Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
1999

LEGISLATIVE ASSEMBLY

Thursday, 25 November 1999

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 9.00 am, and read prayers.

WEST COAST HIGHWAY, CITY BEACH, INCREASED SPEED LIMIT

Petition

Dr Constable presented the following petition bearing the signatures of 446 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned say the increase in speed limit from 70 kilometres per hour to 80 kilometres per hour on the West Coast Highway between The Boulevard and Oceanic Drive at City Beach is excessive and inappropriate for a residential area. The increased speed limit is hazardous to pedestrians trying to access parks, playing fields and beaches on the western side of the highway and does not enable school children to cross the highway safely. The increase in speed limit does not allow for safe access onto the highway from Local Distributor Roads and Local Access Roads.
>
> We further say that the increase in speed limit from 70 kilometres per hour to 80 kilometres per hour on the West Coast Highway between Scarborough and Swanbourne is dangerous and will lead to an increase in accidents and fatalities. Now we ask that the Legislative Assembly request Main Roads WA to reduce the speed limit on the section of the West Coast Highway between The Boulevard and Oceanic Drive in City Beach to 60 kilometres per hour, as it is in Scarborough. We further request Main Roads WA to reduce the speed limit on the remaining sections of the West Coast Highway between Scarborough and Swanbourne back to 70 kilometres per hour.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 70.]

NUTRI-METICS SITE, REDEVELOPMENT

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 61 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call on the State Government and Parliament to oppose the high rise development application received for the Nutri Metics site, bounded by Albany Highway, Oswald Street, Horden Street and Armagh Street Victoria Park, in that it is out of scale, out of character and sets a dangerous precedent for the future residential and commercial development of Victoria Park.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 71.]

NUCLEAR WASTE DUMP

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 62 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned draw to the attention of the Assembly the Private Members' Bill introduced by the Leader of the Opposition, Dr Geoff Gallop, which outlaws the establishment of a nuclear waste dump in Western Australia. We support the immediate passing of the Bill by both houses of State Parliament
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 72.]

APPRENTICESHIPS

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 29 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned citizens recognise that apprenticeships are an important way of providing life opportunities for young Western Australians and also to securing the skilled workforce needed to develop the wealth of our State.

We therefore call on the State Government to address the threat of cancellation of many apprenticeships due to the shortage of work during the current downturn in the resources sector by establishing targeted short term support programs to ensure existing apprentices do not lose their apprenticeship.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

[See petition No 73.]

SWAN RIVER FORESHORE, REDEVELOPMENT

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 11 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned citizens call upon the State Government to reassess its priorities and redirect the $80m it has committed to the redevelopment of the Swan River Foreshore to more worthwhile community infrastructure projects in the areas of health, education and public transport.

And your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 74.]

CANNING RIVER REGIONAL PARK

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of two persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned petitioners call on the State Government to purchase that portion of the Castledare estate zoned "parks and recreation" in the City of Canning Town Planning Scheme No. 40 to allow for its full and proper incorporation into the Canning River Regional Park as recommended by a series of reports to Government.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

[See petition No 75.]

OLD-GROWTH TUART FOREST, BUNBURY

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 14 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned do hereby ask the Minister for Planning to prevent Homeswest and associated agents from clearing the old growth Tuart forest on Lots Pt 302 & Pt 303 of the South Bunbury Structure Plan (extension of Shearwater).

Your petitioners therefore humbly pray that you will give this matter earnest consideration, and your petitioners, as in duty bound, will ever pray.

[See petition No 76.]

PETRELIS, MR ANDREW, CIRCUMSTANCES SURROUNDING DEATH

Statement by Minister for Police

MR PRINCE (Albany - Minister for Police) [9.05 am]: I rise to make a statement to acquaint the House of the latest matters concerning the death of the late Andrew Petrelis in September 1995.

As members will be aware the questions that have been raised, largely in the media, concerning this matter in the last 14 days have been the subject of a review of all information held by the Western Australia Police Service by the assistant commissioner professional standards, Mr Graeme Lienert. That review was ordered by the Commissioner of Police, Mr Barry Matthews.

Mr Lienert has now reported to the commissioner who in turn has discussed the matter with me at length. It is the commissioner's intention, with which I agree, that a number of actions now take place, namely -

(1) Certain information relating to access to police data be referred to an independent investigative agency which will make an annual report to this place.

(2) That a senior lawyer, a Queen's Counsel, be approached and briefed to conduct a review of the structure and practices of the witness protection program both past and present and to make suitable recommendations.

(3) That the family of the late Mr Petrelis be approached and offered a full and complete briefing and disclosure of all that is known to the Western Australia Police Service about the death of their son.

With regard to the referral of information to the independent investigative agency, nothing further can be said.

As to the question of appointment of a Queen's Counsel to examine and report and if necessary to make recommendations on the conduct of the witness protection program, in 1994, 1995 and currently, I shall seek the concurrence of the member for Midland on the appointment of someone suitable.

As to the circumstances surrounding the death of Mr Petrelis, the full brief prepared by the Queensland police, which includes the post mortem and witness statements, have been held by the Western Australia Police Service since 1997. Thanks to the cooperation of the Queensland police we now have photographs of the deceased as he was found. Before any of that information is made public it is right and proper that the Petrelis family be approached and be briefed as fully as they wish to be briefed on all that information. Thereafter, public statements will be made concerning matters that have been the subject of speculation in the media, much of which is based on inaccuracies. It is appropriate to seek the approval of the Queensland police to this line of action, but I do not anticipate any opposition given the reported reaction of the Queensland police to the way in which this matter has been reported in recent time in this State. I anticipate that after consultation with both the Petrelis family and the Queensland Police Service, the Commissioner of Police and I shall make public information to answer the speculation to which I have referred.

ENVIRONMENTAL PROTECTION AUTHORITY, CONFLICTS OF INTEREST

Statement by Minister for the Environment

MRS EDWARDES (Kingsley - Minister for the Environment) [9.10 am]: Questions have been raised about members of the Environmental Protection Authority having conflicts of interest because of their work in the private sector. In September I rejected a call for a public inquiry and expressed my complete confidence in the EPA and its members. I also advised the House that the Environmental Protection Act provides for any authority member with a direct or indirect pecuniary interest in a matter before a meeting of the authority to disclose the nature of that interest and not vote on the matter.

I now advise the House that the issue of alleged conflicts of interest in the EPA has been investigated by the Commissioner for Public Sector Standards, Mr Don Saunders. The commissioner has advised that he discussed the matter with Mr Bernard Bowen, Chairman of the EPA, and Dr Bryan Jenkins, Chief Executive Officer of the Department of Environmental Protection. He also examined relevant correspondence and documents, including minutes of EPA meetings. He also obtained a written report from Mr Bowen, who said that, to retain part-time EPA members of appropriate standing, it would not be unreasonable to expect them to have other sources of income.

In a written report to me, Mr Saunders said -

> . . . I am satisfied that the EPA is managing potential conflicts of interest in an open and transparent manner, consistent with the Code of Ethics and s.9 of the Public Sector Management Act.

The commissioner said also that he had become aware that the EPA chairman occasionally asked part-time members to undertake project work for him in excess of the hours provided for their appointments.

So that members could be remunerated, the department CEO offered contracts for services under section 23(1) of the Environmental Protection Act 1996. On this matter, the commissioner said that a perception of a conflict of interest could arise as the department could be a proponent to a proposal being considered by the EPA. He discussed the matter with Dr Jenkins and examined the terms and conditions of the contracts. In his report, he said -

> . . . I am of the opinion that there is no evidence to justify this Office pursuing the matter further. The contracts make it clear that the contractor is providing professional services exclusively to, and under the direct supervision of the Chairman of the EPA. The contracts make no provision or any reference to the contractor being supervised or answerable in any way to the Chief Executive Officer of the Department of Environmental Protection.

The opinion of the Commissioner for Public Sector Standards reaffirms my view that the chairman and members of the EPA have acted with integrity at all times. Unfortunately some members opposite have sought to cast aspersions on their professionalism and character. It is hoped that such action will now cease. I table the commissioner's letter.

[See paper No 458.]

ROYAL AUSTRALIAN PLANNING INSTITUTE AWARDS

Statement by Minister for Planning

MR KIERATH (Riverton - Minister for Planning) [9.13 am]: I rise to make a brief ministerial statement on the recent Royal Australian Planning Institute awards, which reflect the exceptional work done by government planners.

Regional planning in Western Australia is an example for other States to follow, according to the judges. The WA Ministry

for Planning was the only state government department to receive an award at the RAPI conference in Darwin. The ministry received three certificates of merit. The ministry is recognised as not just a facilitator but a leader in the planning industry. The judges were very impressed by the ministry's presentations for their vision, planning principles and actions. They looked at a number of regional planning documents, including the Leeuwin-Naturaliste Ridge Policy, the Port Hedland Area Planning Study and the Inner Peel Structure Plan. The judges said that the plans exhibited a consistency of approach while recognising local needs and requirements. The Liveable Neighbourhoods Community Design Code received high praise. The citation says that the document has changed urban design thinking in the urban areas of Western Australia, and that it provides a holistic planning framework, aimed at providing more sustainable growth on the suburban fringes of Perth.

The document "Facilitating Employment Growth", prepared by Derek Kemp for the ministry, is recommended for serious consideration by decision makers. The citation states that this report, addressing the issue of employment characteristics in Perth, could equally be applicable to the review of the employment characteristics of any major city in Australia. It states the paper analyses the implications for urban form resulting from changes in employment and population trends. The citation concludes that it is a good, comprehensive, pragmatic piece of work which requires serious decision by affected decision makers.

These comments and citations confirm that the Ministry for Planning is doing an excellent job and yet again highlight that huge advances are being made in the area of planning to meet society's needs in Western Australia under a coalition Government. As Minister for Planning I extend my warmest congratulations to all those involved in these excellent projects. These planning strategies - realistic, pragmatic and with strong social awareness - are yet another example of how, once again, Western Australia is leading the nation.

TAXI DRIVERS, LEASE ARRANGEMENTS

Grievance

MS MacTIERNAN (Armadale) [9.15 am]: Mr Speaker, I grieve on behalf of 3 000 or so taxi drivers in Perth who operate under lease arrangements. Members may be surprised to learn that only about 20 per cent of Perth taxi drivers own their own cabs. The remainder operate under a weekly or shift lease system in which they either lease a plated vehicle or own their own vehicle and lease the plates. The drivers do a difficult and sometimes dangerous job. They work a huge number of hours and increasingly receive a pittance. Experienced drivers are averaging about $10 to $12 an hour, and bearing in mind that they have no holidays or sick leave and no security, this is clearly unacceptable. Some of the inexperienced drivers and those with language difficulties and who have been unable to negotiate reasonable arrangements are averaging as little as $6 an hour. This is not just me speaking; this is recognised in the recent report following a review of the WA taxi industry that was commissioned by the Government. The report states -

> On the basis of a 40 hour week, anecdotal evidence indicates that taxi drivers earn considerably less than the average wage. Only by working much longer hours, between 60 and 70 hours a week, are drivers able to earn a wage equivalent of the WA average.
> Lease drivers and many owner drivers face high costs, due largely to high plate values. Lease drivers pay $380 per week in lease fees.

These drivers have seen themselves become the victims of ever increasing speculation in taxi plates, where plate prices have gone as high as $230 000. The same report indicates that there has been a 500 per cent increase over 15 years of plate value and that the capital appreciation in the plates has been around 11 per cent per annum. These lease drivers effectively have to cover that through their lease fees, and the opportunity cost value of those plates is around $19 000 a year. At $19 000 a cab over more than 1 000 taxi cabs in WA, means almost $20m goes out of the system each year.

Taxi drivers have seen their business opportunities decimated by this Government's introduction of small charter vehicles which are able to operate with much lower cost structures and have picked the eyes out of the industry. The drivers have been held to ransom by taxi despatch services, which collude with plate owners often to effectively circumvent the Trade Practices Act and prevent the plate lessees from shopping around other taxi despatch services.

The recent comprehensive review of the industry embraced the view adopted by the Opposition for quite a long time that the artificial capital cost of plates is strangling the industry.

As I have said, it is calculated that something like $20m of revenue collected through taxi fares goes to fund speculation in taxi plates. Those costs add nothing to the efficient running of the industry; indeed, they are throttling the industry. The capital cost of taxi plates is effectively 40 per cent of total running costs. If those costs - which add nothing to the industry - did not exist it is estimated that fares would drop by more than $3 a ride. That would have a considerable effect on stimulating demand, which would improve returns to drivers. Both consumers and drivers would benefit from such a system. The long-awaited government review advocates that Western Australia go down the road of buying back the taxi plates to put the industry on a sound basis. However, the Government has decided that it will not touch the proposal with a 10-foot pole. It has decided to roll over in the interests of the industry powerbrokers. The powerbrokers in the taxi industry are the investors, the taxi management companies and the taxi despatch services. They effectively control this industry and are opposed to the buyback. At this stage, the owner-drivers are evenly split over the issue. However, the majority of drivers, those at the coalface delivering the services, support the buyback. Those drivers understand that the way the industry is going is not viable. Nobody is listening to them. The ultimate irony is that as this report exposing the deep structural problems in this industry and the situation of lease-drivers was being released, the Government's Taxi Industry Board recommended a further increase in the returns to investors. Even more blood is to be extracted from the stone. A 15 to 20 per cent increase in the lease fees these drivers are paying is proposed which will, of course, result in an increase in the cost

of fares. Once again, this Government is allowing the investors, who add nothing to the industry, to rule the roost. The people who are suffering are the taxi drivers and the consumers. It is completely unacceptable. The Government cannot allow this industry to continue in its current state.

[Interruption from the gallery]

The SPEAKER: Order!

MR OMODEI (Warren-Blackwood - Minister for Local Government) [9.22 am]: The Department of Transport has provided some notes. The national competition policy review of the industry has been completed. The review was undertaken by a steering committee headed by an independent chairman. BSD Consultants Pty Ltd was commissioned to conduct an examination of the appropriate legislation and the issues in the industry. The Government has the committee's final report and it is expected that the Minister for Transport will soon make an announcement about the Government's position. By and large, the taxi industry is performing well. The steering committee identified some areas, such as Fridays and Saturday nights, outer suburban areas and services for people with disabilities as requiring improvement. The provision of appropriate vehicles to transport people with disabilities was of great concern to me as Minister for Disability Services, and I have noted that.

Ms MacTiernan: Who was on the steering committee?

Mr OMODEI: I do not know. Concerns were also raised about the level of regulation and the way the Government is involved in the industry. It is important to the Government that the issue be clarified. It is acknowledged that taxi drivers are an important component of the industry. They deal directly with the consumers. By and large, the performance of drivers is good, although the review raised concerns about some new drivers in the industry. It is important that drivers have suitable characteristics for dealing with the public. Appropriate remuneration is important, to attract appropriate drivers and keep good drivers in the industry. One of the major issues BSD Consultants raised is that driver incomes are significantly impacted upon by the extent of the lease rates drivers pay. In acknowledgment of this issue, the Government took action last year to cap the lease rates. This move provides drivers with a higher level of economic protection. BSD Consultants also noted, as did the member for Armadale, that lease rates in 1998 were $380 a week, representing a cost of approximately $20 000 a year or 27 per cent of the gross income of each plate. That represents an expense of $20m a year for the industry as a whole.

Good customer service is provided by drivers who are committed to the industry. This Government wants drivers to see the taxi industry as a career, and not as something to do before finding other work. The Government recently encouraged this approach when releasing new plates. New plates were restricted to tenderers who were taxi drivers. The Government will not be involved in taking action that adversely impacts on the quality of drivers or persons who are attracted to the industry as drivers.

DEGREE IN NATURAL HEALTH SCIENCES

Grievance

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [9.25 am]: It is estimated that western medicine occupies only 50 per cent of health practices in the United States and that Western Australia, and Australia in general, will soon follow this trend. My grievance to the Minister for Education concerns the lack of accreditation processes which enable a graduate from a higher education organisation in Western Australia to obtain a recognised degree in the field of natural health sciences from a Western Australian university. As it stands, a Western Australian who has completed five years' full-time study from certificate level through to an advanced diploma of health sciences - in something like naturopathy - and who meets all the requirements of a degree cannot obtain a degree from a Western Australian university. Organisations in other States have negotiated with tertiary institutions for graduates to obtain recognised degrees by completing a few additional units.

Western Australia is missing out on an opportunity. Universities in other States are becoming more viable at the expense of our higher education organisations. Three higher education organisations in Western Australia offer courses in natural health sciences. Two of those have negotiated for tertiary institutions in other States to provide degree status. I support the idea of raising educational qualifications to degree status through Western Australian universities for professionals in the natural medicine field. I understand people have approached the minister about the matter and he is giving it close consideration. Can the minister advise what is happening with this issue?

MR BARNETT (Cottesloe - Minister for Education) [9.27 am]: I thank the member for Swan Hills for the grievance and for raising the issue of qualifications for those studying in the natural health sciences area. I agree it is a growing sector with increasing professionalism. I do not feel competent to comment on the medical aspects of the treatments offered. I do not want to reflect on any of the courses or areas of natural health sciences but, as a general principle, I think we must be careful that Australia does not have a proliferation of institutions which award degrees. That has occurred in the United States. It has resulted in the value of a degree, particularly a postgraduate degree, being downgraded in universities other than the prestigious, well-known universities whose names carry them through. There are about 31 universities in this country. I hope that we do not establish any more universities for many years. Our challenge is to ensure that Australian universities have high standards which are recognised internationally. Our universities are seen as having high standards, therefore, a degree from an Australian university is recognised as a high quality degree. We need to work strategically to keep that in place.

The areas of natural health sciences are not alone. We have had approaches from Bible colleges and other groups which

want the right to award a degree. Some avenues are available to natural health sciences, or indeed any other group. The first is to try to reach an agreement with one of the five established universities. If they can satisfy the requirements of the university, a degree or other qualification can be issued in conjunction with the university. Areas in natural health sciences are conducting those negotiations with universities in other States.

Mrs van de Klashorst: In other States, but not here.

Mr BARNETT: That is right. There is no reason that they cannot do that. There is nothing stopping them from doing that in Western Australia. They can negotiate with Curtin University of Technology, Edith Cowan University or any other university. If they can reach agreement - it must be mutually beneficial - and if they can meet the standard of the university, they can achieve that degree or qualification. The difference in this State from other States is that Western Australia is the only State which does not have in place legislation that would allow the State to accredit a degree status. That is the difference. They can do it through a university - there is nothing stopping them from doing that. However, all other States and Territories have a separate accreditation process whereby the State will assess a particular college, its funding, the qualifications of its staff and whatever else, and it will agree that that college can use the term "degree" and issue degrees. For whatever reason, that has not happened in Western Australia. It happens to varying levels of quality or professionalism in other States. It is fair to say that Victoria and Queensland are recognised as having well-established and rigorous processes for establishing degree status outside the university system.

Another opportunity is that a natural health area, or any other area, could gain accreditation through that process in another State and seek for that to be recognised in Western Australia. Therefore, it can do it by gaining a degree status through an existing university here, it can do it with a university in another State and gain recognition here, or it can do it independently of a university in another state and have that recognised here. The Higher Education Council in this State is considering whether we should establish State legislation similar to other States, which would allow that accreditation. Also, at a national level, through the Ministerial Council on Employment, Education, Training and Youth Affairs, a set of protocols allow mutual recognition.

There are some differences in this State. The people who have approached the member are right in that this State does not have an ability to award degree status independent of our universities. However, we have an ability through the MCEETYA protocols to recognise degrees awarded through universities in this State, universities in other States, or degrees accredited independently in other States. The long and short of it is that I would suggest that the best thing for organisations seeking degree status here is to try to negotiate arrangements with universities. Without wishing to nominate any university, I imagine that Edith Cowan University in particular, and probably Curtin University, would be the two that would be most interested in that area, given that they operate in a broader area of health care. The University of Western Australia obviously is the traditional medical school, and medical schools as such are very expensive to operate. Some of these areas do not have the same infrastructure costs. As I said, I have been approached by at least one college, and we are talking to it about how it might gain accreditation.

DELAMBRE ISLAND, AQUACULTURE LEASE APPLICATION

Grievance

MR RIEBELING (Burrup) [9.33 am]: My grievance is to the Minister for Fisheries. It concerns a proposed aquaculture lease, of which no doubt the minister is aware, off Delambre Island, immediately off the Wickham coast in my electorate. This island is the largest island in Nickol Bay and is considered, by the locals at least, to be part of the Dampier Archipelago. It is the most used island in the archipelago because of its closeness to the boat launching facilities in Wickham. Small boat owners can access Delambre Island relatively easily. It is of great importance to the recreational, environmental and tourism industries.

Last week a public meeting was held in Point Samson about this aquaculture lease application. In excess of 100 people attended that meeting, which, as the minister knows, is about half the population of Point Samson. That is the type of annoyance or concern that the people in this area feel about this lease. I have been dealing mainly with two people, Rob Vitenbergs and Paul Horton, who are the leaders in the community there. They have taken it upon themselves to act as the spokespersons for that community. Some of the questions that I am about to put to the minister have come directly from the community; they are not questions I have thought up. They are in four different categories. The first is the process, the second is conservation, the third is recreation, and the fourth is tourism. I must deal with these matters in four and a half minutes, so I will quickly rush through them.

