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LEGISLATIVE COUNCIL

Thursday, 11 November 1999

THE DEPUTY PRESIDENT (Hon J.A. Cowdell) took the Chair at 10.00 am, and read prayers.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL (No. 3) 1999

Assent

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

GOVERNMENT PRIORITIES AND FUNDING COMMITMENTS

Motion

Resumed from 10 November on the following motion moved by Hon Tom Stephens (Leader of the Opposition) -

That this House -

(a) condemns the Government for its misplaced priorities and funding commitments to projects such as the belltower and the convention centre at the expense of core areas of state government responsibility such as health, education, community safety and public transport; and

(b) calls upon the Government to remedy its failure to deliver government services at affordable rates and give priority to hospitals, schools, police and public transport.

HON M.D. NIXON (Agricultural) [10.03 am]: Before the adjournment of this matter yesterday, I was pointing out the importance of priorities and the fact that the Premier had made it clear that in his view, if any changes were required to the federal Constitution, one of the priorities was that the States, which are the fathers of the Constitution in the first place, should have the option of being able to instigate referendums. I was explaining to my good friend Hon Tom Helm that during the 1975 political crisis, the Governor General acted to enable the people of Australia to vote on whether they believed the then Prime Minister, Hon Gough Whitlam, and his Government should continue or whether a new Government should be formed.

History records that eventually the Governor General stepped in and appointed Malcolm Fraser as Acting Prime Minister, and an election was held later that year. In considering change to the Australian Constitution last weekend, the vital question was whether the reserve powers should be watered down. Long-standing democracies have operated through the Westminster system in places like Australia, Canada, New Zealand and Britain because, ultimately, the Crown must call elections. Although never applied, the Australian Army and police are loyal to the Crown, not the Government of the day. History records that an election was held in December 1975, and the Fraser Government was elected with a record vote.

Hon Barry House: Today is a very significant day.

Hon M.D. NIXON: It is appropriate that comment be made on the anniversary of the great day of that dismissal. As I mentioned yesterday, this matter was resurrected. Gough Whitlam knew when in government that the election could well happen. He knew that if supply were refused, he would either have to call an election, or he would be sacked and somebody else would have to call the election - as happened.

Hon N.D. Griffiths: Supply was not refused; it was deferred.

Hon M.D. NIXON: I know. I referred to the two options.

Hon N.D. Griffiths: Senator Stephen Hall was about to cross the floor, as was one other member. Therefore, the Governor General acted improperly, as you well know.

Hon M.D. NIXON: No. Opinions differ on that matter.

Hon N.D. Griffiths: The facts differ from your recollection.

Hon M.D. NIXON: No.

The DEPUTY PRESIDENT: Order, members!

Hon M.D. NIXON: The Governor General of the day had to decide whether to blow the whistle and bounce the ball, or let the process continue, in which case it was probable that a financial and political crisis would develop. Prime Minister Keating re-ignited the flame to suggest something improper had been done.

The important question in the referendum of last weekend was whether people believed that the reserve powers should be reduced. Support for the no vote indicated that, among other things, people were concerned about the proposed model by which the Prime Minister could sack the Governor General more easily than he can do so under the current system. In a political crisis, one must sack the other.

As a representative of the Agriculture Region, I believe that this Government has had its spending priorities right with country electorates. The motion refers to the belltower, which is a popular whipping boy -

Hon Tom Stephens: Do you believe in expenditure on the belltower?

Hon M.D. NIXON: It is marvellous!

Hon Tom Stephens: Does anyone on the government benches not believe in it?

Hon M.D. NIXON: A belltower is even to be built in Bolgart, and this has had support from members of the Labor Party! I have seen the list of people who have donated.

Hon Tom Stephens: You are the ones who are trying to make it for the elite.

Hon M.D. NIXON: Even the belltower must be considered in its full context. A Labor Government obtained the bells. This is an historic set of bells, the largest set in the world, and very famous in Britain. The bells were recast at great expense, with the mining companies contributing to that. Through a lack of priority by the then Labor Government, the bells lay gathering dust and could not be used for the purpose for which they had been donated to this State. It is very pleasing to see that this Government got its priorities right and decided that something proper must be done with the bells.

Hon Tom Stephens: That is not what the Deputy Premier reckons.

Hon M.D. NIXON: I am sure the majority of people recognise that something proper had to be done with the bells. The belltower is only a part of a larger project. Prior to 1993, the inner part of the City of Perth looked as though it could have been affected by a civil war: The windows in half of the buildings in William and Barrack Streets were broken, and people were moving out of the city. There were many reasons for that, one of which was that small businesses were being rated out of existence by the City of Perth. The belltower is just one part of the process of redevelopment. Another part has been the restructuring of the City of Perth so that the rates collected from those occupying the main block in the capital city of Western Australia could be spent on that area. A joint project was entered into between the State Government and the City of Perth to beautify the capital city.

Hon Tom Stephens: Robbing Peter to pay Paul.

Hon M.D. NIXON: That is not the case at all. I am surprised that the Leader of the Opposition makes that comment. Local residents who drive from the airport to the city will notice the changes that have occurred in that area over the past six and a bit years.

Hon Tom Stephens: The Burswood casino is a very stunning piece of the landscape.

Hon M.D. NIXON: This beautification project included the establishment of beautiful gardens along Riverside Drive. This is only the first part of the project. A major object of the project was to turn the area around the Supreme Court Gardens, including the old Treasury building, St George's Cathedral and other buildings, into a heritage and tourist precinct. These buildings probably represent the greatest collection of heritage buildings in the Perth metropolitan area. It is most unfortunate that the former City of Perth office building is greatly out of place among the heritage buildings and, unfortunately, it seems likely that it will remain there. I remind members that the old Perth city council building was constructed on the site of the first Legislative Council building in Western Australia. Outside this Parliament House is a model of the facade on the original Legislative Council building. Today we would not allow that building to be destroyed. To suggest that in this day and age one of the most historic buildings could be knocked down is incomprehensible. The present project is an attempt to develop that part of Perth into a worthwhile heritage area, and that has happened. The belltower is part of linking the main city block to the area alongside the river.

Hon Tom Stephens: You will be able to build a museum there and put the workers in it, because there are no jobs for them. You could have monuments to the poor.

Hon M.D. NIXON: The Leader of the Opposition knows, as well as I do, that when this Government came into office, Western Australia had the highest rate of unemployment in Australia. We now find that consistently every month there are more jobs in Western Australia, and the lowest unemployment rate here. The unemployment rate would be less, but for the fact that we have had a tremendous migration from all over Australia -

Hon Bob Thomas: To see the belltower!

Hon M.D. NIXON: No; it is because these people know this is a State that is on the move. They come for jobs, because this Government has its priorities right. We have had major resource development, including the Murrin Murrin project and the construction of the gas pipeline to Kalgoorlie. All of the projects have provided the stimulus and encouragement for businesses to have the confidence to employ people in Western Australia.

I have been diverted. I now return to country Western Australia, which has certainly benefited under this Government. Some of the most notable developments have taken place in recent years. In a couple of weeks we will be visiting Geraldton to see the new aquatic centre, which is to be opened on 3 December. This is a $16m project. It is worth three times the value of the belltower. I am sure the Leader of the Opposition would not criticise that project.

Hon Ray Halligan: Give him the opportunity.

Hon M.D. NIXON: Perhaps he might like to walk along the coastline up there and examine the progress of the new museum. Geraldton played a very important part in the history of Western Australia: The first European settlement occurred on the Houtman Abrolhos as a result of a shipwreck. Geraldton is a very historic place, and an important place in which to record Australia's early history. The State Government has cooperated with local authorities to provide a museum which will be able to display aspects of Western Australia's heritage.

Other initiatives are also important. For example, there is a tremendous display in the community centre at Katanning. Hon

Bruce Donaldson and I were there the other day. The project cost more than $6m, which once again is more than the cost of the belltower, but who would criticise that? It is a worthwhile construction that is used by the community. This is the first year at the show that it was fully operational, and the difference it has made to the community is incredible. With proper facilities, they were able to produce one of the best country shows in the Agricultural Region. Esperance is another example. It is a regional capital, as is Geraldton, but it is even more isolated. One of the great state government projects in that town is the new community education college. This will provide, for the first time in that region, a complete range of educational facilities in the one campus. It will make a tremendous difference, and it will be combined with the community library so that everyone has access to these facilities.

There is absolutely no doubt that this State Government has its priorities right. It is important that the Leader of the Opposition note that this is the case. I oppose this motion.

HON J.A. SCOTT (South Metropolitan) [10.17 am]: Having sat through much of this debate, I thought I should provide another perspective which has not yet been raised. A great deal of the debate has focused on belltowers and museums, but one of the greatest failings in the Government's priorities is that in its chase for the economic goals it has established, it has forgotten about many of the social impacts of its actions. Some of the best examples can be found in the planning for the region in which I live - the South Metropolitan Region. The "Fremantle Rockingham Industrial Area Regional Strategy" report recommends that the whole of Cockburn Sound be taken up by industry. That study did not consider the social impact of the industrial land grab that occurred in that area. No planning has taken place for the recreational needs of the community in the South Metropolitan Region. Indeed, even more of the coastal access people seek would be taken away under the proposal for Leighton. Many people in the South Metropolitan Region cross the bridge at Fremantle to use the beaches at Leighton and sand trap beach, which is another beach that will disappear under a road.

In the not too distant future, when people are denied access to these beach areas, beaches such as Cottesloe will have to cope with an additional 18 000 to 20 000 people each weekend. It will be crammed full and there will be no room for anyone. We have seen what has happened in Europe and the United States with the privatisation of the beachfront. The Australian way of life is disappearing before our eyes, and it is appallingly bad planning for any Government to focus only on industrial development without considering the social needs of the community. The Government should be roundly condemned for its appallingly bad planning in this matter. Huge amounts of government money have been spent building huge icons for private companies. The amount to be spent on the belltower is minuscule compared with the $200m of taxpayers' money that will be spent on the Jervoise Bay project and the $400m that will be spent on the Oakajee project. Much of this industrial development is opposed by a large section of the community.

Hon Greg Smith: What about the jobs these projects will create?

Hon J.A. SCOTT: The studies I have been shown dealing with job creation reveal that, far from creating more jobs, this development will reduce the number of jobs. The current recreation, tourism and fishing activities in these coastal areas provide many more jobs and earn much more money than the proposed fabrication industries will provide.

Hon Greg Smith: I would like to see how you arrive at those figures.

Hon J.A. SCOTT: I quoted some figures in the debate about Jervoise Bay and detailed the job creation potential resulting from other activities that could be undertaken in that area. That is where this Government has it wrong: It has taken a big-picture approach but it has not looked at industries which create much more employment but which may be smaller and less glamourous. For that reason the Government has failed the people of this State.

I can cite an endless stream of these projects. For instance, the people of Medina, Wattleup and Hope Valley are about to have a motor sports complex imposed on them. Again, the Government is putting up the money for a private investor. Members talk about the days of WA Inc, yet many industries are being set up and paid for by this coalition Government. I thought the Labor Party was supposed to be the socialist party.

Hon Tom Stephens: The Government's approach is a cross between agrarian socialism and national socialism.

Hon J.A. SCOTT: It is taking over the industry of this State. I did not know that the Government was interested in shipbuilding. Members opposite came into this place and sold a range of core government businesses, such as Stateships, the State Bank, the hospital laundry service and also tried to privatise the hospital system. These are all core government businesses. Members opposite are now rushing to get involved in industry. They want to set up a motor sports complex and build industrial complexes.

Hon Greg Smith: What is the difference between a motor sports complex and a soccer stadium? Does one group of sports fans have more rights than another?

Hon J.A. SCOTT: I cannot recall having said anything about a soccer stadium.

Hon Greg Smith: You are saying that one recreational facility should be provided and another not.

Hon J.A. SCOTT: I am talking about imposing upon people a complex that will generate 92 decibels, which is deafening. It is outrageous. The only way the complex will be built in that area is if the Government overrides existing laws. It will happen only if the minister exempts that complex from the noise regulations.

Furthermore, the Government has undertaken a societal risk analysis in that area looking at how safe this area will be for the 15 000 people expected to turn up at some of the events. At least six incidents have occurred in recent times involving explosive and poisonous gases drifting from the Kwinana industrial area. The Kwinana Industries Council is very concerned

about the placement of the facility at that site. The societal risk analysis was very bad news for the Government - it showed that the Government was putting people at risk.

The Government canned the report; it made it disappear and refused to release it. That refusal to release that report under the freedom of information legislation was recently appealed by a person using the environmental defender's office. The Information Commissioner ruled that the report should not be withheld. But has the minister released the report? No. He has said that he would go to the Supreme Court to prevent people getting the truth about how they would be blown up and gassed in this complex. This is irresponsible government, not only in respect of the use of the people's money. The Government will have the complex built and then hand it over to a private operator. The Government will take on the environmental problems of a section of the Alcoa mud lakes at the same time, where highly caustic materials are being pumped out of bores to prevent those materials getting into Cockburn Sound. The Government will take on board all of those responsibilities and then hand over the profitability of that complex to a private organisation. There is no doubt that this is WA Inc reborn. This Government is totally irresponsible in the way it is handling public money - this at a time when we are looking at a budget deficit of over $600m. This is hardly good, responsible government. Quite rightly, this motion calls on the Government to remedy its failure to deliver government services at affordable rates and give priority to hospitals, schools, police and public transport.

One area where this Government has made some improvement over the previous Government is public transport, where it is making some progress. Not everything it is doing is bad, but surely a very severe imbalance is evident even in that area because of the huge amounts of money spent on massive unwanted highways which are being forced on communities. Hundreds of thousands of people were opposed to the Northbridge tunnel, but the Government decided that its big road program was the most important thing. The budget for that tunnel has blown out incredibly. We are seeing massive spending on projects that people do not want. Although some of these projects in good times with spare money would be worth doing, this is not the time to go ahead with them, when all of the nursing and hospital staff are up in arms and ready to leave the health service.

I listened to a radio program recently on which I heard a person whose mother had been waiting for a very long time for an operation in Fremantle Hospital. She had been in severe pain while on the waiting list. As I recall the story, she went into hospital and was anaesthetised. She woke up on the operating table and found that the operation had not been performed because no nurses were available. Because of the current health system, staff had to look around for temporary nurses, who are hired from hospital to hospital, but none was available. The woman had to go home and, in severe pain, go back on the waiting list. These sorts of things are very serious, and the Government should be taking them seriously. The Government should not be looking at spending vast amounts of money on speedways that people do not want, certainly not in the proposed area.

Hon N.F. Moore: A lot of people who are involved in the speedway would say they want one a new one. How do you know what people want?

Hon J.A. SCOTT: People telephone my office and tell me that they do not want to have 92 decibel noise levels coming in their windows.

Hon N.F. Moore: At that location. Whether they want the speedway is another question.

Hon J.A. SCOTT: Surely the Government should be listening to what those people are saying. It should not be forcing a speedway on them. If the Kwinana Town Council does not want it in the area because of the risk factors, and the people in Medina, Hope Valley and Wattleup do not want it because of the noise it will create, the Government should be listening to them, especially as so many changes have already been dumped on them.

The Government is trying to push the people of Wattleup and Hope Valley out of their homes. In the near future their access to Cockburn Sound will be cut off; yet nothing is being provided in the way of recreational areas.

The impact of these developments is wider than people realise. At Bibra Lake, LandCorp is establishing a mining operation, thinly disguised as a new much-needed industrial estate for extracting limestone and fill for the Jervois Bay project. Huge areas of pristine tuart, jarrah and marri forest close to Bibra Lake and Beeliar Regional Park are to be knocked down. I acknowledge that the area was zoned industrial, but that occurred a long time ago and surrounding areas, such as St Paul's estate which adjoins the area, have been rezoned urban; yet no buffer zone has been earmarked. I understand that the area will be knocked down and mined over 11 years. It will cause severe dust problems.

The Cocos industrial estate to the south of that area has caused severe problems to the people in the region due to massive land changes and clearing.

Hon Barry House: Has it provided many jobs?

Hon J.A. SCOTT: Not very many because the estate is a dishevelled area that is not working well. The area LandCorp wants to open up is near a school and houses. I am appalled at the thought of it. When the dune systems were demolished to allow this industrial estate to proceed, it allowed the wind to whip through the break in the dunes which has caused the residents to feel as though they are being sandblasted. The entire South Lake area, which groups are trying to revegetate, is being destroyed because the wind-blown sand rips the new shoots off the trees and shrubs and causes them to die. Now, without any thought at all, LandCorp wants to use that sand to fill in and industrialise a bit more of Cockburn Sound. In doing so it is prepared to disrupt the lives of another group of people.

It is time the Government listened to what the people in Kwinana, Medina, Hope Valley, Wattleup and Cockburn Sound have to say about all the nasty heavy industries that are being dumped on them, while other areas are not sharing the load, despite

the fact that the area was identified as the worst possible place to develop industry due to the prevailing winds and the pollution they bring to the Perth metropolitan area.

The Government's spending priorities are extremely poor. They show no balance between social and economic objectives. The great shame is that despite a huge focus on economic objectives and selling off all the state-owned enterprises, such as the R & I Bank and Healthcare Linen - one of the hidden sell offs by the Government is the unvested crown reserves, amounting to millions of dollars - the state budget is heading for a $600m deficit. Our hospitals are in disarray. What does the Government do with this money? It pumps it into speedways and industrial areas that it will hand over to other people to run, all of which are highly unlikely to ever make any return for the State.

Hon Tom Stephens: It has abandoned the core areas of government, such as hospitals and schools.

Hon J.A. SCOTT: That is right, it has completely abandoned the core areas of government. I would not mind if the Government had still been concentrating on those core areas.

Hon M.D. Nixon: What about schools, hospitals and police stations? The debts over the assets have doubled.

Hon J.A. SCOTT: The problem is the Government has such a narrow way of looking at things that there is a continuing rise in the costs of the hospital system with absolutely no attempt to tackle the causes.

Hon N.F. Moore: What is the cause? Is it people getting sick?

Hon J.A. SCOTT: A great deal of the cause is industrial pollution. About 26 per cent of asthma and respiratory type diseases is caused by airborne pollution.

Hon Barry House interjected.

Hon J.A. SCOTT: That shows where Hon Barry House is coming from. He said that the plague would have killed them by the time they were 20 years old. He is obviously still living in those ages; however, some people have moved further into the future. The Greens (WA) want the Government to seriously consider preventive medicine in this State as a priority. The Government refuses, for instance, to set up a unit to carry out epidemiology studies to find out what it is that is making people sick.

Hon Tom Stephens: It might find out. It might have to remove the diesel buses from the streets.

Hon J.A. SCOTT: It is not just the diesel buses, but a whole range of matters. If we had an epidemiology unit, it could have already studied the Wagerup area, for instance, and we would know of the problems there instead of people constantly and unnecessarily being hospitalised.

Hon Greg Smith: Isn't a great deal of asthma caused by pollen counts?

Hon J.A. SCOTT: No. Pollen is a problem certainly, but it is mostly rye grass and cereal crops and the like that blow back from the farming areas at the onset of easterly winds. The advantage of cereal crops is that we also need food. However, we can deal with a range of matters which cause these problems. Despite rising health costs, the Government is not tackling the matter by spending money on finding and dealing with the causes. Members who dine in the dining-room in this place will recognise that one of our huge health problems is diet. I read a chart published recently in a newspaper of the top selling items in supermarkets. The list did not even reach a food until number eight, which was a nasty brand of white bread which is not good for anybody. The first two foods on the list were coca-cola and cigarettes. Surely to goodness the Government should be doing much more work on improving nutrition and education right from a base level.

Hon Greg Smith: We could make it illegal for people to drink coca-cola. Is that what you are suggesting?

Hon J.A. SCOTT: No, it is about educating people, not making it illegal. It is about showing people a better way to have a healthy life. It is about doing sensible things to reduce the problems in our hospitals so that we have a healthy population resistant to diseases, rather than the Government doing nothing about air pollution, industrial emissions and toxic waste sites around this State.

Hon Greg Smith: Why is it the Government's responsibility to decide what people put in their grocery baskets?

Hon J.A. SCOTT: It is the Government's responsibility to inform and educate people about those things which are best for them.

Hon Barry House: If people choose to smoke, that is their decision.

Hon J.A. SCOTT: Hon Barry House asks why it is a Government's role to prevent people from smoking, etc. In fact, it prevents people doing a range of things that are damaging to them, such as using heroin, cocaine and so on, even though those drugs kill far fewer people than cigarettes. The Government seems to have a role. The member seems to be in a bit of a dichotomy.

Hon M.D. Nixon: Are you suggesting that cigarette smokers should take up heroin?

Hon J.A. SCOTT: No, I am not suggesting that at all. I am saying that it is a statistical fact that cigarettes are more damaging to our community than heroin. If members do not believe me, they should ask the people who compile the statistics.

Hon Barry House: What an outrageous comment!

Hon J.A. SCOTT: It is not an outrageous comment at all; it is just the truth and whether members like the truth is another matter.

Hon M.D. Nixon: There has not been much crime committed by people who are under the influence of cigarettes.

Hon J.A. SCOTT: That may be true, and certainly heroin is causing that. However, how much crime would be committed if cigarettes were banned and made illegal and people had to steal them?

Hon Tom Stephens: You should ask the fundamental question: What is a crime? A crime is that which does damage to society, including the destruction of the wellbeing of the citizens. In my view it is a crime to see people laying waste to themselves with cigarettes.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! I suspect that the Leader of the Opposition has mistaken his right of reply call.

Hon J.A. SCOTT: This is a very simple matter. A huge amount could be done to reduce our health care bill in this State by placing a much stronger emphasis on preventive health treatment rather than on treating people who are sick.

Hon Derrick Tomlinson: You should be promoting health.

Hon J.A. SCOTT: It is always good to see Hon Derrick Tomlinson, whose lungs are obviously not affected by the cigarette smoke, back in the studio.

Hon Derrick Tomlinson: I would sincerely hope that you would say, "Back in the theatre" not "in the studio".

Hon J.A. SCOTT: Preventive measures are far better and cheaper and, in fact, more humane for our health system than spending vast amounts on the symptoms rather than on the causes.

Hon Greg Smith: How do we prevent people drinking coke? How do we stop coke being the number one selling supermarket product?

Hon J.A. SCOTT: Unfortunately, with a goods and services tax, Governments cannot discriminate.

Hon Derrick Tomlinson: Blame it on the GST!

Hon J.A. SCOTT: That is one of the unfortunate impacts of a GST - a GST is indiscriminate. It makes no distinction between those things which are good for a community and those things which are bad.

Hon Greg Smith: A junk food tax.

Hon J.A. SCOTT: It does not matter whether it is bad for a person or for the environment. It makes no difference whether highly toxic products are used when people wash their dishes. It makes no difference whether people use paper that comes from chopping down our karri trees in mass numbers in the south west forest. Rather than our making recycled paper cheaper by not having a tax on it, it will be taxed in exactly the same way as paper which comes from our karri forest.

Hon Tom Stephens: Have any countries in the world introduced those sorts of progressive tax systems to which you are referring?

Hon Derrick Tomlinson: Can you explain how much tax is on a cigarette stick, and how much that has influenced people's willingness to buy cigarettes to feed their habits?

The DEPUTY PRESIDENT: Order, members! Question time is at four o'clock.

Hon J.A. SCOTT: Hon Derrick Tomlinson raises a very good point. The level of taxation on cigarettes has not stopped people who are addicted to cigarettes from continuing their addiction. It has not stopped people who take heroin from paying even more for their habit, and getting involved in prostitution, robbery, thuggery and so on. Some of the products that were mentioned, such as coca-cola, are not addictive, but a bad dietary habit. Many other products that are not harmful to one's health can replace those products. The Government is remiss in not addressing this opportunity to cut down its health bill. I am rather surprised that the Government is cool on the idea of promoting measures to improve people's health and would prefer to rely on measures that will fix people once they are ill. It is a stupid attitude, and the Government deserves to be condemned.

Hon Greg Smith: For treating people when they are sick?

Hon J.A. SCOTT: It is better to prevent people from getting sick in the first place. That should be the Government's focus, and that is not the case in this State.

Hon Greg Smith: What about the provision of health services and operations that were not available years ago, such as hip replacements and MRI scans?

Hon J.A. SCOTT: Hon Greg Smith is right. However, many of those health problems are caused by bad diet and lack of exercise.

Hon Barry House: They are caused by people living a lot longer.

Hon J.A. SCOTT: That is also a factor. However, people who do not have enough calcium in their diet will suffer from osteoporosis. Has Hon Greg Smith heard of that?

Hon Tom Stephens: Someone in this place exercised too much, and as a result has had to have surgery.

Hon J.A. SCOTT: We understand that occurs with overenthusiasm. However, that will not occur with sensible levels of exercise. There are many preventive measures such as exercise, diet, and cleaning up the air that we breathe. Epidemiology units have been set up to try to prevent unhealthy outcomes. Prevention is a sensible way to go. The Government is making a token effort in that regard. Hon Tom Stephens, who moved the motion, is quite right: The Government has lost direction in its priorities. We need a strong economy. However, that should not be at the expense of our health, recreational opportunities, good relationships between employers and employees, and communities not being at each other's throats. The Government should redirect its focus. It started out with good intentions, but it has lost all direction. Even its economic imperatives have gone down the gurgler.

Hon Greg Smith: We have the strongest economic growth in Australia.

Hon J.A. SCOTT: Hon Greg Smith knows that growth in this State is dependent on resources. Because we are a large State with many resources, we are in the lucky position that when the rest of the world experiences an economic upturn, we benefit from a follow-on effect and we boom. On the other hand, when the rest of world experiences a downturn, we go down too.

Hon Barry House: Asia has been in trouble for the past five years.

Hon J.A. SCOTT: Asia has problems. The United States has been booming. It has not been a worldwide recession, as was the case previously.

Hon Greg Smith: Who is our major trading partner?

Hon J.A. SCOTT: There is no doubt that Japan has been our major trading partner. However, we also have markets in other parts of the world, and we have done reasonably well through them.

Hon Greg Smith: We have done very well.

Hon J.A. SCOTT: That is true. However, I am talking about the present time when the resources in this State are not being taken up at the rate they were previously, and we are starting to struggle.

As was apparent from the remarks of Hon Murray Nixon, there is always a tendency of government to accept a great deal of praise for things it does not actually do. For instance, Hon Murray Nixon talked about this Government building the gas pipeline. I did not notice that the Government actually built it.

Hon Greg Smith: It created the environment which led to its construction.

Hon M.D. Nixon: It never happened before.

Hon J.A. SCOTT: The Government did not prevent it from happening. It facilitated it, and it is good that it did so. However, it did not build it; that was done by private enterprise.

Hon Greg Smith: That is right, instead of using taxpayers' money. Would you prefer taxpayers' money be used to pay for it?

Hon J.A. SCOTT: No. I have just pointed out that I did not want the Government to continue putting money into Jervoise Bay, Oakajee and the motor sports complex. I am talking about spending money on core businesses of the State, such as hospitals, health and education. Obviously, the Government is not spending its money very well. Anybody in their right mind who has been around for more than 10 or 15 years knows that the health system has gone backwards.

Hon Greg Smith: In every State - with Medicare.

Hon J.A. SCOTT: Yes, every State.

Hon M.D. Nixon: It is the best system in the world, and if we swing back to private health cover, which was the problem in the first place -

Hon J.A. SCOTT: We had the best health system in the world, and we may still be slightly in front. However, we have slipped. We have not maintained the level of care in our hospitals that we had previously.

Hon Derrick Tomlinson: Why do so many international visitors come to Western Australia for medical treatment if it is so bad?

Hon Tom Stephens: Because their system is worse, and they have got money. In the meantime, the service for the people without money in our country drops.

The DEPUTY PRESIDENT: Order, members! This is not a debate between Hon Derrick Tomlinson and the Leader of the Opposition.

Hon J.A. SCOTT: Thank you, Mr Deputy President, for pointing that out to the other members in this Chamber.

The reality is that this Government has not listened to what is going on in the community. When I arrived here today, a huge group of people were protesting. I am not sure what it was about because I did not see.

Hon Derrick Tomlinson: They want more money.

Hon J.A. SCOTT: Maybe they do. They probably need more money because -

Hon Derrick Tomlinson: They want more money. Do not confuse want with need.

Hon J.A. SCOTT: Hon Derrick Tomlinson mentioned more money. I have spoken to nurses in our hospitals. They did not talk to me about more money; they talked to me about the conditions under which they are working. They are working in mad conditions, which are totally unreasonable. These people are getting very tired and exhausted, and are liable to make mistakes, as are some of the doctors in those hospitals. Recently, there have been many fatalities and so on in our health system. When one examines the reasons behind them, one finds that the doctors have been working lunatic shifts.

Hon Derrick Tomlinson: How many? Each of them would be the subject of a coronial inquiry.

The DEPUTY PRESIDENT: Order!

Hon J.A. SCOTT: I will allow Hon Derrick Tomlinson to count them. I have certainly seen plenty.

Hon Derrick Tomlinson: I can do that, because I have 10 fingers, and I would not even use them all.

Hon J.A. SCOTT: That is because Hon Derrick Tomlinson probably cannot count that far!

Hon Derrick Tomlinson: I can count that far. I have a certificate saying that I can count to 10.

Hon J.A. SCOTT: The reality is that this Government has abandoned its core responsibilities and is pumping money into superfluous things that the people do not want. The people do not want those things when the hospital and education systems are not doing as well as they should. At the universities, the amount of money that is being pumped into administration rather than academic excellence is increasing. What is taking place is absolutely crazy. Courses are being closed down so that they can have more administrators.

