 3.5 per cent, which was the strongest growth of all the States. Econtech Pty Ltd, one of Australia's most respected economic forecasters, has revised its forecast for the 1999-2000 year to 4.7 per cent. Econtech has gone higher than our forecast. The Chamber of Commerce, interestingly, has increased its forecast for domestic demand but lowered its forecast for exports. Therefore, it has shifted its overall growth forecast from 2.75 per cent to 2.5 per cent. Access Economics Pty Ltd has raised its assessment. The good news is that Access Economics has surveyed the 11 private forecasters on the expected average annual economic growth rates over the next four years, and Western Australia is expected to be Australia's fastest growing State over that four-year period, with an average annual growth of about 4.3 per cent. It is good news that we look like coming in close to the forecast that the Treasury people have put forward. Hopefully, the doom and gloom preached by the members opposite -

Mr Ripper: What about your budget deficit? What is your forecast for that?

Mr COURT: The member for Belmont said that the Government had it all wrong and, therefore, the budget would be wrong. He can sit there smiling. I hope that forecast is correct and his doom and gloom predictions are wrong.

FAMILY AND CHILDREN'S SERVICES, EXPENDITURE ON CHILDREN

338. Mr CARPENTER to the Minister for Family and Children's Services:

(1) Can the minister confirm that the usual practice in Family and Children's Services of providing up to $50 for Christmas presents for each ward of the State has been cancelled in some areas because of budget restraints and that staff are dipping into their own pockets to find the money?

(2) Can the minister confirm that contact visits between some children who are wards of the State and their parents have been slashed because of budget and resource problems inside Family and Children's Services?

(3) Has the minister considered selling off her $3 000 tea set, her $5 000 art collection and some of her expensive office furniture to help make up the shortfall?

Mrs PARKER replied:

(1)-(3) I thank the member for the question and note there was no notice of it. I cannot provide the details on some of those matters. I will ensure I examine the issues he raised. His question is a disgrace. The state budget for

expenditure on these children who are wards of the State has increased from $4.7m in 1994-95 to more than $8.5m. It has almost doubled. By my recollection, we increased the children's expenditure in this year's budget by more than about $1m because we never know how many children we will have in care and how complex are the issues and problems.

Mr Carpenter interjected.

Mrs PARKER: I will check that information, but I will not make an assumption that the information the member for Willagee has is true.

FAMILY AND CHILDREN'S SERVICES, EXPENDITURE ON CHILDREN

339. Mr CARPENTER to the Minister for Family and Children's Services:

I have a supplementary question. Is the minister in effect cancelling Christmas for some of the department's most needy children while she lives it up at the taxpayers' expense?

Mrs PARKER replied:

I do not mind if the member for Willagee wants to argue about the quality of tea and coffee services in my office or if the member for Pilbara says it is all right for people at the top end of town, but not for the people with whom I work to use them. This is cynical politics. Last week the Opposition used the funeral expense of a family to work around this issue. Now it is talking about this issue. I will check to see whether Christmas presents have ever been given. This is cynical politics.

OKELY, MRS RONA

340. Mrs van de KLASHORST to the Minister for Fair Trading:

At the Constitution Centre I recently met Mrs Rona Okely during the launch of her exhibition titled "A Vote of Her Own". What is the Government's tribute to Mrs Okely as part of the celebration of the Western Australian Centenary of Women's Suffrage?

Mr SHAVE replied:

I thank the member for some notice of this question.

On 7 October I officially opened the Rona Okely meeting room in the new business premises of the Ministry of Fair Trading. Members of this House might like to pay a visit to see the improved conditions under which the ministry now operates compared with the conditions under which it operated during the term of the previous Labor Government.