Dealing with the process, the people in that area are concerned about the size of the advertisement that appeared in the local newspaper. One virtually needed a magnifying glass to read the print of that advertisement. The second matter is that it appears to the locals that Fisheries WA is prepared to issue licences to individuals, regardless of having reasonable confidence about whether those people have the commercial or financial capacity to undergo or complete the aquaculture venture for which they are applying. Another issue the community has raised is whether the licence process allows for the sale or transfer of the lease, if it is approved. The locals also want to know what time limit is placed on the development of the leases and whether the licensing process allows for the organisations or individuals to act as fronts for a corporate body which has the financial controls; therefore, is the application transparent to that degree?

The next matter is the concern of conservationists in the area. As the minister is no doubt aware, Delambre Island has some unique qualities in relation to turtle breeding. I am advised that green turtles, hawk's bill turtles, loggerhead turtles and flatback turtles all use Delambre Island as the major breeding ground for their species. I think the hawk's bill turtle reproduces only in the north of the State, and Delambre Island is its major breeding area. The conservation people are

concerned that mature egg bearing females will be required to go through a maze of nets and obstacles to reach the beach area. There are also concerns about hatchlings, which leave the beach once hatched, running the same gauntlet. The area that is proposed to be developed is shallow, and that reduces the capacity of these turtles to swim in and around the water. As a result of these aquaculture leases, there is a change in the type of fish that will attack the small turtles. This is also a habitat for dugongs. The community wishes to bring all those impacts to the minister's notice. Also in the additional information sheet is apparently an indication that the reef which will be impacted upon is of little importance. The people in that area dispute that strongly and say that it is a pristine reef, with both hard and soft corals.

It is a unique habitat that is used extensively by the diving and tourism industries. On the recreational side of the equation, the perception one gains from the lease application is that only a small number of people use this island. That is not the case. It is easily accessible by boat from the coast. People from Wickham, Point Samson, Karratha and Roebourne use it extensively. Members should be aware that a 1 400 acre aquiculture lease was approved for Dixon Island, the only other island in Nickol Bay. This application is likely to remove a further 500 acres. The importance of the tourism industry speaks for itself. The charter boat industry which currently uses this island for its purposes is the key to the extension of tourism. Currently, representations are being made to sink HMAS *Perth* in that location. Also, the Shire of Roebourne is now firmly opposed to this application.

MR HOUSE (Stirling - Minister for Fisheries) [9.40 am]: I thank the member for Burrup for his grievance, and for raising these issues in the House. They are also matters of concern to me. We have both been involved in Dampier Archipelago issues for long enough to know that we must follow the proper process in these matters. I will probably not have time to answer the member's specific queries in enough detail to satisfy him, in the same way that the member did not have time to go into more detail. We probably need to correspond on those matters before we get down to the specific details.

Mr Riebeling: I am happy to do that in the next week.

Mr HOUSE: That is fine, and I understand why the member has raised the matter in this way. In a general sense, I agree that this is an important island in the Dampier Archipelago. It is six or eight miles off Point Samson. The application for this lease was received on 26 September. We are putting that through the process that is outlined in the guideline policy for those sorts of applications. The member for Burrup will be interested to know that the guidelines came about as a result of meetings that he and I had in his electorate a few years ago when we ran into the same problems. This policy lays down a process that must be followed. That process takes into account such issues as conservation, tourism and recreational fishing. I will table this document in a moment - it is readily available. It outlines the consultation process for all of those groups.

Fisheries WA has received 55 submissions on this application to date. The executive director will assess those submissions, both for and against. We think that will take four or five weeks. We will then seek additional information, if that is needed. That may be necessary with the issue of turtle breeding, which the member raised. We may need to seek additional information from bodies like the Department of Conservation and Land Management to ensure those areas are protected. If people are not happy with the decision of the executive director, they can trigger the appeal process. We have enough checks and balances in place to allow for proper input into the decision making process, particularly from the community and community groups.

A meeting was held on this issue. I presume that the member was at the meeting, but if Parliament was sitting and he could not be there, not only was there good community representation but many of the key departments were also represented. I understand there have been two public meetings in the area.

Mr Riebeling: One was in Dampier, but there was not much publicity about it.

Mr HOUSE: Okay. The member for Burrup made a fair point about advertisements in *The West Australian*. An advertisement was also placed in the member's local newspaper. However, I concur with the member that advertisements must be of a size so that people do not miss them. We cannot have a Clayton's process and pretend that we have done it right, if we have not. I have asked Fisheries WA to look at that for me. I did not see the advertisement, and I have asked the department to respond so I can make a decision on that. The member has made a valid point, and perhaps we can target advertising by writing direct to particular groups. The shire would be a good example because it plays a key part in that process.

I also have a list of all of those departments that have been consulted, but I will not go through them. I acknowledge the member's concerns, and they will be addressed properly. If the member can detail his concerns in a letter, I will provide a full answer on each issue. The member might not want to do that immediately, but that is up to him. However, I will make sure that the member receives an answer quickly.

Mr Riebeling: I will do that within the next day.

Mr HOUSE: I will ensure the member receives answers to those specific matters. I will need to take advice on some of those issues. For example, I know nothing about turtles.

I will make a general point about aquaculture. Although the Government has supported aquaculture development across the State, it has proved to be a difficult task. The member for Burrup has raised the same sorts of issues that are raised in all areas. We had the same sort of problems in Esperance, Albany and Jurien Bay. Almost without exception wherever we have tried to promote aquaculture development in the ocean, we have had a problem. That highlights the community's concerns about these issues. We must go through a proper process and we must find some balance.

The pearling industry in the member's area is a good example of the balance that can be achieved. That industry employs people and creates new wealth for the State, while impacting on probably the major recreation in that region, which is

recreational fishing. We must find a balance between those two factors. I thank the member for his grievance. I assure the member that his letter will get proper attention.

WARWICK ROAD AND GLENGARRY DRIVE, DUNCRAIG INTERSECTION

Grievance

MRS HODSON-THOMAS (Carine) [9.46 am]: My grievance is directed to the Minister for Local Government who represents the Minister for Transport. For the minister's benefit I will illustrate and paint a picture of the uncontrolled intersection of Warwick Road and Glengarry Drive in Duncraig, which has become increasingly busy over a number of years making traffic conditions at this location hazardous.

To date there have been a number of traffic accidents at this intersection. The high volume of traffic in this area may, to a large extent, be attributed to facilities in the immediate vicinity of the intersection. For example, the Glengarry Village Shopping Centre containing a Dewsons supermarket and 20 speciality stores is located approximately 250 metres from the intersection. Adjacent to the shopping centre is the Glengarry Hospital, which also accounts for much of the traffic in the immediate area. The complex on the eastern corner of Warwick Road and Glengarry Drive contains a Shell Service Station, a Kentucky Fried Chicken fast food outlet, a TAB agency, the Glengarry Tavern and Bottle Shop and a Hungry Jacks fast food outlet. Adjacent to this complex is the Glengarry professional centre, which houses a range of professionals in the medical, real estate and legal fields. Until recently, my electorate office was located there.

As I have already highlighted, all of these facilities contribute to a high volume of traffic in that vicinity. Warwick Road is a major arterial road linking the surrounding suburbs with the Mitchell Freeway, Wanneroo Road and Marmion Avenue, as well as accessing the Reid Highway on-ramp to the Mitchell Freeway. This too is a significant factor in the volume of traffic that travels on Warwick Road each day. On the other hand, Glengarry Drive runs north-south between Hepburn Avenue and Warwick Road making it a sub-arterial road linking the two major east-west roads. It is one of the major feeder roads into residential streets in the northern part of Duncraig. These factors also contribute to the high volume of traffic travelling along these roads each day. In terms of topography, the intersection is located at the bottom of a gradual hill as one travels east along Warwick Road.

The speed limit in this area is 70 kph. However, due to the gradient, many vehicles are travelling in excess of the speed limit by the time they reach the intersection. I note that in more recent times that spot has been targeted with Multanovas with the obvious intention of decreasing traffic speed. Nevertheless, this increased ambient speed makes it more difficult for motorists to estimate the distances of oncoming vehicles when attempting to turn at this intersection. In addition, vehicles making the turn onto Warwick Road must match the higher speed in a short space of time.

Most difficulty is experienced when turning right from Glengarry Drive onto Warwick Road in a westerly direction and when turning right from Warwick Road onto Glengarry Drive travelling north. In the first instance, the driver has to monitor two lanes of traffic travelling in each direction. Visibility is particularly poor at sunrise and sunset, owing to the east-west orientation of the road and the width of the median strip, which is landscaped with trees that also inhibit visibility. Turning right from Warwick Road onto Glengarry Drive, the driver must monitor two lanes of oncoming traffic and be mindful of errant vehicles cutting across the road entering from Glengarry Drive. Most problems occur during peak-hour traffic, when vehicles use Warwick Road to access the Mitchell Freeway, Marmion Avenue and Wanneroo Road.

My office has been inundated by constituents asking for the installation of traffic signals at this intersection in the interests of road safety. In August this year, I was informed by the minister, in response to a question addressed to the Minister for Transport, that the installation of traffic signals at this intersection was to be included in Main Roads' 1999-2000 program. The situation continues to be one of urgency within my electorate, and I hope that a commencement date will be forthcoming. The installation of traffic signals would improve the safety of those travelling in the area in the course of their daily activities. I seek the minister's positive advice today in response to my grievance so that I can provide some certainty to my community on the timing of the installation of traffic signals at this location.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [9.54 am]: I thank the member for the grievance. The notes provided to me this morning are somewhat brief. However, I will go through them and seek the member's support. If the member needs further briefing, I will arrange that with the Department of Transport.

I am informed by the minister that Main Roads WA recognises the problem, particularly on Warwick Road and Glengarry Drive, which are the main issue. Plans are in place to undertake major roadwork at this location during the current financial year. As I mentioned in answer to a previous question, the work will include the installation of traffic control signals. However, the important issue from the member's point of view is the provision of two left-turn lanes from Glengarry Drive into Warwick Road, the modification of the angle of the left-turn island on Warwick Road to provide improved visibility for motorists, and the installation of walk and do not walk signals on two branches of the intersection with audio-tactile buttons to assist pedestrians crossing at the intersection. The work is programmed to be completed by the end of April 2000. However, every opportunity will be taken to achieve an earlier completion date.

The member has demonstrated very clearly her concerns for the safety of road users at this busy intersection. They are acknowledged and appreciated. I thank her for her continued interest in the matter. If the member requires further information, I will arrange for the Department of Transport to provide a special briefing to ensure that she is fully aware of what is planned in the area.

The SPEAKER: Grievances noted.

NATIONAL RAIL CORPORATION AGREEMENT REPEAL BILL 1999

Second Reading

Resumed from 26 October.

MR KOBELKE (Nollamara) [9.57 am]: The opposition spokesperson for Transport, the member for Armadale, will speak to the substance of this Bill and the subsequent Bill. The Opposition is trying to assist the Government on what is the last formal sitting day of the year. These Bills can be dealt with quickly. I will leave it to the spokesperson on Transport to address the substance of this and the subsequent Bill.

MS MacTIERNAN (Armadale) [9.58 am]: The Opposition will support the National Rail Corporation Agreement Repeal Bill. This Bill will effectively provide a framework for selling the National Rail Corporation. I can imagine the Deputy Premier's leaping upon this and saying that this means the Opposition is being very inconsistent about rail privatisation. That is not so.

The National Rail Corporation was formed after the vertical separation of Australian National Rail some years ago under a Labor Government. National Rail is now only an above-line operator. The ownership, management and responsibility for the track infrastructure remains with the publicly-owned organisation, Australian Rail Track Corporation. Therefore, the Opposition does not and has never had a problem with National Rail's becoming a private corporation. It is in competition with a number of other publicly and privately-owned rail operations. In the Opposition's view, it is certainly not necessary that the organisation remain in public ownership. However, it does not necessarily agree with the Government that it should be sold, because publicly-owned corporations can be successful. The Government's only answer to problems with the structure and lack of entrepreneurial flare in Westrail has been to sell it.

I will now make a couple of comments about the performance of publicly-owned entities such as Rail Services Australia - a New South Wales corporation that is doing extraordinarily well in competition with the private sector. It has created 4 000 jobs throughout New South Wales, many of which are in rural areas, and it is being successful around Australia and internationally in attracting work. The Opposition does not accept the Government's view that a government-owned entity cannot operate successfully in a competitive market. That view shows a complete lack of imagination on the part of the Government. Notwithstanding that, members on this side do not have in principle opposition to the sale of National Rail. It is an above-line operator and it is in competition with the private sector. The Opposition, of course, would never support the privatisation of the Australian Rail Track Corporation, which is the owner-manager of the infrastructure.

In my final comment I seek clarification from the Deputy Premier, who I understand is handling this Bill. One of the problems with the sale of National Rail has been that the Kennett Government in Victoria was insisting that any consortium that contained a government-owned entity be precluded from tendering for the purchase of National Rail. This would preclude any Australian-owned company, because they are all publicly owned. Our concern has been based on the statements by the Deputy Premier on the sale of Westrail, and the Government's insistence that any consortium containing a public entity be precluded. Now that the Kennett Government has been sacked and replaced by a Government more responsive to the people, particularly those in rural areas, I would like to know whether our National Party comrades will insist that there be no government-owned entity in any consortium that tenders for National Rail work. I note that the Howard Government is not insisting on that, and I would like to know whether we shall stick with the ideology of Milton Friedman in Western Australia.

MR COWAN (Merredin - Deputy Premier) [10.03 am]: I listened very intently to the contribution by the member for Armadale and I failed to distinguish any reference to the Bill at all. I heard reference only to the proposal by the Government to sell the freight business of Westrail, which is covered in a Bill now in another place. The member will find if she looks at the Bill now before the House that it is effectively the repeal of the National Rail Corporation agreement. It does nothing more and nothing less than that. I thought the member would have the ability to see exactly what that agreement is and what parts of the issues she wanted to raise would be dealt with by that. The member will find that the agreement refers to none of the matters she raised. Nevertheless, I am very pleased to learn that the Opposition supports this Bill, notwithstanding the fact that no mention was made of it during the member's contribution to the second reading debate.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

RAILWAY (NORTHERN AND SOUTHERN URBAN EXTENSIONS) BILL 1999

Second Reading

Resumed from 24 November.

MS MacTIERNAN (Armadale) [10.05 am]: I hope that the listening skills of the Deputy Premier have improved. He appeared to be incapable of understanding the points I made on the previous Bill.

This legislation will allow the Government to extend the northern suburbs rail line, which is one of the most endearing legacies of the Labor Government and one of which we are very proud. The Opposition is certainly keen to support the extension of that rail line, as those northern suburbs expand at a rapid rate. We note, however, that this Bill is probably a little premature in that, notwithstanding having promised this extension to Butler in the 1996 election campaign, no money has been allocated in the budget in this term of government for such an extension. I have a view that this part of the

legislation is going through in order to give the appearance that something is being done. Be that as it may, members on this side will not oppose the Bill and we will do anything we can to encourage the Government to meet its election commitments for the extension of the rail network.

The southern rail extension is somewhat more problematic. The Opposition is not convinced that the Government's decision to construct the line via Kenwick is the best decision. We have had a number of briefings with Westrail and the Department of Transport, seeking clarification of the reasons they believe it is the best route. The Opposition offered some degree of bipartisanship on this matter, and moved for the establishment of a select committee a couple of years ago so that both options could be properly examined. The Opposition even suggested that the member for Dawesville might chair that committee, so that a great deal of taxpayers' money would not be wasted by a possible change in direction when the Labor Party comes into government. However, that attempt to embark on a responsible course of action by the Parliament to deal with the vexed issue of the route was not looked kindly upon by the Government, and we are stuck at this point with the route via Kenwick.

Given that the Government's time frame is for construction to commence after the next election, I thought it was propaganda to put the legislation forward at this time. However, having looked at the Public Works Act and the Government Railways Act, I now understand that the definition of "railway land" is very broad. The argument advanced by the minister's office is that the tunnels under the Kwinana Freeway about to be built are effectively railway land and, therefore, legislation is required now to permit government expenditure on those tunnels. Having read the abovementioned legislation, I concur that that is a valid interpretation and that the Government is justified in bringing legislation to Parliament at this time.

In supporting this legislation, the Labor Party is not to be understood to be necessarily endorsing the Kenwick option. However, we are keen to see the Government do something to extend the rail network. Members opposite have been in government for seven years and not a kilometre of rail track has been added to the entire network. In this day and age in which public transport is such a major issue, that is a huge shortcoming. This contrasts to Labor's 10 years in office in which it reopened the Fremantle-Perth line, electrified the entire rail system and built the northern suburbs railway. On any objective analysis, the performance of the Labor Party in office far outweighs that of this Government. Despite concerns about the Kenwick option, the Labor Party will not give the Government an opportunity to further renege on its undertakings to people of the freeway subdivisions, Rockingham and Mandurah to deliver a rail link to one of the fastest growing areas in Australia.

As I understand the Rockingham route described in the Bill, the train will run into the centre of the city. Is that correct, Deputy Premier?

Mr Cowan: That has to be determined.

Ms MacTIERNAN: I refer to the route in the Bill. I know that the Government has not yet made a decision.

Mr Cowan: I do not have the map here, and I cannot give that answer. I will see whether I can provide it.

Ms MacTIERNAN: It would be interesting to know.

Mr Cowan: But I do not think it does.

Ms MacTIERNAN: Can the Deputy Premier provide clarification on that point?

Mr Cowan: I certainly will.

Ms MacTIERNAN: A map would be handy. Other than having some tunnel, built under the freeway extension, we do not expect to see any railway development take place during the life of this Government. Like the people of Jandakot and Rockingham, opposition members live in hope that one day the rhetoric and promises contained in the policy documents of members opposite released in each election campaign might mean something, and some much needed expansion of our urban transport system will occur.

MR COWAN (Merredin - Deputy Premier) [10.14 am]: I thank the member for Armadale for her support for this legislation, albeit qualified. I can understand that situation as this is a contentious issue, particularly regarding the proposed southern urban extension for which the Kenwick route is preferred. Some people have a preference to extend the line from Fremantle to Rockingham. However, the member for Armadale must understand that little residential development is found in the areas between Fremantle and Rockingham, and the alternative route will pass through some residential areas in the southern suburbs of Perth. This will provide an important benefit.

The member for Armadale also commented on the construction of the Joondalup line. That is acknowledged. It was built by the previous Government, and in 1983 the Fremantle line was reopened, which is also acknowledged. Nevertheless, it would have been more appropriate for the member, in acknowledging those activities, to mention that both of those services operate at a considerable loss. One accepts that there is a requirement for public transport to operate at a loss. It would be appropriate for the member to put some balance in her argument, although I am not sure whether she is capable of doing so. I challenge the member to attempt to put balance in her argument.

Ms MacTiernan: So you're not going to expand the public transport system because it runs at a loss!

Mr COWAN: I did not say that.

Ms MacTiernan: What are you saying?

Mr COWAN: The member is entitled to make any assumptions she likes, but she should not expect too many people to give her any credibility while she makes the wild assumptions she does.

Ms MacTiernan: Tell us what you said.

Mr COWAN: I said that I acknowledge that the Joondalup railway line has been constructed and provides a service, and that the Fremantle line has been reopened. It would be appropriate to acknowledge that public transport runs at a loss, and that the provision of the service is at a cost to the taxpayer, including those who do not use the service. One point the member got right was that this Bill seeks to authorise the construction of those rail links. No appropriation is made at this moment for that to occur. I assure the member that the priority for the Government will be the extension of the northern railway line, as the member and all other people are aware. The other valid point the member raised was that the legislation's explanation of the rail routes does not provide a great deal of assistance. I accept that deficiency, and I will seek to have some additional maps provided to the member from the Minister for Transport's office. I acknowledge the support of the Opposition for this Bill. I would appreciate members' support for the Bill's second reading.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [10.20 am]: I move -

> That the Bill be now read a second time.

The introduction of the Conservation and Land Management Amendment Bill 1999 and the Forest Products Bill 1999 signals a watershed in forest policy in Western Australia. Responsibility for management of the State's conservation reserves, wildlife conservation and commercial forestry operations has been the province of the Department of Conservation and Land Management since March 1985 when the Conservation and Land Management Act 1984 came into operation.

Despite the many strengths of an integrated forest conservation agency, there has been an increasing level of community concern at the perceived conflict of interest in having the same agency responsible for conservation and commercial timber harvesting activities. The Government has heard these concerns and has determined that a new regime of forest management will apply in Western Australia. There are a number of dimensions to the change being signalled by Government, including new approaches to silviculture management and a greater emphasis on managing our forests for their community and social values as well as their economic values. While some of the changes will take time to bring to fruition, developing a legislative and policy framework for change is critical to success. The legislative framework for this new approach, is being progressed through the Conservation and Land Management Amendment Bill 1999 and the Forest Products Bill 1999. These two Bills being introduced today will ensure that the often competing needs of land conservation and commercial forestry will be kept completely separate. As a consequence the existing controlling bodies - the National Parks and Nature Conservation Authority, the Lands and Forests Commission and the Forest Production Council will be abolished. In addition, the Department of Conservation and Land Management will be renamed the Department of Conservation and its functions and powers will be modified.