Hon Ljiljanna Ravlich: In the TAFE sector, 62 per cent of the money is spent on administration.

Hon Derrick Tomlinson: What nonsense!

The DEPUTY PRESIDENT: Order, members! Hon Ljiljanna Ravlich will come to order, followed closely by Hon Derrick Tomlinson.

Hon J.A. SCOTT: That is not only an outrage but is also a tragedy for the students who are suffering from the effects of this problem. I agree with and support this motion, because I believe the people of Western Australia are getting totally fed up.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.57 am]: In the arguments that have been put before this Chamber in defence of this Government's misplaced priorities, never before in the history of parliamentary debate has so little been said by so many for so long -

The PRESIDENT: Order! The Leader of the Opposition and Hon Derrick Tomlinson will come to order! In case it has not come to members' notice, we happen to have school students with us this morning, and those students will go back in due course and judge whether we act in a reasonable manner. Let us talk in moderate tones and make some sense of what we are dealing with.

Hon TOM STEPHENS: Never has so little been said by so many over so many days in their failure to defend adequately the Government's appalling record in the time in which it has been in office. Mr President, it is a great tragedy that your guests were not able to hear the lack of argument that has been put forward by this Government in defence of its appalling record. The people of Western Australia know that they have in office a Government that is no longer listening, that is no longer in touch and that is failing in its responsibility to deliver to the people of Western Australia the priorities that they demand. What the people of Western Australia are getting from this Government is a belltower and a central business district preoccupation that fails to recognise the legitimate needs of the people across this great State.

Hon N.F. Moore: Like what?

Hon TOM STEPHENS: Like hospitals that function and deliver health care to the citizens of Western Australia, and like public education in the schools of Western Australia so that people in need can legitimately expect their children to be educated. Communities that are entitled to community safety are instead facing an unparalleled increase in crime and in attacks upon the people of Western Australia and their property. The incidence of violent crime continues to rise in this State. The number of attacks upon the people of Western Australia continues to rise. What does this Government do? It gives the people belltowers.

Several members interjected.

The PRESIDENT: Order! The Leader of the Opposition will come to order. Members, do not interject.

In the meantime, one hour having elapsed since the commencement of the House this morning -

Hon TOM STEPHENS: No, it has not.

The PRESIDENT: Order!

Hon TOM STEPHENS: Mr President, my time has not expired.

The PRESIDENT: Order! Leader of the Opposition, please do not address the Chair like that. At 11 o'clock we are moving onto something else and the Leader of the Opposition knows that. It is Remembrance Day.

Hon TOM STEPHENS: Yes, but it is not yet 11 o'clock.

Debate adjourned, pursuant to standing orders.

REMEMBRANCE DAY

THE PRESIDENT (Hon George Cash): It being 11.00 am on 11 November, our national day of remembrance, I ask honourable members to rise and observe two minutes silence as a mark of respect for and remembrance of those gallant men and women who have died in the service of our nation.

[Members stood in their places.]

COMMITTEE REPORTS - CONSIDERATION

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Legislation - Forensic Procedures and DNA Profiling: The Committee's Investigations in Western Australia, Victoria, South Australia, the United Kingdom, Germany and the United States of America

Resumed from 28 October on the following motion moved by Hon Bruce Donaldson -

That the report be noted.

Hon B.K. DONALDSON: Last Thursday when we adjourned the debate through lack of time, I was extending the committee's appreciation to the staff of Hansard for providing us with transcripts of all of the audio tapes that we used during our investigation of these matters. The committee would also wish me to acknowledge the number of people, without individually identifying them, whose names are appended to the report such as the forensic scientists, the police services and the civil libertarians. They provided us with the information to put together a document of nearly 400 pages. Their cooperation, the time they gave to us and their nursing us through the first few months to enable us to understand the whole science of DNA was very important. We acknowledge the contributions made by those many people whose names are appended at the back of the report.

Fingerprints were first used about 90 years ago as a handy police investigative tool, and they will continue to play an important role. The federal government CrimTrac program will enhance the use of fingerprints with a faster turnaround in matching personal identification with fingerprints. They will be used extensively by the police services. Also, police will have other science available through DNA profiling and DNA sampling. It was stated by former WA Commissioner of Police Bob Falconer, "What was once a smudge is now available for police investigation." The adrenalin rush, perspiration and so on involved when people commit an offence results in cellular material usually being left at the scene of a crime. It is amazing that deoxyribonucleic acid samples are picked up from water bottles in fridges; that is, it is surprising how many people take a drink from the fridge when committing an offence leaving a saliva DNA sample. I am sure the police would not want me to say too much about that aspect.

The advances in the science and technology available over the past two or three years have been amazing. Committee members looked at a printout of a DNA sample at the PathCentre at Sir Charles Gairdner Hospital. We were asked, "How long ago do you think that profile was raised?" We thought it looked somewhat primitive and might have been raised 10, 15 or 20 years ago. Amazingly, it had been raised only four years ago. It is now possible to take 96 samples in one hit from one piece of material. This technology has come a long way and people accept that it is another investigative tool of the Police Service.

As members would be aware, the police have been able under section 236 of the Criminal Code to use DNA from charged people. We amended the Criminal Code last year to enable the use of reasonable force to take a DNA sample when a person will not volunteer a sample.

The committee found that the United Kingdom, the United States and Germany, and likewise Victoria and South Australia in varying forms, have extended the use of DNA. A great development in Western Australia was the use of DNA screenings for some high-profile murder cases. This is mainly designed to exclude people as suspects. People must remember that this technology is more exclusive than inclusive: People can be exonerated and discounted as suspects, enabling police to pursue other lines of inquiry. That aspect was evident with taxi drivers in relation to the Claremont serial killings. Taxi drivers volunteered to be tested because the Perth rumour mill was affecting their business. It was rumoured that a taxi driver may have been involved in the horrific crimes. Therefore, by coming forward, all taxi drivers were excluded from police inquiries. The taxi industry, which had lost 25 to 30 per cent of its business as a result of the rumours, was able to survive. That illustrates the benefits of DNA screenings. Mass screenings have occurred with other high-profile cases, which I will not mention, in which a number of different groups, professional organisations or suspects have volunteered samples. That has been done on the basis of investigative procedures in Western Australia.

In the United Kingdom we found an astonishing increase in the clean-up rate of volume crimes, such as burglary and car theft. It is interesting to note that when the UK authorities set about widening the use of DNA testing, it was not done to achieve results in these areas. That was the main benefit gained in relation to those offences. Ordinary people suffer minute exposure to more serious crime. They are more affected when their home is burgled. Many people have been burgled not once, but anything up to five times. It is a real invasion of privacy, particularly of a woman who happens to be in the home at the time of the intrusion. It is not surprising that after a number of burglaries many people sell their home and move elsewhere.

The public has an expectation, and rightly so, that those who offend against society should be apprehended as quickly as possible and brought within the justice system. That is not unreasonable. I believe people have that expectation of the Western Australia Police Service. If the time of the Police Service can be utilised in a far better way by extending the use of DNA testing, the Government should move to do so as soon as possible. I understand a Bill which will look at a greater use of DNA testing will be introduced into the Parliament early next year. The report sets out some signposts that may be useful in the drafting of the legislation before it comes into the Parliament.

When we talked to the forensic scientists, we were encouraged by their integrity and the jealously guarded credibility that they ensure continues. They do not want to see mistakes made. We were fortunate to be able to look at the forensic science laboratory in London, and to see how the testing was done. Many people have been concerned about the privacy and identification issues involved. I have with me a buccal, or mouth, swab sampling kit. I will show the contents of it to members later. I do not think it can be incorporated in *Hansard*!

The CHAIRMAN: I remind the member that students are present.

Hon Derrick Tomlinson: They can be suspects.

Hon B.K. DONALDSON: The buccal swab procedure involves a scraping of the inside of the mouth of the suspect. In the past a cottonwool bud was used for this purpose. Now a buccal comb is used. It is compressed paper, shaped like a toothbrush and it has a clicker on it. It is put into the mouth and samples are taken from the inside of each cheek. The swab is put into a little container, and the person taking the sample clicks the probe, which allows the end of it to snap and to drop automatically into the sample container, which is then sealed. The container has a bar code which classifies the sample, and it is kept separately. The container is put into a special sample bag, which is enclosed in a tamper-proof outer bag and delivered to the Forensic Science Service in London. Another bar code is added to it when it arrives there. When a body sample goes to the laboratory, there is no data on it that can easily identify whose it is. It goes through the system and no technician or scientist trying to raise a DNA profile from a sample knows the identity of the person from whom the swab was taken. If anyone wanted to interfere or tamper with a sample, they would need to corrupt or bribe about 100 people. There is a clear distinction between the identifying data and the swab taken for a DNA profile.

In the case of crime scene profiles, all material goes to the laboratory and, naturally, the technicians or scientists need to know the type of crime committed and so on, so that they know what they are looking for and can expedite the analysis of the samples. There is a very clear separation between the two laboratories so there is no chance of contamination. I understand that when the technicians move from one laboratory to another, they go through a sterile room and change their lab coats. There are checks and balances in place to maintain the credibility of the system, just as the public would expect.

It was interesting to talk to senior lawyers in the United Kingdom, especially defence lawyers. They clearly stated that they did not question the integrity of the process or the DNA profiles raised, because the laboratories and the manner in which they handle the samples are such that there is no room for interference with or contamination of samples. The lawyers do not question the process. One ethnic group in the United Kingdom, which has built up a database, has had statisticians work out the probability of a match between samples taken at a crime scene and samples taken from people. At the moment the United Kingdom uses a technique of testing six loci, or strands, of DNA and the PathCentre in WA uses nine, plus a sex discriminator, which makes 10. I understand that the United Kingdom is considering using nine loci, plus the sex discriminator. It has been explained to committee members that with the database being built up and the number of strands of DNA being tested, the probability of reaching a wrong conclusion after a match has been made between the crime scene and a person sampled would be 1:72 billion, except in the case of identical twins. Therefore, the match cannot be questioned. It is important to note that as long as the integrity of the system is maintained, there is very little chance for people to feel uncomfortable with it.

The committee clearly recommends that the use of DNA sampling be extended and widened. First, all forensic procedures should be dealt with in separate legislation to allow for easier compliance. South Australia has gone down that pathway, and Victoria amended its Criminal Code. It got into difficulties with the reporting requirements when taking samples from prisoners, and for a while it had to abandon the procedures. Western Australia has been fortunate because it has been able to learn from the mistakes of others and ensure that it does not fall into those administrative traps.

At present these processes are used for screening suspects and sometimes police ask for samples from groups of people living around a crime scene, in order to eliminate them from their inquiries.

Experience suggests that 99 people out of 100 will volunteer a sample. The procedure is painless and very simple. If the police have reasonable suspicion that a person has committed a crime, they should be able to obtain a sample from that person. If after being informed of the procedure the person does not give his consent, the committee has recommended that a court order be sought, either from a magistrate or a justice of the peace. The procedure would be very similar to that involving a search warrant. Having obtained the order, the sample could be taken, if necessary with reasonable force. Of course, under section 236 of the Criminal Code, a sample can currently be taken when a person is charged.

The committee has recommended that, at a given time, samples be taken from all prisoners and all those on parole or serving suspended sentences. It has also recommended that those who have been deemed unfit to plead be required to provide samples. Those samples and the DNA profiles obtained at crime scenes will form a database that will allow statisticians to work out the match probabilities. Many of those samples are already held at the PathCentre in Western Australia.

Once the British police started building up the database by testing prisoners and logging all the crime scene profiles, they found that burglary and car theft had the highest rate of recidivism. As a result, they were able to clear up many burglaries by introducing the convicted person's DNA sample to the database and making matches. The convicted felons were

confronted with the data and many then confessed. Over four or five years, the British clearance rate for volume crimes has increased to 40 per cent. That is amazing. The average clearance rate of volume crimes in Western Australia and generally around the world is 16 to 18 per cent.

Those who will be introducing the wider use of DNA technology must remember that, while there are immediate advantages, the real benefits will take four or five years to emerge. We must be patient. This proposal also will require a general government commitment and an allocation of funding. This is not a cheap exercise. However, if we can arrest some of the perpetrators of these volume crimes earlier, the public will be very thankful. Anecdotal evidence from Britain, New Zealand and Australia has also shown that those who have committed volume crimes, such as burglary, tend to move on to more serious crimes.

Another issue of concern is the separation between DNA procedure, profiling and the Police Service. The O.J. Simpson case in the United States was a classic scenario. It created a few myths about what is happening in countries that are using forensic science in a very credible way. Separation is important. The committee members believe very strongly that identifying data will be separated from samples, but the custody of that database, as in the United Kingdom, is with the forensic science services. The identifying data is kept separate from the DNA profiles because they are only alpha-numeric numbers which do not mean anything to anyone until that identifying data has been matched. So there are checks and balances.

It is important from the point of view of public perception that there be a clear separation between science and the investigative teams that generate out of police services. It happens here to a large extent already because the PathCentre receives samples at the front counter and raises profiles between the crime scene and the sample submitted. If there is a match, its staff automatically notify the police investigative team. Therefore, there is already a separation in that sense. It is important that that continue. That also has funding implications.

Setting up an individual database in Western Australia is very important. It would be very much like the United States model which is linked to the Federal Bureau of Investigation but with each State having its own database. The commonwealth forensic procedures code or part of the CrimTrac program indicates that most States will have their own database which would be compatible with a national database for obvious reasons. The committee has recommended very strongly that that database be first of all established here in Western Australia.

In Victoria some doctors refused for ethical reasons to use reasonable force on prisoners. The Victorians had to do some doctor shopping. They found some doctors who were quite willing to do it. Committee members spoke to some of the prison authorities here and to people in the justice system. I can understand why medical staff or prison officers do not want to be involved in physically holding someone down, because they endeavour to build up trust with those prisoners. An outside team has usually been brought in. The committee recommends strongly that that occur here and that responsibility for it be handed to the Ministry of Justice so as to provide for teams to go in to take buccal swabs in prisons. The majority of prisoners will give informed consent at the end of the day; a number may not. However, one hopes that commonsense will prevail. We would certainly encourage the idea of having medical teams or people responsible for taking swabs coming in from outside the prison arena.

There are also opportunities for organisations like PathCentre. If PathCentre were to handle forensic procedures in Western Australia, maybe in a collocated building - who knows at present what is going on - it could obtain a fee for that service. Its technicians may be willing to participate in that.

The committee has also recommended that all serving police officers be profiled. That is for exclusionary purposes. At present, as members would be well aware, all police officers when sworn give fingerprints for exclusionary purposes. I had the opportunity to speak to the President of the Police Union (WA), Michael Dean, and some of his fellow executive members. They said that they had no problem with that at all and that it would be taken for granted. They thought that it would be no different from giving a fingerprint and that a profile would be raised. Irrespective of whether it is a maintenance person in the laboratories, a cleaner or whoever, anybody who enters the laboratories is profiled.

That is for exclusionary purposes because if there is something amiss, such as another profile beginning to appear out of the process after amplification, they can track it back automatically and destroy that sample. The use of the buccal swab, as I said earlier, is a very quick and easy method of obtaining a sample. It is also able to be stored at room temperature on specific cards that are now being developed. Blood samples have been kept following Guthrie, or PKU, tests of babies just after birth; all babies are tested. This development provides an opportunity to eliminate the very high cost of storing materials at very low temperatures - between -20 and -80 degrees Celsius. Naturally, refrigeration at those temperatures is very costly. Storing those samples will now be convenient and very cheap.

It is also important to note, as the committee has noted in the report, that the first sample taken from a suspect or person being charged is not the sample that is used in court. A further sampling or profile is raised for evidentiary purposes within the court structure. Those double checks and balances exist at all times.

Mr Chairman, some 90 years ago fingerprint testing was developed and now science has given an added investigative tool to police services. What the committee is suggesting will meet with the general approval of the community. It is an old story, a bit like that with Multanova radars: If you do not speed, you do not get an infringement notice. If people offend against society, the best thing we can do is to get them early and try to rehabilitate them, rather than let them go on to a continual upgrading of offences against society. There are a lot of very good reasons why the Government should be introducing legislation to enhance the use of DNA procedures. The checks and balances that are in place in jurisdictions that have these tests, and the integrity of the scientists who work in this area, gave the committee great comfort in being able

to ascertain first-hand what they are capable of doing and also what they do not do; for example, single cell testing, which has an inherent chance of contamination. The scientists have come a long way and they maintain that they still have a job to do; that is, to look at the non-coding parts of DNA, which is the junk DNA of our body which separates each and every one of us. From that point of view, after talking to many forensic scientists I came away feeling secure that they are not on an ego trip to change the world. They are advancing the techniques that can capture some offenders in the early stages before they start to re-offend and maybe gravitate to more serious crimes.

I could go on for a long time, but I will not because I know other members of the committee wish to speak. I went into the committee with an open mind; while some of my colleagues might not think that I had an open mind, I did have. After looking very carefully at the different jurisdictions, at their results and at what can be achieved, I feel we should accept this technology. The computer technology and the testing equipment that is now available, such as some of the sophisticated technologies available at the Federal Bureau of Investigations in the United States, is out of this world.

Some of our more high profile crime scene samples have been sent to the Federal Bureau of Investigation in Washington, which has expensive, high technology equipment, to try to unravel some of the mysteries that surrounded those scenes. Although we in Western Australia may not have technology as sophisticated as that, if many of the ideas in this report are taken on board and incorporated into legislation, with commitment by the Government and this Parliament, a Bill can be passed that will be beneficial to all Western Australians.

I am sure we have all heard from many people in the community that having their place burgled gets up their noses more than most other local crimes. I should touch wood when I say that I have not experienced a burglary yet. I know how my wife and I would feel if that occurred; we would dread it. If some of the young offenders were apprehended more quickly as a result of such legislation, the Police Service investigation teams would be free to take up other lines of inquiry.

The exclusionary method of investigation is probably more relevant than the inclusionary method. History has revealed that people are being released regularly from prisons in the United States due to DNA profiling and the storage of crime scene samples. Comparison of the profiles has proved that the people thought to have been involved, in no way in the world could have committed the crimes, and they have subsequently been released. Several well-known cases have occurred also in the United Kingdom. If DNA had been around many years ago, a number of people on whom the evidence was sufficient to convince the jury that they should be incarcerated would have been exonerated.

I see two aspects to DNA testing. It is, first, a great investigative tool. It also provides a method of eliminating suspects through exclusion, which is very important. It was interesting to note that a couple of people who were sex offenders some years ago have volunteered to put their profile on the database at PathCentre. Although they have not reoffended, once a sex offence takes place anywhere in their region, unfortunately, but I guess naturally, the police either appear at their workplace or their homes to take them away for questioning. Those people have offered their profiles to PathCentre's database so that they can be eliminated from inquiries at the outset. They do not want the embarrassment of being continually harassed at work or in their homes.

I am happy to have my DNA profile on a file, although not on the convicted list. I hope that the many people who are profiled, whether it be part of a mass screening or individually, are also willing to participate. The greater the database we can build up the better. People who offend against society must be prepared to pay the consequences. If we can assist in clearing up some of the volume crimes that affect more of us than other crimes, we should go for it.

Hon GIZ WATSON: I will make a few comments, having been a member of the Standing Committee on Legislation and involved in the preparation of this report on forensic evidence. Like all members of the committee, I found it a very interesting area to investigate. The committee has accomplished some very good work and I supported the majority of the committee's recommendations. I also acknowledge the enormous amount of work by the committee staff. It is a substantial report and I encourage members to read it. Members have an enormous amount of reading in their work in this place but I particularly note the work of the advisory-research officer, Mia Betjeman, and, more recently, Connie Fierro, the clerk to the committee on this inquiry. I was exceedingly impressed with their efforts and the outcome on which they assisted.

In the short time I have to comment on this report, I will focus on the issues I raised in a minority report which, unfortunately, members may not be aware exists. In future, we will ensure, when reports are tabled, that a minority report is acknowledged. I will talk about two main areas on which I dissented from the committee's report. The introduction of the use of forensic evidence, which involves taking samples which produce DNA profiles, has been compared with fingerprinting. I agree with Hon Bruce Donaldson that the historic significance of DNA sampling parallels the introduction of fingerprinting almost 100 years ago. However, there is a significant difference in the way material is taken by way of a DNA sample. I quote from a section of the minority report, in which I said -

> I believe that the introduction of powers to take and use DNA should proceed with caution. In recommending legislation in this area we must be mindful of balancing the right of the State to information against the individual's reasonable expectation of privacy. The procurement of human samples to identify DNA and the subsequent use of that information creates privacy concerns not raised by any other forensic technique. DNA analysis reveals aspects of a person's genetic code and potentially their complete genetic "blueprint", which is quite different from current techniques such as fingerprinting. The right to intrude on an individual's body and to retain the information thereby obtained is a powerful right which should only be exercised in the most compelling of circumstances. The broadscale use of this right would, in my opinion, amount to an intrusion on privacy on an unprecedented scale.

One of the aspects which the committee spent a long time debating was whether the taking of a sample was an intimate or invasive procedure, or both; in particular, the preferred buccal swab technique. In the end, the committee was evenly divided

on that matter. I maintain that the taking of a sample to create a DNA profile is different from fingerprinting. Nobody could say that the taking of fingerprints onto a piece of paper is an intimate or intrusive procedure. Most people are reasonably happy to have their fingerprints taken, although they might have reasons for not wanting to provide their fingerprints. This is a different process of taking evidence.

I dissented from the majority report on two main areas, one of which was the type of offence for which forensic evidence could be taken by compulsion. My point is that the level at which the bar is set for a person who has been charged or convicted must be appropriate to require that person to provide a forensic sample for a DNA profile. I argue that, initially, that level should be set at the level of serious indictable offences. This is in line with the federal 1999 model Bill which states by definition that a serious indictable offence is an offence under a law of this State or of a participating jurisdiction that is punishable by a maximum penalty of five or more years of imprisonment. The reason this initial cautious approach is necessary is that people generally would accept that, for serious indictable offences, the compulsory taking of samples is warranted. I certainly agree with committee members that offences committed against the person, such as assault or sexual offences, warrant the giving and keeping of DNA samples. However, I do not agree that it should be all indictable offences.

The second issue which I have highlighted in my minority report is the level of judicial oversight; that is, who can give an order for a sample to be taken. I have recommended that that judicial oversight be set at the level of a magistrate rather than that of a justice of the peace. However, we currently have a situation in the State in which magistrates are available 24 hours a day on a telephone basis. Applications for the taking of forensic samples can be facilitated by facsimile or by telephone at relatively short notice. I have a concern that the level of training and understanding of the law of a JP is considerably less than that of a magistrate. Certainly, the committee debated at length the issue of access to magistrates in the smaller country towns. That was raised as a reason that we should allow JPs to give approval for the compulsory taking of samples. However, in some country towns the relationship between a justice of the peace and the police often is fairly close. In some respects that might be a good thing. However, in other cases, there is some question about the separation between the police and those JPs. There is no reason that a magistrate should not be the person who can grant the say so of whether a person must undergo the compulsory taking of forensic evidence.

I have also recommended that the DNA material which can be used under any proposed legislation is non-coding DNA. Hon Bruce Donaldson has spoken about this and there is no reason for coded DNA to be used. I note that Germany has gone down the route of allowing only non-coding DNA to be used. That builds in an additional safeguard that a person's information, such as race, disability or hair colour, cannot be used in creating a profile. That information is not needed in order to create a profile. It is important that we state that clearly in whatever legislation we create.

Hon DERRICK TOMLINSON: Hon Giz Watson has raised a very important issue in her minority report. The Legislation Committee visited the German Federal Police at Wiesbaden, which held a view similar to that espoused by Hon Giz Watson regarding the level of crime for which a DNA profile should be raised. They argued that DNA profiles should be raised only for serious offences, in particular serious offences which involve physical or sexual assault. They did not have any argument against the efficacy of DNA profile matching as an investigative tool for other crimes, but in practice the German Federal Police restricted it to what we would call serious indictable offences. Their reason was quite simple and that was cost. In the United Kingdom, as Hon Bruce Donaldson has already eloquently described, we observed a database which required a large number of profiles to guarantee statistical reliability. Because the UK had a large number of profiles, and because the cost of generating each of those profiles was high, the British Government had committed a substantial sum of money to the establishment of that database. Because the UK has a high volume database, and because the cost of processing DNA profiles stored digitally in that database was small, it became efficacious for the United Kingdom to use the database for what Hon Bruce Donaldson referred to as the volume crimes, or what other people might call the nuisance crimes such as break and enter and car theft. The net result in the UK was a rapid increase in the resolution of those crimes in the order of 40 per cent. Compare that with the 12 per cent to 18 per cent resolution of those crimes in Western Australia and one could argue that a DNA database is a useful criminal investigation instrument in those volume crimes as well as in the serious indictable offences. However, a cost is involved. A political decision was taken in the United Kingdom to allocate sufficient funds to meet that cost. It was a political decision made through a political will. In the German experience, the decision was that the cost did not justify the use of DNA profiles as an investigative tool for what has been termed the volume crimes. The German forensic scientists incurred an additional cost that is not incurred in the United Kingdom or United States experience. The German profile uses four loci plus an additional locus, SE33.

SE33 is not compatible with the mechanised data analysis or DNA analysis that is applied in the United Kingdom and the United States. Therefore, each SE33 locus, or the DNA profile using the SE33 locus, must be manually extracted. It is an expensive process. Although the United Kingdom talked about a cost of processing equivalent to a couple of hundred dollars - that makes it a very expensive instrument when one is looking at volume - in the case of Germany, the cost was considerably greater. Why was the SE33 preferred? The reason is that it is a very powerful discriminator. It was argued that if DNA were to be used as an investigative tool, there must be the best possible statistical reliability of a match, and it was argued that SE33 was the most reliable.

There are the two arguments on the use of DNA profiles of volume criminal investigations versus serious offences. It is a decision that we will have to make, because if Western Australia pursues the line of the DNA database - and we have a commitment to that - we must also acknowledge that there will be a considerable cost involved in establishing that database. If we have the database, yes, it will be available for the identification of suspects for volume crimes, but establishing that database will be expensive. That is the political issue.

The moral issues of identifying individuals and retaining identification information using DNA can be overstated. Hon Bruce Donaldson talked about the sites chosen for criminal investigation as being the so-called rubbish DNA. I confess that

I do not understand when forensic scientists or forensic biologists talk to me about rubbish DNA. At least one scientist to whom we spoke said, "Neither do I. What we do know about each of these sites is that they do not contain other identifying information. They are satisfactory to identify a person when we match one profile with another profile, but we cannot extract from the sample, using those sites, any other identifying information about that individual at this time." I stress the words "at this time", because the rate of change of the knowledge of forensic biology in this field indicates that it does not necessarily mean that even in a very short time, other purposes and functions of the so-called rubbish DNA will not be revealed. The rubbish DNA is not perfectly understood. However, at this time, forensic biologists are confident that it will not be possible to use the analysis that is applied and the profiles generated using the so-called rubbish DNA sites to identify other characteristics of a human being.

We will have to confront some profound moral issues. However, whether we go for a volume versus a serious indictable offence category is a mere political decision about what priority we will give to the allocation of resources.

Debate adjourned, pursuant to standing orders.

Report

Progress reported and the report adopted.

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

Second Reading

Resumed from 20 October.

HON TOM HELM (Mining and Pastoral) [12.01 pm]: I advise the House that I am not the lead speaker for Her Majesty's loyal Opposition; our leader will be. I will not take a lot of time on this Bill, because I have spent many hours in this Chamber trying to convince members opposite that history will judge them very badly on the matter of native title, whether it be the titles validation Bill or other Bills that may come before us in this place. The Government should feel ashamed of its record so far. However, this is the most mean-spirited, mealy-mouthed and backward-looking piece of legislation that it is possible to have, given the fact that we on this side of the Chamber -

Hon Barry House: That is a good conciliatory start!

Hon TOM HELM: I am not willing to conciliate with that crowd opposite. I gave up on that a long time ago. Members opposite do not even look at the facts that are before them. We can understand their not listening to us, given the politics of the situation. It is easy to understand where we in the Labor Party come from, and where some other members of the Opposition come from. We understand where the Aboriginal people have come from over 200 years ago. They have tried their best to be reconciliatory and to understand the changes that need to take place in our society to correct the injustices that they have been served and to bring justice into their lives. Even though the courts have now decided that some of the decisions that were made in the past did kill, starve and affect Aboriginal people in many other ways, they have tried their best to make conciliatory moves. However, members opposite will never let them have justice and to take their place in the sun in this State. Members opposite cannot take off their blinkers. It is impossible for them to do that, and they have demonstrated that many times. There is no point in my trying to be nice to members opposite, because they do not know when people are being nice to them. They understand when someone is giving them a kick in the guts, and they understand strength and power, but they do not understand a more social atmosphere. They do not understand that Aboriginal people want to get on with their lives and have the opportunity to demonstrate their worth in our society. They only understand when there is violence, when there are guns, and when someone is threatened. That is the situation where I come from too. One of the things I have learnt in the 20 years I have been in Australia is that the way Australians do things is far better than the way things are done in the place that I come from. Australians do not like confrontation; they try to avoid it. The Australian way is one of giving everyone a fair go, but when I look at the mob opposite, I find that difficult to understand and believe. I am far more comfortable with reverting to type, to the class system I came from. I feel more comfortable with that. It is more difficult for me to be conciliatory but I know it is the Government's problem this time, not mine. I want to be conciliatory. I understand a bit of Australia's history. I understand the High Court's decisions. I understand the wrongs which have been done in more than 200 years and I understand that the Labor Party - of which I am a proud member - is quite clear about where it stands on these things; that is, it stands to try to bring some justice into this debate without being too disruptive of the community which has been established for more than 200 years. Of course, there are arguments on either side of the debate. There is another way of looking at these things.