I appreciated the opportunity on behalf of the Court Government to acknowledge the Western Australian Centenary of Women's Suffrage and the significant contribution women have made to fair trading and consumer affairs in this State. Western Australian women have contributed to fair trading and consumer affairs at a state and national level. The Government's initiatives recognise their work and the inspiration they have provided to others. Mrs Okely has made many noteworthy contributions to fair trading, and I would like to bring three of those to the notice of the House. Mrs Okely is well known for her work with the Gosnells information centre, now known as the Gosnells Community Legal Centre, and that should be acknowledged. Mrs Okely also served on the Builders Registration Board and the Painters Registration Board from 1989 to 1997. In 1987 Mrs Okely was the first woman appointed to the Motor Vehicle Dealers Licensing Board, and in 1992 she became the first woman to chair that board. That is a unique achievement as that industry is very much a male-dominated province, and it is pleasing indeed for a lady to achieve that position.

The ceremony was attended by many of Mrs Okely's family including her grandchildren and great-grandchildren. It was a pleasure to attend the function which focused on the importance of family, particularly in Mrs Okely's case. I am pleased that this is one of the initiatives by which the Government is able to recognise the centenary of women's suffrage and I compliment the Ministry of Fair Trading for its efforts in this area.

GILLEECE, MR JACK, VISIT TO MONGOLIA

341. Mr RIPPER to the Premier:

I refer to the report into the business activities of the Premier's disgraced former adviser Jack Gilleece, paragraph 75 of which states that Mr Stephens said that a business plan was devised to implement a limited version of Tengraphics in Mongolia and that SoftCopy Digital Mapping Pty Ltd was intimately involved in this matter, effectively acting as a conduit between the Mongolian Government and the Western Australian Government on a for-profit basis.

(1) Was Mr Stephens correct when he said that SoftCopy Digital Mapping was acting on a for-profit basis?

(2) If so, how was any profit to be derived from any deal between the Governments?

(3) Will the Premier table the business plan referred to by Mr Stephens and all other associated correspondence and documents and, if not, why not?

Mr COURT replied:

I thank the member for some notice of this question.

(1)-(3) I am informed that the statement by Mr Stephens was based on a comment made by Mr Douglas McGay of

SoftCopy Digital that he had previously established an office in Mongolia in the hope of successfully conducting business activities in that country, some of which could involve the provision of professional services to the Mongolian Government. There has never been any arrangement for the State Government to pay any fees or commission to SoftCopy Digital in respect of any potential deal involving the Tengraphics system. It is not known if SoftCopy Digital was to be paid a fee or commission by the Mongolian Government had the Tengraphics system been exported to Mongolia.

Dr Gallop: Did anyone ask?

Mr COURT: Someone has inquired. I do not know what documents are part of the business plan, because I have not seen any.

GILLEECE, MR JACK, VISIT TO MONGOLIA

342. Mr RIPPER to the Premier:

Will the Premier table associated government correspondence and documents relating to this matter and, if not, why not?

Mr COURT replied:

I said on another occasion that all documents had been provided to the inquiry. I am not aware of what documents are involved, but I will inquire about the documents.

Mr Ripper: Will you give them to us?

Mr COURT: The Deputy Leader of the Opposition found out last week that the Government has a pretty good record in providing information that members opposite did not provide. I am not aware of the documents, but I will find out what the documents are.

NORTHAM MULTICULTURAL FESTIVAL

343. Mr TRENORDEN to the Minister for Citizenship and Multicultural Interests:

Last weekend Northam celebrated a special event. The Northam Multicultural Festival was well organised and patronised. Thousands of people came together. Those people had been housed in the army and Holden camps in the Northam area when they came to Australia as newly arrived migrants. Does the minister see this sort of program fitting in with Citizenship 2000+?