The separation of forest conservation and management functions from responsibility for forest products harvesting and sale contracts will also be addressed at ministerial level. The administration of the Forest Products Act will become the responsibility of a minister other than the minister administering the Conservation and Land Management Act.

Establishment of the Conservation Commission of Western Australia: A key feature of the Bill is the establishment of a new conservation body to be known as the Conservation Commission of Western Australia. The Conservation Commission will be the pre-eminent ministerial advisory and policy development body and will act as the vesting body for all terrestrial conservation areas, including state forests and native timber reserves. Of particular note will be the role of the Conservation Commission in advising on ecologically sustainable land and forest management and on monitoring and auditing the land management practices of the revamped Department of Conservation and the newly established Forest Products Commission, under the relevant management plan.

The Conservation Commission will comprise nine members appointed by the Governor on the nomination of the minister. Members will be appointed on the basis of their relevant levels of expertise with regard to the commission's functions and not on the representative basis which presently applies to membership of the National Parks and Nature Conservation Authority. The legislation stipulates that the Executive Director, the Directors of Forests, Nature Reserves and National Parks and staff members of the Department of Conservation; and the commissioners, general manager and staff members of the Forest Products Commission will be ineligible for appointment as members of the Conservation Commission.

The Bill also sanctions a new arrangement whereby the Conservation Commission has a right to the water that exists on those reserves as if it were an occupier of private land for the purposes of the Rights in Water and Irrigation Act 1914.

Role of the Department of Conservation: The Department of Conservation will be responsible for -

> The integrated management of conservation land and waters, including all state forests and timber reserves, sandalwood and plantation timber;
>
> nature conservation, recreation, ecotourism and astronomical services;

preparation of management plans for consideration by the Conservation Commission;

preparation of advice on management of native flora and fauna;

preparation of scientific advice and drafting of policy for ecologically sustainable management of land including sustainable levels of production of forest resources; and

promotion and facilitation of community involvement.

Importantly the Department of Conservation will have no role in the cutting, hauling, stockpiling or selling of timber. However, the department will have the capacity to recoup costs associated with timber production, regeneration and forest management for timber subsequently harvested by the Forest Products Commission. The Forest Production Council, an advisory body with no reserves vested in it, will be abolished.

Existing functions: The present vesting, advisory and management planning functions of the Lands and Forest Commission and the National Parks and Nature Conservation Authority will become functions of the Conservation Commission. Similarly, existing functions of the Forest Production Council, except those applicable to the use, processing and marketing of forest produce, will become functions of the commission. In addition, the Conservation Commission will be responsible for developing guidelines for monitoring and assessing management plan implementation by the department and for setting performance criteria with regard to the carrying out of management plans. The minister will receive advice from the Conservation Commission on the ecologically sustainable management of state forests, timber reserves and forest produce throughout the State. Advice will also be provided to the minister with regard to the production and harvesting of forest produce on a sustained yield basis.

Staffing of the Conservation Commission: The Conservation Commission will be provided with appropriate powers and resources to carry out its functions. To facilitate the implementation of its functions the Conservation Commission will employ its own staff. It will also be able to contract for professional, technical and such other assistance as it considers necessary. In addition, for administrative efficiency it will be serviced and assisted by the department. Staff appointed to the Conservation Commission will be under the direct and sole control of the commission. A management audit unit to be established as part of the commission's staff will monitor and assess the implementation of management plans by the department against performance criteria set by the commission.

Preparation of management plans: While both the Conservation Commission and the Forest Products Commission will have functions applicable to the appropriate management of state forests and timber reserves, the Bill provides for the joint preparation of management plans for these reserves by these two bodies. This plan will in the first instance be jointly drafted by the Department of Conservation and staff of the Forest Products Commission. The draft plan will then be submitted to the Conservation Commission and the Forest Products Commission for approval to release for public comment. At this stage the plan will be subject to assessment by the Environmental Protection Authority which will recommend appropriate ministerial conditions. The Minister for Forest Products and the Minister for the Environment will be responsible for approving the management plan. Should the respective ministers be unable to agree upon the plan, the matter will be determined by the Governor, following a recommendation by Cabinet.

To ensure public water supplies are protected, the Waters and Rivers Commission and relevant public water utilities will have a joint role in the preparation of management plans where a public water catchment area coincides with a Conservation Commission reserve.

State Forest and Conservation Reserves: Areas of state forest and timber reserve identified in the Regional Forest Agreement for conversion to conservation reserves, such as national parks, will be assigned the new forest conservation area classification provided for in the Bill as an interim protective measure before the new conservation reserves are established under the Land Administration Act. Also, some areas in state forests and timber reserves are identified in the Regional Forest Agreement as areas where timber harvesting will be precluded. These areas will remain state forests and timber reserves but will be assigned forest conservation area classification.

The Bill provides other safeguards for forest conservation areas by preventing the granting of a forest produce licence, permit or contract which applies to these areas and by providing an offence for unauthorised removal of forest produce from a forest conservation area. Commercial timber harvesting is not permitted in forest conservation areas.

In accordance with a commitment made in the Regional Forest Agreement to protect forest conservation areas, the Bill will also establish that any proposal to amend or cancel a forest conservation area cannot proceed unless it has been laid before each House of Parliament, so the Parliament can resolve whether the amendment or cancellation proposal can proceed by notice published in the *Government Gazette*.

To assist in addressing safety issues, forest products temporary control areas are also provided for under the Bill. They will be applied only in state forests and timber reserves for the purposes of public safety or the safety of persons working in the forests in the activities of harvesting or stockpiling forest products, or road construction or maintenance under Forest Products Commission contracts. These areas will not be established unless recommended by the Minister for Forest Products.

Managing the change: As a consequence of the Forest Products Commission taking responsibility for contracting for the harvesting and sale of forest products under the Forest Products Bill, the Conservation and Land Management Amendment Bill includes a number of amendments of a largely administrative nature. These remove similar existing functions from the powers presently assigned to the Executive Director of the Department of Conservation and Land Management.

Management and protection of the forest will be a responsibility of the department and carried out under the relevant management plan. Arrangements for access to the forests by Forest Products Commission's contractors and the performance of the department's functions will be the subject of a memorandum of understanding between the department and the Forest Products Commission. This memorandum of understanding will also address the processes that will be applied to the development and implementation of logging plans. A memorandum of understanding will also be entered into between the department and the Conservation Commission. This will address how they will work together, including matters such as access to information applicable to the development and implementation of logging plans and the processes applicable to approving access by external researchers to land managed under the CALM Act.

With regard to timber share farming agreements, the executive director will continue to be responsible for negotiating and entering into the agreements but will no longer be responsible for harvesting and selling the tree crops produced. While the Bill provides that the executive director may act as an agent for other persons in respect of establishing and maintaining tree crops under a timber share farming agreement, it is the Government's position that the executive director will not act as an agent for the Forest Products Commission in this regard and that the Forest Products Commission's role will be confined to harvesting and sale of the forest resource derived from such tree crops. This policy will be reviewed if it is later determined that it is appropriate for the Forest Products Commission to have a role in other aspects of timber share farming agreements.

Resourcing the commission: Neither the department nor the Conservation Commission will have a role in the establishment of prices for forest resources. In this respect references to royalties will be removed under the Bill. Costs incurred by the department in respect of its functions as they apply to management of land and forest resources, timber share farm land, or advice, work performed, services or facilities it may provide to the Forest Products Commission, will be recovered directly from that commission. Revenue from the sale of forest products will no longer be available to the department and conservation activities presently provided on the basis of that revenue will be appropriately funded from the consolidated fund. Revenue from managing activities such as ecotourism, wildflower picking, beekeeping and other minor income will remain with the department for use for conservation purposes. On land managed under the CALM Act such activities remain subject to management plans and independent audit. As a consolidated fund agency, resources allocated to the department's functions will be transparent and open to public scrutiny.

Tourism initiatives, licences, permits and contracts: A business unit is to be established within the Department of Conservation to manage tourism in accordance with competition principles laid down in national competition guidelines. The business unit will operate on the basis of management plans developed through the Conservation Commission, with primary consideration given to ecologically sustainable practices. In developing the business unit, the Department of Conservation will consult with the Western Australian Tourism Commission as well as with Treasury. In addition the Department of Conservation will be required to consult with the WA Tourism Commission during the development of management plans.

The scope of licences, permits and contracts applicable to forest produce under the Conservation and Land Management Act will change as the meaning of forest produce will be limited by the Bill in respect of those authorisations, so that it excludes forest products. Forest products excluded from the meaning of forest produce in this regard include trees, timber and woodchips. In addition, the granting of the limited forest produce licences, permits and contracts on State forests and timber reserves will be subject to consultation with the Conservation Commission and approval by the minister. Proposed leases on state forest and timber reserves are similarly affected and, when granted, will have to be tabled in Parliament in the same manner as leases on other reserves that the Conservation and Land Management Act applies to are required to be tabled. These changes are consistent with the consultation and approval regime, and tabling requirements that presently apply to authorisations to enter and use other reserves such as national parks that will be vested by the Bill in the Conservation Commission.

A process for considering whether the community's water resources on conservation reserves should be made available for use does not presently exist in the Conservation and Land Management Act. The community should not be denied the use of that water if it is shown that removal of the water will not have a detrimental effect on the relevant reserve and the management plan applicable to the reserve identifies removal of water as an acceptable use of the reserve. In this respect, the Bill provides that authorised access to water on reserves vested in the Conservation Commission for the purpose of taking the water through the granting of a permit, will also be addressed though the consultation and approval regime applying to other permits. However, access to take water can be considered only if this action is provided for in the relevant reserve management plan, and granting of the permit will not limit the operation of the Rights in Water and Irrigation Act 1914. The functions of the department will also be amended by the Bill in respect of the policy applying to water on reserves.

Transitional provisions: A number of transitional provisions are included in the schedule to the Bill to cover matters that are presently the responsibility of the department but will fall under the ambit of the Forest Products Commission. The transitional provisions apply to transfer of forest products contracts, harvesting and selling rights under timber share farming agreements and rights and obligations under other agreements. A transfer of staff from the department to the Forest Products Commission is also provided for. With regard to the Forest Management Regulations 1993 made under the Conservation and Land Management Act, the transitional provisions establish that the regulations applicable to harvesting and sale of forest products will operate as if they had been made under the Forest Products Act. Establishment of the Conservation Commission as the body in which the reserves of the existing Lands and Forest Commission and the National Parks and Nature Conservation Authority will be placed, is also addressed in the transitional provisions.

Conclusion: The changes to be effected through this legislation are significant and are premised on increasing levels of openness and accountability. They clearly delineate between the conservation and native timber harvesting functions,

emphasise a greater role for the community and highlight the need to manage our forests according to the principles of ecologically sustainable forest management. The introduction of the Conservation and Land Management Bill 1999 heralds a new beginning in forest management. It provides the overarching framework for policy development in the future in a process that is based on restoration of trust, greater openness and strengthened accountability mechanisms. I commend the Bill to the House and table the explanatory memorandum.

[See paper No 461.]

Debate adjourned, on motion by Mr Cunningham.

FOREST PRODUCTS BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [10.35 am]: I move -

That the Bill be now read a second time.

The Forest Products Bill 1999 represents the second tier of fundamental changes to forest management policy in Western Australia. It complements the Conservation and Land Management Amendment Bill 1999. Together, the Bills mark the emergence of a new direction in forest management policy in Western Australia. This new direction will be characterised by recognition that our forests represent a range of values and must be managed accordingly. The Forest Products Bill will give effect to the Government's policy objective of separating commercial native forest management responsibilities from conservation objectives. There is a perception that an integrated approach places undue emphasis on commercial activities - often at the expense of conservation functions. Such claims underestimate the very real benefits of integration - benefits the Government is keen to maintain as we embark upon a process of change.

This Bill establishes the Forest Products Commission, a statutory authority with responsibilities including contracting for the harvesting of forest resources from public land and timber share farm land and the selling of those forest resources. To further delineate commercial activities from conservation objectives, the Forest Products Act will be administered by a minister other than the minister responsible for the Conservation and Land Management Act. Notwithstanding, the avoidance of duplication and need for administrative efficiency has been used as the basis for the new legislation. Mechanisms such as memorandums of understanding will be used to clarify responsibility, improve administrative efficiency and minimise duplication. Staff of the Forest Products Commission will be employed by the commission and will in no way be the responsibility of the Department of Conservation or the Conservation Commission. However, such arrangements will not preclude the Department of Conservation providing a bureau service for the Forest Products Commission where it is more efficient and effective to do so.

Operational issues: The Bill provides that the Forest Products Commission will participate in the preparation of management plans for state forests and timber reserves, and provide advice to the minister about changes to timber reserves and the establishment of forest resources temporary control areas in state forests and timber reserves. The harvesting of forest resources by contractors of the Forest Products Commission on state forest and timber reserves can be carried out only under contracts that are consistent with the Conservation and Land Management Act and the relevant management plan approved under that Act. This Bill also provides that such contracts have no effect after the relevant management plan has expired.

The Forest Products Commission will be required to present government with a commercial price for its operations, including the price to be set for timber. The commercial functions of the Forest Products Commission will be operated on a similar basis to existing government trading enterprises such as the utility corporations. In keeping with those models, the Bill provides that the Forest Products Commission will be required to develop an annual strategic development plan and an annual statement of corporate intent which will have to be approved by the minister and the Treasurer. The financial and economic objectives, operational targets, policies and other matters that must be included in these annual statements will be subject to the scrutiny of the Treasurer. The overall direction of the commercial activities and other responsibilities of the Forest Products Commission will therefore be matters that the minister and the Government can address through the approval process for these annual statements.

The Bill provides that the commission must try to ensure that a profit is made from the use of forest resources consistent with its operational and performance targets. A very strong caveat on such operational objectives will be that the commission, in endeavouring to make a profit, cannot operate in a manner that jeopardises the long-term viability of the forest resources industry or the ecologically sustainable management of indigenous forest resources located on public land.

The "profit" that the Forest Products Commission must endeavour to make is not a profit from its operations, but the appropriate return to the State from the use of the State's forest resources produced on public land. The royalties presently levied under the Conservation and Land Management Act will be replaced by this return to the State, which will be paid by the Forest Products Commission to the consolidated fund in the form of dividends and tax equivalent payments. As a statutory authority, the Forest Products Commission is subject to the Financial Administration and Audit Act with regard to its financial administration, auditing and reporting requirements.

Apart from its commercial functions, the Bill establishes that the Forest Products Commission will have other responsibilities applicable to the use of a valuable public resource and the continuation of a viable timber industry. A promotional role will

also be provided to the commission with respect to employment in and development of the forest resources industry, and sustainable use of indigenous forest resources consistent with State forest and timber reserve management plans.

Interim arrangements: The Government is proceeding with the establishment of a new division in the Department of Conservation and Land Management to carry out, as far as it is practicable under present legislation, the functions the staff of the proposed Forest Products Commission will perform. This is being done to ensure that the Forest Products Commission will be fully functional when the Forest Resources Bill comes into operation.

Conclusion: In effect the Bill provides for the continuation of a viable timber industry, clearly separates the commercial and conservation spheres of activity and reinforces the role of ecologically sustainable forest management. I commend the Bill to the House and table the explanatory memorandum.

[See paper No 462.]

Debate adjourned, on motion by Mr Cunningham.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Gas Standards (Gas Fitting and Consumer Gas Installations) Regulations 1999, Forty-fifth Report

MR WIESE (Wagin) [10.43 am]: I present for tabling the report into the Gas Standards (Gas Fitting and Consumer Gas Installations) Regulations 1999 by the Joint Standing Committee on Delegated Legislation. In tabling the report, I indicate to the House that this has been one of the more difficult investigations in which the committee has been involved. These regulations deal with the requirements and changing requirements for the installation and inspection of gas installations, predominantly dealing with type-B gas appliances, which are the larger gas appliances that are subject to inspection. For the information of the House, the regulations at which we were looking were originally gazetted in April and were tabled in the Parliament in May.

As the committee started its investigations into these regulations, we moved the protective notice of disallowance in the Legislative Council. As we approached the prorogation of the Parliament at the end of July or the beginning of August, it became clear that if prorogation took place, the regulations would be automatically disallowed according to the procedures of that House. In order to ensure that there remained a regime of control over gas inspection, the Office of Energy brought in new regulations at the beginning of August, just prior to prorogation. That had the effect of repealing the regulations at which the committee was looking and replacing them with new regulations, which were almost the same as the regulations at which we initially looked. The committee then continued its investigations, this time on the new regulations. In the investigation of the regulations, we took evidence from a significant number of people. We took oral evidence from manufacturers of type-B appliances, representatives of gas suppliers and the Trades and Labor Council. We received two submissions from a company called Combustion Air Pty Ltd, which was significantly involved in the manufacture of major type-B appliances. We received written submissions from the Office of Energy and from a firm called Pyrotherm Pty Ltd, which was also involved in the manufacture of type-B gas appliances. We also carried out investigations into whether any potential hazards would or could arise as a result of these regulations or as a result of the issues at which these regulations were looking. We took evidence by way of letter from the Department of Minerals and Energy, which has a role in overseeing gas in the types of installations in which a major catastrophe has occurred, such as at Longford in Victoria. That type of installation comes under the control of the Department of Minerals and Energy. We also received submissions from WorkSafe.

Several issues were looked at very closely by the committee; issues which were quite difficult for the committee to come to grips with. The regulations deal with two types of gas appliances. Type-A gas appliances are basically the domestic gas appliances which are subject to inspection regimes under these regulations, but which are approved as being inspected at the initial place of manufacture and prior to installation. The best way of describing it would be that it is a type approval. There appear to be no problems with these regulations in respect of type-A appliances. Type-B appliances are more substantial gas appliances. They are defined according to the input rating. Ten megajoules of gas and energy is the cut-off point between a type-B and a type-A appliance. Many type-A appliances also go well above that cut-off point of 10 megajoules, using up to 25 megajoules. Because of the nature of them, they are standard appliances and are treated as type-A appliances. Type-B appliances can range from a relatively small gas heating appliance right through to major industrial mining appliances which use hundreds of thousands of megajoules of gas. The range covered by these regulations was very large.

The first problem with which the committee had to come to grips was the effect of the regulations on the supply of commissioning gas. The regulations impose a regime of inspection and approval processes. One of the regulations indicates that a person is not able to have final fitting work done on a gas installation and is not able to have the work approved on a gas installation without its having been supplied with what is known as commissioning gas. In other words, gas has to be supplied to the type-B appliance to allow it to be tested and approved. The regulations also require that a gasfitter can only complete a notice of completion of work if commissioning gas has been supplied. Therefore, there is a conflict between the two requirements of the legislation. The committee considered that at some length and clearly there was a conflict: The gasfitter was not in a position to complete a notice of compliance if he could not get commissioning gas, but he could not get commissioning gas unless there was a notice of the completion of work. The committee resolved to recommend that the Act be amended with the effect of the amendment being that the commissioning gas can be supplied but no final approval is to be given until the piece of equipment is permanently installed. The committee believes that if the Act is amended along those lines, the problems will be overcome.

One person who made a submission to the committee referred to the type approval and the type-B appliances, which are very

often one-off appliances - they are individually designed and manufactured for individual installation situations. Under the legislation, a manufacturer of type-B appliances is not able to advertise, supply or hire this type of equipment. That is a significant impost upon the manufacturer. He is not allowed to advertise for sale or hire unless he has an approved appliance. The approval processes are not able to be completed until the particular appliance has been manufactured, installed and inspected at the installation site with commissioning gas connected. It is a difficult situation for manufacturers. The committee made suggestions to deal with that situation. It suggested that manufacturers should be able to advertise their ability to make and supply those appliances. However, the legislation should be amended to provide that the advertising shall include a clause that the appliance is not the subject of a final sale until it is in place and has been approved and tested and commissioning gas supplied in situ. In those circumstances, a manufacture will be able to advertise type-B appliances on the proviso that they are not sold or possessed until the pieces of equipment are in place and tested and working.

Another issue about which the committee was concerned was who would take responsibility for the inspection and installation of the equipment. The legislation deals with two different groups of persons who are involved with installation and testing procedures. In one instance, the regulations required that the gasfitter-

> . . . must certify that every part of the gas installation on which the gas fitting work was done *or that is affected by the work* complies with the requirements referred to in regulation 32, is safe to use and is completed to a trade finish.

That effectively requires the person who is hooking the piping on to the type-B appliance to certify that everything inside that piece of equipment is properly made, designed, installed and will work. Clearly, a gasfitter making the external connections which allow gas to be put into such an appliance is in no position to be able to make that sort of declaration because he has no ability in many cases to get inside the piece of equipment to test and inspect. The committee believes strongly that the responsibility for that sort of compliance must rest with the designer, manufacturer and installer of the equipment. The committee highlights in its report that the regime for an inspector who must issue the certificate of compliance is different from that which applies to the gasfitter. All the inspector, who in many cases is probably a much more qualified person than the gasfitter, is required to do under the legislation, and again I quote-

> . . . if the inspector has inspected the appliance and ascertained, *so far as is practicable*, that it complies with the requirements referred to in regulation 32.