One of the saddest things about this debate is that as a trade unionist learning about how Australian unions conduct their business compared with the British unions - and I am also a proud member of the union movement - I understand that in the long term the benefits we can accrue as trade unionists will only be brought about by discussion, by debate, by conciliation and arbitration and with a sense of goodwill. Obviously, the mob opposite does not understand that. Obviously members opposite feel better off, as the referendum showed on Saturday - I should not say that - dealing with things as they used to be in their grandfathers' and great-grandfathers' day or perhaps when the squatters first took parcels of land in this country. That is what members opposite are comfortable with. Some members opposite try to bring out the fact that they have connections with the convicts and therefore they are really the same as everybody else.

Hon Barry House: Now you are being insulting.

Hon TOM HELM: The word "insulting" comes easily to the lips of some people in this place. I have never been so insulted as when I listened to the debate on native title; it was a disgrace. When one thinks about it, all the records show that even though the Labor Party told the Government it was wrong and the Government went to the High Court and was beaten 7:0,

the Government still will not give up. It still cannot see the arguments before us. The Government still cannot see how Western Australia looks in international terms. It still cannot see that almost everyone in the world, every recognised nation in the world, recognises indigenous people and gives them rights and opportunities equal to those of everyone else; everyone - except the mob opposite. Most Australians do, but bringing out the race card is always a handy little tool any time an election comes around. That is what the Government is doing. That is the only way one can put any logic into what the Government is doing now. Some members opposite do not believe for one minute that Aboriginal people should not get a fair go. However, they sit there and listen to some of the troglodytes within their group. Members opposite know what the troglodytes have to say does not make sense. Nonetheless, they will vote for it. The Government will pay one day. History will judge the Government. Members opposite should not ask me to be conciliatory. There is not a chance of that happening. I am getting to my feet to say things the way they are. I am getting to my feet having read the debates, and having read the High Court decisions. I have listened to people in pubs and clubs and in this Chamber and I have argued constantly with those with whom I needed to argue. However, when one breaks the issue down to fundamentals and the Australian way, it is then that I am disgusted. I then feel that I can insult whomever I feel like insulting because members opposite insult my intelligence by saying that this Titles (Validation) and the Native Title (Effect of Past Acts) Amendment Bill 1999 has justice attached to it. It is injustice and members opposite know it.

The PRESIDENT: Order! The Titles (Validation) and Native Title (Effect of Past Acts) Amendment Bill 1999 contains five clauses, two of which appear to be operative clauses. Hon Tom Helm appears to be talking about native title in general.

We are being asked to agree to amendments to sections 12I and 12J of the principal Act. I suggest that the scope of the Bill is limited, although I am aware that it may be necessary to traverse some other ground in reaching the issues raised in sections 12I and 12J, which are the subject of today's debate.

Hon TOM HELM: I take your advice as usual, Mr President.

The PRESIDENT: I simply ask the member to focus on the Bill.

Hon TOM HELM: I am obliged to respond to the second reading speech, to which I should have referred before I launched into my earlier comments. I respect what you said, Mr President, as you are dead right yet again. One cannot help expressing emotions in this matter which are triggered by the contents of the Bill and its second reading speech, which reads -

> The Opposition, combined with the minor parties, amended the Bill to significantly constrain the confirmation provisions leaving about 1 300 lease holders exposed to native title claims and potential litigation to protect their interests.

I should have said earlier that that claim is not true. Government members know that that is not true, but they must state it to try to justify their actions. I put the cart before the horse, Mr President, for which I apologise.

I now refer to that reference to 1 300 leaseholders. For some time I have been a friend of the executive officer of the Goldfields Land Council, Brian Wyatt. I knew him when he was with the Australian Bankers Association, and worked with him some time before that in the Pilbara. It has been good during that association to see my views and Brian's views form on native title matters.

Hon Mark Nevill: I think he knows a lot more about it than you do.

Hon TOM HELM: I am sure a lot of people know more about it than I know. I am sure Hon Mark Nevill thinks he knows more than I know, but we will see about that. Maybe no-one knows more about the justice of the matter than I do. With my background, I might understand the injustices served, but I leave that aside.

It is claimed by the Government that 1 300 leaseholders are under some sort of threat. We have argued from the beginning that that is not the case, unless a change is to occur in the purpose of the leases. An amendment was made as a correction of what happened when the Native Title Act came into being. Even if suspicions are held, many assurances have been given by the Goldfields Land Council and other representative groups that people's backyards and property will not be placed at risk from native title.

I describe myself as a pommie trade unionist; if I am in the right, I will put blood on the floor before I give up those rights. I will fight for those rights, even if there is no chance of winning. That is the tradition in which I was raised. Since I have been in Australia, I have appreciated that other people's rights must also be taken into account. Before it did not matter: When I was on top, I kicked somebody; when they were on top, they kicked me. Here is an opportunity to do something better.

Hon Derrick Tomlinson: So you're only right when you're on top?

Hon TOM HELM: Exactly. One can only exercise one's rights when on top.

Hon Derrick Tomlinson: It is an interesting view of right.

Hon TOM HELM: The member is dead right. It is a person's view of his rights. Since coming to Australia 19 years ago I have learnt a different way of doing things. I can stand up for the rights that I feel may be being trampled on. Usually people will respect my ability to stand up for those rights. If I am promoting them at the expense of someone else, for the most part I will back off on what I am seeking for my advancement and will recognise the disadvantage of others, so that there is a consensus when some people do not have what they think is their entitlement. There is an ability for both sides to work together without any bad feelings, or violence, or any need to exercise the use of a bigger club or gun, so to speak.

That is what is being done here. The Government has sniffed that it might have a change in the numbers in a vote on this Bill. The second reading speech states -

> The Bill, as amended by the upper House, was reluctantly accepted by the Government on 20 April this year to provide the maximum certainty allowed by the Native Title Act for the majority, even if not for all, of those title holders affected.

Hon N.F. Moore: Read the next paragraph. We also said we would be bringing in legislation at a later date in the hope that you would change your mind. That is why we changed it.

Hon TOM HELM: I will read it out. It states -

> However, at the time the Government made a commitment to protect those lease holders whose titles were left out by the Labor Party amendments.

Hon N.F. Moore: We said at the time that we would bring the legislation back in the next session of Parliament. Do not suggest this has anything to do with Hon Mark Nevill. It was said at the time.

Hon TOM HELM: If that was the intention, that is fine, but that was not said in the second reading speech.

The PRESIDENT: Order! I do not need to hear a committee stage debate. All I want to hear are comments in the second reading stage about the principles of the Bill.

Hon TOM HELM: The Government went on to say in the second reading speech that it reluctantly accepted the decision of this House. Like a petulant child, it went away. It has now sniffed there is a change in the numbers, so it will put its position to this House again.

Hon N.F. Moore: That is not correct.

Hon TOM HELM: The minister will get his chance to speak. That is not only my view, but also the view most people will take. It is another nail in the coffin of the integrity of politicians. Again, I refer just briefly to what happened in the referendum held last Saturday. Many people in Australia said that, whichever path is taken, they will not allow politicians to have a say in how we get there. This underlines the view that ordinary Australians have of politicians. It does not do us a lot of good. I am a ordinary person and understand the politics of what we must do here. In this issue, we are not talking about a second wave of industrial relations reform where the troglodytes may perceive the unions have an advantage they must cut back on. The troglodytes might say that the unions are here to defend themselves and that is the politics of the situation.

Here we are talking about an ongoing situation where indigenous people have demonstrated constantly that they are prepared to take a step, quite justifiably, to recognise the difficulties all people are in when we consider changing the direction in which we have been going for over 200 years. It is not just rhetoric politicians use; it is a fact. Let us talk about the goldfields, because I understand these 1 300 leases are to do mostly with that area. The Goldfields Land Council was instrumental in introducing a number of claims that were a bone of contention. Again, I must agree with some statements, which came from within the Labor Party as well as elsewhere, that the cause is not helped when 26 or more applicants submit a claim over one piece of land. That is ridiculous. Therefore, people must work together and come to some agreement about the person or persons to take part in the negotiations when people want to exercise their rights. In this case the Goldfields Land Council has done that, just as the Kimberley Land Council did that some time ago. Most of the major mining and exploration companies are only too anxious to enter into agreements on a reasonable basis with indigenous people, and they recognise the ability of those people to speak for the country they belong to. In some cases it is an easy task. The Kimberley is one of the easiest areas to deal with, but it is much more difficult in the south of the State. What happens then? The registration test is changed, together with the way in which people demonstrate that they have a legitimate right to speak for that country. That has not been changed by a bunch of bleeding hearts in the Australian Labor Party. That was changed by hard-nosed conservatives in this State.

Hon Derrick Tomlinson: Paul Keating said that native title would be extinguished by leasehold. That was the Mabo position. All this legislation is doing is confirming Paul Keating's position. We are doing exactly what the ALP said was the principle. Now you are saying we are unprincipled.

Hon TOM HELM: I advise the member to read the Bill. The poor sod - no wonder he does not know what he is doing.

Point of Order

Hon DERRICK TOMLINSON: I object to being called a poor sod. I do not mind being called a sod, but not poor.

The PRESIDENT: Order! I do not mind points of order being taken, but I do not accept points of view. There is no point of order and Hon Tom Helm has the floor.

Debate Resumed

Hon TOM HELM: If I have upset anyone in the Chamber, I unreservedly apologise. Is Hon Derrick Tomlinson a wealthy sod? I do not think so.

In any case, we are not talking about pastoral leases. Since Redfern and the ex-Prime Minister, the caravan has moved somewhat.

Hon Derrick Tomlinson: But the principle has not. Are you saying the principle has shifted with Paul Keating?

Hon TOM HELM: It is fair to say that no individual or group of judges has laid down the principles.

Hon Derrick Tomlinson: Yes, they have.

The PRESIDENT: Order! Hon Derrick Tomlinson will have his opportunity in due course. It is Hon Tom Helm's turn and he has limited time in which to speak.

Hon TOM HELM: The one principle that has not changed is that terra nullius was a false assumption. That principle was established and it has not changed. How that is determined and how it will proceed has changed and it is a movable feast, as it should be, because we are not dealing with a locomotive, aeroplane or car. We are talking about people, families and feelings. That is why we must, by law, establish certain principles. I have no doubt we will do that in this case. Usually, by the time the law is established, the operation of that law has shifted and further amendments are needed. We are now dealing with an amendment to legislation brought about by a change in numbers, not a change in principle. That is the change I am talking about.

I now refer to the explanatory notes set out on four foolscap pages. For the most part they are self-explanatory and written in short sentences. The second reading speech was also very short. People understand that there has been a change in the structure of the upper House, enough for this legislation to be reintroduced and for members to do what they think they should do.

The argument has been run in the goldfields that native title has resulted in uncertainty in respect of the 1 300 leases and a scarcity of jobs and land. I do not believe that this legislation will alleviate that situation. If we ever get around to debating the native title provisions legislation, I doubt that that will address the problem either, unless the gold price remains at the level it is now. We are talking about the practicalities of these Bills.

I have a problem dealing with the second reading speech because it refers to this Bill's ability to get people to work together in a more harmonious way, to achieve resolution of disputes and so on. That goal can be achieved only if the parties are willing to negotiate and to resolve issues.

Point of Order

Hon GREG SMITH: I refer members to Standing Order No 100. The member has not once mentioned why we should not validate these titles. This Bill is about validating titles; it is not a native title Bill or a dispute resolution Bill. We are debating why we should or should not validate the titles not included in the original schedule.

The PRESIDENT: That is the member's view. I have been listening to Hon Tom Helm. It was I who originally suggested that this was not a debate on the whole subject of native title; in fact, it is a debate on native title as it relates to clauses 4 and 5 of the Bill. From the moment I raised that issue with the member, as far as I have heard, he has attempted to focus on those issues. Whether the member agrees with the inclusion of the 1 300 leases to which Hon Greg Smith refers is a matter for the member. If he wants to tell the House, I have no doubt he will; and if he does not, he will not. However, what Hon Tom Helm has been saying is relevant to the Bill before the Chair.

Debate Resumed

Hon TOM HELM: I certainly would not call the member a "poor sod" either. I was trying to demonstrate that this is not about native title validation. There is no need for it; no-one will lose any section of their property if this Bill is not passed. It is not about validating anything. It is about the mob opposite trying to demonstrate that we have a problem with native title. That is obvious; there is a problem. Our society must come to terms with the fact that 200 years of injustice should be corrected. That is what we are not doing; the title regime is not what it should be.

I could argue the nuts and bolts of these amendments. However, I could not do it as well as Hon Tom Stephens, Hon Mark Nevill and others in this Chamber. I have not had the background, the training or the time to do that. That is not the issue we are talking about. The majority of people in the state Labor Party would be in the same boat as I am; that is, we are trying to make others understand that this is about righting wrongs and a fair go. We talk not about the rhetoric of the matter but the demonstrable steps which have been taken by those directly involved; that is to say, leaseholders, whether mining, exploration, pastoral or whatever. It is fair to say that the majority would recognise Aboriginal land rights and the Aboriginal people's keenness to get around the table to talk the issue out to get together a strategy that would work for the benefit of everyone and not, as has been the case in the past, to work to the disadvantage of one particular group of people in our society. Because Hon Mark Nevill has been exposed to it, I am sure he would be the first to admit that Aboriginal people, particularly in the Kimberley and the Pilbara, have not gained many advantages from mining operations which have taken place there. I do not think he would agree with me about how solutions could be arrived at, but he must agree that, so far, the mining boom in the north west of the State has not been to the Aboriginal people's advantage.

Hon Greg Smith: A few of them have made money out of it.

Hon TOM HELM: Oh, yes! Some people may have gained advantages, but in general terms most have not.

Hon N.F. Moore: Why do you not do us a favour and talk about the Bill? It has nothing to do with the mining industry in the Kimberley.

Hon TOM HELM: We are surely talking about the whole issue of native title, as well as the validation of these leases. I am talking about the total lie that is before us in this Bill.

Hon N.F. Moore: You are wasting time, and you know it.

Hon TOM HELM: The Leader of the House might think so because he has a different view.

Hon N.F. Moore: I know so because I have heard this 10 times.

Hon TOM HELM: Is it a waste of time?

Hon N.F. Moore interjected.

The PRESIDENT: Order! The Leader of the House will come to order. I am interested in hearing Hon Tom Helm.

Hon TOM HELM: One thing about this so-called waste of time, as the Leader of the House puts it, is that it was not a waste of time or money for the Government to appear before the Supreme Court and the High Court and lose 7:0. As long as I have breath in my body and the opportunity and right to get onto my feet and talk about these matters, I will talk about them to the best of my ability. I wish the situation were better, but it is not. This validation Bill has nothing to do with giving certainty to anybody. The Leader of the House knows that is the case. There is also the possibility of its being knocked out in the Senate and being challenged in the courts.

Several members interjected.

Hon TOM HELM: I am on the wrong Bill. I apologise.

Several members interjected.

The PRESIDENT: Order!

Hon Tom Stephens: You have been misled by members of the Government who regularly do not know what they are doing.

Hon TOM HELM: That is right, but I do apologise because I referred to the wrong Bill. I will sit down soon but I am emotional about this matter. I cannot sit down until I make sure that people understand that until we take seriously our concerns with the indigenous people of the State and get off the track of attack and attack, and talk about conciliation, we will never get anywhere. I oppose the Bill.

The PRESIDENT: Before I call the Leader of the Opposition, I suggest to those members who have an interest in this Bill that they should read the second reading speech and the Bill. There seems to be some question about relevancy. I have said before that this is not a general debate on native title. However, clause 4 of the Bill refers to inserting a paragraph which reads as follows -

> (a) the act extinguishes any native title in relation to the land or waters covered by the freehold estate, Scheduled interest or lease concerned; and
>
> (b) the extinguishment is taken to have happened when the act was done.

With respect to the relevancy, there could be a need to discuss whether a member believes the Bill is necessary. Some members believe, as was said by interjection, that native title did not apply to freehold land. Other members have different views. It is certainly within the scope of the Bill to raise that issue. That also applies to scheduled interests and leases. I am listening very carefully to what is being said. As I said, it is not a wide-ranging debate on native title. However, it certainly takes into account those areas said to be affected by native title, especially freehold, scheduled interests and lease land, and in particular the 1 300 leases that were discussed in part by Hon Tom Helm.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [12.36 pm]: The Labor Opposition is strongly opposed to this legislation for a range of reasons that can be simply explained. Essentially, it is wrong to go down this path and it is unnecessary. There are ways of dealing with native title that will produce an alternative result for the Western Australian community. It is important to put that backdrop in place in this debate, which in part was done by my colleague Hon Tom Helm. We should acknowledge that the Government's overall mishandling of native title is being compounded by this legislation. It will make more difficult the resolution of issues associated with native title in pursuit of the best interests of the broadest cross-section of the Western Australian community. Clearly, the Government is not endeavouring to validate anything; rather, it is trying to further extinguish native title in Western Australia.

Hon N.F. Moore: It is confirmation of what is understood to be extinguishment. You know that as well as I do.

Hon TOM STEPHENS: The Leader of the House demonstrated in that interjection his failure to understand that this Bill will not confirm the legal reality with which the State is faced. It goes beyond that legal reality as was found by the decisions of the courts of this country, specifically the Miriuwung-Gajerrong case which is clearly -

Hon N.F. Moore: You should look at the other cases. You choose only the ones that suit you.

Hon TOM STEPHENS: It is bad enough that the Leader of the House is a bad minister, but an ignorant one as well -

Hon N.F. Moore interjected.

Hon TOM STEPHENS: No; I want to deal with the minister's interjections. The court found in the Miriuwung-Gajerrong case that native title survives on a whole category of lands in this State that are now to be the subject of extinguishment by virtue of the provisions of this Bill. That is a decision of Justice Lee, yet to be successfully appealed.

Hon N.F. Moore: You had better hope so.

The PRESIDENT: Order! Members should not have a discussion across the Chamber. The Leader of the House should finish off the interjection that he started but I ask him not to interject so that only one member speaks at a time.

Hon TOM STEPHENS: Mr President, you have given the minister very good advice. He displays his ignorance by his comment.

The PRESIDENT: The Leader of the Opposition should finish off his comments on the interjection and then move on.

Hon TOM STEPHENS: I am endeavouring to do that. The minister's ignorance is displayed by his suggesting that the Bill before the House simply confirms the extinguishment of native title; that is untrue.

Hon N.F. Moore: Why did you confirm the extinction of a heap of other leases but not these leases?

Hon TOM STEPHENS: Does the Minister accept my first point?

Hon N.F. Moore: No, I do not accept anything you say about this issue because you are totally emotionally involved and you don't know what you are talking about. Least of all do I believe that you are talking on behalf of your party.

The PRESIDENT: The Leader of the House should not interject so that we can get on with debating the Bill. He can have a discussion later with the Leader of the Opposition about what one might or might not believe.

Hon TOM STEPHENS: Mr President, I am endeavouring to respond to the important part that is relevant to this debate; that is, the interjection from the Leader of the House who suggests that somehow or other this Bill simply confirms extinguishment of native title, as has been found to be the case at law in this country. A reading of the decision of Justice Lee in the Miriuwung-Gajerrong case will show that to be patently untrue. Instead, the Government, with this Bill, is endeavouring to pursue yet again that which it previously but unsuccessfully tried to pursue; to go beyond the legal decision that native title has been extinguished on a range of lease categories across this State; and, to utilise the power that it has been given, regrettably, from the Federal Parliament to extinguish by statute that which has not been extinguished by the common law decision on native title claimants and native title holders of this State. This Bill represents a considerable attack on the fundamental property rights of Western Australians that I would have thought all of us in this Parliament would hold dear; in this case Aboriginal Australians, the Miriuwung-Gajerrong people. The name Miriuwung-Gajerrong can be rattled off the tongue as though it refers to a foreign race. However, this issue is about property rights of men, women and children who are citizens of Western Australia.

Hon Derrick Tomlinson: Native title rights.

Hon TOM STEPHENS: Property rights - native title rights - found by the courts to exist, are to be extinguished now by virtue of a collective decision of this House. These people have names. They are citizens of our State. I know almost all of them. They are my friends. They are people with names like Ben Ward, Jeff Djanama, Marjorie Brown, Josie Ward and Ruth Ward. These are friends whom I have grown up with, danced with in the discos of Kununurra, danced with on the corroboree grounds of their traditional lands, had fun with, fished with, and known their mothers and grandparents. The native title rights of specific people are to be extinguished by a decision of this Parliament. The Government is not taking away the property rights of, say, Hon Max Evans. His house will sit at Mosman Park and he will be entitled to park his Rolls Royce in the driveway. We are not attacking or assaulting his rights.

Hon N.F. Moore: As you will park your LTD in Shenton Park, so stop going on with such stupid nonsense!

Hon TOM STEPHENS: No. I am trying to particularise this.

Hon N.F. Moore: Of course you are. It has nothing to do with Hon Max Evans.

Hon TOM STEPHENS: That is right; this Bill has nothing to do with Hon Max Evans.

Hon N.F. Moore: Then why raise it? Why don't you talk about yourself sometime? You sit on your freehold block of land in Shenton Park like everybody else and you are quite happy to have it extinguished.

Hon TOM STEPHENS: My property rights are not under attack by virtue of this Bill.

Hon N.F. Moore: Give me one example of a property right under attack by this Bill! Give me an example of the lease!

Hon TOM STEPHENS: The property rights of Ben Ward and Ruthie Ward.

Hon N.F. Moore: Give us an example of the leases.

The PRESIDENT: Order!

Hon TOM STEPHENS: The Leader of the House does not understand what he is doing.

Hon N.F. Moore: I do know what I am doing. You simply do not do anything other than generalise and make these emotive speeches. Give me an example of the leases you are talking about.

Hon TOM STEPHENS: I happen to know this situation quite well. I sat with these people as they pursued their native title rights in the Federal Court before Justice Lee, and when they took these court hearings onto their traditional country, over which it was subsequently found they had native title rights and where they gave their evidence as individuals on behalf of their families and their language group, their particular native title rights were found to exist. These are property rights.

Hon Derrick Tomlinson: They are native title rights.

Hon TOM STEPHENS: They are the property rights of the Miriuwung-Gajerrong people.

Hon N.F. Moore: What does it all mean?

Hon TOM STEPHENS: For instance, Justice Lee has spelt out the directions in which those property rights might go. What does the Government choose to do instead to those people by virtue of the Bill that is before this House? The native title rights that they now hold are to be extinguished in reference to, for instance, the public works reserves that are now to be included in the process of extinguishment, which Justice Lee specifically found had not extinguished native title for those people. Some of those reserves are very large.

Hon N.F. Moore: Which ones?

Hon TOM STEPHENS: I will name them for the Leader of the House in a moment. I was trying to draw to his attention the fact that this is not abstract law. This is not dealing with the people of Finland or the people of some far-flung colony in America or South America. We are dealing with our citizens. In this case the Bill is dealing with my friends, who are also citizens of this State. They are my constituents, those of the Leader of the House as well as those of Hon Mark Nevill. The Government is not validating a single title by virtue of the Bill before the House. Everything that could be validated has been validated. There is nothing left to validate.

Hon Greg Smith: Do not oppose the Bill then; it will not matter anyway.

Hon TOM STEPHENS: There is so much knowledge available to Hon Greg Smith if he would simply listen and learn. There is nothing left to validate. Everything that could be validated by virtue of the powers of this Parliament has been validated. All of the property rights of licence holders, leaseholders and any form of land title of any non-Aboriginal Western Australian has been validated. If they wish to exercise any power over the lands on which they have leases, licences or any form of land title, they are perfectly at liberty, by virtue of the decisions of the two Parliaments, to exercise all of those rights that they have accrued by virtue of their leases, licences and landholdings. This Bill validates nothing. Despite the Bill title, we are simply extinguishing native title rights.

Hon N.F. Moore: We are confirming the extinguishment of the native title rights that the federal law suggests were already confirmed as being extinguished. You know that as well as I do.

Hon TOM STEPHENS: The minister is wrong.

The PRESIDENT: Order! I have a problem. Some members have interpreted the Bill in a particular way, and others - as they are rightly entitled to do - have interpreted it in another way. I have to ensure that every member who wants to speak is able to speak and to be heard. Just because someone disagrees with the views of the member who is speaking does not make that member correct, nor does it make the member who is speaking correct. Members are entitled to have their own views. All I want is members to hear each other in relative silence.

Hon TOM STEPHENS: Anyone who wants to understand the situation at law can find sufficient information available to have no excuse for the type of interjection that has revealed the ignorance of the minister. The minister appears increasingly to be deliberately pursuing that argument to blind himself and his colleagues to the reality in which they are engaged. Maybe in his dotage the minister will finally work out what he has done.

Hon N.F. Moore: I know what I am doing; I do not need you to tell me that.

Hon TOM STEPHENS: I hope the minister will allow me to tell the House that he is extinguishing native title, and not over areas in which the courts have found that native title did not, has not, and cannot survive. The minister is not "confirming"; he is legislating to advance the extinguishment of native title in pursuit of rights given to us as a Parliament by the Federal Parliament through the Howard-Harradine compromise. The minister should not kid himself into thinking that he is not doing something serious.

Hon N.F. Moore: It would not have been in here three times if we were not serious.

Hon TOM STEPHENS: Taking away people's rights is serious, so the minister and I agree on one thing. The minister is taking away the rights of people and that is serious. We have agreed, so let us not argue over that. Taking away people's rights is damn serious stuff.

Hon N.F. Moore: It is not taking away people's rights; it is confirming certain understandings, and you know it.

Hon TOM STEPHENS: The minister says it is confirming certain understandings.

Hon N.F. Moore: People have other rights that you ignore, so far as having those rights confirmed on the basis of the federal law.

Hon TOM STEPHENS: Minister, please understand this -

Hon N.F. Moore: If you do not agree with me then just make your speech.

The PRESIDENT: Order! This is where we get into difficulty. The Leader of the House is stating his view as he sees it, but I have to ensure that the member with the call can state his view. If we let one member speak at a time, in due course the Leader of the House can have unlimited time to raise all the issues that are necessary.

Hon TOM STEPHENS: The minister says, "confirming certain understandings". That is the minister saying, with a nudge, nudge, wink, wink, "We will extinguish the rights of native title interests and give it another name." The minister will call it validation and confirmation, and will not call it what it is; that is, extinguishing the native title rights of Aboriginal people and ignoring the reality that this represents a solid assault upon those people's interests. It leaves those people exposed to

pursuing compensation when they may have preferred to pursue an entirely different relationship with the rest of the community.

The Miriuwung-Gajerrong people, for instance, whom I know reasonably well, have always pursued a level of coexistence, which makes them remarkable Australians with a sense of accommodating the interests of others that is not matched by many in our community. They have been prepared to allow their own interests to be set aside to accommodate regularly the broader interests of the community. In respect of their land interests in this country, they would have been able to find ways of accommodating the pursuits of the wider community. Instead, they will now be foisted back to pursue simply compensation for the extinguishment of the native title rights that they have over lands that are to be extinguished by virtue of this Bill. Yet the minister still persists with his interjection, suggesting that this is somehow or other confirming other people's rights when it is clearly not the case. Those rights for all of those leases and licences and the opportunities to do with land that for which people have legal entitlement are not hindered by native title, and cannot be hindered by virtue of the decisions of the courts of this country.

In this process, many of us have acquired enormous amounts of knowledge about this reality. A number of us have served on select committees - regrettably, not enough, it would appear. I do not think we chose the right combinations. Maybe it should have been a Committee of the Whole that pursued some of the observations that the more fortunate among us have pursued. However, in our reports, in our efforts to try to educate this House, we set out all of the information upon which all members can draw to persuade them to abandon this Bill and to pursue an alternative course of action. In the first select committee report, which was a unanimous report of the members, reference was made to issues of native title extinguishment. The members who served on that committee included three coalition members. In that report, the findings and advice to the Parliament, to the Government and to the people of Western Australia are to be cautious about extinguishing and to avoid legislation and the litigious routes to the resolution of these issues; yet, having achieved validation earlier in the year in April, with a considerable amount of extinguishment and confirmation of extinguishment, accommodated by the Labor Party in that pursuit, the Government is back for more. It wants every bit of extinguishment that the Parliament is able to produce under the powers conferred upon it by the national legislation.

That postpones the opportunity for the Government and the people of Western Australia to pursue the alternative routes that were advocated by the unanimous findings of that select committee; that is, to pursue agreement and negotiation between the wider community and the indigenous interests in this State to find ways of developing Western Australia without pushing us all into conflict, dispute and litigation, and building up distrust on both sides of this debate in a way that will compound the problem and increase the cost that native title will impose upon all citizens of Western Australia.

Sitting suspended from 1.00 to 2.00 pm

Hon TOM STEPHENS: I propose to speak for about three-quarters of an hour. I can, of course, as members know, speak for longer. I am not inviting interjections, I do not need to, but if members genuinely want an interchange of views I am happy to accommodate them. I am aware that this issue has been around the Parliament for a long time and I am proposing quickly to move through my impassioned plea to the Parliament that we not persist down the path of progressing this legislation. I am not trying to filibuster or to become distracted in my argument or in interchanges across the Chamber or with the Chair.

The legislation is not new legislation. The Government is simply renewing an argument which occurred late last year and again early this year, when the Government lost the argument on the floor of the House. It is for all of those reasons that we do not intend to speak endlessly about all of the relevant arguments that were put at that time in support of the proposition that the legislation as advanced by the Government then should have been amended and as advanced now should be defeated.