Mr BOARD replied:

I thank the member for the question. First, I congratulate the Northam Tourist Bureau and the committee of the Shire of Northam and the multicultural committee which organised this celebratory event. This was the inaugural festival held in Northam and, in years to come, I expect it will become a very large community event. Probably over 10 000 people went to Northam on that day to be part of the festivities. Between the late 1940s and the middle of 1960, 35 000 migrants to this State were housed at the army barracks at Northam. Those migrants and their direct descendants number approximately 150 000 people throughout Western Australia. The people in Northam want to celebrate on an annual basis the cultural diversity of our great State, and to focus on the fact that those people who came here created a future for themselves and put a great deal back into their community. I congratulate Nonja Peters who wrote the history of those migrants, which will be a valuable tool for the Government and all those seeking evidence about migration to this State. The Citizenship 2000+ initiative, which was launched as part of the millennium events, seeks to reward and award people who have shown active citizenship. We were able to present an award to Mr Don Bremner of the Northam Tourist Bureau for his outstanding work in bringing this festival together and for what he is developing in terms of citizenship and an understanding of cultural diversity. I congratulate all those people involved in this event.

GILLEECE, MR JACK, MEETINGS WITH BOWTELL CLARKE AND YOLE

344. Mr RIPPER to the Premier:

I again refer to the recently tabled report into the secret business dealings of the Premier's disgraced former adviser, Jack Gilleece, and, in particular, the findings that Mr Gilleece was involved in the government side of discussions with Bowtell Clarke and Yole and several government departments, and that his presence at these meetings amounted to a conflict of interest.

(1) Which government departments were involved?

(2) Did the discussions result in any financial benefit to Bowtell Clarke and Yole?

(3) Why did the Premier not answer these questions yesterday, despite having had several hours' notice?

Mr COURT replied:

I thank the member for some notice of this question.

(1) The report states quite clearly that Bowtell Clarke and Yole handled advertising for a number of government agencies.

Mr Ripper: Which ones involved Mr Gilleece?

Mr COURT: Those contracts are clearly listed on page 19 of the report.

(2) That firm had government contracts to handle advertising for each of the agencies listed in the report, so of course it would have been paid.

(3) The question was answered. The further information sought by the member is clearly outlined in the report.

CANNABIS LEGISLATION, GOVERNMENT SUPPORT

345. MR BAKER to the Minister for Family and Children's Services:

I refer to the statements in the media that the Government may be supporting certain aspects of the legislation relating to cannabis law enforcement, introduced by the Greens (WA) in the other place. Will the Government support that legislation?

Mrs PARKER replied:

The Government will not be supporting the cautioning aspect of the legislation introduced in the other place last night. Over the past 12 months, the Government has trialed a unique approach by providing a caution for first-time offenders - those who have committed no other offence - if they attended a compulsory education session on the harms of cannabis. Under the trial there is only one opportunity for a caution, whereas the Bill introduced by the Greens (WA) provides two. We have trialed an alternative penalty, whereas there is no consequential penalty in this Bill. The amount of cannabis allowed under the provisions in the Bill introduced by the Greens (WA) is double that allowed in the trial. Currently, we are evaluating that trial and we have a process to go through. Should we decide to extend the scheme, there is no requirement for legislation. It is the Government's position that there is insufficient medical evidence to justify the use of cannabis as a medical agent. I am advised that a trial was conducted by Agriculture Western Australia into the development of the hemp industry. The Minister for Primary Industry has advised me that that trial was reasonably promising, and that Cabinet approved the drafting of the necessary legislation a couple of months ago. The Minister for Primary Industry has advised further that some technical and legal difficulties have been encountered with the drafting but it is proceeding. As I have said, he has advised that we anticipate the legislation will be introduced next year.

GILLEECE, MR JACK, STUART METALS NL

346. Mr RIPPER to the Premier:

I refer to paragraph 113 of the recently tabled report into the secret business dealings of the Premier's disgraced former adviser, Jack Gilleece.

(1) Who was the federal politician Mr Gilleece was working with to develop a political strategy to assist Stuart Metals NL to secure leases in the Shark Bay area?

(2) Was this a normal part of Mr Gilleece's duties in the Premier's office?