Whereas the inspector only has to ascertain "so far as is practicable", the gasfitter has to say that the design, the manufacture and everything inside the piece of equipment complies. We strongly suggest that the legislation should be amended so that the gasfitter has the same compliance regime as an inspector. The committee believes that the legislation should put the obligation back with the manufacturer, the inspector and the gas suppliers rather than with those who are last on the scene and the least capable of making the declarations that all is well with the appliance before it is finally put to use.

Gas suppliers are required to check the safety of the installations to which gas is supplied and certify that they meet all requirements. The legislation gives the minister the discretion to exempt gas suppliers from the inspection duties on all gas installations. That exemption is granted on such terms and conditions and subject to compliance with all arrangements as the minister sees fit. The reality is that the minister has supplied exemptions to all the major gas suppliers, AlintaGas, Boral Energy, Kleenheat Gas and BOC Gases. They have been granted an exemption on the condition that each supplier has in place an inspection plan and a policy statement approved by the Director of the Office of Energy. However, the committee wishes to highlight that nobody, apart from the minister and the director, really has any idea what is in place in the inspection plan and the policy statements. Therefore, what is the regime under which gas suppliers get that exemption? In the interests of clarity for the public and in the interests of the public having confidence in the safety practices of the gas suppliers, the committee believes and recommends that those inspection plans and policy statements, which are the basis on which the minister provides exemptions for gas suppliers, should be made public by way of publication in the *Government Gazette*. We can see no reason that that should not happen. We do not believe that safety or commercial confidentiality will in any way be jeopardised by such a regime, and we strongly recommend that that happen.

The only other issue with which I will deal relates to the independence of gas inspectors. The legislation sets up a regime under which there is an ability and a requirement for inspectors to carry out their duties under the regulations. Most, if not all, of the registered gas inspectors who have an ability to inspect and certify these type-B appliances are people who are in private industry. A large number of them are attached to the existing gas suppliers. We believe that questions potentially arise about their independence, and there should never be any questions concerning the independence of persons carrying out such an important safety role in the community. The committee suggests that a potential conflict of interest could arise when a gas inspector is working for, say, company A, and it is the person who is taking delivery of the gas appliance who has the responsibility to nominate who will do the inspection. The situation could arise that a gas inspector who is certifying that a particular type-B appliance complies with all the requirements - in that process he must inspect all the plans and designs of the particular gas appliance - could be a person who is working for a competitor of the manufacturer whose appliance is being inspected. Clearly, there is considerable potential for conflicts of interest to arise in that situation. The ministry and the Office of Energy should ensure that there is a strong pool of independent inspectors to dispel any concerns regarding potential conflicts of interest.

The committee has not recommended disallowance of these regulations. It believes that they are within power. However, it reports on the basis that some issues that came to its notice as a result of its inspection of the regulations need to be addressed by way of changes to the Act and to the existing regulations. I commend the report to the House.

[See paper No 459.]

PUBLIC ACCOUNTS COMMITTEE

Report No 43, Administration of the Constitutional Centre of Western Australia

MR TRENORDEN (Avon) [11.03 am]: I present for tabling the "Report on the Administration of the Constitutional Centre of Western Australia", which is report No 43 of the Public Accounts Committee. The committee's initial interest in the centre was prompted by media coverage that the centre had been experiencing budgetary and administrative problems, particularly in the first six months of the 1998-99 financial year. The committee obviously saw this matter as being well and truly within the ambit of the Public Accounts Committee - that is what public accounts committees are about. Therefore, off its own bat, the committee decided to undertake this inquiry. The committee was also requested by the shadow Minister for the Arts to inquire into issues related to the financial and administrative management of the centre.

The committee embarked upon its inquiry with a view to examining the administration of the centre from the time it first opened in October 1997, with particular emphasis on a number of points, as listed on page 2 of the report. Those points deal with budget and financial management, procurement and contracts for service, engagement of employees and contracts of service, overall administration, particularly information management, and the role and the function of the centre's advisory board.

The summary appears on page 5 of the report. The centre had a deficiency of $850 000, and the budget blow-out in the first six months of the 1998-99 financial year resulted from deficiencies in cash flow management at the centre, coupled with inadequate divisional management oversight. The ensuing financial difficulties and budgetary constraints had an impact upon the activities, programs and staffing levels at the centre. The financial systems for tracking expenditure and invoices were inadequate to identify the extent of future commitments, and provided a misleading financial picture. This also had an impact on the adequacy and reliability of financial information provided to the centre's advisory board. Procedures, guidelines and approval processes relating to both supply and human resources contract management were not always adhered to. This had an impact on the way goods and services were procured and the way in which staff, consultants and casuals were engaged and managed. Information management at both the centre and the Ministry of the Premier and Cabinet was inadequate in a number of areas.

The committee acknowledges that there has already been some action on this issue. This matter has received a considerable amount of press coverage in the past. The Auditor General has also shown some interest in this matter. The committee is aware of changes that have taken place at the centre. This is not news to the House. As I said, this matter has received a considerable amount of publicity. I do not intend to say any more than that. I commend the report to the House.

MR OSBORNE (Bunbury) [11.07 am]: As a member of the subcommittee that was heavily involved in the preparation of this report, and obviously also as a member of the Public Accounts Committee, I will make some remarks on the report. Because of events which occurred yesterday, I will also take the opportunity to restate a number of points I made yesterday and, in doing so, make clear for the public record what my position is and why some of the actions I took were taken.

First, I am disappointed at the way in which my personal note was used in this place yesterday. I accept that it happened and that that is part of the rough and tumble of parliamentary life. Nevertheless, I record my disappointment that correspondence which was personal to me was brought into this place and used as a vehicle to attempt to get a committee of privilege established in this place. I take my duties as a member of Parliament very seriously, and I was disappointed that members opposite purported to believe that I had abused the privilege of the House. I certainly committed an indiscretion, but there was nothing approaching a breach of privilege in what I did.

Much focus has been put on my use of the word "laundered". It is not a word that I intend to use again. In fact, as a result of the events yesterday, there are a couple of things I do not intend to do again. I am reminded of one statement: In politics, never write what one can speak, never speak what one can whisper, and never whisper what one can think. That is a maxim which I will take to heart as well. I say again that my use of the word "laundered" came from the fact that when the first draft of this report was prepared, I believed that it was not accurate and that it was unfair to some of the people who were named. From the time that the subcommittee started to work, I bent my efforts to make the report fair, as I saw it. When I used that word, what I meant to say was that it had been laundered of the unfairness that I believed originally existed. To imply or to suggest that I meant anything else or that it has a political meaning is not fair. I ask the House to take my word on that matter.

It is not logical to accept that one member of a five-person committee can do such a thing to a committee report; it does not stand to reason. I am one member of the committee and, like all members, I argue points of view. Sometimes I succeed, and at other times I do not. It puts a very high store on my persuasive powers to suggest that I am able to launder a report to the extent that it does not represent the views of other members of the committee. Conversely, it suggests that other members of the committee are not doing their job or that they lack the ability to withstand my arguments.

I refer to the suggestion that I attempted to delay the tabling of the report. The reason referred to in the House yesterday was a secondary reason and unfortunately one which was personal to me and which has become public, much to my embarrassment. The real reason that I sought to delay the tabling of the report was to accord a courtesy to the member for Southern River, who was not a member of the subcommittee but who expressed the desire to see the final report before it was tabled. Because of the great press of commitments on her, she was unable to read the report. She asked for more time before the final report was tabled to read it so that she would not be put in the position of approving a final report she had not seen. My note tabled mentioned some of the member's commitments yesterday. She had meetings on Bushplan and the distribution adjustment assistance scheme and her preselection. I went to the Public Accounts Committee meeting and said that I thought it was unfair to the member for the report to be adopted and then tabled the following day when she had her

preselection and obviously would not be able to read it. The committee ultimately did not accept my argument and resolved to table the report today. That was the reason I sought to delay the tabling of the report: I wanted to give the member for Southern River what I thought was her right as a member of the committee and a member of the Parliament to see the report before it was tabled.

The report stands on its own merits. Obviously it deals with a very difficult time in the life of the Constitutional Centre. As members of Parliament and of the public, we should keep in mind the high ideals for which it was established and acknowledge the great success it has had in achieving those ideals. Obviously many mistakes have been made and they have been comprehensively documented in the report. The Public Accounts Committee conscientiously tried to identify those difficulties and it did not shirk its duty to the Parliament and the people of Western Australia in doing so.

It must be emphasised again and again that the Constitutional Centre was established to promote public awareness of our federal system of government, to encourage a balanced debate about the parliamentary system and to educate the public of Western Australia about it. It has been an outstanding success in doing that. The great number of people who have gone through the centre have been a testament to its programs and the Government's vision in establishing it in the first place. It was the first of its kind in Australia, and it is reasonable to expect some teething problems in such an innovative project. Those problems went on too long, and the report clearly states that systems were not in place to identify them quickly enough and to implement corrective action. Corrective action was later taken and the report identified that. Some would say that it was taken too late, but ultimately members who worked at the centre and staff at the Ministry of the Premier and Cabinet came to grips with the situation and we now have a very fine addition to the education system of Western Australia. The cost overruns experienced at the centre were significant, but they were within the ministry's budget. No wrongdoing attaches to the staff at the ministry because, while there was a cost overrun at the centre, there was no budget blow out within the ministry itself.

That is the extent of my remarks. I believe that the recommendations of the committee will address the issues that have already been identified in the public arena and within government. There are lessons for all members. Nonetheless, the establishment and the operation of the Constitutional Centre has been a most worthwhile addition to the education system and public awareness of the people of Western Australia.

[See papers Nos 460A-B.]

PETRELIS, MR ANDREW, INQUIRY INTO DEATH

Standing Orders Suspension

MRS ROBERTS (Midland) [11.14 am]: I move -

> That so much of the standing orders be suspended as is necessary to enable the following motion to be considered forthwith -
>
> > That this House calls on the State Government to establish a judicial inquiry into the death of protected witness Andrew Petrelis.

The death of a protected witness is obviously a very serious matter in any circumstances, and this relates to an extremely high-profile case. Protected witness Petrelis died in what everyone agrees are very suspicious circumstances. Even the Premier said earlier this week that he agreed the circumstances surrounding the death were very suspicious. He went on to say that he would ensure that his Government would leave no stone unturned in uncovering the truth of this matter. While he said that, his Government's actions are at odds with that aim. The Government is covering up matters and sweeping them under the carpet. It is intending to send some small part of the matter to the black hole of the Anti-Corruption Commission. It appears that the real details surrounding the death of Mr Petrelis will be largely ignored. I am moving this motion for that reason.

MR BARNETT (Cottesloe - Leader of the House) [11.16 am]: As members will understand, as Leader of the House I am not thrilled about the prospect of suspending standing orders on the last day of sitting. The Opposition could have raised this issue as a matter of public interest. It is up to the Opposition to select what it considers should be debated during private members' business, which was conducted yesterday, or during an MPI. This will effectively be another period of debate on private members' business.

I make it clear for the record: It is the Government's intention to deal with the two native title Bills today, come what may, and no matter how long that might take - today, tonight or tomorrow morning. At the same time, the Government recognises that the death of Mr Petrelis is of significance and that it has attracted a great deal of public interest. Because of the importance of the issue, the Government will agree to suspend standing orders. However, it does so on the basis that the debate will last for no more than one hour and that it will be conducted along the same lines as an MPI.

MR KOBELKE (Nollamara) [11.18 am]: The Opposition is taking up this matter because it is so important. Members on this side have given the Minister for Police an extended period in which to address the serious issues relating to the death of Mr Petrelis, but he has failed. This is the last opportunity for this matter to be pursued. However, members will take account of what the leader has said and will seek to curtail the debate so that it does not delay the other important matters with which the House must deal. This matter is so serious that it is appropriate that it be dealt with now with the suspension of standing orders.

Mr Barnett: On the condition that we agree to one hour.

Question put and passed with an absolute majority.

Motion

MRS ROBERTS (Midland) [11.20 am]: I move -

> That this House calls on the State Government to establish a judicial inquiry into the death of protected witness Andrew Petrelis.

Nothing short of a completely open and full judicial inquiry will satisfy in this matter. What has been proposed by the Minister for Police today is a knee-jerk response which does little more than try to sweep under the carpet this most important matter. The first point in what I will describe as the minister's three-point plan is to refer the inappropriate access to police computer data to the Anti-Corruption Commission. That is one small part of what has gone wrong in this case. The second point is to get a Queen's Counsel to review the structure and practices of the witness protection program and make recommendations. That is all well and good and something the Opposition can support. However it does not deal with the essential nature of what happened in the case of Mr Andrew Petrelis. The third point is to give a full and complete briefing to the family. That again is worthwhile, but it is not all that is required.

In calling for a judicial inquiry into this matter, I am fully aware that the minister will again claim that this may jeopardise potential prosecutions. Not every aspect of a judicial inquiry needs to be open. Obviously such an inquiry will need to have the capacity to take some evidence in camera, and it can thereby avoid the kinds of problems about which the minister is talking. The three-point plan of the Government is nothing more than a cover up. It is an exercise in trying to sweep under the carpet an enormous range of incredibly important and serious questions.

Let us look at the matter of police computer access. On the basis of what has been said by the minister, it is a scandal that this matter has not been dealt with already. Five years later we find out that at last, under pressure, this Government will refer the matter to the ACC. I will tell the House a few things about computer access in the Police Service. We are told, with the concurrence of the minister, that two police officers accessed the computer, one of whom was Mr Davy, who has since left the Police Service for leaking computer information on an entirely different matter. His excuse was that he looked up the name Thomas Parker. That is what the minister has told the House. I will tell the House what I am told about the police computer. I am told that if one puts in the name Thomas Parker, Tom Parker or even A. Parker, that will not trigger the computer track that was put in place. By way of background, when a protected witness like Mr Petrelis is given another identity and is sent to another State, it is important that if he is pulled over in his vehicle or questioned by police in that State, the police can verify the identity of that person with the Western Australia Police Service. However, the protected witness program needs to be alerted whenever someone enters that person's name into the police computer. We know from what the minister has told us - not from anything that anyone has made up - that that happened twice: Once in the case of Mr Davy, and once in the case of another police officer who is still in the Police Service and who I am told may be in the Internal Affairs Unit. That is very worrying.

Mr Prince: That is not so.

Mrs ROBERTS: I am pleased to be informed of that. However, we still have this access by Mr Davy, which has not been pursued through the courts. We also have access of the computer by another officer, about which it seems no action has been taken. I am told that in order to trigger that computer track, one needs to type in the name Andrew Parker - not A. Parker, Thomas Parker or even just the surname Parker. This matter should have been looked into a long time ago. The Government should not have been dragged kicking and screaming into reporting this matter to the ACC. That is a question that the minister needs to answer.

The minister said also that Assistant Commissioner Lienert has now conducted an inquiry, and that as a result of that inquiry, the minister will take these three actions. It is my information that Mr Lienert has not even interviewed the former sergeant who flew with Mr Petrelis to Queensland and stayed with him in his unit for just over one week, and who was responsible for establishing his new identity. Can the minister advise me whether that is true?

Mr Prince: Is that Mr Thompson?

Mrs ROBERTS: Yes.

Mr Prince: I am told that Mr Lienert has tried to see Mr Thompson.

Dr Gallop: We have got a report, but he has not spoken to him!

Mr Prince: Whether they have spoken in the past 48 hours I do not know.

Mrs ROBERTS: Mr Thompson tells me that he contacted Mr Lienert and requested an interview, and he was offered a one-hour interview, which was totally inadequate for his purposes. As a result, I understand that Mr Lienert has now made another arrangement to meet with Mr Thompson - and I do not think it is appropriate that I disclose that to the House - but that arrangement has not yet taken place.

Mr Prince: I was aware of the offer of one hour, and that was last week, and I knew that they were to meet for a longer time. I do not know whether that has happened.

Mrs ROBERTS: That still has not occurred. The minister has outlined the course of action which he intends to take as a result of the concerns that have been raised in the media, in the Parliament and by the public, but the most essential witness still has not been interviewed properly by Assistant Commissioner Lienert.

Mr Prince: Do you have any doubts about the capacity of Mr Lienert to do the job?

Mrs ROBERTS: I have doubts about the minister and his capacity to do his job. Former sergeant Thompson wrote to the Minister on Monday of this week, and he advised the minister's office yesterday morning that he would also be speaking to someone from the Labor Party.

Mr Prince: That is correct. I intend to table his letter.

Mrs ROBERTS: I will be pleased to have that letter tabled.

Mr Prince: Have you seen it?

Mrs ROBERTS: No, I have not. Mr Thompson raises a number of serious questions which have not largely been raised in the Press so far - questions which I know he has attempted to convey to the minister and to Mr Lienert. Why has this former sergeant not yet been interviewed? I would think he would be the first person whom Mr Lienert would interview. I am also advised that after Mr Petrelis had died, this officer was not the officer who was sent to Queensland to deal with the matters surrounding his death. The officer who had been dealing intimately with Mr Petrelis, who knew the full facts of the case and had been involved in his protection until the time that he was ordered to go back to Western Australia, was not the officer who was dispatched to Queensland to deal with matters after his death. We need to know why another officer was sent, and who made the decision to send that completely different officer.

Mr Prince: I agree with you.

Mrs ROBERTS: Mr Thompson also said that insufficient funds led to his return to Perth. He also said that Andrew Petrelis knew that his security had been breached and that he was in fear of his life. Mr Thompson also told me that after Mr Petrelis' death, he contacted Mr Dale Thompson, the Queensland police officer, on more than one occasion requesting a coronial inquest.

Interestingly enough, Mr Thompson also told me that after Mr Petrelis' death, the Police Service decided to change the name of the witness protection unit to the witness security unit because the police realised that they could not protect witnesses and it was false to be calling it the witness protection unit when, obviously, very little was offered by way of protection. The name was, therefore, downgraded to the witness security unit. Former sergeant Thompson conveyed that at that time he was ordered to leave Queensland and that he too feared for Andrew Petrelis' safety if left alone without police protection in Queensland. He believed that Mr Petrelis should have been kept under armed guard. That should have happened first and foremost for Mr Petrelis' safety and, secondly, because other agencies, such as the Australian Federal Police, spent in the order of more than $1m on surveillance for the trial of Mr Rippingale. A total of $1.5m was spent on Operation Hydrogen - the surveillance of Mr Rippingdale and Mr Kizon - and legal expenses for the trial over four and a half years, yet it would appear that the Western Australia Police Service witness protection program has let down the side by penny-pinching because it made decisions based on its paltry funding. If that is the case, it is a disgrace for which the minister and his government must answer. Mr Thompson said that it is not only the witness protection program that is underfunded, but also many areas of the Police Service. He has confirmed media reports of Mr Petrelis having to pay his own airfares and relocation costs. He told me that Andrew Petrelis' father met those costs.

Mr Prince: That is right.

Mrs ROBERTS: The minister said that that is right. That is, the Western Australia Police Service's witness protection program is so underfunded that it could not fund Mr Petrelis' protection. His family had to pay much of the witness protection costs. I am told this is not an isolated case, but that this occurs too with other protected witnesses who have been put up in safe houses for short periods and, before they have the opportunity to give evidence, are either sent to jail or set up merely with a duress alarm in the event of a difficulty. Key questions must be answered, and the minister must answer them. These questions do not appear to be answered by the minister's three-point plan outlined today.

Mr Prince: I think they are.

Mrs ROBERTS: We need to know why the Western Australia Police Service sent Andrew Petrelis to Queensland knowing that his new identity had already been exposed. I cannot see how that question can be answered by either a Queen's Counsel or by referring the computer access issue to the Anti-Corruption Commission; it will not.

Mr Prince: If you brief a QC, get access and ask the QC to have a look at what happened in 1994-95 and what is currently happening and make recommendations, clearly whoever it is can examine the whole matter and answer those questions. That is what I would expect a QC to do.

Dr Gallop: Why do we not have a full inquiry and get on with it?

Mrs ROBERTS: We need a full inquiry into the death of protected witness Andrew Petrelis.

Mr Prince: That has been done by the Queensland police and the coroner in relation to the actual death.

Mrs ROBERTS: The minister has just confirmed our worst fears. He is proposing a whitewash. He is saying that the inquiry has already been conducted by the Queensland Police Service; that is far from satisfactory.

Mr Prince: No, you raised a number of questions but the actual death of the man is something that has been the subject of an inquiry.

Mrs ROBERTS: I want to know also why the three breaches of security relating to Andrew Petrelis were not sufficient to justify either a completely new identity or a 24-hour armed guard; because that is what professionals in the policing area believe that a witness like Mr Petrelis should have had.

Mr Prince: That question must be answered: Why was that not done four or five years ago?

Mrs ROBERTS: The minister will note I mentioned three breaches of security. There has been a great deal of play over whether the computer was accessed two or three times. I specifically used the word "three" breaches of security, two of the breaches being, as the minister admitted, accesses on the police computer.

Mr Prince: To the mainframe, not the witness protection.

Mrs ROBERTS: That is right.

Mr Prince: However, the witness protection information is on a stand-alone desktop personal computer which is not networked to the mainframe and to which electronic access is impossible.

Mrs ROBERTS: That is right. However, we know that those tags had been put in place to alert the witness protection unit -

Mr Prince: Yes, on the mainframe.