This Bill has essentially two aims. First, it attempts to overturn the amendments passed in this House and to restore the Government's original Bill. Second, I suspect the real and political purpose is again to promote division within the community to endeavour to scare people in the hope that some votes might be won on the dubious premises upon which this Bill is based.

The Labor Party clearly supports the protection of the property rights of all Western Australians. Unlike the Government and others, as it may turn out, it also supports the protection of the property rights, the native title rights, of indigenous Western Australians; it does so while supporting the protection of the property rights of non-indigenous Western Australians as well. The property rights of non-indigenous people are best protected by validation of their existing titles. The Labor Party has clearly supported all of the title validation measures put to this Parliament. There are some validations related to resource projects under which developments have proceeded on land over which it is not possible to extinguish native title, which this Parliament is not empowered to tackle and which the Government is still left deciding how to resolve. The Government is diminishing its ability to do as much when it continues to display bad faith to the Aboriginal community by the presentation of Bills such as this, which are a fundamental attack upon the native title rights of Aboriginal people.

Hon Mark Nevill: Could you enlarge on that first part of the point you made?

Hon TOM STEPHENS: Some resource projects have seen developments take place on vacant crown land that cannot be validated by virtue of the Parliament's lack of a head of power to extinguish native title over those vacant crown land developments. Those issues can be resolved effectively only by litigation or by agreement. If an attack is made on the Aboriginal interests -and I suggest this Bill represents such an attack - it diminishes the prospects of the State and the resource developers striking the accommodations and the resolution of problems which have affected developments that have taken place on lands where native title cannot be extinguished.

Hon Mark Nevill: Give an example.

Hon TOM STEPHENS: The Pilbara projects. I do not have the details with me, but they were enumerated at various stages during the previous debate. Those projects have effectively utilised vacant crown land, and there will be no opportunity for the Parliament or the Government to extinguish the native title interests on that land because the Federal Parliament has not given a head of power for that to happen in this State. The Aboriginal native title claimants - eventually the native title holders - will be in the box seat for the resolution of these questions. The Government needs to display some bona fides to get these issues behind it so that the State can continue to have orderly development that includes all Australians, both Aboriginal and non-Aboriginal.

Despite the title of this Bill, it does not deal with titles validation, because all the titles that can be validated under commonwealth law have been validated. As pointed out previously, because of this Government's cavalier approach to native title matters, some titles cannot be validated by this Parliament. The Government has ignored the future act processes of the Native Title Act on vacant crown land or non-leasehold land prior to the Wik decision, and consequently there is no power to validate titles issued during that period. That is because those titles do not constitute an intermediate act as defined by the Native Title Act. The unfortunate thing is that those titles underlie major resource development projects in this State, and the Government -

Hon Mark Nevill: Which projects are you talking about?

Hon TOM STEPHENS: There are a number of resource development projects, the details of which I do not have to hand. They were identified in earlier debates. The Government can make that material available to the member, as it previously made it available to the Opposition when we last debated this matter. This is a minor plank in my argument, and it is not a matter that I will take a lot of time to develop or want to be distracted by. Nonetheless, it is a plank in my argument that these issues cannot be resolved by validation and extinguishment legislation but will inevitably need to be settled by negotiation and agreement. That opportunity is further diminished by the position of the Government in pursuing these legislative initiatives that are so regretted, objected to and resented by the Aboriginal community of this State. The Government has yet to deal with this unfinished business, and it owes the resources industry and the wider public an explanation for its failure to recognise the challenge that is ahead of it to resolve these issues. The Government will need to find some other way to validate those titles, yet it still denies that there is a problem, despite the clear and incontrovertible evidence contained in the relevant deeds of indemnity between the companies involved and the Government. The Government should be focusing on these titles rather than the 1 300 leasehold titles over which it is now seeking to have native title extinguished.

The majority of these titles are protected by the current Act as amended by this House in the earlier debates, which is consistent with the common law position that residential and commercial leases have effectively extinguished native title. The relevant section of the principal Act is section 12I, which is headed, "Confirmation of past extinguishment of native title by certain valid or validated acts". That is a contradiction given what the Government is now seeking to achieve. Section 12I of the Titles (Validation) and Native Title (Effect of Past Acts) Act, in combination with the Native Title Act, already confirms this extinguishment. It says a previous exclusive possession act covered by certain sections of the Native Title Act extinguishes native title over the land or waters covered by the lease concerned. In addition, the facts on the ground, particularly in the goldfields, confirm that native title has been extinguished on residential leases.

I will digress for a moment to comment on the goldfields. It occurs to me that much of the debate and the heat about native title issues has emerged out of the difficulties which have been in evidence in the goldfields community, specifically in Kalgoorlie. In many ways the efforts to further amend the federal legislation have been driven by the problems displayed in the goldfields, problems which have been evident to all.

Hon Mark Nevill: The Labor Party would not even amend the registration test.

Hon TOM STEPHENS: The Labor Party agreed to amend the registration test with the amendments which passed through the national Parliament.

Hon Mark Nevill: You are talking six years and it was the current Government that brought the legislation in.

Hon TOM STEPHENS: The Labor Party agreed to amendments to the registration test. If the member reads the Select Committee on Native Title Rights in Western Australia report, he will see that there was widespread acceptance and recognition of the value of those amendments from all the parties which were signatories to that first native title report. The changes to the registration test effectively represent improvements to the previous process. However, the goldfields is the area which in many cases drove the need for those changes. In particular, the case was put regularly that land needs were not being met in Kalgoorlie and that native title was the principal problem. I am delighted to say that changes have been made since then and improvements have occurred. Native title aspirants have been getting their act together, moderating their claims and working together as required. Other processes have also been developed.

I am particularly intrigued by a press statement released today by the Minister for Planning, Graham Kierath, in reference to the situation in Kalgoorlie-Boulder. Political pressure has been placed on the Parliament for the resolution of the goldfields-Kalgoorlie-Boulder land issue. Members should consider this legislation and that political demand against this statement -

> Planning Minister Graham Kierath has sounded a note of caution about residential land development priorities in Kalgoorlie-Boulder.
>
> Mr Kierath said that although -

This is today, 11 November -

> - Native Title clearance of 1,800ha of land at Hannans North was welcome, there was a need to adopt a strategic approach to land planning and development throughout the city.
>
> "In the light of the findings of the latest City of Kalgoorlie-Boulder Land Release Plan, it would not be desirable for this new area to dominate land supply within the city," he said.

As one goes through this release, it is almost as if the Minister for Planning is saying that suddenly, by virtue of the clearance of 1 800 hectares of land at Hannans north being welcome, there is an opportunity for a land bank to be built up in Kalgoorlie which will have an adverse impact on the land values in that town by producing too much land for a community which we were all told was desperately in need of additional land allocation. I am delighted to think that the land development priorities of Kalgoorlie and Boulder seem to be so far advanced that it appears there is no longer a problem. On my reading of this press release from the Minister for Planning, there is an apparent land glut in Kalgoorlie. The release seems to be warning people against this development of land at Hannans north as though it could cause a property crash in Kalgoorlie-Boulder because of an overabundance of land.

Hon Mark Nevill: Either of those scenarios is possible if the price of gold increases or decreases by $100.

Hon TOM STEPHENS: QED. Excesses relating to matters in the Kalgoorlie-Boulder community have frequently and unnecessarily driven the national, and in turn the state, debate on the resolution of native title. Hon Mark Nevill correctly indicates that a $100 reduction in the price of gold would result in excess land in Kalgoorlie. Native title legislation would not be the cause of that glut. A $100 rise in the gold price would result in a sudden need for land, which appears to be adequately provided for according to the statement by the Minister for Planning that 1 800 hectares has cleared the planning processes and is now available. The minister also stated that this could produce a glut which could have a deleterious effect.

Hon Mark Nevill interjected.

Hon TOM STEPHENS: Hon Mark Nevill is aware that I am not intimately familiar with the situation at Kalgoorlie-Boulder. However, I am aware of the Sheehans' block, which could be bought and made available for land release and future residential development. Land is available for processing in Kalgoorlie-Boulder. It seems that this Parliament and politics in this State in general were placed in an unfair cauldron of pressure relating to Kalgoorlie-Boulder which, to some extent, was created, and played upon, by the Government to try to drive the political debate to produce legislation which could ride roughshod over the native title interests of indigenous people. It is fortuitous that the Minister for Planning issued his press release today to highlight the doubletalk which has featured in this debate. It would make an honest person weep to consider the excesses of that debate when the reality is outlined in the minister's press release. This contradicts the "reality" for the townships of Kalgoorlie and Boulder forcefully portrayed by the Premier and his Government in supporting the extinguishment of native title across Western Australia.

Extinguishment is being recognised by native title parties and claimants partly due to the new registration tests in the Native Title Act. This has also resulted in substantial amalgamation and amendment of existing native title claims to exclude areas involving residential leases throughout the State, and particularly in the goldfields. In other words, native title claimants in Kalgoorlie are recognising that common law has extinguished native title on residential leases, and that statutory law passed by this Parliament has confirmed that reality.

Also, state legislation ensured that native title rights will not interfere with leaseholders' property rights, as the latter prevail over the former to the extent of any inconsistency. In other words, no rights of the leaseholder are at all affected by any native title right. Also, if the lease expires and the leaseholder wants to renew the lease, the leaseholder can do so 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. Clearly, the processes unleashed in the playing out of native title across Western Australia have alarmed an enormous number of people, and, regrettably, many of them unnecessarily.

No doubt many members, particularly those who represent remote, rural and regional areas of Western Australia, have received expressions of concern from ordinary people of goodwill who were sent letters from the Native Title Tribunal, in some cases erroneously, alerting them to their potential involvement in the native title process, which has no basis in reality. I have had representations from the owners of freehold blocks, who I am told have received letters from the National Native Title Tribunal, letters for which there was no good reason for their being sent because their land was not subject to any real prospect of being included in a native title claim that could be accepted.

The problem with legislating extinguishment of all the leases on the full schedule is that that schedule extinguishes native title. It extinguishes that native title interests on indigenous property in many areas, not just in the goldfields but more widely. An unnecessary reinforcement of the protection that already exists will be at the expense of taking away indigenous property rights in areas outside the goldfields, where common law does not extinguish native title.

Let us think about this for a moment: In his judgment, Justice Lee found that native title has survived on a whole category of leases and land tenures. This legislation is now proposing extinguishment of that native title. Some people may not agree with the decision of Justice Lee. They are perfectly at liberty to challenge his decision, as they are doing in the courts, and one day their view of the common law will be found to be correct or incorrect. Instead of waiting for the umpire to bring down that decision, they go down two paths at one time: First, to challenge the decision of Justice Lee in the courts, and that is fair enough; and, secondly - the double whammy - at the same time to legislate to extinguish the native title that has been found to have survived on those forms of land tenure and, thus, expose the native title claimants to the process of pursuing their claims to the point at which they are simply compensation claims, creating bad will in the Aboriginal community and engendering the prospect of conflict, rather than cooperation, in the resolution of these issues.

Some members in this place may not agree with the finding of Justice Lee. It is their perfect right to challenge, but not to construct an artificial argument that says that Justice Lee was so wrong that they are entitled to pursue in legislation the extinguishment of native title. We must keep in mind in this debate the origins of these powers. They come out of a decision of the national Parliament that predates the decision of Justice Lee. The national Parliament was only trying to give the State Parliaments powers to remove native title which was considered to have been extinguished at common law. The decision of Justice Lee changes that equation. His decision suggests that native title has survived on a whole category of leases, land tenures and titles outside those currently contained in the schedule for Western Australia. In those circumstances, a fair-minded Government, legislator or Parliament, at least, would allow this issue to go through the process of appeal, which has been unleashed by the current Government, to find out which side is correct - Justice Lee or one's own assessment of the rightness or wrongness of that decision.

Instead of that, it appears members of this Parliament are embarking upon a course of making themselves the judge and jury in this case. I put it to members that, as a consequence of our doing that, we shall increase bad will within the community, having embarked upon a blithe disregard of the rights and interests of indigenous people in this State, whose native title has survived on those forms of land tenure we are now proposing to extinguish. Under the Government's proposed amendments, the extinguishment of native title will happen whether or not the lease is current; it will happen even if the lease expired many years ago, was not taken up, or the land is for all intents and purposes vacant crown land.

The Government embarked on that course last time and is doing it again. The amendments proposed by Hon Mark Nevill will alter that situation, which is of some small mercy to indigenous people. I indicate to Hon Giz Watson, and Hon Helen Hodgson of the Australian Democrats, that the Opposition intends to accommodate that amendment proposed by Hon Mark Nevill because at least it does not leave the indigenous people of Western Australia subject to the full brunt of the assault proposed on native title interests by the Government. As Hon Mark Nevill knows, I consider it to be a small mercy indeed, and I hope he will be persuaded by the compelling arguments I am putting to the House and by the use of his prodigious intellect in the process of this debate.

Hon Mark Nevill: Flattery will get you nowhere.

Hon TOM STEPHENS: I will try anything to persuade the member to desist from the course which the media tells me he is about to embark upon, and instead support the wise decision made by the Parliament when it previously rejected the thrust of this Bill before the House.

It is also the case that some of the leases on which native title will be extinguished by this legislation were found by the Federal Court of Australia in the Miriuwung-Gajerrong case late last year not to have had native title extinguished. Although this decision is under appeal, the Government seems to be incapable of understanding that it effectively represents the common law in this country to this point. We may agree or disagree, but it does not seem to be an appropriate and intellectually honest argument for the Government first to disagree, and then, to prove it is right, legislate and say it is right. In fact, the Government could leave this to the umpire, to the finest legal minds in the country, to deliberate on these questions and then see where we all are at the end of that process. Obviously, that litigation will proceed and there is no way of saving us from it. If I am right and if Justice Lee is right, the result will be that the native title parties in the Miriuwung-Gajerrong case will have the opportunity to pursue their interests through compensation claims.

I ask members to picture those claims. Those claims are for all the rights embodied in native title over the lands which are to be subject to extinguishment. While this decision is under appeal, it seems inappropriate to proceed in this way. Consequently, this legislation is not doing what the Government claims it is; that is, simply confirming past extinguishment over leases contained in the schedule to the Native Title Act. For example, Mr Justice Lee found that native title had survived on special leases under section 152 of the Western Australian Land Act of 1898; on special leases under sections 116 and 117 of the Western Australian Land Act 1933; on special leases under section 116 of the Land Act 1933 for grazing purposes; on special leases for cultivation and grazing; on special leases for market gardening from year to year; and on special leases for canning and preserving works with 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. He also found that native title had survived on leases of reserves under section 41A of the Land Act 1898 and section 32 of the Land Act 1933. This Government is seeking unfairly to extinguish that native title.

Many members in this Chamber have a familiarity with Aboriginal people across the State. I am in an unusual position in that my very closest links in the Aboriginal community are with the Miriuwung-Gajerrong people. I know the area of land in question in a very intimate way; I have spent extensive time fishing, swimming and walking those lands. I ask members to consider what their view would be if this case involved Aboriginal people with whom they are on first-name terms. How would they feel about this legislation, which is designed to extinguish those native title interests? Members should acknowledge the personal concern they would feel. A small number of members in this Chamber have those links with Aboriginal people.

As Hon Mark Nevill knows, I am trying to connect him in a personal way to the argument. I acknowledge that he has close links with some of those concerned. I ask the member to consider how he would deal with the legislation if the decision of Mr Justice Lee had affected those on the Balwina reserve or if the judgment had dealt with granting native title interests to people like Mark Mora and the Sunflies. How would he feel if it impacted upon other Aboriginal families of the Gugudja and the neighbouring Walmadjari and the peoples of the south east Kimberley rather than the north east Kimberley? Would the situation be different if he sensed the outrage coming from the native title parties were he to support the extinguishment of the native title interests of those families and individuals with whom he is friendly? He taught them and they know him well. They would not take kindly to the extinguishment of their native title interests.

Hon Mark Nevill hopefully will not mind my wondering how much of my argument was wasted.

Hon Greg Smith: About the last 30 minutes of it!

Hon TOM STEPHENS: I will try again. The member was distracted at a most inconvenient time through no fault of his own - I blame a government minister for that.

I am making these points in friendship. I ask the member to imagine the position in which I find myself; that is, understanding Justice Lee's decision and the impact it has had on those with whom I have had almost a lifetime's association. Picture instead if Justice Lee's decision had been made in reference to claimants with whom Hon Mark Nevill had lifelong associations, as he has with many people in the Aboriginal community. Say, for instance, they were people from the south east Kimberley region and the names in the case had been the Gugudja - the neighbouring languages I forget exactly, but it could be Walmadjari or Djaru or the languages of Mark Mora, the Lees and the Sunflies, and the extended families of that area. Say their names had been on the claims that have now been upheld by the Federal Court. If those native title interests had extended to pockets of land in the areas around those land holdings, could Hon Mark Nevill so easily have embarked on the process through legislation of extinguishing those native title interests which have recently been upheld by the decision of a single judge of the Federal Court which is still subject to appeal? Would he not at least have been attracted to the prospect of leaving this issue to be resolved, as it must be at law anyway for the purpose of compensation, as to whether the decision of Justice Lee is correct in relation to the aspirations of those native title claimants in those areas or whether Justice Lee was wrong at law.

Hon Mark Nevill: I will walk you through the Native Title Act to show why I have the same view, whether the claim was in the Balgo region or in the Kununurra region. I would support a finding of native title in the Balgo region. However, I will walk you through the Act to show why native title is extinguished on certain leases. I cannot reverse it.

Hon TOM STEPHENS: By accepting this legislation, Hon Mark Nevill is embarking on the extinguishment of native title. Justice Lee's decision means that will be the case in respect to the lands of the Miriuwung-Gajerrong, but it could just as easily have been in the lands of the south east Kimberley instead of the north east Kimberley, where Hon Mark Nevill would have known the people. They would have been looking him in the eye after years of friendship and association and asking how he could legislate to take away their recently upheld rights. Could he still embark on a process of legislating to extinguish the property native title rights of people of whom he is indisputably a friend?

Hon Mark Nevill: I would look at the Alice Springs case of Hayes which follows the High Court line of judgment, not the Miriuwung-Gajerrong case which follows basically the Canadian case.

Hon TOM STEPHENS: Why do that now? Why not wait until the end of the umpire process? Why grab this moment?

Hon Mark Nevill: The black letter law in the Native Title Act is very clear. I will walk you through it.

Hon TOM STEPHENS: I understand the law. It certainly gives the opportunity of legislating in this way, but that opportunity emerged prior to the judgment of Justice Lee. It stays open at the end of the decision making process when these issues are resolved in the court. Why the indecent haste to legislate now to resolve these issues which are being litigated and which will continue to be litigated for the purposes regrettably of resolving only compensation questions, no matter what we do in this Parliament?

Hon Ray Halligan: It is called principle and integrity.

Hon Bob Thomas: A member of the Liberal Party talking about principle and integrity!

The PRESIDENT: Order!

Hon TOM STEPHENS: The principle as articulated for this Bill is the principle of extinguishing native title where it is found to have been extinguished. This Bill is embarking on the extinguishment of native title where that native title is found not to have been extinguished. Therefore, it is not the question of principle that the Government is pursuing with this Bill but of moving beyond its alleged principle and into extinguishing native title rights and property rights over and above the common law position.

I appreciate that the member who interjected is a champion of the rights of the property classes of this State. I see him as a great and consistent champion of property rights and interests which I see as the reason he should desist from the path on which the Government has embarked. I am sorry that in this case the property rights happen to be black; nonetheless, a consistent position from someone like him, a champion of the cause of property, would be to look after these people's interests, even though they are black.

All of these leases on which Justice Lee found native title had survived are in a set schedule. This Government is seeking to unfairly extinguish that native title. The Government could have avoided this situation by negotiating the schedule for extinguishment with the Aboriginal people. Unfortunately, the Government will not embark on that process. It could have discussed the list of the leases, but chose to have it covered by the schedule of indigenous people. Although the negotiations may have been a time consuming process, they could not have been any more time consuming than the process in this Parliament, the tribunals or the courts. There may not have been 100 per cent agreement; nonetheless, it is likely to have been substantial agreement, leaving the Government and indigenous representatives with the opportunity of reaching agreement on much and having minimal dispute about little. This would have benefited the leaseholders, indigenous people and Western Australian taxpayers, who would not be faced with potentially unnecessary compensation. Rather, the Government has a legislative approach and indifference to the indigenous rights of people and refuses to negotiate. This

legislation amounts to the promotion of division and discord and political exploitation of people's legitimate fears on native title issues.

We all know what the political process involves. For example, the Government wants to build a belltower, a proposal the Opposition chooses to exploit for political purposes. That exploitation is a potent political symbol. The Opposition stands for the principle of defending the interests of Aboriginal people and their native title rights. The Government is pursuing the politics of that because it is a potent political weapon. I wish the Government would not do that, as it wishes we would not pursue the politics of the belltower. However, arguing and playing the politics of the belltower will provide good political rewards. I am not embarking on an unprincipled and unpalatable -

Hon Max Evans interjected.

Hon TOM STEPHENS: No, there is something light-hearted about debating the rights or otherwise of a Government to build a belltower. On the other hand, with native title rights, the Government is playing politics with an issue that is potent and powerful and which attacks the rights and interests of a race of people in this country that has the right to think and expect better of Parliaments and Governments.

The reasoning behind the amendments to the original legislation dealing with public works was to avoid any unnecessary extinguishment of indigenous property rights and to preserve both indigenous and non-indigenous property rights. Given that common law extinguishes native title when a public work has been constructed, the issue of fairness arises in whether native title should be extinguished over the whole parcel of land rather than just the section on which the public work has been constructed or is defunct. Under the Government's original legislation, if a tiny public work were on a small corner of a large parcel of land, the tiny public work could have extinguished native title over the entire parcel of land. It is similar to historical leases. Historical public works that may no longer exist also extinguish native title. The Opposition considers it is unfair in these circumstances to extinguish native title. Despite the Government's claim that there is a problem for future public works expansion or construction, no difficulty exists other than in the Government's imagination or propaganda strategy. If the Government wishes to extend a public work within the purposes of the reservation, it may do so 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. Some members will remember that I got this a little bit wrong the first time I engaged in debate in which I said extensions from the footprint of a hospital or a school would require the future act process. I admit I was wrong. Clearly, the building of a school or hospital on a public works reserve can be pursued without any worries about future act processes, and that hospital or school can be expanded to the full area of the block. However, the public works will be effectively extinguished by the footprint, for instance, the earthworks for the purposes of irrigating a reserve such as the Lake Argyle dam. However, Justice Lee allowed native title to survive across the great tract of land that would be otherwise contained in that reserve.

With this Bill we are embarking upon unnecessary extinguishment of that native title interest. There is no difficulty in the Government's wishing to expand a hospital or school, even though native title has been extinguished on the footprint of the existing building. If the Government acts within the purposes of the original reservation, it can proceed without going through the future act processes of the Native Title Act. Leaseholders' property rights are fully protected and native title is extinguished on their leases by the operation of common law and the current Act. A full schedule of native title rights proposed to be extinguished by the Government is not required to protect residential and commercial leases. If the Government truly believed the schedule was necessary, the appropriate, decent and non-divisive approach to the issue would have been to negotiate with indigenous interests, either when the Commonwealth Government was initially drawing up the schedule or when the list of the 1 300 leases was released.

The Government is not genuinely negotiating with indigenous interests to try to reach a resolution of these issues. Rather than negotiate, the Premier prefers to promote division and exploit fears for political advantage. He prefers to litigate, legislate and to lacerate the best interests of this community. The Australian Labor Party opposes this legislation for all the reasons that we have articulated in the past and now express again.

The Labor Party received a letter from the Western Australian Aboriginal Native Title Working Group in reference to the Bill before the House. That group indicated that it received a copy of the Bill and makes the following points -

> On the 8th May, 1997, the Federal Government first announced its 10 Point Plan - its response to the Wik decision on the 23rd December, 1996. That plan went well beyond a response to the High Court's decision that native title may not be fully extinguished by a pastoral lease. One of the ways it went beyond dealing with the consequences of that decision was in Point 2 of the 10 Point Plan.
>
> Point 2 is "confirmation" of extinguishment of native title on "exclusive" tenures.
>
> You will note that exclusive tenures have nothing to do with pastoral leases and hence the Wik decision. As a consequence of this Point - Division 2B of the NTA was enacted.
>
> This Division allows the Parliament of Western Australia to enact legislation to "confirm" extinguishment of native title in respect of certain types of land titles which are scheduled interests (See Schedule 1 Part 4 of the NTA - in respect of Western Australia - a copy is attached), freehold titles (except Crown to Crown titles, certain titles held by Aborigines and National Parks), commercial leases, exclusive agricultural or pastoral leases, residential leases, community purpose leases, mining town leases and any exclusive possession leases. Public Works are also included.
>
> At the time, various Aboriginal groups advised the Federal Government, the Opposition, the Democrats, Greens

> and Senators Harradine and Colston that these provisions **did not** just "confirm" extinguishment of native title - that is, reflect the common law or a Court's position but would mean that the Native Title Act (as amended) was through those provisions, actually extinguishing native title.
>
> It was only the ALP, Democrats and Greens in the Federal Parliament at that time that supported this position and so it became law.

Members will remember that the rest of the parties in the Federal Parliament had a majority with the support of Senator Harradine. The letter continues -

> That is the retrospective extinguishment of our property rights was approved by the Federal Parliament. It is retrospective because the extinguishment takes effect "when the act was done", that is, whenever the title was granted.
>
> The Bill you are now considering implements this at the State level. As predicted, we soon had a Court decision which confirmed our views. Justice Lee found in the Miriuwung Gajerrong case that certain scheduled interests, e.g. leases for cultivation and grazing **did not** extinguish native title. You can see from that judgement that a number of leases on the schedule do not extinguish native title.
>
> It is important to note that all Court cases to date, i.e. Wik, Miriuwung Gajerrong and the recent decision in Alice Springs - Hayes v Northern Territory [1999] FCA 1248 -

That is a judgment which, I confess, I have not yet read. The letter continues -

> - which deal with the co-existence of native title and a Crown title or lease have found that if the respective rights conflict then the rights of the Crown title prevail over the native title rights.
>
> This means that all lease holders can fully carry out their legal rights without any interference by native title holders, including renewals and further development on the lease area if that is allowed by the lease conditions. This is also provided for in other provisions of the amended Native Title Act.
>
> Given that this is clearly the legal position, it is grossly unfair and unjust in our view to then go ahead and extinguish native title when it is no threat to the co-existing title holder.
>
> This is the true legal position that is not being explained to the general public. This is one of the main reasons we oppose this Bill. It actually extinguishes our title. It is also true that native title claims can be lodged where there is co-existence and that the Crown title holder can appear in the Federal Court proceedings **but** they don't have to as their interests are not at risk. The Federal Government provides legal aid if they wish to be legally represented. Again, why should native title be obliterated when it is already subservient.
>
> Similarly, with respect to the public works provision in the Bill wherein the Government proposes to extinguish native title.
>
> Why should the adjacent land or waters to the public works, which may have returned to bush, also extinguish native title as well as the actual location of the completed public works. (See s.251D of the Native Title Act). Under other provisions of the NTA, any further development or actions consistent with the further development of the public works are allowed in any event.
>
> It is this mean spirited approach which insists upon the extinguishment of native title that we find so objectionable and intolerable.
>
> It is for these reasons that we oppose this bill as we did last year.
>
> In our view, the only way to progress the situation with respect to native title in this State is to base the relationship between Aboriginal people and Government on respect and recognition of native title not abolition or extinguishment. We are keen to resolve differences and move forward but this will not take place while Government's first response is to extinguish the legal recognition of our laws and customs.

That letter is signed by Patrick Dodson for and on behalf of the Western Australian Aboriginal Native Title Working Group - a distinguished Western Australian by anyone's standards.

I could say more on this issue and if I felt that it would advance the cause and succeed in defeating this legislation, I would endeavour to speak at length. I have chosen instead to speak for only a short time. However, there is an enormous sense of poignance and distress to think that a State, which has so recently had available to it the benefit of the judgment of Justice Lee in reference to the native title interest of the Miriuwung-Gajerrong people, would proceed down this path. So much of the native title lands of those people is subject to various forms of land tenure that, once this legislation is passed, those native title interests effectively will be extinguished and those people will be largely left to make compensation claims for those vast tracts of land. There is understandable and considerable distress on their part and a strong sense of grievance, which inevitably is distressing for them as people and as families. It places the whole community of the north east Kimberley under a social stress from which it will be difficult to find a way back. Those people are good people; they are good citizens of Western Australia who are committed to the collective wellbeing of this community.

They are my constituents, my friends, and, in another sense, my family. I am in the third decade of my time in this State. When I first came to this State, I flew in on a light aircraft across the border from the Northern Territory. I was farewelled at the mission at Port Keats by then Father Patrick Dodson. I landed at Kununurra airport and was welcomed by a woman

who is now dead, Lizzie Ward. Her Aboriginal bush name was Baloowalu. She welcomed me and said, "You are jabada; you are now my son". I had no idea what she was talking about. I was being immersed into a complete and utter mystery. I was immersed into that family - into the life, rituals, the sacred life, and the secret life of the Miriuwung-Gajerrong people. Over an extended period I have understood increasingly more my obligations to this community and its neighbours; and their obligations to each other. The people whose names appear on the Justice Lee decision are my friends. Members have their European names. They are people like Gulnirr**,** Ngulmirr**,** Janama, Baloowalu and so many of their kindred. They are people who are associated with the totems of the Miriuwung-Gajerrong people; the dreamings of the brolga and the eagle hawk; the dreamings of the pelican - from an old man called Grant Ngarbich, who is now dead. The deep spiritual and legal realities that exist for these people have been upheld in the decision of Justice Lee in reference to their claims for native title over those lands. Their rich cultural life is available to them, and through them, to others, and has remained intact over decades, centuries, and millennia. With the stroke of a pen we will reduce all of that to a compensation claim instead of leaving them the opportunity to explore co-existence on those native title lands.