(3) What action has the Premier taken to determine whether the unnamed federal member of Parliament purchased shares in Stuart Metals?

Mr COURT replied:

I thank the member for some notice of this question.

(1) The inquirer did not name the politician in the report, which would indicate that he did not think that this was required for the report to be complete. I will not follow it up. I am not aware of who the person is.

(2) The inquirer, who had all the details, said that he did not see that Mr Gilleece's relationship with Stuart Metals was inconsistent with his role within the ministry.

Dr Gallop: It could have been insider trading. He was working for the Government.

Mr COURT: If there was, that is what the inquiry was for. The Leader of the Opposition cannot have it both ways.

(3) It is not up to me.

Several members interjected.

Mr COURT: Why would there be an inquiry?

Mr Ripper: To get the full answers.

Mr COURT: That is right.

Mr Kobelke: It was a limited inquiry.

Mr COURT: It was unlimited.

GILLEECE, MR JACK, STUART METALS NL

347. Mr RIPPER to the Premier:

As a supplementary question, if federal Liberal members of Parliament knew that Mr Gilleece was a commercial gun for hire, and Liberal Party lay members knew he was a commercial gun for hire, and companies doing business with the State Government knew he was a commercial gun for hire, why did the Premier not know?

The SPEAKER: It is time to remind members about supplementary questions. They are not meant to be preceded by statements; they are just meant to be a question straight from the shoulder. Having reminded the member, I will be very lenient and allow the question.

Mr COURT replied:

I do not agree with the member's summaries. Perhaps he should go back to the beginning and find out why Mr Gilleece no longer works in my office.

MINISTER FOR ABORIGINAL AFFAIRS, ABORIGINAL CULTURE

348. Mr SWEETMAN to the Minister for Aboriginal Affairs:

What is the Minister for Aboriginal Affairs doing to help ensure future generations of Western Australians have a knowledge of Aboriginal culture?

Dr HAMES replied:

One of the vehicles used by the Aboriginal Affairs Department and the Government to promote better understanding of Aboriginal history and culture is the schools essay and poster competition. The competition is now in its fourth year and has been extremely successful. It encourages non-Aboriginal students, through their school, to take part in either preparing a poster or writing an essay about Aboriginal history, culture and lifestyle. For the first three years the theme was breaking down the barriers between Aboriginal and non-Aboriginal Australians. This year the theme was listening to the past and seeing the future together. The competition is open to students aged from six to 15 years, and the participation rate has increased from 27 schools in 1996 to 60 schools in 1999. Of particular interest has been the big improvement in regional participation in this competition. I am pleased to say that on Friday, 29 October when I announce the prizes, nine students from regional centres will be winning prizes in that competition. It is an excellent program which provides the opportunity for non-Aboriginals to have a much better understanding of Aboriginal history and culture. This will help break down the barriers between Aboriginal and non-Aboriginal people.

POLICE SERVICE INTERNAL AFFAIRS UNIT, TRIAL FUNDING

349. Mrs ROBERTS to the Minister for Police:

Some notice of this question was given yesterday. I refer to the recent District Court case in which two officers of the internal affairs unit had nearly $51 000 in damages awarded against them. I ask -

(1) Did the Police Service or the Government fund the trial costs of the two officers or, alternatively, were any undertakings given to any lawyers that funding would be provided?

(2) Have funding arrangements been caused to be reviewed in light of the finding of malicious prosecution against the two officers?

(3) What did any such review recommend?

(4) Has funding been suspended?

(5) Is the Government or the Police Service funding either a stay of execution on the judgment or an appeal? If so, what are the details?

Mr PRINCE replied:

I thank the member for notice of this question yesterday.

(1) An undertaking was given that funding would be provided.

(2) Yes.

(3) The review recommended that funding should continue until the matter is finally determined in an appropriate appeal court.

(4) No.