Mrs ROBERTS: - if his identity was accessed on the mainframe.

Mr Prince: That is right.

Mrs ROBERTS: It appears, from everything that has and has not been said so far that there is no excuse for those two inquiries using the name Andrew Parker that were logged into the mainframe.

Mr Prince: That seems to be the case which is why the matter has been sent to an independent investigative agency.

Mrs ROBERTS: They are two breaches of security. However, it has been reported also that someone called the police the night before Andrew Petrelis flew to Queensland using the name of a reputable officer, as stated in the media report. The caller gave the new registration number of Andrew Petrelis' car which had been shipped to Queensland. It is also understood that the caller was a police officer who is still serving in the Western Australia Police Service. Can the minister advise whether that is the case?

Mr Prince: That is the information I have been given and it is part of the matter that has been referred to the independent investigative agency.

Mrs ROBERTS: Will the minister give the full details of what he is referring to?

Mr Prince: The whole question and all the information related to access to the mainframe and/or the witness protection computer are the issues that have been sent to the independent investigative agency.

Mrs ROBERTS: Is the minister saying there could well have been a third access to the police computer?

Mr Prince: The information I have is that there were two, to the mainframe.

Mrs ROBERTS: It seems that there was a third officer who was also aware of Mr Petrelis' identity and who should not have been in a position to be aware of that, and that officer is still serving in the Western Australia Police Service.

Mr Trenorden: What is the name of the officer?

Mrs ROBERTS: The minister has not named officers.

Mr Prince: The information I have, as a result of talking with the Commissioner of Police extensively yesterday, is that there were two accesses to the mainframe looking for Andrew Petrelis and that these accesses were flagged and so on. That is the information that has gone to the independent investigative agency for further investigation.

Mrs ROBERTS: I am now referring to a separate matter related to the phone call made the night before Andrew Petrelis flew to Queensland. The minister has responded by saying that the matter has also been sent to the Anti-Corruption Commission.

Mr Prince: I am sorry, I misunderstood you. You are talking about a third incident?

Mrs ROBERTS: That is right.

Mr Prince: Did that information come from Mr Thompson?

Mrs ROBERTS: It is reported in *The West Australian*. The minister should also be able to advise the House and the public whether any formal, written request was ever made by the Western Australia Police Service to the Queensland Coroner for an inquest into the death of Mr Andrew Petrelis. Surely that was the most basic task the Police Service should have undertaken. In my opinion and that of many people to whom I have spoken, many of whom have expert knowledge in this area, the Western Australia Police Service should have been screaming from the rooftops for a coronial inquest into the death of Mr Petrelis. If that was not done, we must ask why. That is a question of the most serious nature which must be answered.

We must also ask why it has taken so many years for the Western Australia Police Service to get from the Queensland Police something as basic as copies of photographs taken at Mr Petrelis' death scene. In his statement today the minister said that we now have photographs taken at the scene. How seriously has the Western Australia Police Service taken this matter if only now, after all this enormous public pressure, has it at last got the photographs of his death scene? It is a shame that many of these matters were not dealt with in a timely fashion closer to when his death occurred. Much of the evidence, such

as the syringe, Mr Petrelis' stomach contents and evidence that may have been gained from the injection sites, is lost. It is too late for that because Mr Petrelis has been cremated.

Mr Prince: Are you doubting the competence of a post mortem examiner - a forensic pathologist?

Mrs ROBERTS: I am raising the same issues raised earlier this week by the Premier, and Mr Derrick Pocock, a retired forensic pathologist. Experts have raised these questions. Despite all of that, we find out that only today the Western Australia Police Service has items as basic as photographs taken at the death scene and the like.

The public must be able to have some confidence in the witness protection program. We must know whether during the past five years other protected witnesses have had new identities accessed by unauthorised personnel on the police computer.

Mr Prince: I agree entirely.

Mrs ROBERTS: We need to know whether protected witnesses have been abandoned before they have given evidence, with no better security than a duress alarm. I am told that that was the case with Lynette Crimmins, a witness in the Lindsay Rodden trial. She was originally provided with armed security, but was told that could not continue to be sustained or funded, so she was left with nothing more than a duress alarm. From what I have heard, that is not an isolated instance.

This is the most serious of matters. I have raised a number of questions, every one of which raises yet more questions. These matters cannot afford to be whitewashed or swept under the carpet. Merely having the Anti-Corruption Commission investigating the two computer accesses will achieve nothing. The appointment of a Queens Counsel to investigate the matter may be well and good in a general sense for the ongoing operation of the witness protection program, but it will not deal with the details of how the Western Australia Police Service dealt with the suspicious death of a protected witness.

MR PRINCE (Albany - Minister for Police) [11.44 am]: Will the member for Midland consult with me about the appointment of a suitable Queens Counsel?

Mrs Roberts: Yes.

Mr PRINCE: Good. The matters raised by the member for Midland occurred in 1994-95. At the time, other officers were in charge of that area of the Western Australia Police Service, who have since retired, some of whom have made somewhat adverse comments in recent times. That is strange, but perhaps it is beside the point.

I understand that Petrelis, who was a drug user and dealer, was involved in matters to do with a significant quantity of marijuana that was put in a locker. Apparently Petrelis made a statement of evidence to the police that he was prepared to repeat as evidence in court when the matter came on for trial. The fact that the trial occurred approximately five years later - that was in 1994 and the trial was in 1999 - had nothing to do with Petrelis or the Western Australia Police Service, but had everything to do with the people being charged and what they had done over the intervening years to delay the trial.

It is highly speculative to suggest that, had Mr Petrelis been available to give his evidence, there could have been a different result at the trial. We really cannot draw that conclusion.

Mrs Roberts: I have not made that conclusion.

Mr PRINCE: The member for Midland did not say that; she implied it. I caution anyone trying that on because it is too speculative for words.

Dr Gallop: I remind you that your Government, the political party you represent in this Parliament, rejected calls for a royal commission into the Western Australia Police Service in 1996. All of these matters would have been dealt with by such an open inquiry. Your Government rejected that call and you stand responsible for what happened as a result.

Mr PRINCE: It quite rightly rejected it because everywhere else those inquiries have been held, such as the Wood Royal Commission into the New South Wales Police Service, the Costigan Royal Commission into the Activities of the Federated Ship Painters and Dockers Union and the Fitzgerald Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct in Queensland as far as it dealt with so-called police -

Dr Gallop: Are you saying those inquiries should not have been held?

Mr Court: I'm saying you left a Police Force in a rotten condition.

Dr Gallop: Come on!

Mr PRINCE: Although exposure of some matters occurred as a result of the Wood royal commission, the most recent inquiry, there was no successful prosecution of anyone.

Dr Gallop: You stand condemned for your failure to act. The same applies to childhood drownings. You are responsible.

Mr PRINCE: The Leader of the Opposition should stop shouting slogans written for him by some halfwit. Information has come to light that the Commissioner of Police and the assistant commissioner of professional standards have determined is sufficient to send to an independent investigative agency. That is what I said in this House this morning.

Dr Gallop: You did not; you put out a release saying it was the Anti-Corruption Commission.

Mr PRINCE: I did not.

Dr Gallop: I had it given to me by parliamentary staff.

Mr PRINCE: The Leader of the Opposition should have listened to the words I used when I spoke. I did not say what was written on the paper.

Mrs Roberts: On this piece of paper are the words "the Anti-Corruption Commission".

Mr PRINCE: That is not what I said. We all understand that under a rather strange provision of the law we cannot mention to whom it is being sent. Members opposite may recall that I even said, "The independent investigative agency whose report is tabled in this House". It could not be much more obvious than that, but there we are.

Mr Kobelke: You are simply playing word games.

Mr PRINCE: No; I am trying to abide by the law. Circumstances surrounding access to the mainframe computer and anything else are being sent to an independent investigative agency. Rather than some open exercise that winds up producing headlines, that is what should occur if police officers, who are serving now or who have served in the past, have committed an offence, and against whom evidence can be brought to prove that offence. It is important that charges of corruption be brought to the courts and the people dealt with in that way.

That is the way to have a decent, honest police service with high integrity. That should happen all the time, and every time. That is why we have a professional standards portfolio, which has been in existence for only three years. It is why we have had the reform of the Police Service, which has been huge, massive. That is why the situation which existed in 1994 had to be changed, and has been. The standards today are far better than they ever were. That is why when the assistant commissioner of professional standards looks at a matter and says that there is reason to send it for further inquiry, it happens. That is his standard, the standard of the Commissioner of Police, of me and of the Government - and that is what will happen.

If any police officer in this Police Service is corrupt, against whom there is evidence, that officer will be charged and dealt with. With respect to the other matters raised, for the witness protection program today we need integrity, and it must be known to be good. We must also know what happened in 1994-95 when other people were in charge, and we must bring in somebody from outside who has good analytical reasoning powers, who is used to dealing with police procedures, accustomed to dealing with volumes of paper, can inquire, and has a questioning mind and looks for connections; in other words, a Queen's Counsel. A senior lawyer is brought in. The Commissioner of Police, Mr Matthews, made this suggestion because it has worked elsewhere. It is a very good suggestion. The person who is selected will have the brief to look at the total issue.

Mr Kobelke: It is good for a cover-up.

Mr PRINCE: It is not a cover-up at all. The investigation will look at the total exercise and come back with a report on what happened, with the answers to questions raised by those opposite, many of which I agree with, and, if necessary, with recommendations for things to be changed now. There has been a lot of change in the Police Service. If anything further must be changed, I expect that will come out of it. I want to see that underway. I support this initiative of the Commissioner of Police 100 per cent, and so does the rest of the Government.

As to the inquiry into the death of Mr Petrelis, it happened in another State in which the Western Australia Police Service has no jurisdiction. A man was found dead and the police in Queensland investigated it and, as far as I can see, they did so in line with the usually compendious exercise and all the detail that we would expect of any investigation, certainly of a similar one that happened in this State. A large number of police officers and a competent forensic pathologist officer were involved. The witness statement, the report submitted to the Queensland coroner, was given to the Western Australia Police Service in 1997.

Mrs Roberts: Did the Western Australian police officers put in a formal request to the Queensland Coroner for a formal inquiry into the death of the protected witness?

Mr PRINCE: I ask the member to listen carefully. The answer is, not to my knowledge; however, I will ensure that question is answered.

Dr Gallop: Surely you should have asked it already. It has been in the newspapers.

Mr PRINCE: I will get an absolute definitive answer to that question.

Mr Kobelke: This is cover-up after cover-up. That is all you are doing.

Mr PRINCE: For goodness' sake, the member should stop shouting slogans. I now go to the issues raised by Mr Thompson, whom I had never heard of until late Monday afternoon when on the facsimile machine used by my appointment secretary a document appeared, which I intend to table. Mr Thompson sent by facsimile a letter to me, which was also sent to the officer in charge of the internal affairs unit, which I also intend to table. The letter to me states -

> I am a former Sergeant in the Western Australia Police Service.
>
> I was the only Case Officer responsible for Andrew Nicholas PETRELIS.
>
> I have been reading with interest the recent press regarding Andrew's death
>
> I have spoke with Senior Sergeant Sutton (Professional Standards Unit) regarding my own personal safety at this time.

I have spoke briefly with Assistant Commissioner Graeme LIENERT last week and offered to talk with him. I have since rescinded that offer after discovering that he could only afford he one hour of his time.

Dr Gallop: This is ridiculous. These are the people who you are basing your report on.

Mr PRINCE: The Leader of the Opposition should just listen. It continues -

I have now informed Senior Sergeant Sutton of my intention to pursue a civil damages claim against the Commissioner of Police for failing to comply with "Duty of Care" obligation.

Briefly I have harbored concerns for years about the overall handling of the witness by the W.A. Police Service and offer some thoughts for you to ponder;-

1. Why were officers (including the O.I.C.) with confirmed links with Northbridge organized crime figures and the Bob Jones Corporation attached to the Witness Protection Unit?
2. Why when operational needs were identified were they simply discounted or totally discarded?
3. Why wasn't there a suitable budget allocation for the relocation?
4. Given there had been major security breaches and several overt attempts to directly intimidate Andrew why wasn't he taken into protective custody immediately?
5. Why was he left living at home with his parent until the day of his departure despite the breaches?
6. Why was only one officer ordered to carry out the relocation?
7. Why did Andrew's father have to pay for his son's relocation?
8. Why wasn't the relocation aborted, given the security breaches?
9. Why was Andrew deliberately abandoned in Queensland?

The numbering in the letter has changed; it continues-

. . . Why were his cries for help ignored?
. . Why were my cries for help ignored?
. . . Why was my security compromised?
. . . Why weren't the officers identified responsible for the security breaches ***interviewed***?
. . . Why was it necessary for the O.I.C. of the W.P.U. -

That is, the witness protection unit -

- to travel to Queensland only weeks before Andrew's death (genuine concern or holiday)?
. . . Why was an officer who did not have any contact at all with Andrew or the case sent to Queensland to assist with the inquiry and to tie up all loose ends and not the case officer?
. . . Why as Andrew's Case Officer haven't I been interviewed?
. . . Why was my personal safety compromised?
. . . Why was my home invaded?
. . . Why was the safety of my family compromised?
. . . Why didn't I have the confidence to confide in the Protective Services Unit?
. . . Why have there been attempts or the past 24 months to damage my integrity?

There are many other why questions that need to be asked.

My concerns about the credibility of several members of the W.P.U. and other units involved in this matter are well documents at the Internal Affairs Unit.

I will never accept that police officers with confirmed links with Northbridge organized figures are involved in the protection of any witnesses let alone one such as Andrew.

If all facts of this case are ever released your Government the W.A. Police Service would suffer irreparable damage and a Royal Commission would be inevitable.

Members opposite should listen carefully. It continues -

W.A. Newspapers, A.B.C Television News and A Current Affair have contacted me, for the time being I for some reason remain loyal to the Service.

I am now faced with the dilemma of deciding whether to pursue the W.A. Police Service civilly, sell my story to the highest bidder in lieu of compensation or ask for an "Act of Grace" payment from the Government in return for my continued loyalty.

I firmly believe compensation is in order.

I can be contacted on . . . if you are interested.

The copy of the letter that he apparently sent to the officer in charge of internal affairs says much the same thing, and it finishes with the words -

I now share the opinion that compensation is more than appropriate.

I received that document on Monday. Yesterday, 24 November, I received a further facsimile, I assume from Mr Thompson, which states -

Further to my previous correspondence and out of courtesy to you I advise that a staff member of the Honourable Leader of the Opposition Mr Geoff GALLOP will be contacting me on or about 4pm this afternoon with some questions.

It is a shame you did not take the same interest in this, instead you've decided to send Graeme LIENERT to keep the peace.

Despite parliament being in recess over the summer period this matter will not simply go away.

[See papers Nos 466 and 467.]

Mr PRINCE: When I received that letter late on Monday, it concerned me greatly. I immediately sent it to the Commissioner of Police. Mr Lienert has since contacted the man and will speak with him. In that letter are a number of interesting and serious questions that must be answered. There is also a demand for money. If the man is quoted, everything he has said must be quoted.

Mrs Roberts: I did not have that letter, which I told you at the beginning.

Mr PRINCE: I know the member did not; that is why I asked her about it.

Mrs Roberts: He did explain to me what his life had been like since those events.

Mr PRINCE: I gather it has been quite tragic.

Mrs Roberts: If the minister was concerned about that, he may have some concerns about what he has just said. I will say no more, other than that he has some very legitimate concerns regarding Mr Petrelis and his own treatment.

Mr PRINCE: Yes. The questions he raised in the correspondence to me are very serious and must be answered. I do not have a problem with that.

Mrs Roberts: He has a genuine fear for his own safety and that of his family.

Mr PRINCE: I realise that. That is why I sent the letter straight to the Commissioner of Police. In the letter it is quite clearly stated that he remained loyal despite some circumstances, and that he wanted compensation. We must have that information as well, when we listen to what he said. I take that matter no further.

Dr Gallop: I do not think you would want to.

Mr PRINCE: One should be careful how much reliance is placed on what he says.

Mr Carpenter: As a lawyer, have you ever written a letter demanding compensation? Can't you remember? Of course you have.

Mr PRINCE: For goodness' sake!

In this situation a number of things need to be done. When it comes to the investigation of the death of Mr Petrelis, it was carried out, as I said, by evidently competent Queensland police officers, a competent forensic pathologist and a competent coroner.

Mr Kobelke: These are cover-up words, minister.

Mr PRINCE: No, they are not.

Mr Kobelke: Get out of cover-up mode and let us do something about the problem.

Mr PRINCE: Get off it!

The conclusion that the Queensland police and the coroner came to was that it was an accidental overdose by a man who was a drug addict and a drug dealer.

Mrs Roberts: The inquiry needs to be into the actions of the officers of the Western Australia Police Service and the witness protection unit.

Mr PRINCE: I agree entirely. I have not had the opportunity of reading the lengthy brief that the Queensland police put together to give to the Queensland Coroner. I have seen it. The Commissioner of Police has read it - he has had a lot of experience in dealing with these matters - as has the Assistant Commissioner, Professional Standards, Mr Lienert. They are satisfied that the Queensland police carried out the normal, full, exhaustive and sufficient inquiry into the death of a man who was a drug user. His death is a tragedy. However, it was found to be an accidental overdose. Although some questions should be able to be answered by the revealing of information in that investigative brief that the Queensland police put together, I am not prepared to make that public without consulting with the Petrelis family. That is an appropriate thing to do. I think that the photographs - I have only seen email black and white photographs so far; the colour ones are on their way - also may or may not be capable of being made public. That is a matter for the family in conjunction with the police here. It is also a matter, obviously, for the Queensland police. As I said, I do not expect any problem in cooperation from them. They are - how can I put this politely - more than a little interested in the way this matter, particularly their investigation, has been reported here, and they want to be able to set the record straight. I do not anticipate a problem in that respect. Members of the Petrelis family will be contacted - this is also another initiative of the Commissioner of Police - and we shall sit down, talk with them, show them everything we have and tell them everything that is known. I do not know their state of information with regard to the death of their son. We will seek from them concurrence to making some, if not all, of the information public. I cannot put a date on that, but obviously it would be desirable if it could happen as soon as possible. If the family wants to bring along a lawyer to do this, that is fine.

Dr Gallop: Is it not the case that the minister has come into the Parliament today and given his statement on his so-called three-point plan of action without Mr Lienert completing all of his inquiries on the matter?

Mr PRINCE: No, he has completed everything he set out to do in looking at all the information that was within the internal affairs section of the professional standards unit.

Dr Gallop: Had he interviewed Mr Thompson?

Mr PRINCE: He had not, to my knowledge, until Mr Thompson contacted him last week.

Dr Gallop: When did you decide to make your statement in the Parliament today?

Mr PRINCE: After I had a lengthy meeting with the commissioner late yesterday afternoon. It was only then that I was in a position to do so, because the commissioner had then had a full report from his assistant commissioner -

Dr Gallop: It was not a full report. You have just acknowledged that it was not a full report.

Mr PRINCE: If the Leader of the Opposition wants to take to task the professional nature and competence of an assistant commissioner for professional standards and a Commissioner of Police, that is his problem.

Dr Gallop: It is not for me to do that, minister; it is for you to do that, because that is your job. That is the nature of your ministerial responsibilities. You are the Minister for Police, and you must put a few firecrackers under the backsides of these people every so often. However, you do not. You float along enjoying life, doing nothing.

Mr PRINCE: Has the Leader of the Opposition finished?

In the past two weeks since this matter has been raised, I have taken the matter up with the commissioner. He had already commenced talking with Mr Lienert, asking him what it was about, because neither of us had any prior knowledge at all. Lienert got hold of everything that was available, reviewed it and reported to his commissioner. That is what he has done. The commissioner and I have discussed the matter several times, including, as I said, a lengthy meeting late yesterday. As a result of that, he and I decided on an action plan, to which there are three legs, as the Leader of the Opposition said. The first is that there is information sufficient to send off for further inquiry. I have covered that. The second is that we should bring in somebody else to look at not only what the witness protection unit was doing in 1994-95, but also the changes that have been made and how the unit operates now, and make any appropriate recommendations about how it should be structured now, because it is essential that there be integrity and trust in that program. Thirdly, dealing with the questions that have been raised concerning the death of the man, having received information, the family should be consulted, and if the family agrees - I hope it will - public statements should be made to lay to rest some of the speculation that is inaccurate - not all of it is inaccurate.

All other matters are the subject of further inquiry and investigation. That is being handled by professional standards. The Leader of the Opposition raised the matter of talking to former officer Thompson. That is going on and something will happen very soon, because he raised a number of issues which are not related to Petrelis. He raised matters that should be inquired into, and that is the function of Mr Lienert. He is the assistant commissioner. That is his task, his function and his job, and he will do that. I will exercise the function that I should in making sure that I am informed about what is going on and the progress of all these reports and inquiries, which have been acted on with a great deal of speed in the less than two weeks since the matter first came to my attention.

I look forward to talking to the member for Midland later today about the appointment of an appropriate Queen's Counsel. I have two or three names in mind. I have no preference one way or the other. Perhaps we will be able to find time in a little while. In the meantime, I contend that what the commissioner has devised as a plan of action, with which I agree and in which I have had a hand, is the best way to proceed with this matter, which arises out of actions that occurred four and five years ago.