I have considered the pursuit of the protection of their rights to be an obligation, not just because I was accorded the friendly family status, but also I have gone on to be a legislator on behalf of all Western Australians. The pursuit of their interests is the pursuit of the common interest, and to leave them with a sense of grievance is effectively to diminish all of us and to expose us to the deferral of the resolution of these issues. Regrettably, this legislation is deferring the prospects of resolving these matters in the best interests of all of us. If for any reason, members are not moved by the particular place that I believe Aboriginal people have in our society, at least be moved by the need to find a way to accommodate those interests that can benefit all of us by an appropriate response to their position at law, which is not to simply legislate in this way.

I felt proud of our team that defeated this legislation last time. I am filled with remorse that this time, for reasons I regret, we are now faced with potentially another outcome. I hope against hope that there might be some way this can be turned around, because the interests of all of us would be served if the Parliament did not pursue this legislation in the way it is proposing. There is an alternative path. The Aboriginal leadership, as articulated by Patrick Dodson, is directing us towards it. The select committee report that was delivered to this Parliament was signed by the likes of Hon Murray Nixon and Hon Barry House. Hon Murray Criddle served on that committee, and I have never heard him distance himself from its recommendations. The committee had the support of people like Hon Giz Watson and, although not in the findings of the report but in the tenor of what we produced, Hon Helen Hodgson, and me. A multi-party committee has recommended an alternative path to that upon which we embark. One cannot do much better than that in presenting the case for an alternative. We have an alternative path. Instead, we pursue this path which, although it is our entitlement at law, is not our entitlement on any reading of the morality of the situation with which we are faced. I oppose the Bill.

HON MARK NEVILL (Mining and Pastoral) [3.01 pm]: I will support this Bill, but I will move an amendment to clause 4, which I think has been circulated in one form or another. Hopefully, the correct amendment will be before us prior to our reaching the committee stage. There is no doubt that the amendments to the Native Title Act following the Wik decision went much further than the Wik decision. I do not know that one can complain about that. The Native Title Act went much further than the Mabo No 2 decision. There is not much resemblance in many ways. It is a difficult Act to get one's mind around. I have put a great deal of work into it over the past six years, and I think I have a reasonable layman's working knowledge of that Act. I regret the division that has occurred because of this legislation. However, I honestly believe that that division should never have occurred. The scenario with which we are presented is clear, and the division to a large degree has been created by people who have been telling half the story or clearly misinterpreting what the legislation says.

I too have lived in the Kimberley for many years. I lived in Wyndham and Derby since, I think, early 1961. I worked with dozens of Aboriginal people. I have personally known hundreds of them in these areas. Many of the people with whom I worked are now no longer here as, unfortunately, only 3 per cent of Aboriginals live beyond the age of 60 years. They are the sorts of problems we should be tackling. I do not believe that any of this native title legislation, although it is important, will greatly add to the quality of life of Aboriginal people. Our focuses to achieve that must be in another area. I am not saying that this is not important. However, I do not think that it will make one iota of difference, or it will make only a marginal difference, to those horrific life expectancy statistics. I think one in three Aboriginals between the ages of 15 and 24 years will spend some time in jail. It is frightening. I want this debate to move on. That is the reason that I am taking the path I am taking.

We have heard a lot in this debate, particularly from Professor Richard Bartlett, about the clear and plain intention of the words of the Act. I want to walk people through the Native Title Act so they see the clear and plain intention of the Native Title Act. Section 23A explains that there are two types of acts. The first type of act is previous exclusive possession acts. It states -

> If the acts were **previous exclusive possession acts** (involving the grant or vesting of things such as freehold estates or leases that conferred exclusive possession, or the construction or establishment of public works), the acts will have completely extinguished native title.

Previous exclusive possession acts completely extinguish native title. The second type of act is previous non-exclusive possession acts. It states-

> If the acts were **previous non-exclusive possession acts** (involving grants of non-exclusive agricultural leases or non-exclusive pastoral leases), they will have extinguished native title to the extent of any inconsistency.

The Wik decision said that native title can coexist with pastoral leases, so they are not exclusive possession acts.

The definition of "exclusive possession acts" is found in section 23B(2), which states that an act is an exclusive possession

act if, firstly, it is valid. In the Hayes v Northern Territory decision which came down in the Federal Court on 9 September 1999, three or four of the dozens of leases that Justice Olney looked at did not extinguish native title because they had not been granted validly. An act is an exclusive possession act if, secondly, it took place before 23 December 1996, the date of the Wik decision. An act is an exclusive possession act if, thirdly, it consists of the granting or vesting of any of the following. The first item is a scheduled interest. The scheduled interests are listed in schedule 1 of the Bill. A scheduled interest is an exclusive possession act which completely extinguishes native title. The second item is a freehold estate. I do not think anyone has argued about that since the case of Fejo v Northern Territory. The third item is a commercial lease that is neither an agricultural lease nor a pastoral lease. Therefore, if it is a commercial lease, it is an exclusive possession act which completely extinguishes native title. Some of the 1 300 leases in this Bill are commercial leases. The fourth item is an exclusive agricultural lease or an exclusive pastoral lease. I do not know whether any of those exist in Western Australia. The fifth item is a residential lease. Some of these 1 300 leases are residential leases. Residential leases are exclusive possession leases which completely extinguish native title. There is another more complicated section and part 8 which I will return to later. We are talking about any lease that confers a right of exclusive possession over particular lands or waters. These are generally the exclusive possession leases which completely extinguish native title. What could be more clear than the black letter law of native title? Despite the amendments after Wik and despite the Native Title Act, this is the law of the land, it is what we are working under and it cannot be ignored. This Bill is confirming the extinguishment of native title on those 1 300 leases. To suggest in the face of the black letter law that we are doing the extinguishing is quite dishonest and divisive. Doing so is designed to give the impression to Aboriginal people that we are somehow reducing their rights with this legislation. I do not believe we are doing that and my amendment will at least preserve the opportunity for Aboriginal people to establish native title over some areas. I will come to that later when I talk about the amendment.

I know some members never bother reading Bills or Acts but I will read members the definition of extinguishment in the Native Title Act so they have an indelible impression in their minds of what it is. Section 237A is the definition of extinguish. It states -

> The word **extinguish,** in relation to native title, means permanently extinguish the native title. To avoid any doubt, this means that after the extinguishment the native title rights and interests cannot revive, even if the act that caused the extinguishment ceases to have effect.

Even if a lease was granted and has expired, it still extinguishes native title. If that is what the Act says, I cannot see how the Federal or High Courts can come down and contradict it. My amendment will leave the matter to the courts but I am confident of what they will find. The sort of rhetoric that Hon Tom Stephens indulges in falsely builds up the hopes and expectations of many Aboriginal people. I am not saying he is doing that deliberately. Unfortunately, Hon Tom Stephens goes by instinct and emotion on many occasions. However, I cannot see how one can bypass what is quite clear black letter law.

As I said, part 4 of schedule 1 at the back of the Act sets out all the different scheduled interests in a list of generic leases. They are all laid out in that part of the schedule - leases granted under legislation before 1898, the Land Act 1898, the Land Act 1933. This section documents every scheduled lease including those under the Agricultural Lands Purchase Act, the War Service Land Settlement Scheme Act and the State Housing Act. They are all scheduled leases and they all completely extinguish native title. There is absolutely no doubt about it. All we are doing here is confirming the extinguishment so that these people do not find themselves in the Federal Court as did the people in Kalgoorlie-Boulder.

The Australian Labor Party was quite happy to extinguish native title on conditional purchase leases - vast leases held by farmers - yet was not prepared to confirm the extinguishment on residential lots at the back of Boulder where the battlers live. I could never understand that. This is one of the issues upon which I fell out with the Labor Party. Hon Julian Grill and I were completely excluded from the group putting the amendments together, which was very deliberately done. I would have liked to pit my understanding of the Native Title Act against that of any other member of the Labor Party. I would have liked to pit my understanding of the practical difficulties of the Native Title Act against that of any other member of the Labor Party. However, I was excluded from the debate, which made me very angry.

Hon Simon O'Brien: If you and Julian Grill were excluded, who participated in the formation of policy?

Hon MARK NEVILL: If the member asks the secret society, he might be told! I am not sure who was involved.

Some doubt arises about grazing leases. All grazing leases have been removed from the extinguishment procedure, and the only ones left in the schedule list are multiple-purpose leases, such as grazing and cultivation, grazing and horticulture or grazing and cropping. That is consistent with what occurred in other States. The leases south of Broome are multipurpose leases, not grazing leases. Although I was advised today that they were grazing leases, they are multipurpose leases and that is why they are included in the schedule list.

In the recent decision in Hayes v Northern Territory, brought down on 9 September 1999, Justice Olney considered agricultural leases, and dealt with the leases around Alice Springs one by one. The stated purpose of lease AL 423 is mixed farming and grazing, and it is not on the schedule list in the Northern Territory. Justice Olney found -

> Two Agricultural (Mixed Farming and Grazing) Leases each numbered AL 423 were granted in perpetuity for the purposes of "mixed farming and grazing". The first was granted on 3 October 1944 over an area of slightly more than 46 acres. It was later cancelled and a second lease was granted on 28 June 1954 for a term commencing on the same date as the original lease. The area of land was however reduced to a little more than 40 acres. By virtue of subclause 43(1)(a) AL 423 is not a Scheduled interest.

Therefore, it does not appear in the schedule. It further reads -

Each lease imposes obligations on the lessee . . .

(a) to stock the land with not less than a specified number of cattle or sheep;

(b) to progressively clear and cultivate specified areas of the land;

(c) to establish a home on the land within 2 years after the commencement of the lease, and subject to any exemption granted for cause shown, to thereafter reside on the land for a period of 4 months in each year; and

(d) within the first 4 years of the lease to enclose the land with a substantial fence.

On any view each lease demonstrates an intention to grant a right to exclusive possession and not being a mining lease each is a lease of the type described in section 23B(2)(c)(viii).

I referred to this earlier as any lease which confers a right of exclusive possession over any land or water. Justice Olney has not only stuck to the list in the schedule, he has also looked at leases not in the list, and found native title has been extinguished. We can possibly interpret from the list, which, although comprehensive, does not cover every type of lease. I would not call it conservative, but it does not cover everything. He went further than that list.

There are no questions about the leases in force, but some questions are raised in the Miriuwung-Gajerrong judgment about leases which expired prior to the Wik decision. The additional area of the State for which, under this Bill, we will confirm the extinguishment of native title is 0.05 per cent - one-twentieth of one per cent of the area of Western Australia. The Queensland Government, under Premier Beattie, whom the Leader of the Opposition praises, extinguished native title on 22 per cent of that State. The affected area in this State is nothing like that figure. Premier Bob Carr wanted to include all the grazing leases in western New South Wales, a vast area. Who made him take that out of the legislation? It was the Federal Government. The area to be extinguished in Western Australia is minuscule compared with what has happened in other States. The effect of my proposed amendment will be to leave out five times that area; that is, leases that have expired where native title can possibly be established. That will be left to the courts to determine. I will go over that at the committee stage.

I will now address a few points raised during the debate. Hon Tom Stephens referred to the footprint at Kununurra; he talked about the adjacent land. Last year I had a bit of an argument with him because of the change in the interpretation of the Australian Labor Party amendments. In his comments earlier in the debate, he said that he got that wrong. Because I was excluded from the deliberations on those amendments, I was not to know that the position had changed, or why. I got pretty angry when I heard two completely different interpretations of the footprint on a public work on a lease. I was even more angry when there was reference to legal advice which I had not seen.

I do not think Hon Tom Stephens or the committee contemplated section 251D of the Native Title Act when they were working on some of their amendments. It states -

Land or waters on which a public work is constructed, established or situated

In this Act, a reference to land or waters on which a public work is constructed, established or situated includes a reference to any adjacent land or waters the use of which is or was necessary for, or incidental to, the construction, establishment or operation of the work.

It appears to me that section 251D would certainly pick up the adjacent land on many public works, particularly railroads and the land in rail corridors, if not hospitals, schools and similar areas. That whole issue has been ignored.

Hon Tom Stephens rather vaguely referred to some special leases in the Pilbara but was very coy about naming any. I put it to Hon Tom Stephens that there is no title in this State that cannot be validated. I am fairly certain that he is much mistaken about these special leases. In the Legislative Assembly the Labor Party had only one speaker on this issue, and in my opinion it let this go through. Eric Ripper did not seem to understand that the validation and confirmation of extinguishment on those special leases had already occurred. To my knowledge, all those places in the Pilbara are on pastoral leases, not on vacant crown land. I am not sure exactly what Hon Tom Stephens is referring to. The vast majority of the mines and towns are on pastoral leases, so I do not think it is such a big problem.

My proposed amendment will remove from the confirmation of extinguishment package land on the Burrup Peninsula at Hearson Cove. That could be extinguished now. My amendments ensure that the extinguishment is not confirmed. That is being left for the courts to decide and I have no doubt what the Full Bench of the Federal Court will decide. I shall be surprised if much of the Miriuwung-Gajerrong appeal material gets to the High Court. I may be wrong, because there is not always consistency in these matters. In the original Mabo decision, the fish processing factory lease was found to have extinguished native title and the lease was a qualified lease. Under that lease the native title owners were allowed to continue to crop, farm and fish on that lease. Yet the High Court found it had extinguished native title on that area. How can that be reconciled with where we are now? We have gone through the revival of native title on freehold land. In the Miriuwung-Gajerrong case, we are talking about revival of native title, when the Act is quite explicit. It is risky on my part to predict what the Full Bench of the Federal Court might decide.

When the Miriuwung-Gajerrong decision came down, Eric Ripper, the Deputy Leader of the Opposition in the Assembly, stated categorically on a number of occasions that the Australian Labor Party would appeal the decision. It is not proper for Hon Tom Stephens to suggest that this Government is being unreasonable in appealing the decision. Perhaps he can talk about the grounds for appeal, but not the appeal, because the Labor Party would have appealed. Miriuwung-Gajerrong is

a radical decision. It follows the Canadian line of law. The Hayes v Northern Territory decision of Justice Olney at Alice Springs follows the High Court line. What will come of it, I do not know.

The debate and the division we have had over this issue has been totally unnecessary. I do not know that it has been deliberate. Many of those who make public statements about native title have no idea of the legislation and the judgments. Very few people have read the major judgments on native title. They are speaking from a position of ignorance, although I do not doubt that they believe what they say. However, it is a case of a little knowledge is a dangerous thing.

I have gone through the legislation, and it is crystal clear that native title has been extinguished on these leases by the operation of the Native Title Act. This legislation confirms that extinguishment. My amendment will exclude all the leases that expired before the Wik decision; they will be left to the courts to decide. My guess is that when they look at the definition of the term "extinguishment", the courts will find that native title is extinguished on those leases.

I will support the Bill. I hope it resolves much of the unnecessary division that has occurred and that we can move on to tackle some of the real problems facing the Aboriginal people.

HON HELEN HODGSON (North Metropolitan) [3.34 pm]: I am very sad we are revisiting this debate today. We had this debate last year and members made their views very clear. I was in a very small minority in the Chamber last year because I did not believe in the principle of extinguishment in a statutory sense; I believed the issue should be left to the common law. The numbers did not go that way and we arrived at the compromise outcome, which has become colloquially known as the "mini schedule". That compromise means that extinguishment occurred on a large proportion of the land available but excluded agricultural, pastoral, residential and community purpose land and other leases. That is what we are debating here today.

It is unfortunate that the change in the composition in this Chamber means that we have had to revisit this issue. It would have been far cleaner had the vote gone this way a year ago; we would have dealt with it once and for all. It is interesting to hear Hon Mark Nevill's comment that he believes it should be taken off the agenda. That could have happened last year if it were not for the way party discipline applied at that time. However, this is not the right way to go today.

I have had the opportunity of looking at some of the impacts of the legislation as it has applied in the past year. The amendments before us today will affect that further. Essentially, extinguishment of native title now results from a freehold grant, a grant of a lease where at common law such a grant has been determined to extinguish certain specific leases, which include conditional purchase leases, perpetual war service leases, and commercial, residential and exclusive pastoral or agricultural leases but only where the lease was in force on 23 December 1996, and public works but only where the public works still existed at 21 December 1996, and extinguishment does not extend to land that is incidental to the public work. That is the outcome of the debate in this place last year. I hope that summary is more or less correct. Obviously there are some detailed technicalities which would take far longer than my 45 minutes to go into, so I am very much working with generalities at the moment.

The legislation before us seeks essentially to return us to the legislation as it was originally introduced last year in the other place. The current Bill is founded on some fundamentally wrong assumptions as to what extinguishes native title at common law. Having had the benefit of hearing Hon Mark Nevill's comments on what he considers extinguishment to be under the Native Title Act, I think there is a serious issue here, which is a very technical legal point that I think even lawyers will still be arguing over. Hon Mark Nevill's perception is that extinguishment occurs under the Native Title Act and that, therefore, we are confirming in this Parliament the extinguishment that has already taken place under the federal legislation. That is not my understanding of the scheme. Essentially, the Federal Government does not have any constitutional ability to deal with lands. Therefore, this Bill cannot extinguish native title. The second reading speech refers to confirmation of extinguishment. The only extinguishment that we can confirm in this place is one that has already occurred through common law, not one that the Federal Government has imposed.

The Select Committee on Native Title Rights in Western Australia last year received evidence on some of these matters. It received evidence from Mr John Clarke as to the methodology which led to the compilation of the schedule of interests that was brought to this place. The principle was essentially intended to be that the Government would look at the different types of existing leases, consider whether it believed that extinguishment had occurred and add those leases to the schedule. Paragraph 5.1.4 of the report of the select committee sets out the evidence of Mr Clarke. Hon Giz Watson asked him whether exclusivity in terms of exclusive possession had been amended in the light of the recent Federal Court decision, which of course is the Miriuwung-Gajerrong decision. Mr Clarke responded -

> No. Clearly there is some inconsistency between the nature of exclusivity as understood by both the Commonwealth and Western Australian Government and the recent decision and that inconsistency will remain until such time as there is either repeals or there is further litigation to settle the issue beyond doubt.

I can qualify that evidence by saying that it was given in the early days after the Miriuwung-Gajerrong decision. At that stage we were all struggling to come to grips with it. However, it is absolutely clear in everything that has developed since that the understanding arrived at when the schedule of interests was originally developed in the discussions between the State and Federal Governments and their various officers, was based on the understanding of the common law at that time. The Miriuwung-Gajerrong decision went beyond that understanding of what conferred exclusive possession. The judgment in the appeal to that Miriuwung-Gajerrong decision has not yet been handed down, so we do not know the final outcome, but my point is that we are not confirming extinguishment based on what the Federal Government has done but on common law, which is supposedly the basis of what the Federal Government then did.

Now we have discovered that there is a difference between common law and the original basis on which the Federal

Government was operating. For those reasons the extinguishment that is being confirmed in this Bill before us today goes beyond the intention of the legislation. The Bill assumes that exclusive possession is the criterion for extinguishment. This notion of exclusive possession is one that was discussed in the Miriuwung-Gajerrong case and it is clear that exclusive possession of itself does not extinguish native title. Exclusive possession is one of the criteria that must be taken into account when we consider whether native title has been extinguished. The native title select committee received evidence at the time that showed that exclusive possession was only one of the many factors that were taken into account in the Miriuwung-Gajerrong decision in determining whether native title had been extinguished. It is clear that is one of the very significant factors, but it is not the sole criterion.

The next point is that there is an assumption in the Bill before us that leases extinguish native title rather than simply suspend it. That point has been clear since the early days of Mabo. Where there is a lease, it is not necessarily inconsistent with native title.

I digress slightly to pick up on a point that was made earlier by way of interjection when the question of property rights versus native title rights came up. A member opposite took exception to the fact that Hon Tom Stephens referred to native title as a property right. It is clear that native title is one of the many categories of property rights that exist. I do not think that any lawyer would argue that that is not the case. We have tangible property, intangible property - there are so many different forms of property that I could not list them all here. There are also issues of how strong the form of title is. There are freehold titles, leasehold titles and conditional titles. Probably the weakest of all forms of title is native title. Native title exists, and it can coexist with many other forms of title, but it is a very weak form of title. However, it is unquestionably a property right. This is the reason the Federal Government incorporated in the 10-point plan and in the Wik legislation the requirement for compensation. Under the federal Constitution, if somebody's property rights are taken away he must be compensated. I was intrigued to hear the interjections earlier that suggested that native title is not a form of property. It is, although it is only a very weak form of property right, and when it comes to other property rights overlaying it, it is very easily extinguished.

Hon Derrick Tomlinson: Hon Tom Stephens was drawing a comparison between the rights of a member of this place over a property he owns and the native title rights of the Miriuwung-Gajerrong people.

Hon HELEN HODGSON: Was it that analogy that caused some distress at the time?

Hon Derrick Tomlinson: I think it was quite clearly so. Have a look at the debate; have a look at the context.

Hon HELEN HODGSON: It is clear that if property rights are taken, there is an expectation of compensation.

Hon Derrick Tomlinson: Mabo made that quite clear with regard to native title.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon HELEN HODGSON: I commented before question time on the place of native title rights in the scheme of things as a form of property right. I referred to one of the most misunderstood aspects of native title law which has made it possible for rumours to be heard and for fears to be held by members of the community. For example, discussion arises about the ability to claim people's backyards and to interrupt businesses, yet one finds that native title is so low in the hierarchy of property rights that such an outcome will be possible in only rare instances. That is why I have strongly resisted the idea of a statutory regime. Once common law works through, native title will grant to people the right to involvement, to be part of the decision-making process and to some form of compensation where rights are affected. However, native title will not stand up against freehold or many types of leases, as has been held in cases heard to date regarding native title. I strongly stand up for the rights of indigenous people not to have their form of title impeded in any way as it is not a strong form of title in the first place; it should be strengthened, not weakened.

Essentially, a common law vesting is not the equivalent of freehold title. The misconception that they are equivalent seems to form part of the basis for this Bill. The right to exclude others as a consequence of a vesting order was specifically rejected in the Miriuwung-Gajerrong case. Much of the refinement and extinguishment of native title on land proposed under this Bill is an overreaction to what is possible under the law as it stands.

At common law, public works extinguish native title where the use is inconsistent with native title and where the public works are permanent. Therefore, we need not go to the level of extinguishment that is proposed in this Bill. Extinguishment does not currently extend to land surrounding the public works or that land incidental to the works. The Bill would extend extinguishment to include adjacent land. I have been advised that the Bill would extinguish native title over large areas of land over which currently no common law rights to native title exist anyway. It also imposes further compensation issues on the State; namely, those compensation issues with which we are yet to come to grips. The measure would expose the State to further liabilities it may not otherwise be required to face because of a misconception about the extent to which native title has already been extinguished.

The lease and scheduled interests mentioned in section 23B(1)(c) of the Native Title Act, which is the linchpin to the amendments before us today, do not necessarily extinguish native title at common law. One of the biggest lessons from the Miriuwung-Gajerrong decision was that we must look at all the circumstances surrounding each title and each lease to determine whether native title has been extinguished. In the Legislative Council last year we attempted to develop a list which said that, in those instances, native title would have been extinguished. We tried to line up the common law, as it stood last year, with the extinguishment provisions that we were enacting. Regardless of whether I felt that appropriate, at that stage I took the line that if I could see defeat staring me in the face, at least I would try to minimise the harm; therefore,

I voted for the Labor Party amendments, although protesting at every stage. I felt it was better to have some protection, rather than none. I will adopt the same approach when a vote is taken regarding the proposed amendments of Hon Mark Nevill. I do not agree with the principle behind this Bill; however, in the inevitable event that it will be passed, I will adopt a harm minimisation strategy and say that we would rather see a little more protection, than have it removed altogether.

This Bill will extinguish grants on certain native title leases without any examination of the circumstances surrounding them. If we were to ignore the proposed amendment by Hon Mark Nevill, which we will deal with in committee, if a lease was granted 100 years ago and was never acted upon, and no activity took place on the ground, the issue of the lease under the provisions of this Bill would extinguish native title; yet at common law it has been held that that would not be extinguished. Further issues arise concerning the past tenure of land in Western Australia, and whether it is possible to identify all the leases that are affected if we start to look at historical matters. In that sense the proposal to look at leases that are current at a specific date has some merit; however, that whole principle is a real problem.

To go to the specifics: Earlier, when Hon Tom Stephens discussed his links with the Miriuwung-Gajerrong area - I respect his strong feeling - by way of interjection, the minister challenged him for details of parcels of land which were affected on which native title would be extinguished, which the Miriuwung-Gajerrong decision did not extinguish. I have some details of those leases, and I will go through them. First, there were some conditional purchase leases, and they are in the schedule. There are three leases in the Miriuwung-Gajerrong claim area: One became freehold, so it was extinguished; the second was outside the determination area, so it was also excluded; and the third was issued in 1910 to Connor Doherty Durack Ltd. It was never completed. It did not become a freehold grant. In January 1918 it was resumed for the use and requirements of the Government of the State. The decision of the Federal Court held that incompatibility may arise when statutory conditions precedent to obtaining a crown grant had been satisfied, or the land is used in an inconsistent manner; however, in this case, native title had not been extinguished by the issue of the conditional purchase lease.

The proposals before us today would extinguish title on that lease. Leases for cultivation and grazing are listed as interests under item 34(13) of the schedule. The purpose of a number of leases was to provide dry ground adjacent to irrigated land for the grazing of cattle in the wet season. Only one of those leases was current. The McGinty lease was one of the leases for cultivation and grazing. It commenced in 1992 for a term of 10 years. There was no cultivation on the land, the only structure on the land was a shed, and native title was not extinguished. The Von Hancock lease was for 10 years from 1971. The document was never issued and the lease was cancelled. There was no extinguishment. The Murphy lease was for the same period, it was irregular, and the only improvement was a dam and small trial plots of cattle feed. It was forfeited in 1980 for non-compliance and reverted to vacant crown land. There was no extinguishment. The Skoglund lease ran for 10 years from 1969 but there was no evidence of a lease being issued. The land reverted to vacant crown land when the lease expired. No legal interest was created but there was no extinguishment.

Under this Bill, in all those instances native title would be extinguished because they all come under one of the categories in the scheduled interests. Bearing in mind the findings at common law, it is inappropriate for native title to be extinguished in those circumstances. Another example is a market garden on which a special lease was granted for one year in 1904. It was cancelled in 1946 for non-compliance with the conditions. It did not extinguish native title, and yet it may be a scheduled interest under item 34(2) of the schedule. In the case of the canning and preserving works, again there was no extinguishment but it could be a scheduled interest under item 34(3) of the schedule. A special lease for a tourist resort may be a scheduled interest under item 34(13) if it qualifies as tourist accommodation and facilities. The lease was terminated and nothing had happened. Native title was not extinguished, but it would be under the provisions of this Bill. The list goes on. There are the jetty and boat launching facilities, the Argyle and Normandy mining leases, and a lease for a business and gardening area. There are a couple of others which may also be included, such as a lease for a tourist and travel stop facility and special leases for grazing purposes.

Those are specific examples of leases that were within the Federal Court determination area last year in the Miriuwung-Gajerrong case and would specifically be covered by this Bill in relation to extinguishment. I hope that answers the question of whether the Miriuwung-Gajerrong people would be affected by this further extinguishment. Clearly, they would be.

With respect to public works aspects, at common law public works extinguish native title where the use of the land is inconsistent with native title and is permanent. It does not extend to land which surrounds the public work or is incidental to it. The Bill seeks to extend extinguishment to adjacent land. A large part of the Miriuwung-Gajerrong determination area remains in an unaltered form. Substantial areas have been used for reserves and a large part remains vacant crown land. There is a strong likelihood that the public works clause would extinguish native title over a large part of these areas.

Having said all that, I firmly believe we should use the common law as the basis for this legislation. The second reading speech indicates that the Bill will confirm extinguishment. The extinguishment to be confirmed is the extinguishment that the common law provides. I appreciate that some legal technical arguments are yet to be had through the appeal process of the various cases and determinations currently in the court system. However, the way the law stands at the moment, if we intend to confirm extinguishment, we do not need to go to the extent of the Bill before the House because we confirmed extinguishment last year to the extent that the common law says extinguishment has happened. There are other reasons not to proceed any further with this legislation today.