(5) Yes. Legal advice is to the effect that the original decision can be appealed. Accordingly, the defendant officers may lodge appeal papers within the statutory period of 21 days from the date of the decision of Judge Nisbet. These may be accompanied by an application for a stay of execution.

POLICE SERVICE INTERNAL AFFAIRS UNIT, TRIAL FUNDING

350. Mrs ROBERTS to the Minister for Police:

Does this comply with funding guidelines?

Mr PRINCE replied:

I endeavoured to explain this to the member last week when we debated the Acts Amendment (Police Immunity) Bill, and I do not think the member understood it then.

Mrs Roberts: I understand it. You just tell me that it is in accordance with the guidelines and that will be the end of it. Otherwise the answer is no.

Mr PRINCE: An event occurs and a decision is then made to fund or not to fund. That decision must stand irrespective of the trial or proceeding for which the funding has been granted. If we fund retrospectively, we remove the whole principle of immunity. The decision was made to fund these officers. We have a decision from a single judge of the District Court, and it is open to appeal on the best advice provided by the lawyers concerned. I understand that the officers concerned will lodge appeals. They will continue to be funded because the funding decision was made in good faith earlier. We cannot retrospectively remove funding. To do so would be to remove the whole basis of any form of indemnity for police officers. When will the member understand this?

COLLIE COAL BASIN, WATER MANAGEMENT

351. Dr TURNBULL to the Minister for Water Resources:

Some notice of this question has been given. Four years ago the Minister for Resources Development convened a committee for the purpose of producing an agreement on the sharing of water in the Collie coal basin. The committee, under the chairmanship of the Water and Rivers Commission, included representatives from the Department of Resources Development, the Water Corporation, Western Power, the Department of Minerals and Energy, the Collie Shire Council and four community members. Can the Minister inform the House of the short-term and long-term arrangements contained in the recently completed Collie water advisory group report and the accompanying agreements between Western Power and the Water Corporation for the management of water in the Collie coal basin for the long-term benefit of the environment, the community and industry?

The SPEAKER: I hope the minister has a copy of the question.

Dr HAMES replied:

I have a copy of the question, but it does not bear much resemblance to what was asked! At least the subject is the same, so I can provide an answer. The member wanted to ask this question last week when a decision was made by Cabinet, but she was unwell at that time. She does not sound much better today. Perhaps it is a case of physician heal thyself!

A decision was made by Cabinet last week to support the strategy put forward by the Collie Water Advisory Group. It related to the problems in the Collie River caused by very slow recovery from the dewatering of the Collie coalmine. The short-term strategy to address those problems is to make good affected existing domestic and stock water supplies until the groundwater system recovers and to maintain water levels in the nominated river pools and the Collie town site pools over the forthcoming winter while the long-term environmental requirements are better defined and further investigated. The long-term strategies will reduce the ground water use for the power generation, which is a very important step. Ground water will only be used for emergency purposes. Instead of being taken from underground water, water taken from the mines and Wellington Dam water will be used to satisfy the requirements of the power generation. Those strategies will address the long-term issues faced by the member for Collie's constituents.

WORKERS COMPENSATION LEGISLATION, REMOVAL OF COMMON LAW RIGHTS

352. Mr KOBELKE to the Minister for Labour Relations:

I refer to the concern expressed by plaintiff lawyers that the wording of transitional provisions in the recent changes to the workers compensation legislation prevent workers injured more than six months ago and with less than 30 per cent body disability from electing to take common law action.

(1) Was it the Government's secret intention to totally remove common law rights for workers injured six months or more before the assent date and with less than 30 per cent disability?

(2) If not, what action will the minister take to guarantee such injured workers the right to elect to pursue a common law claim?

(3) Given that there are only a few weeks available for workers injured more than six months ago to elect for a common law claim under these changes, will the minister ensure that immediate certainty is given to this group of injured workers who are left in limbo, due to legal uncertainties?