DR GALLOP (Victoria Park - Leader of the Opposition) [12.08 pm]: We have another very good example today of the coalition Government's complete incapacity to confront an issue and to deal with it comprehensively. It is always looking for shortcuts and for the appearance of activity, because that is the sort of government it is. It gives the appearance of things happening, but nothing ever happens. It floats along the surface while all the sharks are swimming around underneath it. No lines are dropped in to try to catch the sharks. The Government just swims around at the top and gives the appearance of activity, but nothing happens. Issues are never dealt with comprehensively. Consequently, important questions are always left hanging when they are raised within the body politic of Western Australia, and find their way into the corridors of power within the coalition Government.

The classic example of that was the failure of the Government to respond to the Legislative Council's report on police corruption. I mention that because it is very important. If the Government had set up a royal commission to inquire into the police in 1996, the gap between these events and a full inquiry would have been 18 or 24 months, rather than the five to six years that it is now. That is why some of the responsibility for these problems lies with the Government of Western Australia and its failure to respond in 1996 when we needed a royal commission to examine the Western Australia Police Service.

I will now refer to what the minister said in his speech today and in his earlier ministerial statement. He has approached this issue from the point of view of someone who has concluded that this matter has been settled. That comes through in his comments about the Queensland inquiry, when we question his internal inquiry and in his whole manner and approach to this issue. He appears to believe the issue is settled and that we should get it out of the way with a couple of inquiries that

will send away the Opposition and the media. He will then be able to get on with life, floating on his little boat while the sharks swim around him and our society is not brought to good order.

The matter at hand is the death of Mr Petrelis. That is the issue that concerns the people of Western Australia; that is the issue that apparently bothered the Premier when he spoke about it on the radio the other day; and that is the issue that needs to be addressed. Of course, it is the issue that the Government will not address.

The member for Midland presented new evidence to support the establishment of a full inquiry. What she said about some of the issues has been confirmed by what the minister has said. What will the Government do? It will split the questions relating to accessing police computers and the witness protection program and send them to separate inquiries. The one thing the Government does not want to do is to make those two issues terms of reference for a proper inquiry into the death of Mr Petrelis. That is what should happen. Point one and point two of the minister's three-point plan should be terms of reference relating to the death of Mr Petrelis.

Mr Prince: That is not what the member for Midland said.

Dr GALLOP: I will explain why we need a full inquiry. I will repeat some of the points made by the member for Midland and highlight the central issues.

Questions remain about the revelation of Mr Petrelis' new identity through the police computer system, and that matter was not resolved today. The minister said the issue will be referred to an external investigative authority, but we will not know what is going on. The question of the operation of the witness protection program generally and how Mr Petrelis' case was handled will be referred to a Queen's Counsel. However, it will not be specifically linked to the question of the death of Mr Petrelis.

Mr Prince: What a nonsense statement! Of course it is linked to his death.

Dr GALLOP: The minister is a lawyer. That Queen's Counsel will do what the minister asks him to do.

Mr Prince: Get off it! You have absolutely no idea.

Dr GALLOP: The minister told us again today that the question of the death of Mr Petrelis does not need further examination.

Mr Prince: Your approach is "I buy and you say what I want you to say." That is not the way I or any decent lawyer deals with these issues and it never has been.

Dr GALLOP: The use of the term "decent lawyer" was a giveaway.

Mr Prince: You and nearly every previous leader of the Labor Party, with the exception of Hon Ian Taylor, has come up with the same load of garbage!

Dr GALLOP: Questions are left hanging about the autopsy report into Mr Petrelis' death. The analysis by a former chief forensic pathologist concludes that nothing in the report disproves the murder theory. He also stated that some matters are cause for suspicion, such as the way Mr Petrelis appears to have died. Questions were also asked about the location of the syringe marks in his arms. The minister has ignored that and said that it is not important. Apparently he is satisfied that those issues were investigated by those involved in Queensland. I do not know what goes on in Queensland; that is a matter for the Queenslanders. However, I know that the people of Western Australia are very concerned about this matter because it goes to the heart of justice in this State.

This is an important issue because after a certain trial in recent times, police officers expressed their frustration and anger about what had happened. The Government wants the Opposition to support its approach to this matter on the basis of its own internal police inquiry. Here we go again! We will have internal inquiries into these matters despite the fact that the police have been players. That is the way that this Government wants to handle the matter. That goes to the nub of the Opposition's approach as opposed to the Government's approach. Members on this side are calling for an external, independent judicial inquiry into the death of Mr Petrelis. That inquiry should be separate from the internal police investigation and be able to call witnesses and look at all the issues, including the computer and autopsy questions.

That is the only way we will get to the truth of the matter and it is the only way the public will be satisfied that due process has been followed in coming to grips with what is a very serious matter of public importance in Western Australia today.

MR PENDAL (South Perth) [12.15 pm]: I will make a very brief contribution. Three issues are at stake: First, the future public confidence in the witness protection program.

Mr Prince: Hear, hear!

Mr PENDAL: That should be paramount. The second issue is computer security for the new identity of protected witnesses and whether it was breached.

Mr Prince: Yes.

Mr PENDAL: The third issue is the value of one man's life, albeit that he was in the desperate circumstances of a heroin victim. None of this would have been put before the Parliament or the public of Western Australia were it not for the excellent work of Torrance Mendez at *The West Australian*. For those reasons, I intend to support the motion.

Question put and a division taken with the following result -

Ayes (21)

Ms Anwyl	Mr Graham	Mr McGinty	Mr Ripper
Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke	Ms McHale	Mr Thomas
Dr Constable	Ms MacTiernan	Mr Pendal	Ms Warnock
Dr Edwards	Mr Marlborough	Mr Riebeling	Mr Cunningham *(Teller)*
Dr Gallop			

Noes (28)

Mr Ainsworth	Mr Cowan	Mr MacLean	Mr Shave
Mr Baker	Dr Hames	Mr Masters	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr McNee	Mr Tubby
Mr Bloffwitch	Mrs Holmes	Mr Minson	Dr Turnbull
Mr Board	Mr House	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mrs Parker	Mr Wiese
Mr Court	Mr Kierath	Mr Prince	Mr Osborne *(Teller)*

Pair

Mr Bridge	Mr Marshall

Question thus negatived.

STANDING ORDERS, REPLACEMENT

Motion

MR BARNETT (Cottesloe - Leader of the House) [12.21 pm]: I move -

(1) That on and from 1 January 2000, the Standing Orders of the Legislative Assembly be replaced by the trial Standing Orders which have been in place in the Assembly since 8 September 1999, with the following amendments -

(a) Standing Order 58 (7) be amended by deleting -

(immediately after questions without notice).

(b) Standing Order 61 be deleted and the following substituted -

61. When under Standing or Sessional Orders an order of business under discussion no longer has precedence or the time has arrived for other business to take place, the Chair will adjourn the matter to a later stage of that day's sitting without a question put.

(c) Standing Order 100 be amended by deleting -

278. Presentation of Report of Standing or Select Committee.

(d) Standing Order 145 (1) be deleted and the following substituted -

145. (1) Consideration of a matter of public interest will be taken in the order determined by Standing Order 58, and only one matter may be discussed in any sitting week.

(e) Standing Order 168 (1) be deleted and the following substituted -

168. (1) After a member has moved, "That this Bill be now read a second time" and had an opportunity to speak to the motion, the debate will be adjourned and if the Bill has originated in the Legislative Assembly, the debate will not be resumed for three calendar weeks.

(f) Standing Order 171 be deleted and the following substituted -

171. At any time after the second reading and before the third reading stage, a motion without notice 'That this bill be referred to a standing (or select) committee' may be moved or the Bill may be referred without notice to a legislation committee.

(g) Standing Order 195 (2) be amended by deleting -

and before the Bill is read a third time, the Speaker will announce that the Bill has been so certified.

(h) Standing Order 205 be deleted and the following substituted -

205. When a Bill is returned from the Council with amendments, the message will be read, and a future day will be fixed for its consideration in detail unless leave is given without a dissentient voice to consider the message on the day it is received.

(i) Standing Order 249 (1) be deleted and the following substituted -

249. (1) Members will be appointed to and may be discharged from committees by motion on notice. No notice is required of a motion for appointment of members if it immediately follows a motion which has established a committee.

(j) Standing Order 251 be amended by deleting -

unless otherwise ordered by the Assembly.

(2) That the Clerk be authorised to undertake renumbering as necessary and to make such clerical and consequential amendments as are necessary.

This motion ensures that the trial standing orders will continue when the House returns in 2000. On 7 September the House resolved to trial modernised standing orders proposed by the Standing Orders and Procedure Committee in a report it produced on 13 May. Between 19 and 28 October the Procedure and Privileges Committee undertook a survey of members' attitudes to the trial standing orders. The results of that survey indicate that of the 61 per cent who responded, 97 per cent were in favour of making the trial standing orders permanent. These figures indicate strong support for the changes. The lowest level of support for any one change was 69 per cent.

Of the changes proposed, the time limits that apply during consideration in detail attracted the most comment. The major thrust of those comments was that the unlimited five minute speaking times could lead to repetitious and tedious debate. The committee did not recommend any change to that, but instead suggested that the Speaker, Deputy Speaker or Acting Speaker be more vigilant in curbing such tedious and repetitious debate.

Other changes to the trial standing orders outlined in the motion include: A change to Standing Order No 168(1), which refers to urgent Bills, so that the three week period applies only to Bills originating in the Assembly and not those received from the upper House; the requirement for an explanatory memorandum of Bills to be produced at the first reading stage, which is sensible; a change to Standing Order No 205 to permit messages from the Legislative Council, be dealt with on the day they are received without the requirement of an absolute majority to suspend standing orders. A number of other changes have been recommended by the Clerk to clarify matters about the interruption of debate, certification of Bills, motions to refer Bills to a committee, the timing of matters of public interest, notice of appointing members to a committee and tabling committee reports.

The trial of the modernised standing orders expires on 31 December this year. Therefore, it is necessary and wise to adopt the standing orders permanently from 1 January 2000. Over the next three months the Procedure and Privileges Committee will review other issues such as the address-in-reply debate, pecuniary interest, disallowance of delegated legislation, sitting times, time management and the budget estimates committee. The committee is also waiting for a report from the Public Accounts Committee about the budget estimates committee process. I have given notice of a motion supporting the establishment of three portfolio-based standing committees. These would come into effect after the next state election. This is in accordance with a recommendation by the Select Committee on Procedure and the Commission on Government, although I concede the timing is different. The motion also requests the Procedure and Privileges Committee to report to the House by 1 June 2000 about the method of operation of the standing orders best required to establish those committees.

I thank the Speaker, committee members and committee clerks for their continued excellent work with the new standing orders. I commend the motion to the House.

MR KOBELKE (Nollamara) [12.25 pm]: I will make some brief comments on the adoption of the new standing orders. One could take a fair amount of time and go through the items within the motion and the range of reforms that have taken place. I do not intend to do that as the House has a busy schedule today and there are many matters it needs to proceed with. I congratulate the Speaker for taking up the issue of revising the standing orders of this place. He has been the driving force behind the changes. The committee members have also done a lot of good work. I exclude myself from that because I am a recent member and was not involved in the early hard work that was required to establish a new set of standing orders. I also congratulate the Clerk of the House and the assistant clerks, who put in a great degree of work to produce the new set of standing orders.

These standing orders will be adopted for the beginning of next year, as the current trial standing orders will expire. This motion is needed to retain those standing orders. I will comment briefly and selectively on a couple of matters within the new standing orders. One was the decision that the current arrangements for speaking times during consideration in detail will remain the same, which means that an unlimited number of five minute periods are available to speakers. Some people have suggested there should be a limitation on that. The Leader of the House also commented on this issue. One of the points made in response to that was that the Speaker may need to be more vigilant in applying the rules which do not allow repetition of argument. The Procedure and Privileges Committee Report on the Trial of The Modernised Standing Orders raised this issue, arguing for the retention of the arrangement. I quote from paragraph 10 of page 10 -

> More attention should be paid to the matter of tedious repetition,

Further on in the same paragraph it states -

> The Chair must however be alert to the prospect that the proponent of a Bill may not wish to be drawn on some aspect of the legislation and it is then entirely legitimate for another member to press for an answer.

I hope the Presiding Officer will take that into account when there may be an instance of tedious repetition. The point of tedious repetition may be to get the minister responsible for the Bill to answer a question crucial to the clause before the House. In 1993 or 1994 there was the major contracting-out of the Government's small vehicle fleet. The then minister put

legislation through the Parliament to allow the Government to sell the fleet but he had already chosen the company that would have the financing arrangement. The minister did not want to name the company during the debate on the Bill. I had to ask him up to a dozen times to name it. We would not wish for a situation like that to be attributed to tedious repetition. It is clearly the Presiding Officer's responsibility to make that judgment. However, the report made allowance for those circumstances when it suggested that the standing order about tedious repetition could be used as a safeguard against abuse of the unlimited opportunity to speak.

The second point I will comment on is the decision to require a quorum of three members for committees. It was argued that two members were adequate for taking evidence. However, the Procedure and Privileges Committee believes a committee taking evidence may, at any time, need to make a decision about the conduct of that committee. It would not be fair to do that with only two members. Therefore, it is necessary to have three members. I am sympathetic to the fact that some committees, particularly those on which there are country members, can at times take evidence which is not of a highly contentious nature and that two members may be adequate, but that further consideration - namely, that the committee may at any stage need to take on other matters - carried the day with regard to the requirement that a committee have a quorum of three members.

The final matter was the slight variation with regard to whether a minister of the Crown can be a member of a committee. The trial standing order had the effect of excluding ministers from being members of a committee of the Parliament. The standing order that is now being adopted states that no minister of the Crown will be eligible to be appointed as a member of a committee. That means that a member of a committee who is promoted into the ministry is not precluded from continuing with that committee for the course of its current inquiry if the member who has become a minister believes that will contribute to the work of the committee. We have examples of where that has happened in the past. We believe it is reasonable to continue that practice, but the new standing order makes the clear statement that a minister of the Crown will not be eligible to be appointed as a member of a committee when it is established.

I again commend the Speaker and the members of the committee prior to my joining it for the excellent work they have done. We can look forward to the new standing orders, which will be fully adopted in the new year, as bringing this Parliament into the twenty-first century and enabling us to operate in a more efficient and timely manner.

Question put and passed.

NOTICE OF MOTION No 2 - PORTFOLIO-BASED STANDING COMMITTEES

Postponed

MR BARNETT (Cottesloe - Leader of the House) [12.33 pm]: I move -

That Notice of Motion No 2 be postponed.

There will be an extensive debate on this issue, and I am sure members of both parties, and the Independents, will want to consider their position on this matter. I have moved that we postpone this debate, but I intend that we will have that debate fairly early when we return next year.

Question put and passed.

NOTICE OF MOTION No 3 - GRIEVANCES, SUSPENSION

Postponed

MR BARNETT (Cottesloe - Leader of the House) [12.34 pm]: I move -

That Notice of Motion No 3 be postponed.

We have a scenario in which the Government is unsure whether the upper House will make amendments to significant items of legislation. Obviously I have in mind the AlintaGas privatisation and the native title Bills, which are particularly important. Depending on what is ultimately decided with regard to sitting hours in the upper House, I anticipate that we will return on either Thursday, 16 December, or Tuesday, 21 December. I am conscious that Thursday, 16 December presents problems for members, particularly country members, because it is virtually the last day of school. My preference is that we return on Tuesday, 21 December, but that will depend on progress, potential amendments, and the sittings times of the upper House. All I can do at this stage is advise members to keep both Thursday the 16th and Tuesday the 21st - I hope only the mornings - as free as possible, and I will let members know about that matter as soon as possible. This motion is intended to ensure that if we did come back on Thursday the 16th, we would not have grievances. We would probably have a matter of public importance, but we would essentially deal just with matters from the other House.

MR KOBELKE (Nollamara) [12.35 pm]: We support the motion, but I will comment briefly on the comments of the Leader of the House. As far as I am aware, it is the unanimous position on this side of the House that we do not wish to return on 16 December. The Leader of the House had indicated earlier that 21 December would be the day on which we would return to handle any amendments that might come from the Council, or perhaps other urgent business, and members have already put that date in their dairy. Of course, members will be flexible to meet the requirements of the House, but it is not a matter of flexibility here. Thursday, 16 December is the second last day of school. I will be attending four school graduation ceremonies on that day. I am sure most other members are in a similar position. Even if country members had to attend only one or two graduation ceremonies at night, it would be impossible for them to travel back to their electorate to be present at those ceremonies. School graduations are the one time each year when members of Parliament are available in their electorates and communities on a totally non-political basis. It is important for members and their communities that

they attend those graduation ceremonies to recognise the important work that is done in our schools and the achievements of some of our wonderful young people. It is totally unacceptable for us to sit on that day, when no argument in support has been advanced by the Government, and thereby exclude members from participating in this important community activity. All the members to whom I have spoken on this side find it totally unacceptable, and we will be making a great deal of noise and using our numbers to whatever effect we can to convince the Government that we should not sit on Thursday, 16 December but that an alternative day should be found when members will not be precluded, by being present in the Parliament, as we should and must, from also fulfilling that important duty of being present in schools for their final assembly or graduation ceremony.

Mr Barnett: That is the view of most people, including me. I will be having 150 people at my home that afternoon for drinks. It does not suit me. Other members have school graduations and other things.

Mr KOBELKE: I accept that, but that comment is perhaps a little unfortunate in that I believe that the school functions that all of us will attend in that week are of more significance than the round of Christmas functions that we will also attend, which are also important.

Mr Barnett: I also have school functions to go to.

Mr KOBELKE: For me personally, those school functions are extremely important and are in a different category altogether from the round of social and Christmas functions to which we will all go, many of which we enjoy, and many of which we need to attend because it is required of us. School functions are both a requirement on us as members of Parliament and an enjoyable function, and we should not be sitting in the Parliament on that day when we could sit on an alternative day and thereby fulfilling our primary obligation to this place and also be present at the final school functions for the year.

Question put and passed.

MARITIME BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mr Barnett (Leader of the House), and read a first time.

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [12.38 pm]: On behalf of the Minister for Local Government, I move -

> That the Bill be now read a second time.

As a consequence of continuing development, maritime industry issues are presently regulated under 10 separate but inter-related Acts of Parliament. Many of these statutes are outdated and no longer reflect current commercial practice or modern thinking in terms of marine safety, protecting the marine environment, and the provision and management of port and maritime facilities.

This raft of legislation has become increasingly complex to administer and has caused frustration both within the community and government. These deficiencies have been recognised for several years. For example, in September 1993 the then Minister for Transport tabled a report in Parliament that stated that -

> Western Australia's maritime legislation is in urgent need of review, updating and consolidation.

The report noted that -

> This would be a big task, requiring extensive consultation with transport users and providers.

This Bill is the product of several years' work and has been developed following extensive consultation and input from stakeholders. The Bill will consolidate in one place matters previously dealt with in eight other separate Acts. The Harbours and Jetties Act 1928, the Jetties Act 1926, the Lights (Navigation) Protection Act 1938, the Marine and Harbours Act 1981, the Marine Navigational Aids Act 1973, the Pilots, Limitation of Liability Act 1962, the Shipping and Pilotage Act 1967, and the Western Australian Marine Act 1982 will be repealed and replaced with legislation that is much easier for stakeholders to understand and follow.

The objectives of the Bill are to enable the provision of infrastructure necessary for the efficient and safe conduct of maritime activities and industries in Western Australia and to facilitate safety in relation to the design standards, construction, operation and navigation of vessels. The Bill has been drafted to provide government, industry and the community with the flexibility to meet the current and future needs of this State’s vibrant maritime industries and the demands of water-based recreation. It will also provide government with the flexibility for any future shift from direct provision and management of maritime services and activities.

It is likely that in future infrastructure and facilities will increasingly be provided and run by the private sector. The proposed multi-user port at Naval Base is an example of this trend. The Bill recognises this reality and contains provisions in part 2 that are relevant to the operation of ports and maritime facilities by the private sector. These new provisions will enable the Government to introduce appropriate controls and spell out the obligations of appointed port and maritime facility operators. The provisions will also enable private operators to exercise statutory powers in their own right such as those pertaining to harbour masters and controls on the movement of vessels in ports.

The Bill also contains provisions to control the placement and construction of jetties, maritime structures and moorings to ensure the safety of navigation and for environmental reasons. Safe navigation is a central plank of the Maritime Bill. Provisions in part 3 cover the traditional areas of concern such as registration of vessels, marine qualifications, pilots and pilotage, safe operation of vessels, navigational hazards, distress, emergencies and collisions. These provisions have been imported from the WA Marine Act and updated to meet developments in marine safety. Additionally the Bill puts in place a new statutory requirement requiring port and maritime facility operators to prepare marine safety plans that will be monitored by the Director General of Transport.

Part 4 of the Bill provides the mechanism that will allow the adoption of international maritime conventions to apply in respect of commercial vessels that will come within the ambit of this Bill. These conventions are currently contained in schedules to the WA Marine Act; however the timing difficulties associated with getting amendments before the Parliament often prevent their being kept up to date. The proposed mechanism of adopting these conventions by regulation will ensure that important safety initiatives are introduced in a timely fashion; however it should also be noted that these adopting regulations will be subject to review and disallowance by the Parliament.