Australia has been asked by the United Nations not to proceed any further with the extinguishment of native title. It is clear that today we are being asked to extinguish native title even further. I have an extract from a press release issued by the Committee on the Elimination of Racial Discrimination at the conclusion of its fifty-fourth session held in March this year. Australia has now faced the odium of being taken to the United Nations because of its treatment of its Aboriginal people. This press release covers not only Australia but also other model countries such as Bosnia, Rwanda, Kuwait, Mongolia and

the Kongo. I am not very proud to be in that company when it comes to the treatment of the rights of indigenous people. The press release states -

> In a decision on **Australia**, the Committee recognized that within the broad range of discriminatory practices that had long been directed against **Australia**'s Aboriginal and Torres Strait Islander peoples, the effects of **Australia**'s racially discriminatory land practices had endured as an acute impairment of the rights of **Australia**'s indigenous communities. It also recognized that the land rights of indigenous peoples were unique and encompassed a traditional and cultural identification of the indigenous peoples with their land that had been generally recognized.
>
> The Committee expressed concern over the compatibility of the **Native Title** Act, as currently amended, with **Australia**'s international obligations under the Convention. While the original **Native Title** Act recognized and sought to protect indigenous **title**, provisions that extinguished or impaired the exercise of indigenous **title** rights and interests pervaded the amended Act. The lack of effective participation by indigenous communities in the formulation of the amendment also raised concerns with respect to **Australia**'s compliance with its obligations under article 5 of the Convention.
>
> The Committee called upon the Government of **Australia** to address its concerns as a matter of utmost urgency. It also urged **Australia** to suspend implementation of the 1998 amendments and to re-open discussions with representatives of the Aboriginal and Torres Strait Islander peoples with a view to finding solutions acceptable to the indigenous peoples and which would comply with **Australia**'s obligations under the Convention.

This State Government has not heeded that call. I know that there is a question about whether the State Government is a signatory to the convention. If it were not, it would not be bound by it. I do not like that argument; we are a federation and, as such, we have entered into this agreement and the States and the Commonwealth should be equally bound by it.

It is clear that we have not entered into discussions with representatives of the Aboriginal and Torres Strait Islander peoples. From the discussions I have had with people in the indigenous community, it is clear that they have been offered no opportunity to negotiate about the further extinguishment of native title rights. Individual members may have been approached, but generally they have had short shrift from anyone with a view similar to that of the Government's.

Not only have we not suspended implementation of last year's amendments, but also we have now gone further, in that last year this Parliament limited their impact as best it could to ensure the legislation lined up with the common law. We are now being asked to go even further. That is in no way consistent with the spirit of what we were asked to do by the United Nations.

The Australian Democrats cannot support legislation that strips the rights of a section of our community based on their race; this is essentially racist legislation.

I will not digress too far because of its relevance, but an issue that has come up is the position of Aboriginal people in our society. In all the indicators of socioeconomic wellbeing, Aboriginal people are not scoring well in education, health, employment and the justice system. If one were able to chart them in some way, one would find that in all those areas Aboriginal people are among the worst scorers. What is happening here is another incidence of this.

In the past six months or so I have taken part in the Council for Aboriginal Reconciliation work on reconciliation. One of the things that continually comes up is economic issues and the need to make sure that Aboriginal people have an economic base. They do not want handouts and paternalism but a sound economic base. People must have something from which to start. Last year we stripped away a lot of the Aboriginal people's access to native title rights. We removed the right to negotiate over large tracts of land. Basically people must have something to start with before they can start to build an economic base. Land and native title rights are probably one of the areas in which Aboriginal people can start to develop an economy. It is not only because they are Aboriginal that this should happen but also because the areas of the State where native title has survived are remote areas without any infrastructure or industry. We must find a way to allow Aboriginal people to create employment, find a method of bringing some respect back to those communities, and set some goals that will allow them to move forward in the whole of the socioeconomic climate. As I say, we stripped a lot of that away last year. Today we are going further. We are sending a bad message to the Aboriginal community. We are saying that we will give them handouts but we will not allow them to have a say over land that is very important to them.

I was at a meeting in Geraldton on Monday, which was not specifically to do with native title, and someone made a comment which really struck me. A woman was referring to a family that had to move interstate because of domestic violence. She said that for a family to have to leave its tribal area was like ripping the soul out of them. A lot of us do not understand that, although we hear it. I do not pretend to have the same relationship with land as Aboriginal people have. However, I hope I can understand it even if I cannot feel it. We are now attacking the soul and roots of Aboriginal culture and Aboriginal people. We should be strengthening many things, but we should certainly be strengthening this because it is one of the few rights that Aboriginal people have at common law. We should be strengthening it to give them something to build on so that they may develop an economy and structure which will give them access to education, allow them to improve their health and bring all those aspects together. These strategies are being worked on nationally as part of the reconciliation process. However, we seek to take away the only thing that they have as an economic base, which is native title, which might assist them in starting to work their way through some of their current socioeconomic difficulties.

I hope that indigenous and non-indigenous people can work together on these issues. I have been working towards that through the reconciliation movement. However, it is very difficult for indigenous people to come to us with any feeling of respect or trust when they see what is happening at government level with the lack of consultation and the stripping away of their current rights. They would rather have their land than compensation and they want the right to say, "I will give up

my land in exchange for compensation". They do not want it simply stripped from them. They want the right to have a say over the protection of their land. I will explore these matters more fully in other legislation that has not yet reached us. I suppose that, as long as it is relevant to this Bill, I am at liberty to refer to the other legislation because it is not yet before another place.

One of the few things that attaches to native title as a property right is the right to be involved and to have a say in what is affecting the land to which one has native title. Aboriginal people demand that right and according to the proposals before this Parliament, it will be taken away from them. They hear the words "trust us" and they hear people say, "We will do the right thing by you; just give up all your rights first and then we will work with you." The total lack of consultation prior to this point has been such that there is no way they can trust the prospect of consultation. I am not surprised by that. If they have not been spoken to for 150 years over issues of land and property rights, what would suddenly make them feel confident that they will be consulted in future? They want a guarantee enshrined in legislation that they have the right and that is what the Aboriginal people were given with the right to negotiate. That is being whittled away.

This Bill goes further than the legislation did last year down a path that we should not have gone down. It does nothing to promote good relations between indigenous and non-indigenous people. It goes beyond what the second reading speech in the legislation provides for. It goes beyond confirmation of extinguishment and extinguishes titles that were never intended to be extinguished. I take that back; I think the Government always intended to extinguish, so the intention was there. However, the second reading speech says "confirmation of extinguishment". Extinguishment occurs at common law and common law does not go as far as the Bill before us.

I have cited a number of examples from the Miriuwung-Gajerrong decision whereby that has been held to be the case. I get fairly emotional about this issue. We are going the wrong way about dealing with this. There are ways of stimulating economic growth and of creating certainty without having to take this path. I find it rather distressing that we are yet again debating something that we fought so hard against last year and in which we were only partially successful. However, today we could go even further down the extinguishment path. I do not want to be part of that and therefore I will oppose the Bill.

HON GIZ WATSON (North Metropolitan) [5.03 pm]: Like Hon Helen Hodgson, I feel passionate about this issue. On behalf of my colleagues, I will oppose this Bill vehemently. As previous speakers have pointed out, we are revisiting legislation that we dealt with almost 12 months ago. At that point, the Greens (WA) strongly expressed the view that we see this attempt to extinguish native title by legislation as outright racism and therefore we can have no part in it.

It has been noted in the light of the potential outcome of this Bill that we are facing a different situation. We opposed entirely the original Bill and, although it was passed with amendments, we were not happy with it. In the intervening 12 months since the Government initially moved to pass legislation on confirming extinguishment, continual efforts have been made to prove that native title is bringing the entire State to a grinding halt. The Greens (WA) regard this kind of propaganda as nonsense. I realise that in this debate I must remain narrowly confined to the issue of the validation of titles proposed in the Bill. One of the issues mentioned this afternoon was the expectations of owners of freehold title versus the expectations of leaseholders. Clause 4 refers to extinguishment of native title in relation to the land or waters covered by the freehold estate, scheduled interest or lease concerned. It is obvious that the legal expectation of leaseholders is different from that of freehold title holders. As has been pointed out earlier, the co-existence of leaseholder rights and native title rights are not incompatible.

In terms of the politics of blaming all the woes in this State on native title, my observation in the past 12 months, as other members have pointed out, is that there has been a major shift towards consolidating and resolving claims, particularly in the goldfields. When we debated this issue almost 12 months ago, one of the key points raised was the scarcity of rental property in Kalgoorlie because of the dire consequences of native title. I have personal experience of that issue. My sister has had an enormous problem letting a property she owns in Kalgoorlie as there is an oversupply of rental properties there; something, therefore, has changed. I am sure that people in Kalgoorlie are much happier that the situation there has changed. However, to continue to blame native title for these issues just highlights the nonsense that the Government is trying to make out of this issue.

The extinguishment of native title rights by legislation, as Hon Helen Hodgson pointed out and with whom the Greens concur, is a breach of United Nations' agreements and resolutions. I note that the United Nations Commission on Human Rights has commented on the attitude of the Australian and State Governments and Territories. It has appealed to Governments and to the Australian community to hold off further paring away Aboriginal rights in this country. It regards very unfavourably Australia's deliberate policies and deliberate legislation which continue to erode the rights of Aboriginal people in this country. The Greens recognise that to say the Bill is racist is a very strong statement but it is a statement that is easily supported. A Bill that adversely affects only one group of people, its only interest being to dispossess that group's rights to its country - the group affected being Aboriginal people - is clearly racist. The Greens have no problem with native title being resolved under common law as one of the ways in which any outstanding disputes about native title can be resolved.

Of course, we have also said all along - it came out very clearly in my participation with the select committee on native title - that the whole approach, both as a State and as a Parliament, to issues of resolving native title is going down the wrong track. So long as we continue with approaches that involve litigation and legislation, proportionally little effort will go into resolutions such as regional agreements and negotiated settlements. The people have an enormous amount of hope that we can turn around the attitude to native title rights in this State and that we can go down a route more like that taken in Canada, which has processes of negotiation, treaties and regional agreements. If anything, the private sector has moved more in that way than has this Government.

The point has been made before and I will reiterate it: Members of this House should possibly contemplate what this Bill will do, which is extinguish the rights of a certain subsection of the Western Australian population. If the boot happened to be on the other foot, there would be absolutely no way we would pass this kind of legislation in this place.

I will backtrack a little to the legal history which has led to the point where we are debating this kind of Bill which seeks to extinguish native title on certain tenures. After the Mabo decision, the Native Title Act was passed. In that process there was an enormous amount of compromise and backing down by indigenous people in this country in trading off their historic rights for a say in future acts in relation to their land. Since the subsequent amendments to the Native Title Act were passed, we have seen a further paring away of those rights that were created under the Native Title Act. This is just another step in that process. The Leader of the Opposition has talked at some length about the Miriuwung-Gajerrong case. Those families and that community fought for 30 years to have their day in court and to have their rights and connection to that land recognised in law. As the Leader of the Opposition has pointed out, and I am equally distressed about this as he, we are in the process of passing this Bill - I assume it is a foregone conclusion that it will be passed - to take away the rights that took those people an enormous struggle and effort to obtain. I, for one, am ashamed about being a member of this Parliament and, unfortunately, being a party to that process.

The issue of consultation, or the lack thereof, was raised in the previous debate on the titles validation Bill in this House, and it is my understanding that there was even less consultation on this Bill. It is just par for the course, typical of the kind of attitude and approach of the Government to these matters. The idea of even having the courtesy to consult with indigenous people about a Bill that will fundamentally alter their rights has not occurred to it.

Hon Mark Nevill commented on native title and said that the Bill would not have any effect on Aboriginal people. He talked about their need for better health and education. I fully accept that Hon Mark Nevill has concerns about the welfare of Aboriginal people, and he is to be applauded for that. However, his comments indicate a fundamental lack of understanding about what the connection to country and the right to native title means to the Aboriginal people. As a member of the select committee on native title I listened to enough witnesses to have increased my understanding of the significance to indigenous people of the maintenance of their native title rights. The recognition and honouring of their native title rights is fundamental to many indigenous communities and to issues of self-esteem, potential economic wellbeing and all of the things that flow from that in terms of people's health, both psychological as well as physiological; the sense of empowerment those communities have, and also the sense that at last some of those injustices have been addressed and their rights have been recognised in law. It is completely wrong to say that Bills like this will not affect those communities in a truly profound way.

On 17 December last year, in the debate on the Titles Validation Amendment Bill, Hon Helen Hodgson quoted from a submission by the Aboriginal Legal Service of WA on the WA native title Bills. The quote reads -

> The Titles Validation Amendment Bill 1998 and the Native Title (State Provisions) Bill 1998 are the greatest attack upon the property rights of Aboriginal people since the Land (Titles and Traditional Usage) Act 1993. If this legislation is enacted by the Western Australian Parliament, it means arbitrary wholesale extinguishment of native title in some instances, and the diminishing of those native title rights and interests that remain. Would the Parliament contemplate dealing with the property rights of non-Aboriginal Western Australians in this matter? It is a sad indictment upon the Western Australian Parliament if, 169 years after colonisation, the legislature does not recognise, much less protect, the property rights of Aboriginal people of this State.

I also remind members of a comment that was made to the Select Committee on Native Title last year in answer to a question that I asked of Mr Patrick Dodson about the impact of the Titles Validation Amendment Bill, and how people would feel in the Kimberley. Again, this was recorded in *Hansard* and was part of my speech in the second reading debate in December 1998.

Hon N.F. Moore: That is a good source of reference.

Hon GIZ WATSON: It is in the report of the select committee if the Leader of the House wants me to refer to that; I just do not happen to know the page number in that report. However, I am more than happy to provide that reference if members would like it. It was easiest for me to refer to the *Hansard* which reads -

> As a member of the second Select Committee on Native Title, I heard what the likely impact of the passage of these Bills would be in the north west of the State, and in particular the Kimberley.
>
> The response of Mr Patrick Dodson was that the reaction of the community would be one of great anger, disappointment and distress.

Hon N.F. Moore: Which particular Bill is that referring to?

Hon GIZ WATSON: I am referring to the Titles Validation Amendment Bill, and basically this is just a section of that Bill.

The consequence of passing Bills through this House that have the effect of extinguishing native title, according to distinguished leaders in the Aboriginal community, will be the further dislocation of Aboriginal communities, more deaths in custody, and distress, anger and disappointment. I can only take their word for it. They are much closer to their communities, so they would know what the response of indigenous people will be to the likely passage of this Bill through this place.

I will not say much more on this Bill because it is a fairly clear-cut issue. As I said, the Greens (WA) have, since their inception, supported the aspirations of Aboriginal people for land and their rights to their country and to have a say in how their country is run and used. The Bill before us is a deliberate act of disfranchisement. Sooner or later it will bring Western Australia into further disrepute, and it will only enhance our reputation as a redneck and racist State.

HON KEN TRAVERS (North Metropolitan) [5.22 pm]: Mr President -

Hon N.F. Moore: This is a filibuster, is it, or are you an authority on the matter?

Hon KEN TRAVERS: I thought I would share my thoughts with the Leader of the House.

These Bills have been going through this Parliament for some time. Based on the actions of members opposite, I thought they would be happy to see that situation continue for a longer period, because they are keen to make this into a political issue out of which they will get some benefits, rather than deal fairly with people in Western Australia. We have previously in this House considered and passed a number of Bills that deal with native title and the validation or extinguishment of native title in Western Australia. It strikes me that it is a mean-spirited Government that would come back yet again for another bite of the cherry. However, in one sense it does not surprise me, because these attempts to come back time and again probably go back to about the 1850s when the squatters around Australia first started to try to lay full tenure claim to the land on which they originally squatted. That is the process by which the pastoral leases originally came into being, as well as a range of other leases which still exist today.

Hon Tom Stephens: There are some real shockers in New South Wales who embarked upon this. Some of their surnames are remarkably similar.

The PRESIDENT: Order!

Hon N.F. Moore: You are still fighting the class war, aren't you? Are you happy with your freehold title? Where do you reckon you got that from? Do you think it is some God-given right?

Hon KEN TRAVERS: I will address the issue that has been raised by the Leader of the House, but not at this stage. I will come to it in my own time in due course.

There has been a long history of people who originally squatted and then sought over many years to enhance their right to that title. However, it was clear for many years that there was a range of rights and a hierarchy coexisted over that land. It has been confirmed through the common law in the Wik decision and the Miriuwung-Gajerrong decision that that is the case. We now have another attempt by this Government to try to remove the rights of Aboriginal people. Only a mean-spirited Government would do that, particularly in view of the fact that a right of a superior nature will prevail over native title rights. Therefore, in most instances, the existing rights of people will be maintained. It is a case of coexistence, not of native title overriding other rights. It is therefore particularly nasty to then say to Aboriginal people that even though their rights are subservient to the existing leases on the land, they will lose any minor rights that may remain.

The Leader of the House made a point about freehold title. If we were seeking by an Act of Parliament to remove the property rights of anyone else, there would be an uproar. In the good old days when the Labor Party was a socialist party - we have probably moved a bit from that position in recent times - there would have been a hue and cry if we had tried to take away people's property rights and interests for the good of the community. However, this Bill seeks to take away the rights and interests of Aboriginal people, not for the good of the community in the main but for the good of individuals who have nothing to fear, because their rights and entitlements will remain in place.

Hon Tom Stephens: It is racist legislation.

Hon KEN TRAVERS: Absolutely. The Leader of the Opposition makes a good point. I suspect that when this Bill is filtered down, it will have little effect in the community. I suspect that the native title debate will continue to rage and that the Government will be inundated with compensation claims. The main thing that this Bill will do is harm the relationship between non-Aboriginal Australia and Aboriginal Australia. This Parliament will have shown a lack of faith. That is how it will be interpreted, because the people who own residential leases in Kalgoorlie, and the people who own a number of the other leases that are covered by this legislation, can continue in the way they want. The world has not stopped for them. Things have not changed in the way that members opposite would have us believe. However, we will be sending the symbolic message that it is okay to take away the rights and entitlements of Aboriginal people by a quick Act of Parliament.

This Parliament should seek to build a positive relationship between the Aboriginal and non-Aboriginal people of Western Australia. It should accept that native title exists. One only needs to scratch below the surface to see that part of the problem that we face is that many members opposite do not accept the principle of native title and have yet to come to terms with it. On a number of occasions I have interjected on members opposite to ask them that question, and I think on one occasion I almost received a response. It is clear to me that members opposite cannot accept and come to terms with the basic principle of native title. They still live in the world of terra nullius and refuse to accept native title. Therefore, a Bill like this that extinguishes native title is no problem to them. They are happy to accept it, because they do not believe that native title exists in the first place. If they did, they would be joining members on this side in opposing the Bill. I suspect they would do so if any other form of title were involved; they would be coming out of their shells to oppose it.

I will make some comments about the Miriuwung-Gajerrong case because it moved this debate forward from where it had been previously under the Wik decision. It was clear in the decision of Justice Lee that for extinguishment to be affected by the granting by the Crown of tenures to third parties, three conditions were required to be satisfied. They were a clear and plain expression of intention by the Parliament to bring about extinguishment in that matter; an act authorised by the legislation which demonstrates the exercise of permanent adverse dominion; and actual use must be made by the holder of a tenure other than native title which is permanently inconsistent with the continued existence of native title. If we adopt those principles - and they were adopted in the Miriuwung-Gajerrong claim - it is clear that native title has not been extinguished in a range of leases included in this legislation. This relates to a lease to the Commonwealth for an agricultural

research station for 50 years, to special leases for cultivation and grazing, and to special leases for market gardening and for canning and preserving works for 10 years with no evidence of works or improvements. If this Bill is allowed to pass, we will see those things overturned. As a Parliament, we will be going beyond the common law contrary to what members on the other side would have us believe we are doing with this Bill.

It strikes me that a range of furphies have been offered to us in a number of other areas. One is that somehow native title will stop people expanding when they have lease arrangements for their land. As I understand the legal position, if their lease provides for that, their interests will not be at risk and they will be able to maintain and carry out the actions for which they were originally granted the lease and that includes public works. However, one must ask what will happen where land or water adjacent to public works is in a natural bush state and native title may exist - will that native title right remain if this Bill goes through? It would not hold up any further development if it was part of the original intention of the public works but it would remove the rights of people who have a native title right. I continue to emphasise that native title is in the bottom order of rights in terms of what it entitles people to do. That native title right would immediately be removed from the traditional owners of the land in that area.

I find it particularly difficult to be in this House and watch this piece of legislation go through. It will set back the process of reconciliation in Western Australia by some considerable degree. We will undermine the work done to try to rebuild trust and goodwill. We will see an obliteration of Aboriginal culture and traditions. I suspect that at some point down the track, Western Australia will stand condemned for its actions by not only other Australians, but also the international community.

Hon Giz Watson: We already do.

Hon KEN TRAVERS: Hon Giz Watson is probably right. Our society faces difficulties in its relationships. Passage of this legislation will lead to a range of other problems. Extinguishment of native title will be a gesture which leads to great social unrest in our community, and a continuation of the difficulties faced and alienation experienced by Aboriginal people. That unrest will transpose, unfortunately, into problems within our broader society in criminal and other spheres. Although this Bill might seem minor to members opposite, I ask them to reflect on its long-term implications for Aboriginal people. I also ask members on this side of the House who are encouraged to vote for the legislation to think about its long-term implications. It will take a long time for a Bill on this matter to return to Parliament, and this opportunity for positive symbolism will be gone. That is why this is particularly mean-spirited legislation.

I have been unable to follow this Government's position. I cannot see what this legislation will ultimately achieve in the overall scheme of things. Native title is subservient to existing leases. Areas will not be subject to the registration test where it is confirmed under common law that native title is to be extinguished. People who have successfully put their native title claims through the registration test, particularly in the Kalgoorlie area, have made it clear to owners of leases that their land is not to be the subject of the claim. Aboriginal interests in such land have shown goodwill and made gestures to try to advance the debate. Nevertheless, members opposite will throw that attempt at goodwill out the door, and propose extinguishment of that native title.

If this Bill were not to pass, the effect would be limited in the day-to-day mechanics of the world. Also, if the Bill were to pass, its effect would be very limited. I refer to the symbolism and the bigger picture, which is why Labor Party members oppose this legislation. I also urge former members of the Labor Party to oppose the legislation. People can get bogged down in the nitty-gritty detail of the legislation and say it is good or bad; however, we must take a step back and look at the long term implications of it, and I have no doubt what they will be. I urge members in this place to oppose the legislation, and to ensure the 1 300 leasehold titles covered by it are not removed until it is clearly shown under the common law that native title has been extinguished, if that is the case. This legislation will merely give rise to litigation in the courts as people try to seek compensation or something else for the rights that will be taken away from them. I remind members that people have a right in title. If we were debating the issue of arbitrarily taking away leasehold or freehold rights in title from people, I suspect members opposite would be up in arms. Given some of the recent planning legislation and actions of this Government, I am sure that will be a major problem. With those comments, I urge members to oppose the Bill.

HON E.R.J. DERMER (North Metropolitan) [5.41 pm]: The Opposition is very concerned that this Bill should be presented yet again. Clearly, with goodwill and understanding, there was an opportunity for questions relating to native title to be answered and a basis found for negotiation between those who hold native title and the rest of the people in the community.

Several members interjected.

The PRESIDENT: Order! If a member moves that we sit past six o'clock, we can go on debating this issue forever. Let us not worry about time constraints. At this stage, I am unsure of who is running the show. There are comments going across the Chamber as to who is doing what. At the moment Hon Ed Dermer has the call, and he has nearly 44 minutes left in which to speak.

Hon E.R.J. DERMER: The most important point is this: With goodwill there is an opportunity for all Western Australians to advance the issue of native title. Goodwill is required immediately from those in the mining industry, the resource industry in general in Western Australia and the holders of native title. The Labor Party understands the need for progress for both the Aboriginal people in their claims and the resource industry generally. We look forward to a cooperative basis for negotiation that will allow for the future progress of all Western Australians, including Aboriginal Western Australians. On this basis, it is important that the proposal put forward by the Government be stopped. We will be resolute in moving to ensure that is the case.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.43 pm]: I thank members for their contributions to

this debate, the comments during which we have now heard on three occasions. It is a pity that some members chose to speak in a far broader context on native title than that to which this Bill happens to relate. Although I acknowledge that some members feel emotional about this issue, that is no excuse for their ignoring the fact that this Bill is quite specific in its intent. We have heard these very emotional speeches on many occasions in the past, but that is not to denigrate in any way the view members might have. It is important on an occasion like this to consider what the Bill seeks to do in the context of the whole native title debate.

I had hoped to find time tonight to go through most of the issues raised by members. I have about 10 minutes in which to do so, because I would like a vote to be taken on the second reading before six o'clock when the House is due to adjourn. I will quickly go through some of the matters raised, in the hope that I will cover most of them, but if I do not no doubt there will be another opportunity at another time. I suspect most of them have already been covered in previous debates.

Hon Tom Helm said that he was trying to convince members on this side of the House; I think he would have more chance of convincing those on this side than those on his side of the House because we all know the Labor Party is in absolute turmoil on this issue. The Leader of the Opposition, Dr Gallop, found himself in very difficult circumstances in the Legislative Assembly, and was unable to muster a full contingent to vote on this Bill. I suspect there is serious division in the Labor Party on this matter. That is a pity.

Hon Tom Stephens: You should worry about yourself, not us.

Hon N.F. MOORE: I do worry about the Labor Party because it is the alternative Government. That really worries me, and it worries most people. The Leader of the Opposition in this place should be grateful to Hon Mark Nevill for getting him off the political hook on this matter. I want to dispel once and for all the suggestion that somehow or other the Government sniffed the political wind when Hon Mark Nevill indicated his support for this Bill and, therefore, decided to introduce it. When the previous legislation was passed, albeit in an amended form, the Government said it would accept the amended Bill from the Legislative Council and proclaim it, but that in the next session of Parliament it would reintroduce the Bill now before the House to deal with the 1 300 leases. That was said before the Government had any indication of what Hon Mark Nevill might do. Any suggestion that the Government is taking advantage of a change of political circumstances is totally wrong. We have always recognised the need to pass this Bill to deal with the 1 300 leases.

Hon Tom Stephens talked at great length, as usual, about a range of issues, most of which had nothing to do with this Bill.

Hon Tom Stephens: That is a reflection on the Chair.

The PRESIDENT: Order! The Leader of the Opposition asked members to give him the respect of not interjecting so that he could get his message across. I ask him to extend the same respect to other members.

Point of Order

Hon TOM STEPHENS: It is inappropriate for the Leader of the Government to reflect on the Chair by suggesting that you, Mr President, would have allowed me -

The PRESIDENT: It is not a point of order.

Hon TOM STEPHENS: Yes it is.

The PRESIDENT: Order! I am telling Hon Tom Stephens that it is not a point of order, and if he wants to dissent from my ruling, he should get up and dissent.

Debate Resumed

Hon N.F. MOORE: The Leader of the Opposition suggested that we should try to avoid litigation, and then proceeded to say that we should leave all the decisions on these matters to the courts. I do not understand why he does not accept that Parliaments can make decisions for the people within their jurisdiction. It is competent for this Parliament to make decisions about these matters; it already has made decisions about a range of different leases. For some reason the Labor Party supported the confirmation of extinguishment of native title over war service leases. It had no problem with that, because politically it would be in deep trouble if it had not. However, for some strange reason it extracted these 1 300 leases from the schedule and would not allow confirmation of the extinguishment of native title to go through this House. Members of the Labor Party are blatant, absolute hypocrites on this issue, and I am sure that tomorrow they will be pleased that this legislation has been passed. At last those 1 300 leaseholders will have some certainty about the future of their properties. They have property rights too, and this Parliament is making a judgment about those different property rights. It is interesting, however, that the Leader of the Opposition is of the view that we should spend more time in the courts. The big winners so far in the whole native title debate have been lawyers.

Hon W.N. Stretch: Particularly Labor lawyers.

Hon N.F. MOORE: I do not know who they are. I know only that they are lining their pockets from both sides of the argument, and the longer these cases spend in the courts, the more money they make. It was fascinating to read in *The Australian* the other day about an Aboriginal group in the Northern Territory which has lost lots of money. We were told how much money was consumed by white lawyers and accountants who creamed the organisation. A particular example was that in the six months before this organisation went into liquidation, it spent $800 000 on external professional advisers. That is the sort of money we are talking about. Huge amounts of money have gone into Aboriginal organisations and have been creamed off by white lawyers. Native title is a gravy train for white lawyers. Any suggestion that we should keep letting the courts decide these issues will mean that we continue to line the pockets of those lawyers. It is about time the

Parliaments made some decisions about these matters and started to put into place what the public of Western Australia and Australia want.

Hon Mark Nevill put his position and indicated that he will move an amendment to exclude historical leases. That is not the Government's preferred position, but it will consider his amendment at the committee stage. At present, the Government is of a mind to accept it.

Hon Helen Hodgson talked about the federal Act not extinguishing native title. That is correct; it is for the State Parliaments to do that. For the benefit of the Labor Party I point out that it has been done in Queensland, New South Wales - both Labor Party Governments -

Hon Tom Stephens: As part of a package.

Hon N.F. MOORE: - Victoria and the Northern Territory. We are seeking to do the same thing, and for some reason the Labor Party here, led in this Chamber by Hon Tom Stephens, continues to oppose it. The Government is seeking to do in Western Australia what has been done in virtually every other State of Australia.

Hon Helen Hodgson then talked about the odium Australia has faced in international forums and said that we treat Aboriginal people badly. The member might care to read an article in *The Australian* of Tuesday, 9 November. It refers to an organisation in the Northern Territory which has been controlling land under the Northern Territory land rights legislation and which has now gone broke. The article states -

> Nowhere in the nation are there Aboriginal people who should be more prosperous, but who are so demonstrably poor. In the past 20 years, about 300 Aborigines in Kakadu have received more than $50 million in mining royalties -

Hon Tom Helm should take note -

> - and asset profits. Traditional owners have also received more than $3 million in lease payments, fees and commercial activities from Kakadu National Park.
>
> But despite the considerable royalties, rent and lease payments, park fees, asset income and government assistance, the Jabiru region, 250km east of Darwin, has the highest level of homelessness, the highest proportion of social security recipients and the highest proportion of people on annual incomes of less than $12,000, of all Aboriginal and Torres Strait Islander Commission regions.