Mrs EDWARDES replied:

(1) I thank the member for this question because it is important that the issue is clarified. There was no secret intention. The Government was implementing recommendation 29 made by the Pearson review committee on page 17 of the report.

(2)-(3) I met with the Insurance Council of Australia and checked the guidelines of its member insurance companies to ensure they meet this Government's commitment and intent when implementing that transition. I am seeking to get that in writing. The Insurance Council of Australia has sent it in writing to their member insurance companies. The member for Nollamara raised this matter directly with me. I propose to make a ministerial statement tomorrow and put it on the record in Parliament. That level of intent was not specifically clarified as well as it could have been during the debate because of the way the Opposition supported the amendments and changes between both Houses. I want to make sure it is made clear. The Government is seeking legal advice to see whether that can be interpreted as giving effect to declaring its intent for the purposes of clarification. I will do that tomorrow.

Ms MacTiernan: Why does the Government not amend the Bill?

Mrs EDWARDES: It is not needed.

ROAD DEATH RATE

353. Mr MASTERS to the minister representing the Minister for Transport:

What is the road death rate per 100 000 persons in Western Australia and how does this figure compare with the other States and Territories in Australia?

Mr OMODEI replied:

The Minister for Transport has provided the following response. I referred to these figures yesterday in the matter of public interest debate. The road fatality rate in Western Australia for 1998 was 12.35 per 100 000 people. The figures for the same period in other States and Territories were Queensland, 8.06; Victoria, 8.37; New South Wales, 8.83; Tasmania, 10.18; South Australia, 11.31; and Northern Territory, 36.23.

MINISTER FOR WATER RESOURCES, MAGAZINE UNIT

354. Mr GRAHAM to the Minister for Water Resources:

After the minister spent more than $200 000 fitting out his office last year, can he explain to the taxpayers of this State why he now needs a magazine unit costing $988.80 and why that unit had to be specially made out of limed American oak?

Dr HAMES replied:

I was given advance notice about this question from an alternative source. I did some research into the fitting-out I am supposed to have done. I assure the member that I have not fitted out my office since I have been a minister. I spoke to the previous minister who used my office. He informed me that the office was empty when he moved into it. I have had no fittings put into the office whatsoever. The government department - I think it is called the property management department or the office for offices - fits out the offices to its own designs. The office was fitted out in a certain style. I have not been told whether it is American oak or Tasmanian oak. I do not know the difference between those oaks or any other sorts of oak.

Mr Court: Regardless of the question and answer, we will take on the comrade member for Pilbara. He can join us.

Mr Graham: I am feeling a bit bruised. Maybe the Minister for Family and Children's Services will give me a cup of tea and let me look at the pictures while she talks to me.

Dr HAMES: We would be happy to have the member on our side. The figures in *The West Australian* the other day indicate that my office has spent very little on any fittings. The entrance section of my office had no tables. A table and a rack to put the magazines from the different departments on were obtained. They matched the original style.

Mr Graham: Why does the minister need a $988.80 limed American oak magazine unit personally ordered? What is so special about the Minister for Housing?

Dr HAMES: There is nothing special. The design of the rack cost $1 000. Something else was a similar price. I am surprised at the cost but it was made to match the original design of the furniture and materials. We required a magazine rack so it was built to match the rest of the furniture. The member knows I spend a lot of money on behalf of Aboriginal people, especially in his electorate. I would much rather spend money on people in that area.

Mr Graham: How many $1 000 magazine racks would help them?

Dr HAMES: Obviously the Opposition will pursue this issue. I would be interested to look at the figures involved in the development of offices when it was in government.

Mr Court: The Minister for the Environment's office had three shredding machines when she got there.

Mr Graham: The Premier's deputy paid $3 000 for a paper shredder!

The SPEAKER: Order! I remind the minister that if he continues standing and taking interjections, things can go on forever. I will wind up question time.