Part 5 of the Bill provides for marine inquiries and the establishment of courts of marine inquiry. Where a marine incident results in injury to a person or damage to a vessel or maritime structure, the director general will be empowered to require an officer to conduct a preliminary report for consideration by the minister as to whether the matter should be referred to a court of marine inquiry. In addition to the powers given to an authorised officer in clause 131, an officer conducting a preliminary inquiry will be given wide powers to conduct investigations. These powers are similar to those which Parliament conferred on rail safety investigators under section 42 of the Rail Safety Act 1998. As with rail safety, the main aim of these investigations is to determine the cause of the accident to prevent further injury or loss of life. A court of marine inquiry will consist of a stipendiary magistrate appointed by the Chief Stipendiary Magistrate and two assessors who have experience relevant to the matter under inquiry, appointed by the director general. The function of a court of marine inquiry is to establish the cause of the incident and make recommendations to the minister. Any offences that may come to light as a result of the inquiry will remain a matter for the criminal courts.

An important new initiative in the Bill is the creation of the Maritime Appeal Tribunal. The tribunal will have the ability to review administrative decisions made by the director general in respect of various licensing provisions of the Bill. The tribunal will consist of a presiding magistrate and two members, chosen by the magistrate from a panel, who have expertise in the area under review. Determinations of the tribunal will be final and binding on all parties.

The remaining provisions deal with administrative issues. Part 7 provides the mechanism for levying maritime charges. Parts 8, 9 and 10 of the Bill provide for enforcement, miscellaneous matters and regulations and generally reflect updated provisions from existing Acts. Administrative provisions currently in the Marine and Harbours Act, such as those dealing with acquisition, vesting and holding of land by the minister and the power of the minister to enter into contracts or appoint agents, have not been replicated in the Maritime Bill. These issues will be addressed in the Transport Co-ordination Act through the Marine and Transport Legislation Amendment and Repeal Bill. This will further streamline legislation and ensure a consistent legal structure across the Transport portfolio.

This legislative package, together with the Port Authorities Act 1999, will result in a complete overhaul of the State's maritime legislation. Complex, fragmented and antiquated maritime legislation will be replaced with legislation that is simple, cohesive and up-to-date. In doing so, the Bill will help to facilitate the growth of our economy and provide access to opportunities and resources in the State's coastal zone. However, most of all, the Bill is designed to promote marine safety and will help to save lives and protect the marine environment. I commend the Bill to the House.

[See paper No 463.]

Debate adjourned, on motion by Mr Cunningham.

MARITIME AND TRANSPORT LEGISLATION AMENDMENT AND REPEAL BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mr Barnett (Leader of the House), and read a first time.

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [12.46 pm]: I move -

That the Bill be now read a second time.

As I indicated in my second reading speech to the Maritime Bill, the review of the legislation impacting on Western Australia's maritime industry identified the need for the development of a user friendly legislative regime. In line with those findings it was resolved to remove the administrative provisions previously contained in the Marine and Harbours Act and place them in the Transport Co-ordination Act. This initiative will not only make the Maritime Bill a more focused piece of legislation but also derive benefits to government by ensuring that Transport has in place common legislative provisions in respect of all its property, financial and administrative arrangements. To this extent, members will note that a number of minor amendments have been included to bring the rail safety legislation, recently passed by this Parliament, into this new legislative regime.

Apart from amendments relating to the Rail Safety Act and clause 10 which puts in place an accountability requirement that the director general make any information in his possession available to the minister, part 2 of the Bill generally reflects provisions currently contained in the Marine and Harbours Act. Schedule 1 lists the 10 Acts which are to be repealed and

replaced by the Maritime Act, while schedule 2 provides for a number of consequential amendments that are necessary to other statutes to reflect the new arrangements. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

[See paper No 464.]

MARITIME FEES AND CHARGES (TAXING) AMENDMENT BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mr Barnett (Leader of the House), and read a first time.

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [12.47 pm]: I move -

That the Bill be now read a second time.

This Bill validates any mooring fees or maritime dues and charges to be imposed under the Maritime Act, to the extent that any of those fees is a tax. I commend the Bill to the House.

[See paper No 465.]

Debate adjourned, on motion by Mr Cunningham.

SECOND WORLD CONGRESS OF FAMILIES

Statement by Member for Girrawheen

MR CUNNINGHAM (Girrawheen) [12.48 pm]: It was indeed a great honour, along with the member for Carine, to attend the Second World Congress of Families held in Geneva last week. The purpose of this world families congress was to assemble the many national, ethnic, cultural, social and religious communities over a four-day period, to reaffirm the natural human family as the fundamental social unit.

The congress was bigger and much more influential than the first meeting in Prague in 1996 when more than 700 delegates representing 145 pro-family groups from 45 nations participated. This year 1 570 delegates attended the world families congress. More than 100 prestigious experts on family policy addressed the delegates on a variety of subjects.

Today, as never before, the social fabric of the family is under unrelenting attack. Anti-family forces have weakened the bonds between husband and wife and parent and child. The family which develops and sustains not only individuals but also larger communities has been undermined to the agendas of extremist pressure groups. Governments must support and protect the family and not undermine the vital roles it plays in society. The world families congress endorsed that the family is the natural and fundamental unit of society and is entitled to the best possible protection and assistance.

The member for Carine and I have prepared a joint statement on the conference that will be distributed as soon as possible. We were united in our full support of the positive outcome of the world families congress, and I place on record my appreciation to the member for Carine for her able assistance and professionalism throughout the congress.

SECOND WORLD CONGRESS OF FAMILIES

Statement by Member for Carine

MRS HODSON-THOMAS (Carine) [12.50 pm]: Like the member for Girrawheen I was privileged to attend the second World Congress of Families held in Geneva last week. The "natural family" as defined by the United Nations is the fundamental social unit, inscribed in human nature, and centred around the voluntary union of a man and a woman in a lifelong covenant of marriage.

The consensus of the 1 575 delegates in attendance was very clear. When it comes to the family, the world speaks with one voice, even with varying demographics. Families are the cornerstone of our society. Properly functioning healthy families produce good citizens.

With more than 100 eminent speakers addressing delegates on a range of subjects, to name just a few - "Family Policies that Work, "Binding the Generations", "The Autonomy of the Family", "The State's Responsibility to the Family", "Helping Hands for Families in Need" and the list goes on - both the member for Girrawheen and I came away from the congress with a better appreciation of ways to strengthen the family unit. As already indicated by the member for Girrawheen, it is our intention to prepare a bipartisan assessment of the congress.

It is of great importance that an environment exist for families to function independently with sound economic policies crafted by both corporate and government being an essential component for families to flourish. I am particularly pleased that the Family and Children's Services policy office is working towards the development and implementation of policies that will continue to support and fortify family life for all Western Australians.

TWENTIETH CENTURY, SALUTE

Statement by Member for Perth

MS WARNOCK (Perth) [12.52 pm]: I want to take this last parliamentary opportunity of the 1990s to briefly salute our century, the twentieth century. As Sir Ronald Wilson said recently, its great paradox has been that it has both opened up

human rights to the widest possible group of people, and at the same time been the occasion of some of the most horrific abuses of human rights in history, the Jewish holocaust, Stalinist purges and two world wars among them.

It is a century that has taken us from the T-model Ford to landing on the moon; from wind-up gramophones to the Internet. Depending on our point of view, we might see television, penicillin, the bra, the contraceptive pill, nuclear power or heart pacemakers as the most significant inventions of the century.

It has been the century of jazz, rock and roll and the movies; the century of one of history's most evil figures - Adolf Hitler - and one of its most noble, Nelson Mandela. We all have our heroes - Fred Hollows and "Weary" Dunlop, Simone de Beauvoir and Emmeline Pankhurst, Martin Luther King and Gandhi, Picasso and Proust, Yehudi Menuhin and Raoul Wallenberg, Frank Sinatra and Maria Callas.

For my money, Australia's Sydney Opera House and Spain's Guggenheim Museum are the century's best buildings and *Casablanca* the top movie. My vote for man of the century goes to Nelson Mandela.

We have all been privileged to live through remarkable advances in medicine and communications, with much more to come. Here's to the twentieth century and a happy year 2000 to all!

GOSNELLS PRIMARY SCHOOL, MUSICAL ACHIEVEMENT

Statement by Member for Southern River

MRS HOLMES (Southern River) [12.53 pm]: I recently attended an assembly at Gosnells Primary School where I was presented with a compact disk made by the students to raise funds. The school takes great pride in its musical prowess, which was shown at the assembly where all the children, except the pre-primary school, played their recorders with the school band.

All the tracks on the CD, except one, are originals. Tracks two to 11 were composed, written, arranged and performed by the students of each class. Tracks 12 to 16 are played by the recorder ensemble and the whole school. They were solely produced by Mike Leadabrand, who is the school's music specialist. The "Folk Theme" and "Tribal March", which were performed by the whole school, included 250 recorders, 14 guitarists and 20 drummers.

Creation of the CD was a technology and enterprise project for the first three terms of 1999. Its aim was to enable students to take ownership of their work, evaluate and refine their ideas and explore marketing strategies. The students certainly attained their goal and can be justly proud of their efforts.

I am extremely impressed with this innovative idea and thoroughly enjoyed listening to the CD. I take this opportunity to send my congratulations to the school on this excellent initiative.

MIND YOURSELF PROJECT

Statement by Member for Kalgoorlie

MS ANWYL (Kalgoorlie) [12.54 pm]: The goldfields region receives a fairly low number of youth grants from the Office of Youth Affairs. The "Mind Yourself" project has involved students in years 8 to 11 at Kambalda High School, for which funding has been sought. I ask the Minister for Youth whether it might be possible to accelerate the speed with which that funding application will be determined. The moneys are being sought so that the students can publish a book of the experiences of students who have participated in this project. Student contributions would consist of poetry, art, phrases, statements and so on reflecting this concept.

This project has been a collaborative initiative between the eastern goldfields medical division of General Practice Ltd and Kambalda High School. A very large committee comprises general practitioners, school personnel, government and non-government service providers and school representatives who have joined together to provide this program to address the health and wellbeing of the high school students. It has been a very valuable project in Kambalda, a town which has been hit very hard by economic considerations beyond the control of its residents and their families. I urge the minister to take up this matter. It may be possible to award some funding so the book can proceed at the end of this school year, and support a very important project which, perhaps, could be replicated elsewhere.

SUPERMARKET DEVELOPMENT PROPOSAL - HILLARYS

Statement by Member for Hillarys

MR JOHNSON (Hillarys) [12.56 pm]: I wish to bring to the attention of the House a proposed development within the electorate of Hillarys. It is proposed to be located adjacent to the Hillarys Police Station, on the corner of Waterford Drive and Flinders Avenue. I share the concerns of many hundreds of residents who attended a public meeting about this issue recently. The development is totally over the top and is nothing like that which was envisaged by the residents and the City the Wanneroo at the time it was proposed. It was supposed to be a small suburban shopping centre with the usual shops, such as a delicatessen and so forth.

The proposed development comprises a supermarket, larger than any other local suburban supermarkets, a tavern-restaurant with a large outside alfresco area, and an open-air stage and public address system. A skateboard park is also envisaged - all within metres of people's homes. As I say, I share the concerns of the residents. It is totally unsuitable to locate this

proposed facility in this area. The most appropriate place to locate the skateboard park is somewhere near the Craigie Leisure Centre. People who have invested their life savings in beautiful homes in a highly built-up residential area should not have to suffer from having such a facility on their doorstep, which will include an outdoor show area where rock bands and so on can perform.

Sitting suspended from 12.58 to 2.00 pm

[Questions without notice taken.]

NATIVE TITLE (STATE PROVISIONS) BILL 1999

Second Reading

Resumed from 24 November.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [2.38 pm]: I began my speech on the second reading of this Bill yesterday, and I canvassed the history of the coalition parties' approach to native title and related land rights issues since the mid-1980s. In my remarks today, I will deal with aspects of the legislation that is now before the House. Yesterday I indicated that the coalition parties had a history, both in government and in opposition, of opposition to native title and land rights. The State Government has a history of unwillingness to consult with indigenous interests to reach acceptable solutions on native title issues. We now see the same circumstances occurring again with this legislation. There has been a lack of consultation with both indigenous interests and the Chamber of Minerals and Energy of Western Australia. So far as I am aware indigenous interests have not been consulted on this legislation and the Chamber of Minerals and Energy got its copy of the legislation from the State Opposition, so it also has not been consulted. It would appear that the legislation has been drafted in haste and that it will be forced through this Parliament in haste, if the Government has its way. The Bill was presented to the Parliament on Wednesday of last week and despite the assertion in the second reading speech that this is not a complex matter, it is. Most people who listened to the debate last year would understand some of the complexities surrounding native title legislation. It is wrong for this Government to seek to force the legislation through the Parliament in the dying days of this pre-Christmas session. My understanding is that this House will sit until it has concluded debate on this native title legislation this afternoon or tonight. That is a measure of the pressure that the Government is putting on the Parliament to handle this legislation without proper scrutiny.

Last time we saw the effects of this lack of consultation and haste. Last year we were told to pass the Government's Bill unamended and then the Government came into this House with pages and pages of amendments. We were then told to pass the Bill unamended again; however, the Government accepted some, but not enough, of the Labor Party's amendments. It might be presumed that this Bill is similar to that which was presented to the House last year. However, it is a different Bill. Apparently the Commonwealth has forced on the State Government even more changes than were forced on it last time. While I have not gone through and counted all of the changes, we were warned in the briefing we received that possibly hundreds of changes had been made between the legislation we dealt with last time and that which is before us now. The Bill might now appear to satisfy the requirements of commonwealth officials following the apparently extended negotiations between the Commonwealth and the State, but will it satisfy the Senate? That is the key question.

Mr Court: It is up to you, my friend. It is up to the Labor Party now.

Mr RIPPER: The Premier says that it is up to me, but I say it is up to the coalition. Will it accept sufficient Labor amendments to make the Bill satisfactory from the point of view of the Senate? Will it accept sufficient Labor amendments to make the Bill capable of surviving both the commonwealth minister's scrutiny and the prospect of judicial review of that scrutiny?

Ms MacTiernan: Of course it will not, because they are not interested in resolving this problem.

Mr RIPPER: The member for Armadale has an accurate perception of the history of this State Government's approach to native title matters. It may be that the haste with which this Parliament has to deal with this matter will simply result in more flaws in the legislation and the legislation ultimately failing at one of those three hurdles that awaits it when it reaches the federal jurisdiction.

I will now refer to some aspects of the second reading speech which was a particularly political speech bearing in mind it was introducing the second reading of a piece of government legislation. Throughout the speech there is constant reference to Labor's legislation. The State Government, and the Premier in particular, has sought to create a false dichotomy between alleged Labor legislation, which would otherwise apply, and the Premier's solution to native title matters. I will quote a number of sections of the Premier's second reading speech -

> Without this critical feature, the administration of native title in this State will continue to be unfair and unworkable because of the failings in Labor's "right to negotiate" procedures on pastoral lease lands...

In the same speech he refers to -

> . . . their refusal to accept that Labor's legislation was fundamentally flawed.

Later in the speech we have a similar reference -

> The Labor Party's approach to native title has failed miserably in this regard. It has done little for Aborigines.

Those quotes ignore that the federal legislation has been amended and we are not dealing with the original legislation passed

when the Keating Government was in power. We are now dealing with new federal legislation which was passed on the votes of the coalition members in the Federal Parliament and Senator Brian Harradine. We are dealing with the Howard-Harradine legislation. The alternative to the Premier's State native title regime is not the Keating legislation; it is the Howard-Harradine legislation. That legislation was a compromise version of Prime Minister Howard's 10 point plan. It is not true that the Premier's legislation is the only answer to Paul Keating's legislation - that is a fallacy and creates a false dichotomy. If the Premier's legislation is not successful we will be left in this State with the Howard-Harradine legislation.

There are other misleading statements in the second reading speech which gave concern to us on this side of the House when we listened to it. The Premier says -

> Under Labor's plan, over 1 000 geologists are out of work in one of the world's greatest mining provinces...

There are two mistakes in that statement: First, we are not dealing with Labor's plan; we are dealing with the Howard-Harradine legislation. Secondly, the statement ignores the effect of commodity prices. The statement ignores the effect of the collapse in the price of gold which obviously affected the willingness of companies to engage in exploration and consequently to employ geologists.

Another statement that concerned me was -

> Under Labor's plan, some 160 native title claims covering around 85 per cent of Western Australia and around 12 000 mining or land future acts are affected by future native title processes. There are overlapping claims throughout the State. Combined claims are stating to fall apart.

Again we have the fallacy that the legislation we have at the moment in the federal jurisdiction is "Labor's plan", but there are other mistakes in that comment by the Premier. The new legislation, the Howard-Harradine legislation, contained some changes which are improving the way in which the native title regime works in Australia and in this State in particular. The new legislation contained a new registration test for native title claims which did not apply to future claims only, but was to apply retrospectively to all existing claims. The Premier knows that the application of that new registration test has reduced the number of claims in Western Australia. Indeed the National Native Title Tribunal has put out information indicating that the number of claims in Western Australia has been reduced by 45 per cent as a result of amalgamations of claims and withdrawals of claims arising from the retrospective application of the new registration test.

One would think that the State Government would support the new registration test if it was concerned about the number of claims and the number of overlapping claims. In fact, it is continuing to cause trouble in the native title arena by appealing against the registration of some of those amalgamated claims. The Premier complains about the number of claims in this State and about the fact that some of those claims overlap. The native title parties responded to the Howard-Harradine legislation by amalgamating or withdrawing claims. What happened? This State Government then litigates against the registration of those amalgamated claims. For example, the State Government is appealing against the registration of the Wongatha claim. My colleague, the member for Kalgoorlie, will talk about this pernicious aspect of the Government's activities in more detail. However, I must draw attention to this matter because so many mistakes and misleading statements are bound up in these couple of sentences from the Premier. This is not Labor's plan. The number of claims is reduced as a result of the new Howard-Harradine law and the State Government is trying to frustrate the process by again seeking to litigate on native title issues.

Mr Court: The Howard-Harradine changes allow the States to implement a consultation regime. The Keating legislation allows the right-to-negotiate, which is what the Opposition wants to remain in place. You are right when you say that the consultation process on leasehold land is a Howard-Harradine initiative that allows the States to consult. However, the right to negotiate process, the main issue we are debating today, is in the Keating legislation.

Mr RIPPER: That statement also needs correction. Howard and Harradine could have, if they wished, made changes to the federal right-to-negotiate process, which process was ticked off by Prime Minister John Howard and by Senator Brian Harradine. Yes, the legislation allows the States to establish, if they wish, alternative procedures for pastoral leasehold land. However, the legislation does not require the States to establish those alternative consultation procedures. We are not required to legislate as a result of the Howard-Harradine legislation; however, we are given the ability to so legislate if we can meet federal conditions. The ultimate arbiter of whether this State Parliament has met those conditions is the Senate and it will make not only a technical, judicial decision but also a broad, political decision. Unfortunately, the State Government's record in dealing with native title issues, both politically and administratively, will compromise its ability to have the legislation accepted by the Senate.

I have already drawn attention to the fact that the Premier complains on one hand about the number of claims and overlapping claims while on another hand litigating against amalgamated claims. I want to draw attention to another contradiction. An enormous amount of government propaganda has occurred about backlogs in the issuing of mining and land titles, in particular mining titles. The State Government has failed to adequately resource the Department of Minerals and Energy to handle its responsibilities. I referred to some of the figures yesterday. As at June, more than 3 000 titles still have to go through the native title process. More than 1 000 of those titles have been identified by mining companies as priority matters. The Department of Minerals and Energy has five case managers capable of dealing with only 245 of those priority matters. If the State Government was dinkum about doing something about the backlog of mining titles, it would have resourced the Department of Minerals and Energy adequately by at least quadrupling the number of case managers from five to 20 in order to make an impact on the backlog of mining titles. The State Government has not done that; instead, it has argued that its legislation is the answer to these difficulties.

Let us look at how this legislation will affect the backlog of mining titles. At the back of the Bill are provisions for regulations governing the transition to the new system proposed by this legislation. We have been advised in briefings that the titles currently in the national native title process will continue in that process. The other titles, which have not yet been submitted to native title processes, will be phased in over two years. The State will not make a vigorous attack on the backlog of the issuing of mining titles. In fact, caps will be imposed on a regional basis. A maximum number of titles in each region from the backlog can be put into the system and processed at any one time. The native title backlog, under this Government's approach, will not be overcome for another two years. So much for a Government which is concerned about thousands of unemployed geologists; so much for a Government which is concerned about the fall-off in mining exploration expenditure; so much for a Government which is concerned about the impact on the Western Australian economy of mining companies not being able to have speedy access to land. If this Government really meant what it said when it attacked native title, it would not be appealing against the amalgamation of native title claims. If this Government meant what it said when it attacked native title legislation, it would not have a scheme in its own legislation which will mean that the backlog in the issuing of mining titles will not be overcome for at least two years. We have heard nothing about additional resources for the Department of Minerals and Energy. When that lack of commitment from the Government is combined with the legislation, it will be seen that there is not much substance to the Premier's rhetoric about negative effects on exploration from the federal native title legislation.