There is a message in that. Significant royalties are going to Aboriginal organisations from mining companies and a large amount is being spent by Governments. At the end of the day, it is not achieving the desired purpose. The problem lies in ensuring that that money addresses the problems faced by Aborigines. We should not be sitting back here and saying that, because some group in the United Nations thinks we do not care, we should all hang our heads in shame. This country does much to assist its indigenous people. Regrettably, for reasons that we all know about, it is not succeeding. Something must be done about that, but handing over land is not the solution.

That is not only my view; it is also the view of Bob Collins, a former Northern Territory Labor senator. He is quoted as follows in the same article -

> Former Labor senator Bob Collins, who is now a member of the Gagudju board, said a "social catastrophe" was occurring in the Northern Territory driven by illiteracy.
>
> "Twenty-five per cent of the Aborigines own 50 per cent of the Northern Territory's land, 80 per cent of its coastline, all of its adjoining islands, and are party to multi-million-dollar agreements that they barely understand.

We are making a significant effort, but it is not working. Handing over money and land is not achieving the end that Hon Mark Nevill referred to; that is, it is not addressing health, education, literacy and housing issues. The money is going to all sorts of extraneous places and it is not benefiting the Aboriginal people.

The indigenous land fund spends $47m a year on the acquisition of land that is not able to be claimed under native title. That will be in perpetuity. I suspect that if we keep going, the indigenous land fund will buy the whole of Australia. That may satisfy some members opposite.

Members opposite would have us believe that we are in some way overturning the decisions of Justice Lee. That is not so. Justice Lee found that native title existed on some leases in the Miriuwung-Gajerrong area because they were not granted validly in the first place, not because of the nature of the leases.

The amount of land we are talking about is several hundred hectares in a claim area of about 4 500 square kilometres. All the claptrap we have heard today about how this Bill is wiping out the Miriuwung-Gajerrong decision is absolute nonsense. It involves a couple of hundred hectares out of 4 500 square kilometres that has been determined to have native title by Justice Lee. That is another furphy we have had to endure today.

The Government will persist with this Bill. It has said that it will do it all along. It has always believed that this is the process to go through. It is our response to the federal law - it is as simple as that. The federal legislation went through the federal Parliament, I might add, with a lot of argument, but out of that came the federal law which we are seeking to implement in Western Australia. We will continue to do that to get some certainty into the question of native title in Western Australia. I commend the Bill to the House.

Question put and a division taken with the following result -

Ayes (13)

Hon Dexter Davies	Hon N.F. Moore	Hon Simon O'Brien	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Mark Nevill	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Max Evans	Hon M.D. Nixon	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Barry House			

Noes (12)

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

Pairs

Hon M.J. Criddle	Hon John Halden
Hon Peter Foss	Hon Christine Sharp
Hon Ray Halligan	Hon Kim Chance
Hon Murray Montgomery	Hon Bob Thomas

Question thus passed.

Bill read a second time.

House adjourned at 5.58 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOLDFIELDS, AERIAL COLOUR PHOTOGRAPHS

25. Hon TOM STEPHENS to the minister representing the Minister for Lands:

I refer to the aerial mapping photography project for Western Australia, of which panairama forms part, and ask -

(1) Will the Minister take steps to ensure that the panairama project is moved to colour aerial photographs of the Goldfields, available on CD-Rom, to assist prospectors and others involved in mineral exploration?

(2) If not, why not?

Hon MAX EVANS replied:

The Department of Land Administration had recommended the change to colour aerial photographs of the Goldfields region, to the WA Land Information Council at its meeting on 21 October. Further information was required by the Council (and has been provided) for consideration at its next meeting on 17 November 1999.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

162. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Resources Development:

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Resources Development's portfolio can the Minister provide the following information -

(1) How many of their business systems are at risk to the Millennium Bug?

(2) How many of their business systems have been recently converted, upgraded or replaced?

(3) How many of their business systems have been certified and tested as Year 2000 compliant?

(4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?

(5) How many of their customers and suppliers are Year 2000 compliant?

(6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?

(7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?

(8) How much has been budgeted for the work to be done?

Hon N.F. MOORE replied:

Western Australian Government agencies have been required to report quarterly until August 1999, but are now required to report monthly to the Department of Commerce and Trade as to their Year 2000 readiness. These reports are web based and provide direct advice from the agencies and report the responses to specific questions. No modelling or derivation or weightings are applied to the results. Thus the Government is not altering in any fashion the responses of the agencies. Accountability for this issue lies between the Minister and the CEO through legal requirements and performance contracts.

(1)-(3) Each agency is singularly responsible for its own Year 2000 remediation program. Agencies are not required to report at this level of detail.

(4) The Premier has instructed all agencies to treat this as a priority and this aspect of agency activity is included in each Chief Executive Officer's performance agreement.

(5)-(6) See (1)-(3) above.

(7) In accordance with the Premier's direction, all agencies are developing Year 2000 remediation plans and reporting accordingly.

(8) As of 30 June 1999 the across government budget for Year 2000 remediation totalled $173.5 million.

The Minister for Commerce and Trade would be pleased to arrange a briefing from officers of the Department of Commerce and Trade who can explain the Government's approach to this issue in more detail.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

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

I refer to the Year 2000 Industry Awareness Campaign coordinated by the Department of Commerce and Trade. For each department or agency in the Minister for Energy's portfolio can the Minister provide the following information -

(1) How many of their business systems are at risk to the Millennium Bug?

(2) How many of their business systems have been recently converted, upgraded or replaced?

(3) How many of their business systems have been certified and tested as Year 2000 compliant?

(4) Is each department or agency in the Minister's portfolio treating the Year 2000 problem as an issue critical to their survival?

(5) How many of their customers and suppliers are Year 2000 compliant?

(6) How many of the companies awarded contracts by each department or agency in the Minister's portfolio are Year 2000 compliant?

(7) Does each department or agency in the Minister's portfolio have a plan to manage their Year 2000 effort?

(8) How much has been budgeted for the work to be done?

Hon N.F. MOORE replied:

Western Australian Government agencies have been required to report quarterly until August 1999, but are now required to report monthly to the Department of Commerce and Trade as to their Year 2000 readiness. These reports are web based and provide direct advice from the agencies and report the responses to specific questions. No modelling or derivation or weightings are applied to the results. Thus the Government is not altering in any fashion the responses of the agencies. Accountability for this issue lies between the Minister and the Chief Executive Officer through legal requirements and performance contracts.

(1)-(3) Each agency is singularly responsible for its own Year 2000 remediation program. Agencies are not required to report at this level of detail.

(4) The Premier has instructed all agencies to treat this as a priority and this aspect of agency activity is included in each Chief Executive Officer's performance agreement.

(5)-(6) See (1)-(3) above.

(7) In accordance with the Premier's direction, all agencies are developing Year 2000 remediation plans and reporting accordingly.

(8) As of 30 June 1999 the across government budget for Year 2000 remediation totalled $173.5 million.

The Minister for Commerce and Trade would be pleased to arrange a briefing from officers of the Department of Commerce and Trade who can explain the Government's approach to this issue in more detail.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

266. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Women's Interests:

For each department or agency in the Minister for Women's Interests' portfolio can the Minister provide the following information -

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

(4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

(1) The following information, on staffing numbers recruited in the financial years 1997/98 and 1998/99, refers to permanent full-time staff appointments.

(a) Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.
(b) 1997/98 – nil; 1998/99 – nil.
(c) 1997/98 – 4; 1998/99 – 4.

(2) External recruitment agencies are generally not used to fill advertised vacancies in the Level 1 – 8 range. Of those staff reported in (1)(b) and (c), none was recruited with the aid of external recruitment agencies, although administrative support may have been provided by external contractors.

(3)-(4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

268. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Water Resources:

For each department or agency in the Minister for Water Resources' portfolio can the Minister provide the following information -

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

(4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon MAX EVANS replied:

Water Corporation

(1)

	1997/98	1998/99
(a)	Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.	
(b)	Nil	Nil
(c)	53	51

(2) Staff recruited internally – 78
Staff recruited by external agencies – 26

(3) The Water Corporation has been utilising a preferred supplier list for permanent and temporary placement where the services of an external agency have been employed. The preferred supplier list comprises of:

Select Appointments Pty Ltd
Adia Centacom
Clements Human Resource Consultants
Beilby Management Services
Drake Personnel Limited
Gerald Daniels Aust. Pty Ltd
Integrated Workforce
Price Waterhouse Urwick

In cases where the preferred suppliers were not able to provide the required services then the Corporation has utilised other providers.

(4) 1997/98 - $126,013.00
1998/99 - $40,443.00

Water Rivers Commission

(1)

	1997/98	1998/99
(a)	Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.	
(b)	Nil	Nil
(c)	71	64

(2) 135 internal; nil external

(3)-(4) Not applicable.

Office of Water Regulation

(1)

	1997/98	1998/99
(a)	Recruitment of Chief Executive Officers is managed by Public Sector Management – please refer to the answer given in response to question on notice 52.	
(b)	2	Nil
(c)	8	1

(2) All staff recruited into the Office of Water Regulation were recruited internally, no staff were recruited by external recruitment agencies.

(3)-(4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

276. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:

For each department or agency in the Minister for Family and Children's Services' portfolio can the Minister provide the following information -

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

(4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon M.J. CRIDDLE replied:

(1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – Please refer to the answer given in response to question on notice 52.

(b) 1997/98 8 vacancies advertised for term appointments.
1998/99 1 vacancy advertised for term appointment.

(c) 1997/98 186 vacancies advertised for permanent appointment.
1998/99 175 vacancies advertised for permanent appointment.

(2) External agencies were used for a variety of recruitment and selection related tasks for a number of advertised vacancies.

(3) Pedersen Consulting Group
HR Solutions (WA)
Morgan & Banks Ltd
McLeod McDonald Recruitment
C.P. Resourcing
APG Consulting

(4) 1997/98 $105,734
1998/99 $74,238

WA Drug Abuse Strategy Office and Family and Children's Policy Office are structurally part of Family and Children's Services and are included in this response.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

277. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Seniors:

For each department or agency in the Minister for Seniors' portfolio can the Minister provide the following information -

(1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -

(a) Chief Executive Officers;
(b) Senior Executive Service; and
(c) Level 1-8?

(2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?

(3) What are the names of the external agencies that were utilised?

(4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon M.J. CRIDDLE replied:

(1) The following information on staffing numbers recruited in the financial years 1997/98 and 1998/99 refer to permanent staff recruitments:

(a) Recruitment of Chief Executive Officers is managed by Public Sector Management - please refer to the answer given in response to question on notice 52.
(b) 1997/98 – nil; 1998/99 – nil.
(c) 1997/98 – 8; 1998/99 – 2.

(2) External recruitment agencies would not generally be used to fill vacancies in the level 1 – 8 range, but an agency was used at this time to assist the Office in a major restructure. Of those staff reported in (1)(b) and (c), seven (7) were recruited with the aid of an external agency.

(3) The company used to assist in staff recruitment and the Office restructure was Mason and Partners.

(4) 1997/98 - $10,000 1998/99 - $1,000.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

298. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Resources Development:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

(1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Resources Development's portfolio as of June 30, 1999?

(2) Does this represent a 10 per cent reduction from June 30, 1998?

(3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?

(4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?

(5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?

(6) How much of this will be paid out in money in lieu of leave?

(7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon N.F. MOORE replied:

(1)-(5) Circular to Minister No 5/98 requires all agencies to reduce their leave liability by 10 per cent *compared to the figure published in the 1998/99 budget papers* by no later than 30 June 1999. To make an accurate comparison it will be necessary to compare the actual employee entitlement figures for 1998-99 for each agency, as stated in their annual reports, which are currently being audited. The audited annual reports for each agency are tabled in Parliament in accordance with the *Financial Administration and Audit Act* 1985 and provide the relevant details. These figures can be compared with the estimated employee entitlement liabilities for 1998-99 that appeared in the 1998-99 Budget Papers. It is the responsibility of each agency to monitor its leave liabilities in accordance with this policy.

(6)-(7) The strategy outlined in Circular to Minister No 5/98 is aimed at reducing leave liability that has been incurred by the Government over many years, and is designed not to adversely affect the service delivery of agencies.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

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

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

(1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Energy's portfolio as of June 30, 1999?

(2) Does this represent a 10 per cent reduction from June 30, 1998?

(3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?

(4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?

(5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?

(6) How much of this will be paid out in money in lieu of leave?

(7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon N.F. MOORE replied:

(1)-(5) Circular to Minister No 5/98 requires all agencies to reduce their leave liability by 10 per cent *compared to the figure published in the 1998/99 budget papers* by no later than 30 June 1999. To make an accurate comparison it will be necessary to compare the actual employee entitlement figures for 1998-99 for each agency, as stated in their annual reports, which are currently being audited. The audited annual reports for each agency are tabled in Parliament in accordance with the *Financial Administration and Audit Act* 1985 and provide the relevant details. These figures can be compared with the estimated employee entitlement liabilities for 1998-99 that appeared in the 1998-99 Budget Papers. It is the responsibility of each agency to monitor its leave liabilities in accordance with this policy.

(6)-(7) The strategy outlined in Circular to Minister No 5/98 is aimed at reducing leave liability that has been incurred by the Government over many years, and is designed not to adversely affect the service delivery of agencies.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

310. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Women's Interests:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

(1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Women's Interests' portfolio as of June 30, 1999?

(2) Does this represent a 10 per cent reduction from June 30, 1998?

(3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?

(4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?

(5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?

(6) How much of this will be paid out in money in lieu of leave?

(7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon MAX EVANS replied:

(1)-(7) Please refer to the answer given in response to question on notice 288 of 19/08/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

320. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

(1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Family and Children's Services' portfolio as of June 30, 1999?

(2) Does this represent a 10 per cent reduction from June 30, 1998?

(3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?

(4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?

(5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?

(6) How much of this will be paid out in money in lieu of leave?

(7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon M.J. CRIDDLE replied:

(1)-(7) Please refer to the answer given in response to question on notice 288 of 19/08/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

321. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Seniors:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 per cent by no later than June 30, 1999 -

(1) What was the average cost of leave liability per FTE in each department or agency in the Minister for Seniors' portfolio as of June 30, 1999?

(2) Does this represent a 10 per cent reduction from June 30, 1998?

(3) If not, what percentage reduction in leave liability was achieved in each department or agency in the Minister's portfolio between June 30, 1998 and June 30, 1999?

(4) When will each department or agency in the Minister's portfolio be able to meet the required leave liability reduction?

(5) How much does a 10 per cent reduction in leave liability equate to in number of days, for each FTE employed in each department or agency in the Minister's portfolio, that will have to be taken to reach the desired reduction?

(6) How much of this will be paid out in money in lieu of leave?

(7) Is any department or agency, or any section of it, in the Minister's portfolio considering closing down at any period in the next 12 months in an attempt to reduce leave liability?

Hon M.J. CRIDDLE replied:

(1)-(7) Please refer to the answer given in response to question on notice 288 of 19/08/99.

DERBY-WEST KIMBERLEY TIDAL POWER

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

(1) For what precise reasons was the Derby-West Kimberley tidal power proposal not included amongst the preferred suppliers list for further consideration and negotiation with Government?

(2) Will the tidal power proponents be advised by Government as to the precise nature of the shortcomings in their tender proposal that has seen them relegated to a reserve list?

Hon N.F. MOORE replied:

(1) As the tidal project is still considered to be part of the West Kimberley Procurement Process it is inappropriate to provide precise reasons for its exclusion from the negotiation phase. However, all bids were assessed according to the published evaluation methodology. This included an assessment of the financial soundness and credibility of the bidder; an assessment of the proposed price of each bid compared against Western Power's benchmark costs; an evaluation of the proposal against published criteria such as quality and reliability of supply, project management capability, technical capability, environmental impact and community benefits; and an assessment of each proposal in terms of the economic value to the State and the region. On balance, when considering all aspects of the evaluation methodology, the Tidal Energy Australia proposal was not considered as favourable as the proposals put forward by each of the preferred bidders.

(2) Once the procurement process is completed, all unsuccessful bidders will be debriefed on their bids should they wish it. The two bidders excluded from further consideration as announced on 28 July 1999, sought and were separately provided a debriefing on 9 August 1999.

RENEWABLE ENERGY

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

Further to the answer given to question without notice 29, answered on Wednesday, August 11, 1999 -

(1) What are the current sources of renewable energy already in place in this State?

(2) In which are these sources of renewable energy being drawn upon for the production of power?

(3) How much power is generated from renewable energy sources at each of these locations?

Hon N.F. MOORE replied:

(1) The current sources include biomass (wood, municipal waste and sewerage effluent), wind, solar (photovoltaic, thermal and evaporative) and hydro.

(2) Power is produced from each of these sources. Some, like windmills driving pumps and timber used in fireplaces provide usable energy directly.

(3) The capacity of the larger installations includes the Ord Hydro at 30 megawatts (MW), Wellington Dam at 2 MW, Esperance Wind Farms at 2 MW, Denham Wind Turbine at 0.23 MW, Kalbarri Photovoltaic at 0.02 MW,

landfill gas totalling about 5.1 MW, and Woodman Point sewerage digestion at 1.2 MW. There are a large number of smaller installations across the State including remote area power systems at homesteads. A recent estimate by the Office of Energy of the total renewable energy contribution to primary energy production in the State is around 1% of the total, or 15 petajoules. A large part of that share of renewables is wood use for direct heating. The total amount of electric power generated currently from renewables in the State is estimated by the Office of Energy at around 93 gigawatt hours (GWh).

TIDAL POWER, LOCATIONS AND TIMING

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

Further to the answer given to question without notice 29 answered on Wednesday, August 11, 1999 -

(1) Is the Minister for Energy considering in planning for the future any sources of tidal power for use in the generation of power to meet the State's energy needs?

(2) If so, at what locations and inside what time frame could such a location be brought on stream?

Hon N.F. MOORE replied:

(1) The outcome of the West Kimberley Power Procurement Process in no way excludes future proposals based on sources of tidal power to meet energy needs in this State. Should the Tidal Energy Australia project not be successful in the current bidding process, this does not imply that the features and risks of that project necessarily apply to other projects based on tidal energy or that energy from tidal power should not be considered by either Western Power or others in planning future supply.

(2) The Minister is not aware that any other tidal power proposals are being advanced currently.

URANIUM MINING AND NUCLEAR WASTE STORAGE

331. Hon TOM STEPHENS to the Minister for Mines:

(1) Can the Minister confirm the claim by the Minister for Resources Development that up to 11 uranium mines could be operating in Western Australia within five years?

(2) If not, why not?

(3) Does the Government agree with the Minister for Resources Development that Western Australia could be host to an international nuclear waste storage facility if it became an exporter of uranium?

(4) If yes, why?

(5) If not, why not?

Hon N.F. MOORE replied:

(1) No.

(2) The Government has no knowledge of such a claim being made by the Minister for Resources Development.

(3)-(5) The Government has no knowledge of such a statement being made by the Minister for Resources Development.

GOVERNMENT CONTRACTS, CANCELLATION

339. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:

For all Government departments and agencies under the Minister for Family and Children's Services' control -

(1) How many contracts were cancelled in -

(a) 1996/97; and
(b) 1997/98?

(2) What project was the contract awarded for?

(3) What was the value of the cancelled contract?

(4) Who was/were the contractor/s?

(5) Were any costs incurred by the department or agency as a result of the contract cancellation?

(6) If yes, what was the cost?

(7) Has the contract been re-awarded?

(8) If yes, to whom?

(9) If no to (7) above, when will it be awarded?

Hon M.J. CRIDDLE replied:

Family and Children's Services

(1)	(a)	1996/97	5	(2 were cancelled (redesigned and re-awarded), 3 were relinquished by the Service Provider themselves).
	(b)	1997/98	11	(A total of 11 were relinquished by non-government Service Providers. Of these 11 contracts, ten were re-awarded and one was redesigned after relinquishment and then re-awarded).

(2)-(4) [See paper No 391.]

(5)-(6) Costs are associated with the selection of a new provider however this information is not individually collected.

(7) Contract reallocation and relinquishment gives the department the opportunity to target services within areas of increased need. [See paper No 391.]

(8)-(9) [See paper No 391.]

Office of Seniors Interests

(1) None.

(2)-(9) Not applicable.

Women's Policy Development Office

(1) None.

(2)-(9) Not applicable.

WA Drug Abuse Strategy Office

(1) None.

(2)-(9) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

397. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Women's Interests:

(1) For all Government departments and agencies under the Minister for Women's Interests' control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -

(a) 1994/95;
(b) 1995/96;
(c) 1996/97;
(d) 1997/98; and
(e) 1998/99?

(2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?

(3) If not, why not?

(4) If yes to (3) above, how much was spent on -

(a) electronic media; and
(b) print media, in -

(i) 1994/95;
(ii) 1995/96;
(iii) 1996/97;
(iv) 1997/98; and
(v) 1998/99?

Hon MAX EVANS replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 07/09/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

407. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Family and Children's Services:

(1) For all Government departments and agencies under the Minister for Family and Children's Services' control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -

(a) 1994/95;
(b) 1995/96;
(c) 1996/97;
(d) 1997/98; and
(e) 1998/99?

(2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?

(3) If not, why not?

(4) If yes to (3) above, how much was spent on -

(a) electronic media; and
(b) print media, in -

(i) 1994/95;
(ii) 1995/96;
(iii) 1996/97;
(iv) 1997/98; and
(v) 1998/99?

Hon M.J. CRIDDLE replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 07/09/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, INFORMATION TO PEOPLE OF NON-ENGLISH SPEAKING BACKGROUNDS

408. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Seniors:

(1) For all Government departments and agencies under the Minister for Seniors' control, what was the budget allocation for the provision of information to people of non-English speaking backgrounds in -

(a) 1994/95;
(b) 1995/96;
(c) 1996/97;
(d) 1997/98; and
(e) 1998/99?

(2) Have any Government or departments under the Minister's control utilised the services of radio 6EBA non-English print media as media to provide information for people of Cultural and Linguistic Diverse backgrounds?

(3) If not, why not?

(4) If yes to (3) above, how much was spent on -

(a) electronic media; and
(b) print media, in -

(i) 1994/95;
(ii) 1995/96;
(iii) 1996/97;
(iv) 1997/98; and
(v) 1998/99?

Hon M.J. CRIDDLE replied:

(1)-(4) Please refer to the answer given in response to question on notice 381 of 07/09/99.

MILK VENDORS, DISTRIBUTION ADJUSTMENT ASSISTANCE SCHEME

433. Hon HELEN HODGSON to the Minister for Transport representing the Minister for Primary Industry:

In respect of the final offer made under the Distribution Adjustment Assistance Scheme in July of this year -

(1) How many former milk vendors put a case to the arbitrator?

(2) What was the average additional payment made, or recommended to be made, to each former milk vendor after arbitration?

(3) Has the Minister for Primary Industry received a report from the arbitrator, either in respect of each claimant or a single report on the matter?

(4) If so -

(a) when; and
(b) will this report be made available to the claimants and tabled in this House?

Hon M.J. CRIDDLE replied:

(1) 14.

(2) $54,944 bringing the total amount to $6,067,367.

(3)-(4) The arbitrator has reported direct to the Dairy Industry Authority. Each report contains personal details of each distributor.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

512. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) Have any departments or agencies under the Minister for Family and Children's Services' portfolio awarded any contracts to -

(a) Australian Property Consultants; and
(b) Ross Hughes and Company,

since January 1, 1999?

(2) If yes, can the Minister state -

(a) the name of the contractor;
(b) the project the contract was awarded for;
(c) the date the contract was awarded;
(d) the value of the contract;
(e) whether the contract went to tender; and
(f) if the contract did not go to tender, why not?

Hon M.J. CRIDDLE replied:

(1) No.

(2) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF $500 000

531. Hon TOM STEPHENS to the Leader of the House representing the Minister for Commerce and Trade:

Can the Minister for Commerce and Trade provide the following details of land sales in -

(a) rural and metropolitan; and
(b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of $500 000 or more -

(i) name and location of the land sold;
(ii) date sold;
(iii) nature of sale and name of buyer;
(iv) the names of any non-Government agents involved in the sale;
(v) proceeds received from the sale;
(vi) associated revenue from the sale, such as stamp duty; and
(vii) any associated costs incurred in the sale process?

Hon N.F. MOORE replied:

Department of Commerce and Trade

There are two sales of land, both in the metropolitan area, that have occurred since 1 September 1998 which had a sale value of $500 000 or more. These are:

(1) Lot 15, Dick Perry Avenue, Technology Park, Bentley.

(i) As above.
(ii) 27 August 1999
(iii) CSIRO
(iv) Chesterton International and Kott Gunning
(v) $1,506,330.00
(vi) The State Revenue Department has advised that CSIRO is exempt from payment of stamp duty.
(vii) $43,670.00.

(2) Suites 2 and 3, Enterprise Unit 4, Technology Park, Bentley.

(i) As above
(ii) 30 April 1999
(iii) Curtin University of Technology
(iv) Chesterton International and Hammond Worthington Prevost
(v) $594,448.50
(vi) The State Revenue Department has advised that Curtin University is exempt from payment of stamp duty
(vii) $15,551.50.

GOVERNMENT DEPARTMENTS AND AGENCIES, LAND SALES IN EXCESS OF $500 000

556. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Family and Children's Services:

Can the Minister for Family and Children's Services provide the following details of land sales in -

(a) rural and metropolitan; and
(b) commercial and residential,

undertaken by departments and agencies in the Minister's portfolio areas, since September 1, 1998, which had a sale value of $500 000 or more -

(i) name and location of the land sold;
(ii) date sold;
(iii) nature of sale and name of buyer;
(iv) the names of any non-Government agents involved in the sale;
(v) proceeds received from the sale;
(vi) associated revenue from the sale, such as stamp duty; and
(vii) any associated costs incurred in the sale process?

Hon M.J. CRIDDLE replied:

(a)-(b) Nil.

(i)-(vii) Not applicable.

HOSPITALS, EXPENDITURE OF SPECIAL WAIT LIST FUNDS

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

(1) How much money, which was made available for special wait list patients to receive their operations, was spent up to June 30, 1999?

(2) Which hospitals received this money and how much did each receive?

(3) How many, and what type of operations, did each hospital perform?

Hon MAX EVANS replied:

$24,870,747 has been spent on elective surgery for the period 1 July 1998 to 30 June 1999.

Table 1 outlines the breakdown of the funds made available to specific Hospitals.

Armadale Health Service	$ 390,942
Avon Health Service	$ 128,408
Bentley Health Service	$ 536,187
Central Wheatbelt Health Service (Cunderdin)	$ 21,095
Fremantle Hospital	$6,492,963
Geraldton Health Service	$ 108,816
Joondalup Health Service	$2,947,105
Kalamunda Health Service	$ 102,460
Lower Great Southern Health Service (Albany)	$ 102,001
North Metropolitan Health Service	$ 874,065
Peel Health Campus	$ 474,180
Princess Margaret Hospital	$ 175,000
Rockingham/Kwinana Health Service	$ 658,184
Royal Perth Hospital	$3,699,720
Sir Charles Gairdner Hospital	$5,532,910
South East Coastal Health Service (Esperance)	$ 20,350
Swan Health Service	$ 617,556
General Practitioners Division of WA	$1,462,702
Central Wait List Bureau Operational/Patient Management	$ 526,103

(3) Table 2 provides a breakdown by Hospital by the type of operation performed.

Hospital	Cataract/Lens Replacement Surgery	Joint Replacement (Hips/Knees)	Other "Long-Wait" Surgical Priorities	Grand Total
Armadale	157		291	448
Albany	47		47	94
Bentley	169		17	186
Cunderdin	22			22
Esperance	51			51
Fremantle	328	279	477	1 084
Geraldton	20	11	135	166
Joondalup	94	90	1 172	1 356
Kalamunda	42		4	46
Northam	32			32
Osborne Park	366	3	114	483
Peel Health		29	7	36
Princess Margaret			7	7
Rockingham	243	2	124	369
Royal Perth	191	226		417
Sir Charles Gairdner	90	170	864	1 124
Swan Districts	29	1	121	151
Grand Total	1 881	811	3 380	6 072

DISTRIBUTION ADJUSTMENT ASSISTANCE SCHEME

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

With regard to the Distribution Adjustment Assistance Scheme -

(1) Since the last round of payments that were made following arbitration, what is the total amount of financial assistance that has been paid to vendors/distributors under the scheme, inclusive of schemes A, B and C, and all amounts paid subsequent to arbitration?

(2) What is the total sum of the revenue raised by the levy on milk that was imposed for the purpose of providing financial assistance to displaced milk vendors/distributors?

(3) Is the levy referred to in part (2) above still in operation?

(4) If so, does the Minister for Primary Industries have any plans for the levy to cease?

Hon M.J. CRIDDLE replied:

(1) $6,067,367.

(2) Part of the margin collected on the sale of market milk has been set aside in the Dairy Assistance Fund for DAAS arrangements. As at 31 August 1999, the total amount available in the Dairy Assistance Fund for DAAS was $6,898,529.

(3)-(4) The monies in the Dairy Assistance Fund raised by the margin on the sale of market milk will continue to be used for the benefit of the Western Australian Dairy Industry, and in consultation with the DIA.

METROPOLITAN HEALTH SERVICE BOARD, MR ANDREW WEEKS

640. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

(1) What is the total remuneration package for MHSB CEO Andrew Weeks?

(2) Does the package include a tax benefit derived from the Public Benevolent Institution (PBI) status of his employer?

(3) Is Mr Weeks attached to a hospital for PBI taxation purposes?

(4) If so, which hospital?

(5) Is the MHSB a recognised PBI?

Hon MAX EVANS replied:

(1) $293,800 plus telephone reimbursement

(2) Yes.

(3) No.

(4) Not applicable

(5) Yes.

LAND CONSERVATION DISTRICTS, SOUTH WEST AND GREAT SOUTHERN, FUNDING

705. Hon BOB THOMAS to the Minister for Transport representing the Minister for Primary Industry:

(1) Which LCD's in the South West and Great Southern received funding from Agriculture WA in the last four years?

(2) How much was received?

(3) What criteria must an LCD meet in order to qualify for funding from this department?

Hon M.J. CRIDDLE replied:

Land Conservation District Committees are eligible to apply for a range of natural resource management grants administered through Agriculture WA. These natural resource management grants are also available to all other landcare groups such as catchment groups and regional landcare groups. In responding to this question I am of the understanding that the Honourable Member is referring to the administrative support provided by Agriculture WA to the LCDCs.

(1) The following Land Conservation District Committees have received administration grants from Agriculture Western Australian in the last four years.

Land Conservation District	Land Conservation District
Blackwood	Manjimup
Boyup Brook	Mobrup
Bridgetown/Greenbushes	Napier King
Broomehill	Narrogin
Capel	North Stirlings
Chittering Valley	North Swan
Collie	Nyabling-Pingrup
Coolup	Port Kennedy
Dandalup-Murray	Ravensthorpe
Dardanup	Serpentine Jarrahdale
Denmark	Stirling
Donnybrook Balingup	Sussex
Dumbleyung	Tambellup
Frankland Below Gordon	Tunney
Gnowangerup	Vasse Wonnerup
Harvey River	Wagin
Hay River	Walpole Tingledale
Jerramungup	Wellesley
Kalgan	Wellstead
Katanning	West Arthur
Kent River	West Mt Barker
Kojonup	Woodanilling
Lake Preston	Wooroloo Brook
Lower Blackwood	Yallingup

(2) Since 1995/96 administration grants totalling $363,007 have been paid to Land Conservation District Committees in the South west and Great Southern.

(3) All Land Conservation District Committees gazetted under the Soil and Land Conservation Act may apply for administration grants.

WA FILM AUTHORITY, REVIEW

772. Hon TOM STEPHENS to the Minister for the Arts:

(1) Is the Minister for the Arts, as he advised the Screen Producers Association of Australia (WA Chapter) still committed to the principles of the Film Industry Review of 1992?

(2) If yes, why has the Minister not acted on recommendation 7, "that the new WA Film Authority should be the subject of an independent review every five years"?

Hon PETER FOSS replied:

(1) Yes, the Government is committed to the principles of the 1992 Film Industry Review. However, the commitment to the *principles* does not mean that the Government adopted all *recommendations* of the 1992 Film Industry Review. For example the recommendation for royalties for the use of stock footage from Government documentaries to be paid to ScreenWest is a recommendation that the Government has not adopted.

(2) With regard to Recommendation 7 - the need for a five yearly review of the new body – it is important to note that the principle behind this recommendation was to ensure that the organisation's operations did not stagnate as they had done between the inception of the WA Film Council in 1978 and the review carried out in 1992. The Government has upheld its commitment to this principle as is evidenced by the number of review and planning activities that have taken place since 1992.

Some of these activities have included direct reviews of ScreenWest operations such as the evaluation of the ScreenWest Expanded Program Structure carried out in April, 1997, and the evaluation of the Ministry for Culture and the Arts and its agencies, currently being conducted by the Ministry, and the Treasury Department.

ScreenWest's role has also been scrutinised in several wider industry reviews including: the 'Film Futures – A Vision for the Development of the Western Australian Film Industry' report prepared by the Marketing Centre, and the Deloittes Consulting Group's, 'WA Film and Television Funding Report'.

The structure and operations of ScreenWest have changed dramatically since its creation in 1994, and will continue to change as it responds to the changing needs of the screen industry. However, of much greater importance to the industry than looking at the 1992 Film Industry Review is the significant announcement by the Premier in February of the creation of a Taskforce to report on screen industry opportunities and requirements for the future.

The Taskforce is made up of industry, community and business representatives, and the Chief Executives of the Department for Commerce & Trade, Training, Arts and the WA Tourism Commission. Following detailed planning, industry consultation and review, the Screen Industry Taskforce will present an initial report to the Premier in December. The brief of the Taskforce is to consider strategies to develop the WA screen industry, and necessarily includes the positioning of ScreenWest within the screen industry in Western Australia, and its role for the future. The decision to commission a further review of the operations of ScreenWest will be made by the Government in light of its considerations of the findings of the Taskforce.

FAMILY AND CHILDREN'S SERVICES, APPLICATIONS FOR ASSISTANCE

786. Hon BOB THOMAS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) How many applications for financial assistance worth $3 000 or less were received by the Minister for Family and Children Services' department in the last full financial year?

(2) How many of those applications were rejected?

Hon M.J. CRIDDLE replied:

(1) Applications for financial assistance detail the kind of assistance needed in the short term crisis. They are not categorised by the amount of assistance requested in dollar terms. In 1998-99 the department processed 27,902 applications for financial assistance.

(2) No one eligible for financial assistance was rejected.

CANNABIS USE, MINISTER'S FIGURES

835. Hon N.D. GRIFFITHS to the Minister for Transport representing the Minister for Family and Children's Services:

(1) With reference to the Minister for Family and Children's Services responsibility for the WA drug abuse strategy, I refer to the Minister's letter addressed to me of October 8 1999 dealing with the issue of cannabis and ask what is the basis of the estimation that about 16 percent of the population over 14 have used cannabis in the last 12 months?

(2) How was the figure of 36 percent use of cannabis by school aged children in the last year arrived at?

Hon M.J. CRIDDLE replied:

(1) The most recently published National Drug Strategy Household Survey at the time of writing the letter. This was the 1995 survey published in 1996. Figures are for Western Australia.

(2) The most recently published Australian Secondary Student Alcohol and Drug Survey at the time of writing the letter. This was the 1996 survey published in 1998. Figures are for Western Australia.

QUESTIONS WITHOUT NOTICE

PEARL BAY RESORT DEVELOPMENTS

528. Hon TOM STEPHENS to the minister representing the Minister for Lands:

(1) In the period between February and August 1999 was any contact made by Pearl Bay Resort Developments to -

(a) the Premier or his staff;

(b) the Minister for Lands or his staff;

(c) LandCorp; or

(d) the Department of Land Administration?

(2) If yes to any of the above -

(a) who made the contact;

(b) to whom did they speak; and

(c) when was the contact made?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) (a) This part of the question should be directed to the Premier.

(b)-(c) Yes, to the best of the minister's knowledge.

(d) No.

(2) Premier or his staff:

(a)-(c) This part of the question should be directed to the Premier.

Minister for Lands or his staff:

(a) Chairman, Pearl Bay Resort;

(b) principal lands policy adviser;

(c) via the telephone on 20 April 1999, 5 July 1999 and 21 July 1999.

LandCorp:

(a) Chief Executive Officer, Pearl Bay Resort Developments; Managing Director, Pearl Bay Resort Developments;

(b) director of business development, LandCorp;

(c) via the telephone -

(i) occasional calls by Pearl Bay Resort Developments - chief executive officer and managing director - regarding progress of cabinet decision during February to August 1999;

(ii) ad hoc but regular contact maintained during August by CEO and managing director.

Via correspondence:

(i) 18 February 1999
(ii) 27 May 1999
(iii) 13 August 1999

Department of Land Administration:

(a)-(c) Not applicable.

OLYMPIC GAMES, TICKETS

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

Further to the question I asked yesterday -

(1) What steps have been taken to ascertain whether tickets for the Sydney Olympic Games have been purchased or ordered by the State Government or any of its departments or agencies at taxpayers' expense?

(2) Can the minister now assure the House that either no such tickets have been purchased or ordered; or if they have, the tickets will be returned and refunds obtained?

(3) If not, why not?

Hon N.F. MOORE replied:

I have only just received a copy of this answer and it does not relate specifically to the question. Therefore, I propose not to provide the answer.

Hon Tom Stephens: Oh, minister.

Hon N.F. MOORE: I get very irritated by the attitude of the Leader of the Opposition when I am seeking to provide an answer to a question for which I am responsible. I was provided with an answer which arrived on my desk the moment the member asked a question. After a quick glance, part of the answer does not appear to relate to the question, so I will not give this answer and I will find out whether a mistake or typographical error has been made. When I find out what the answer should be, I will provide it.

WESTERN AUSTRALIAN TREASURY CORPORATION, NON-DISCLOSURES IN ANNUAL REPORT

530. Hon N.D. GRIFFITHS to the minister representing the Treasurer:

With respect to the Western Australian Treasury Corporation, what are the reasons for the non-disclosures in its annual report specified by the Auditor General at page 46 of his report entitled "Public Sector Performance 1999"?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

The Auditor General pointed out in his report that the corporation did not disclose a number of items that should have been disclosed under the Financial Administration and Audit Act. These items have been discussed with the Auditor General's officers, and the fact that they were not disclosed adequately was an oversight. The corporation has undertaken to address them in its future annual reports.

MINIM COVE DEVELOPMENT, DISCRETIONARY TRUST

531. Hon J.A. SCOTT to the minister representing the Minister for Lands:

(1) Will the minister table a University of Western Australia document regarding the option to purchase lot 416 of the Minim Cove site, file name DRY/1LETPRO UWA file 07/07/02/088 part 7, folio 2004?

(2) Does that document note a discretionary trust relating to LandCorp's co-developer in the Minim Cove development?

(3) What is the detail of that discretionary trust?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) LandCorp does not have the University of Western Australia option document.

(2)-(3) Not applicable.

SENIOR PUBLIC SERVANTS, TRAVEL GUIDELINES

532. Hon NORM KELLY to the Leader of the House representing the Premier:

(1) Does the Government have published guidelines for the travel entitlements, including the class of travel, for senior public servants travelling interstate and overseas?

(2) Will the minister table those guidelines?

(3) Do those guidelines apply for government agency boards?

(4) If not, what guidelines are applicable for board members?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) The relevant guidelines were distributed to ministers and government agencies in 1993 and restated in 1995. The guidelines specify the following -

Class of travel -

The following classes of travel apply while travelling on official business both in Australia and overseas -

(i) Business class travel -

Ministers and chief executive officers of government agencies.

Senior executive service officers who have such an entitlement guaranteed by contractual obligation.

One staff member of a minister's office who is accompanying the minister on official business. Other personnel accompanying the minister are to travel according to the class of travel appropriate to their category.

An officer required to accompany a chief executive officer may travel the same class as the chief executive officer for that trip where this will facilitate the performance of that officer's duties at the destination.

(ii) Economy class -

Senior executive service officers not referred to in category (i) above.

All other officers.

(3)-(4) Government appointed boards and committees require the approval of the relevant minister to travel. The class of travel is determined on its merits by the minister.

GANTHEAUME POINT DEVELOPMENT

533. Hon GREG SMITH to the minister representing the Minister for Lands:

With reference to the proposed integrated tourism development at Gantheaume Point, Broome, can the minister please provide to the House the background of the proposal?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

Gantheaume Point was identified as a high quality site suitable for an international standard resort development in the Broome planning strategy released in 1993. The strategy was developed over more than 12 months with the collective input of the Broome community, the Shire of Broome and government agencies. The prevailing community view was that future tourism development should take place away from the Broome townsite to preserve its built heritage. It should be noted that the strategy was developed by a task force set up in February 1992 and chaired by Mr Norm Marlborough, MLA.

I seek leave to table the strategy plan from the 1993 Broome Planning Strategy.

Leave granted. [See paper No 390.]

Hon N.F. MOORE: This plan shows that the land now subject to development investigations is in conformity with the original strategy.

Given that the new town planning scheme No 4, which was approved by the shire in November 1998 for public comment, identified a tourism development node at Gantheaume Point to conform with the 1993 strategy, the shire has supported the proposal. It must be appreciated, however, that the shire's position is very much that full public consultation must be carried out. This Government supports that view and will ensure that under any proposal, genuine consultation will take place. The Government has put a lot of money in there.

ABORIGINAL PATROLS

534. Hon CHERYL DAVENPORT to the minister representing the Minister for Aboriginal Affairs:

I refer to the Aboriginal patrols operating throughout Western Australia.

(1) Have any of the patrols ceased operation since the 1999-2000 budget allocation?

(2) If so, how many?

(3) Will the minister provide details of where the funding for the now defunct patrols has been relocated?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) No.

(2)-(3) Not applicable.

STREET PROSTITUTION

535. Hon TOM HELM to the Leader of the House representing the Minister for Police:

(1) Is the Minister for Police aware of the reported increasing incidents of street prostitution and, in particular, child street prostitution?

(2) Why has the minister failed to support police in their efforts to deal with this problem?

(3) What is the minister now proposing to do to solve the problem and what is his timetable for this?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Minister for Police is aware of media reports of increased street prostitution.

(2) There has been no lack of support from the minister or the Government for the police in dealing with this problem.

(3) Legislation is being prepared and will be introduced when ready.

RADIOACTIVE MATERIAL, TRANSPORT

536. Hon GIZ WATSON to the minister representing the Minister for Health:

With reference to the answer to the question without notice of Tuesday, 9 November, can the minister identify the exact nature of the processed samples and quantities of all the radioactive material being transported?

Hon MAX EVANS replied:

I thank the member for some notice of this question. Yes. One container load, equalling seventeen 44-gallon drums, of drummed uranium ore material was sent to the Australian Nuclear Science and Technology Organisation in New South Wales and subsequently returned to the mine site.

GERALDTON AQUATIC CENTRE

537. Hon B.K. DONALDSON to the Minister for Sport and Recreation:

The Government, through the community sporting and recreation facilities fund program, provided financial assistance to the City of Geraldton to upgrade the Geraldton Aquatic Centre. Can the minister indicate -

(a) what stage the construction has reached;

(b) the total cost of the project; and

(c) whether the Government has a program in place to maximise the use of this facility, particularly at the elite level?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(a) Construction work commenced on 11 January 1999 and is on schedule for the official opening on 3 December 1999.

(b) The total cost of the project is $6.3m. Although $5.8m was spent on the new indoor aquatic centre, $500 000 was spent on upgrading existing facilities. A sum of $1.75m was provided through the CSRFF for this project.

(c) Management of the aquatic centre is the responsibility of the local government which owns and operates the complex - in this case, the City of Geraldton. The local swimming club will be involved in the day-to-day coaching of swimmers at all levels. However, the Ministry of Sport and Recreation assists local government authorities and sporting clubs throughout the State by providing administrative and technical advice; securing the services of expert coaches to visit country areas through the Alcoa coach-in-residence scheme - for example, Gary Parkes from the Royal Lifesaving Society coached in Geraldton early this year; and utilising the country sport enrichment scheme to conduct elite level competition or training camps in various areas - for example, arrangements are being put in place to have an international water polo team train and compete with local players in Geraldton prior to the 2000 Olympics.

OLD-GROWTH FOREST, JARRAH HARVEST

538. Hon J.A. COWDELL to the minister representing the Minister for the Environment:

I refer to the comment made by the minister's spokesman in *The West Australian* of 28 October 1999 that, of the 1998-99 timber harvest, just 2 per cent of jarrah was from old-growth forest.

(1) Can the minister confirm that this statement is true?

(2) If yes, why has the Government refused to end logging of old-growth jarrah?

(3) Does the minister concede that there is now enough timber resource in plantation and regrowth forests to end the logging of old-growth forests?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The reference to 2 per cent relates to the area harvested. The proportion harvested expressed by quantity would be larger due to the higher yield of high quality sawlogs from the mature old-growth forest.

(3) Changes announced by the Premier in July 1999 included a commitment to end logging of old-growth karri and tingle from 2004. These changes also include a commitment to the development of a jarrah strategy. Logging plans for the period to 2004 are currently being revised. The non-declining sustained yield of jarrah sawlogs specified in the Regional Forest Agreement depends on the availability of jarrah sawlogs from state forest and timber reserves which are not reserved in the comprehensive, adequate and representative system or informal reserves recognised in the RFA and forest management plan. A component of the non-declining sustained yield will be sourced from old-growth jarrah forest.

CANNINGTON PRIMARY SCHOOL, ASSAULTS

539. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

(1) How many cases of assault on staff at Cannington Primary School have been reported to the Education Department this year?

(2) How many security breaches have been reported at Cannington Primary School this year?

(3) What support has been offered by the Education Department for staff at Cannington Primary School who have been assaulted?

(4) What support has been offered by the Education Department to deal with the security breaches at Cannington Primary School?

(5) What process does the Education Department have to help school staff who are the victims of assault?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Two; both were cases of students assaulting staff.

(2) Fourteen; all of which had been classrooms left open. Fortunately no loss or damage resulted.

(3) The staff members involved were offered advice and support by the principals. Further advice and counselling has also been offered to those teachers.

(4) All personnel involved at Cannington Primary School have been reminded of the need to ensure that the school is properly secured, an alarm system is installed and the school receives checks by the department's security patrol.

(5) Such staff members receive immediate counselling and care from the principal. They are provided with access to assistance from student services, and counselling at both district and central levels. Advice is given about seeking medical assistance and their rights to make a complaint. The school subsequently completes an in-depth report which is forwarded to the central office by the district office.

GOVERNMENT DEPARTMENTS, HOTEL ACCOMMODATION

540. Hon TOM STEPHENS to the minister representing the Treasurer:

(1) How much did the State Government and its departments and agencies spend on hotel accommodation in 1998-99 in Western Australia and Australia?

(2) Is consideration being given to adopting the widespread industry usage of a whole of government accommodation contract?

(3) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The information sought is not readily available and would require considerable resources to obtain - and it would be useless. Expenditure on interstate and overseas hotel accommodation is included in the figures contained in the travel reports tabled in Parliament.

(2)-(3) While the Treasurer has advised that the practicalities of a whole of government contract are limited, an accommodation guide is made available as part of the Government's domestic air travel contract with travel service managers. This guide provides access to accommodation throughout Australia at government rates. That is the key to it. The Government pays the government rate, and works on that basis.

ROAD TRAINS, FULL COST RECOVERY

541. Hon KIM CHANCE to the Minister for Transport:

(1) Is the minister aware of a recent Transport Economics study which was reported in *The Australian* of Tuesday this week which indicated that gaining full cost recovery from an interstate road train travelling 180 000 kilometres a year would require a licence fee charge in the order of $67 000 per annum?

(2) If the minister is aware of that Transport Economics study and that outcome, what plans does the State Government have to set out to achieve full cost recovery for heavy transport vehicles?

Hon M.J. CRIDDLE replied:

(1)-(2) I have not seen that document. However, the member might be aware that the National Road Transport Commission will be looking at licence fees in the near future. I will be discussing that tomorrow at the transport ministers' conference; therefore, we will get some resolution. However, the figure the member quoted of $67 000 is a long way out of the range of what we will be discussing.

P2000 PROJECT, COST

542. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

I refer to the minister's advice to the House of 29 October 1998 that the Education Department had spent approximately $21m on the P2000 project and that no additional expenditure will be required and ask -

(1) Will the Minister for Education reconcile this advice with the Auditor General's "Public Sector Performance Report 1999", which states that the total cost of the P2000 project at December 1998 is estimated at $22.8m?

(2) What occurred between 29 October 1998 and December 1998 which caused a $1.8m increase in the cost of the project?

(3) What additional cost of the P2000 project has been identified since December 1998?

(4) When was any such cost identified?

(5) From what did any such cost increase arise?

(6) Will the Minister for Education assure the House that no further additional expenditure will be required for this project?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The minister's advice of 29 October 1998 indicated that no additional expenditure would be required to "remedy the flaws in the system". That is not inconsistent with the inevitable need for ongoing support, development and operation of the human resource management information system. A budget for these purposes would always be required.

(2) Expenditure after October 1998 has related to needs inherent in any such system, such as staff training, technical support, maintenance and refinement of the system and planning for future upgrades of the system. It needs to be stressed that all software has a limited lifetime, and the department cannot allow its investment to depreciate. Software companies will not support software indefinitely.

(3) The P2000 project, as a discrete entity, expired in September 1998, and its functions have been absorbed within general payroll and human resource operations. It is not possible to isolate all expenditures previously part of the P2000 project, but $1.6m has been paid for an application support contract.

(4) The cost has always been foreseen and budgeted for.

(5) See (2).

(6) No. Any system of this kind will always entail ongoing support, maintenance and, ultimately, upgrade. The Education Department has budgeted for this.

PROSTITUTION LEGISLATION

543. Hon JOHN HALDEN to the Leader of the House representing the Minister for Police:

(1) Will the minister table a list of all the groups that have been consulted on the Government's prostitution legislation in 1999?

(2) Will the minister table a list of all the groups that have been consulted prior to this year and when they were consulted?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The groups consulted during 1999 include Phoenix, heads of churches, Westminister Presbyterian Church, City of Kalgoorlie-Boulder, Western Australian Municipal Association, Safer WA, the police, and the Health Department of Western Australia.

(2) Prior to 1999, the Community Panel on Prostitution 1990, chaired by Ms Beryl Grant, was consulted. It reported to the then Minister for Police, Hon Graham Edwards MLC, in 1990. This report and recommendations have formed the foundation on which the legislation has been sought by the Government.

"Controlling Prostitution in WA (Maintaining Law and Order and Health Standards while Minimising Exploitation)" was a report prepared for Cabinet's consideration by the ministerial working group. Members of this group were -

Hon John Day, chair and Minister for Police; Emergency Services
Hon Peter Foss, Attorney General; Minister for Justice; the Arts
Hon Paul Omodei, Minister for Local Government; Disability Services
Hon Rhonda Parker, Minister for Family and Children's Services; Seniors; Women's Interests
Hon Kevin Prince, Minister for Health.

DONNYBROOK DISTRICT HIGH SCHOOL

544. Hon BOB THOMAS to the Leader of the House representing the Minister for Education:

(1) Can the minister confirm that Donnybrook District High School parents and citizens association agreed to the year 7 primary school cohort moving from the primary school site to the high school site on the basis that extra staffing would be provided for years 7 and 8?

(2) Can the minister confirm that a staff member will not be cut for the year 7 group?

(3) Can the minister confirm that a similar situation arose at Ballajura Community College but that an appeal against the staff reduction was successful?

(4) If yes, can the minister explain why different approaches have been taken towards Ballajura and Donnybrook?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) A commitment was given in 1996 that year 7 students would be included with the secondary school students for the purposes of staffing Donnybrook District High School.

(2) The staffing allocation for Donnybrook District High School is still under consideration. The school receives additional staffing for a number of different reasons, including that it has a split site. All of these elements are being looked at collectively. Accordingly, the minister can give no guarantees with regard to staffing for the school at this time.

(4) No such decision was made with regard to Ballajura Community College; therefore, no appeal was necessary.

(5) While the situations at Donnybrook District High School and Ballajura Community College are similar, they are not identical.

REES, MR PHILIP

545. Hon NORM KELLY to the Minister for Finance:

(1) Does Mr Philip Rees of the Government Employees Superannuation Board have an entitlement, guaranteed by contractual obligation, to business class travel on overseas flights?

(2) If yes, can the minister table that portion of his contract?

(3) If not, can the minister explain Mr Rees' travel to the United States and the United Kingdom in July last year?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No.

(2) Not applicable.

(3) Mr Rees attended a week long investment seminar at Princeton University conducted by the Association for Investment Management and Research. Following the seminar he visited several fund managers which at the time were being considered by the GESB for investment of a portion of its overseas equities portfolio. In addition, Mr Rees visited some of the GESB's existing fund managers and other service providers. Due to the tight timetable and long distance involved, the board recommended that Mr Rees travel business class on the international leg of the journey. Mr Rees is the investment manager of between $1.25b and $1.5b of funds. He went to an important seminar to get up to date with what the superannuation board is doing with its funds. If the board had not recommended that he travel business class, I would have recommended it in any case. However, the board, which has three union members, recommended that he travel business class.

DEPARTMENT OF RESOURCES DEVELOPMENT, JERVOISE BAY PROJECT

546. Hon J.A. SCOTT to the Leader of the House representing the Minister for Commerce and Trade:

(1) Has the Department of Resources Development paid radio stations, announcers or their related companies to promote or present the Jervoise Bay project in a good light?

(2) Was any of this in the form of "cash for comment"?

(3) If yes, which radio stations, announcers or their related companies?

(4) What form of promotion was carried out?

Hon N.F. MOORE replied:

Great question! I thank the member for some notice of the question.

(1)-(2) No.

(3) Not applicable.

(4) No direct promotion has been conducted, other than presentations by project staff to industry and the community, including the use of brochures, web site information and newsletters.

MAIN ROADS WA, INTERNATIONAL INVESTIGATION AGENCY INQUIRY

547. Hon TOM STEPHENS to the minister representing the Minister for Public Sector Management:

I refer to the Public Sector Standards Commissioner's report into the Main Roads WA inquiry carried out by International Investigation Agency.

(1) Will the minister finally accept that the Government has an obligation to pay the legal fees of all Main Roads staff targeted by the unlawful investigation?

(2) Will the Government fully compensate the officer who was so unethically dealt with that he was hospitalised and is now suffering from a permanent disability?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) Guidelines exist for the reimbursement of legal expenses for public sector employees. These guidelines require an assessment by the Attorney General, with the assistance of the Crown Solicitor or Solicitor General. Any application for legal assistance would be considered in accordance with the established policy previously tabled in this House. Questions relating to workers compensation are determined by the insurer and the employer.

WATER CORPORATION MEMORANDUM

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

I refer to the minister's answer on Tuesday that the Water Corporation did not provide the member for Collie with confirmation of the bid price and it is unknown who told her the original bid price.

(1) Has the minister asked the member who provided this information?

(2) If so, what was her response?

(3) If not, will the minister do so; and, if not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No.

(2) Not applicable.

(3) No. This is a matter for the member for Collie.

HEALTH DEPARTMENT, YEAR 2000 COMPUTER PROBLEM CONTINGENCY PLANS

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

Some notice of this question has been given and the number is 456.

(1) Has the Health Department implemented year 2000 computer problem contingency plans for all critical equipment and services?

(2) If not, why not; and for which critical equipment and services have contingency plans not yet been implemented?

(3) By what date will the contingency plans be implemented for all critical equipment and services?

(4) Has the Health Department implemented year 2000 computer problem contingency plans for all non-critical equipment and services?

(5) If not, why not; and for which non-critical equipment and services have contingency plans not yet been implemented?

(6) By what date will the contingency plans be implemented for all non-critical equipment and services?

Hon MAX EVANS replied:

(1) Yes.

(2) Not applicable.

(3) This has been done.

(4) Business continuity plans have already been implemented at each provider unit covering all equipment and services that impact on patient care.

(5) The Health Department's business continuity plan for equipment and services internal to the department will be completed by 30 November 1999.

(6) 30 November 1999.

OLYMPIC GAMES, TICKETS

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

Further to the question asked yesterday and the answer given -

(1) What steps have been taken to ascertain whether tickets for the Sydney Olympics have been purchased or ordered at taxpayers' expense by the State Government or any of its departments or agencies?

(2) Can the Premier now assure the House that either -

(a) no such tickets have been purchased or ordered; or

(b) if they have, those tickets will be returned and refunds obtained?

(3) If not, why not?

Hon N.F. MOORE replied:

(1)-(2) As was advised yesterday, the task is currently being undertaken and the member will be advised accordingly. To the best of the Premier's knowledge, no tickets have been purchased by the Ministry of the Premier and Cabinet.

I will add to that. The Government has given an undertaking to find out whether any agencies have purchased a ticket to the Sydney Olympics. I do not think it is a hanging offence yet to purchase a ticket to the Olympics. EventsCorp has asked me if it can send some people to the Olympics because that is part of the business it is in. I have not yet made a decision about that but some government agencies would have a legitimate reason to attend the Olympic Games. To suggest somehow or other that if tickets have been purchased, they should be sent back ignores the reality that the Olympic Games is a major sporting event to be held in Australia. I asked the rhetorical question yesterday whether any members of the Labor Party have received tickets from Richo. Richo is in charge of handing out tickets and the controversy that surrounds the Olympic Games ticketing is not who bought or got tickets but those whom we have not heard about.

Hon Tom Stephens: Did he give you one?

Hon N.F. MOORE: He did not give me any. In fact, I was not invited and I am the Minister for Sport and Recreation. I would have thought that the ministers for sport in the various States might be invited but they have not invited me or any of my colleagues to my knowledge.

Several members interjected.

The PRESIDENT: Order! It is not playtime yet; we have extended the sitting hours today.

Hon N.F. MOORE: They offered tickets at market value plus a percentage and I did not take up the offer. That is how generous the Olympic Games organisers are to ministers in other States which are providing a lot of money to elite sport through their budgets. However, I am looking forward to knowing where Richo's tickets went because a few of his mates over here may have got some.

Several members interjected.

Hon N.F. MOORE: I am looking forward very much to that information being made public because everybody in Australia is looking forward to knowing to whom Richo gave the tickets. We should also acknowledge that the chairman of the Sydney Organising Committee of the Olympic Games, the person in charge of the whole thing, is a Labor minister in the New South Wales Government. He is overseeing the greatest event in sporting history and all we have -

Several members interjected.

Hon N.F. MOORE: It is. The Olympics are the greatest event in sporting history and I am glad they are being held in Australia. However, the great tragedy is that all we have had for the past 12 months has been one controversy after another. If I were Mr Knight, I would give it away and get somebody who knows what he is doing to take over the running of the Olympics before we become a laughing stock around the whole world.