I now turn to the amendments that we propose to move to this legislation. I will not discuss these amendments in great detail but I will place on the record the scope of the amendments. The Opposition will be seeking to insert a clause entitled "Principles of Act". There are references to objects in the State Government's legislation and in our view those references are inadequate. We would like to see right at the front of the Bill principles which model the objects clause in section 3 of the Native Title Act. We will seek to have all current vacant crown land, even land which may at one stage have had a now-expired tenure on it, included in the right-to-negotiate procedures under this legislation and not relegated to the alternative consultation procedures. We will move to improve the advertising and notification requirements for acts under parts 2 and 4. Most importantly, we will move two amendments to the Government's consultation procedures in parts 2 and 4.

The Opposition believes it is essential that people be required to consult in good faith on objections to proposed future acts. We cannot understand how the Government can contemplate opposing an amendment that requires good faith consultation. The only conclusion we can draw is that the Government thinks that negotiations and consultations should not occur in good faith.

The Opposition will also move to expand the criteria that may be considered by the Native Title Commission when it is considering recommendations following the failure of consultations contemplated in parts 2 and 4 of the Bill. That amendment will reflect a version of section 39 of the Native Title Act. We hope it will combine with the amendments in good faith to provide more content and substance to the notion of consultation required in parts 2 and 4 of the Bill.

The Opposition will also move to provide for parliamentary disallowance of ministerial overrides of recommendations or determinations by the Native Title Commission. Those amendments will be moved in parts 2, 3 and 4 of the legislation. In brief, I will put the argument that the Native Title Commission makes what the Opposition regards as a semi-judicial decision. If the minister overrides that decision he will make a political decision. If a political decision is to override a judicial or semi-judicial decision, the appropriate check and balance is the prospect of parliamentary disallowance of the minister's determination, possibly also on a political basis.

The next amendment the Opposition will propose is to provide for a process by which consultation parties may make submissions to the minister before the minister makes a decision to overrule a recommendation of the Native Title Commission. Further, the Opposition proposes to move an amendment to insert a clause requiring that the Premier consult with the leaders of each other parliamentary party before appointing the chief commissioner of the Native Title Commission.

The Opposition will also move an amendment to strengthen the requirements for consultation when the minister conducts the proposed review of the operation of this Bill, should it become law. The Opposition will also move to insert a provision for the Native Title Commission to make special reports that the minister will be required to table. In effect, this amendment will give the Native Title Commission direct access to the Parliament, should it feel that matters exist of which the Parliament must be made aware.

Some amendments will be moved by the Opposition relating to the compensation sections of the Bill. Those amendments will allow the Native Title Commission to make decisions about amounts of compensation, even though determinations regarding native title have not yet been made. Those amounts of compensation would not be paid; they would be held in trust. However, the Opposition believes it is important that those decisions are made when the Native Title Commission makes decisions about the conditions under which future acts may occur on lands in which native title parties have an interest.

This is a shorter list of amendments to the legislation than the Opposition moved last year. We have examined our list of amendments from the debate on the previous piece of legislation and removed amendments that were unsuccessful in the Legislative Council and that were not capable of being moved in the Council due to its standing orders. We have obviously removed amendments that were in essence accepted by the Government and we have removed a number of amendments that, on reflection, we regard as not being of great significance.

We have, therefore, given close consideration to the amendments that should be moved. Our list has been culled. We will be moving amendments that we regard as core amendments that will make the Bill more fair. Almost as important, if accepted by the Government, our amendments will enhance the chance of the Bill's surviving Senate scrutiny. Therefore, once again we argue that the Opposition's amendments promote both fairness and workability. Our core amendments have

the support of indigenous interests. However, they do not represent the ideal or maximum position of indigenous interests. I reiterate that the Opposition is trying to adopt a balanced approach that is both fair and workable.

The Opposition supports a state native title regime. It supports a consultation regime for pastoral leasehold land and a right-to-negotiate regime for other lands. It is fair to say that, by and large, indigenous interests would prefer a national native title regime to persist in this State. However, the Opposition has taken a different tack. It believes there are advantages in a state native title regime and that some arguments exist for alternative regimes for pastoral leasehold land. The Opposition will vote for the second reading of this legislation. However, we urge the Government to take our amendments seriously. If our amendments are not accepted, we will have no alternative but to vote against the Bill at the third reading stage here and in the Legislative Council.

MS ANWYL (Kalgoorlie) [3.07 pm]: At the outset, I must say how frustrating it is to speak on this Bill knowing time for debate on it is limited, although I think the Leader of the House said earlier today we can stay here for as long as it takes. I am not surprised by that attitude. In a way I welcome it.

Mr Court: That means unlimited time.

Ms ANWYL: If, as a legislator with huge responsibilities, the Premier of this State thinks that that is the ideal way to proceed with this legislation, so be it.

Mr Court: Are you complaining about unlimited time after seven years of debate?

Ms ANWYL: The unlimited time is on the basis that we stay up all night and continue with this debate for 24 hours when no doubt we have all had a huge number of other commitments this week. Having said that, I find that a frustration, particularly as a legal practitioner who is effectively juggling a Bill of 147 pages and about 150 clauses with foreshadowed amendments of which I have only a draft and which will be moved by a member of the Mining and Pastoral Region in the upper House, who has made it clear that those amendments have been agreed with the Government. It is therefore appropriate that I refer to them in passing when discussing this legislation.

Effectively they are a part of the legislative regime we will end up with. Opposition amendments will be moved in the consideration in detail stage of this debate. I do not mind working until I drop. I do not think members pay particularly good attention to their health. If the Premier is suggesting that the best way of proceeding with complex legislation such as this is to devote the final three hours of the sitting time this year to it, and that we can simply proceed with the debate all through the night and into the morning, if necessary, I am disappointed. In my view, he has missed a great opportunity as Premier of this State to preside over the native title legislation. I am disappointed that he missed an opportunity to show some statesmanship and forge a solution by getting all the stakeholders together.

I will refer to the most difficult parts of the legislation and I will ask some questions which I hope the Premier will deal with in his response. If he can, that will cut my contribution to the third reading stage significantly.

Mr Court: I will try to answer all of the questions in the response. I hope some of the advisers heard that.

Ms ANWYL: The Premier has two very able assistants at the back of the Chamber, who I am sure are listening, and they want to go home at a reasonable time tonight, too.

Mr Cunningham: Not the Nationals; they want to stay.

Mr Court: There are three advisers.

Ms ANWYL: The number is growing all the time; we are in luck! I am sure the member for Girrawheen is wrong when he says that the coalition members want to stay.

Mr Cunningham: The National Party members want to stay.

Mr Trenorden: Always.

Ms ANWYL: As the member for Kalgoorlie, I want workable legislation and certainty. I suspect that I want that more than other members of this place. This issue takes up more of my time proportionately than that of any other member. I sincerely wish to see legislation go through this Parliament which will provide workability and certainty. We have three choices in relation to native title - litigate, legislate or negotiate. We must take a holistic view. Not one of those options, alone, will provide the answer to an extremely complex matter. Countries all around the world have been coming to terms with various aspects of native title. In some countries it is not an issue because there are no rights for indigenous people.

In Australia it is a fairly recent issue. In the scheme of things, we have had to come to terms with this issue in only the past decade, with the findings of the High Court of Australia in a number of decisions. The High Court has become the highest court of appeal in this land, but that was always so. The High Court will continue to have some jurisdiction in these matters. If indigenous interests are not satisfied - this has been made extremely clear in the media from time to time - those parties will take their matters to the courts when they feel aggrieved and they have the jurisdiction to do that. My chief concern is the Government is opting for the first and second options - litigation and legislation - as opposed to giving the option of negotiation its proper due.

Any lawyer will tell us that we cannot have successful negotiations without some goodwill. There must be some trust and goodwill. We all know negotiated outcomes are better, cheaper and quicker than litigated outcomes. I will discuss the impacts on my electorate of this Government's policy. The Leader of the Opposition quoted from a paper of Anne De Soyza, which was very vocal in its criticisms of this Government and its role in frustrating the negotiation. What has been the

Government's game plan, and why? I believe that within some sections of the Government there is a view that this issue provides a meal ticket to the next election in country areas. The Premier broke with some tradition: In the second reading speech he made some very political comments. It is my understanding that it is not convention in this place to use a second reading speech for that purpose. It will be an interesting courtroom when that speech is quoted as an aid to the construction of the legislation, and some comments surface in that context.

There has been a lot of frustration for parties from all sides - the Opposition, the Government, the mining industry, the average residents in my electorate, the Aboriginal claimant groups and the wider Aboriginal population. I can tell members that because I live in my electorate and spend a lot of time out and about in a huge range of circumstances. But for the fact that this debate will continue, I would have been at a very significant Aboriginal award ceremony in my electorate this evening; however I doubt that I will be able to go to it now. When I have occasion to mix with Aboriginal people, they approach me to ask how I can help them to get proper resourcing to allow them to get on with negotiations. The board of the Goldfields Land Council wants to engage in negotiation and is as tired of the impasses that are occurring as is any other section of the community. There is a level of goodwill and we must capitalise on it.

My initial concern with the legislation is the transitional provisions, as they relate to schedule 3, and expressly to what will happen with existing mineral tenements. I am not clear how long that process will take. I have ample evidence of the number of applications tied up in the system at the moment. They represent a huge level. It is fair to say that the principal concern in my electorate is access to land for exploration and prospecting. A straw poll in the street would indicate that is the main issue. I have had long discussions about that matter with a huge number of people. Some of them, drillers and the like, are losing their livelihood.

Mr Court: That is what we have said with the legislation.

Ms ANWYL: I just want the Premier to tell me how schedule 3 will assist with the clearance of that backlog, how it will work and what is the timetable. In terms of the involvement I have had, because of the perception about the access for land exploration, which I consider to be accurate, there have been several meetings of the goldfields land access group. On 19 July 1999, after a meeting, correspondence was generated to the Premier from Kath Finlayson, the chairperson of the Goldfields Esperance Development Commission, requesting that the Premier engage in discussions with that group about how to fast track local agreements for the purposes of this land access. Subsequent to that time, members of staff from the Ministry of the Premier and Cabinet have been in Kalgoorlie-Boulder, and I am pleased to say that I am getting improved reports about the meetings that are occurring. I hear about those meetings from a number of sources. A further meeting of that group occurred on 13 October 1999, and another on 19 November 1999. When I sat down with the representatives of the various industry and Aboriginal claimants on 19 July, I was surprised to hear that there had not been a specific meeting of this kind before. That shows just how easy it is to lose sight of the need for these dialogues to occur in a way that involves the State Government. I would like to see the State Government putting more energy into them.

Local initiatives have been occurring. If the Premier is not briefed, I know his staff members are well versed on the local initiatives for access for prospecting, particularly the Wongatha claim area and exploration. A big hurdle is to find a definition of low impact that is meaningful. I am aware that several government agencies are attempting to assist with that matter. There is some degree of perception in the general mining industry that the left hand of the Government does not know what the right hand is doing. Some of these efforts to find a low impact definition that is satisfactory for the purpose of drilling exploration are not meeting with the currency they might in other quarters of the Premier's office. The legislation was rushed through this place previously. I think the last time we dealt with it was on 23 December 1998. As the Deputy Leader of the Opposition stated, there have been significant amendments to it.

Dealing with the Government's approach, a particularly disturbing example is the Wongatha claim. Because of the time constraints, I cannot deal with all of these claims. However, in the Wongatha claim, approximately 20 claimants were reduced to one. That was as a result of the reregistration requirements under the federal changes. The so-called Wik 10-point plan resulted in these changes. Clearly, there have been some positive developments in amalgamation of claims. I thought that reducing 20 claims to one was a good thing. It means that there is only one claimant with whom to negotiate. That is not to say that there were not some problems. Three appeals were lodged. The first of those was from the Ngaanyatjarra Land Council. That matter has been mediated and that appeal no longer exists. The second appeal was from the Maduwongga claimant group. Again, that has been mediated and no longer exists. However, the third challenge to the registration was by the State Government. Why would the State Government want to appeal against something like this? I thought that the Government would assist the representative body in its actions, given that those other two appeals were mediated to a successful outcome. However, I am told that that state government appeal has been heard and a finding made that further documents were required to be provided to the Government. However, the substantive part of the Government's appeal was dismissed. That is where things stand.

Mr Court: When you say the substantive part of the appeal was dismissed, the Government won that appeal.

Ms ANWYL: Yes. The difficulty is that we do not have the time to debate this matter fully. I understand that orders have been made that some documents be provided. The Premier is right that the appeal was successful, but the most substantial grounds of the Government's appeal concerning whether the claim should or should not have been registered were dismissed. It is difficult to engage in a full debate on this matter because of the time constraints.

I took the time on 14 September to give evidence to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, which is a standing committee of the Federal Parliament. I will summarise the evidence I gave. My first point dealt with the State Government's opposition to mediation. My second point dealt with the under-resourcing of the Department of Minerals and Energy of sections responsible for prospecting, exploration and mining

tenement grants. My third point was a summary of what had happened with the goldfields land access group. There was a lack of progress at that time. However, I am pleased to say that since then things are looking up. My fourth point was that there was inadequate resourcing of representative bodies, in particular the Goldfields Land Council. A matter that I urge be taken up in the context of the state commission is the need for accreditation of barristers and solicitors who practise in this field. Some people who are practising in this field are compounding the problems rather than assisting them. I would like to see a system, such as that which exists in the family law system, whereby there is accreditation of lawyers in this field.

Mr Court: Would that exclude former Premiers?

Ms ANWYL: I have no idea. I expect that if a person passes the examinations, that person cannot be excluded, unless a special clause is written in. However, I will look at whatever the Government drafts. On that point, presidents of the Liberal Party might be excluded. An article in *The West Australian* referred to a firm known as Macdonald Rudder. I think some fairly active members of the Liberal Party are involved in that firm, so perhaps it might be a two-edged sword.

Mr Court: Let us be honest. The whole legal profession is having a field day with this legislation. That is why we want to try to get something workable in place so that we can have some realistic negotiations, instead of this ongoing litigation. The amount of money that is being squandered on litigation that goes nowhere because of this legislation is an absolute disgrace.

Ms ANWYL: The Premier will be aware that I have asked many questions trying to determine how much state money is being spent on litigation. I agree with the Premier that that money could be better spent. That is why I am imploring the Premier to engage in negotiation on the basis that goodwill is established between the Government -

Mr Court: If you accept our consultation regime you will get genuine negotiation.

Ms ANWYL: The consultation regime that the Government is imposing in this place will be amended in the other place. Why does the Government not have the decency to put forward in this Bill what it is proposing, rather than allowing it to go to the upper House? The way the Government is dealing with this legislation is unbelievable.

The final point I made to that federal parliamentary committee concerned the stalemate that we had regarding the legislation. I am pleased that we are dealing with this legislation, albeit at rather short notice and with not enough time to adequately debate it.

I will deal with the State Government's obsession with litigation in the goldfields. I cannot speak with authority about what happens in the rest of Western Australia, because my emphasis and preoccupation is with the goldfields. Various statements that have been made have caused a great deal of consternation among my constituents. This is a complex issue. It is difficult for the average person in the street, or perhaps even the average parliamentarian, to know and understand the complexities of this legislation. I do not profess to be an expert. That is one reason that we need accreditation of lawyers who practise in this field. Notwithstanding that people generally do not know a lot of detail, some people in my electorate do.

Evidence was given to the federal parliamentary committee concerning the Government's estimate of how long the litigation in the goldfields might take. An estimate was provided by Mr Conran in the context of questions that were asked by Mr Melham, a federal member of Parliament. In his evidence, an estimate was made - to be fair, it was a guestimate rather than a firm estimate. I quote one passage from Mr Conran's evidence in which he says -

> If, for example, the Kalgoorlie claims were listed now, -

That is, listed for Federal Court of Australia determination -

> - presumably they would not come on for another year and it is going to take six months to deal with those trials, so normal events would seem to suggest that these matters take four years.

That is a guesstimate. Mr Conran also said -

> If we can, as a priority, have the Goldfields claim listed before the Federal Court for a determination - and native title is here forever - within the next few years we will find out: (a) whether native title continues to exist in the area; and (b), if it does continue to exist, who the native title holders are and what the incidence of native title is.

Let us be clear. The legislation alone will not be a panacea for the problems in Kalgoorlie at the moment. The appeal against registration, which I have discussed, is under the federal Act. It is not under the state legislation that will now be brought forward.

On the issue of litigation, the view of some people in the community is that once this legislation passes through the State Parliament, that is it; everything is solved. I wish that was the case, but unfortunately it is not. There will still be a big role to meld the various approaches of making this legislation work, litigation and negotiation. One must take a holistic approach to that. One cannot expect to isolate, on the one hand, the Government's very litigious approach to registration and then expect the same native title parties to sit down at a table and enter into negotiations with the Government. Notwithstanding my attitude, the fact is that all of the claimant groups with which I speak, with the exception of perhaps one out of many, want to sit around a table to try to forge ahead, because they are concerned about access to employment and the like.

We must also address the issue of the cost of litigation. The Premier knows only too well how much it is costing each year - at least $3.5m for the past few years according to an answer to a question on notice. I do not think that takes into account the Government's liability in respect of the Miriuwung-Gajerrong case, which is under appeal.

I have referred to the Wongatha claim. I would like to know what is the Government's attitude to the registration of that claim. Now that the other appeals have been knocked out, it would be destructive to proceed with that case. The longer that registration is delayed, the more chance there is of a splintering of the 20 claimant groups. The Goldfields Land Council is doing its best to keep those claimants together. It has negotiated outcomes with some claimants who had a dispute about that registration, but that has now been resolved. It is important to try to encourage the merging of these claims.

Mr Court: We will support amalgamations if they are sustainable. The member knows that those parties cannot get their act together. It is falling apart.

Ms ANWYL: I ask the Premier to take note of the fact that this is a moveable feast. At the moment those parties are contained and there are no court challenges, except for that lodged by the State Government.

I refer to schedule 3 and the resourcing of the Department of Minerals and Energy. I understand that the last additional resources were allocated in the first half of 1997. Are there plans to put on more staff in light of the setting up of the separate regime? I understand from an answer to a question on notice of 14 October 1999 that 16 staff are devoted to dealing with native title issues and another 17 have a partial involvement. That number should be increased, particularly if schedule 3 is passed.

I have discussed schedule 3, but I would like some detail about time frames and how it will operate. How many members will comprise the state commission? What is the time frame for the setting up of the commission? Assuming the legislation passes before Christmas, how many members will be appointed in addition to the commissioner? What will be the salary for that position? Will it be equivalent to the remuneration paid to a District Court judge? Will judges be eligible to be seconded or moved across to the commission? A member in the other place intends to move an amendment providing that retired judges are not eligible. I would like some explanation of the government proposal.

A very important matter is whether the legislation is likely to get the approval of the Senate. Indigenous groups across Australia have asked whether there needs to be further Senate approval before significant changes can be made to state regimes. I do not know whether the Government has a position on that issue, but we should discuss it in the context of this debate. The Queensland Premier wants to have that issue resolved prior to his legislation going to the Senate. Although Senator Harradine no longer has any real power, he has stated that it was not his intention to create this loophole when the previous amendments were debated. That is one of the key issues raised by indigenous groups.

I refer members to clause 3.24, which is the consultation provision. It is the Opposition's intention to move amendments to this clause, and I note that amendments have been made to the legislation that was introduced 11 months ago. I assume that Hon Mark Nevill's amendment to insert the words "good faith" in subclauses (1) and (2) will be passed. If so, it appears that there is not a lot of difference between what is being argued by the Opposition and the Government. I would like an explanation.

I would also like to know whether the mining industry has been consulted directly about this clause, particularly in respect of the Nevill amendment. Does the Government have a clear statement from the mining industry that it will be able to live with the proposal? I am sure that the Premier will agree that this will be one of the most significant aspects of the debate in the consideration in detail stage.

I understand that it is not possible to proceed to a determination of compensation, or a decision, when there is no Federal Court determination as to who is the native title claimant. Unless the claimant has a Federal Court determination saying that he or she is the claimant, the state commission does not have the authority or the power to determine the issue of compensation. That causes alarm bells to ring for me, because one of the bases upon which the legislation is being sold to people in the goldfields by the Government is that the process will be expedited. If there is no agreement, and the matter must be decided by compensation, it will take a very long time to be resolved because it must go to the Federal Court for a determination of the native title interests. I would like an explanation.

A range of other matters must be addressed. Unfortunately, my time has run out. The key issue is the time frame. I would like to know what is the Premier's understanding of the requirements for the federal Attorney General's tick of approval. In the second reading speech the Premier said he was confident of that occurring. I understand that the Queensland process has been very lengthy. There is that hurdle to cross. Further, what is the Premier's understanding of when the matter will be dealt with by the Federal Parliament? I had the pleasure of attending a Chamber of Commerce and Industry forum in Kalgoorlie-Boulder the other day with Senator Ross Lightfoot. He felt that the validation legislation would be rushed through the Senate. I understand that it does not have to go anywhere near the Senate. I presume the Premier will extend the same assurance to his constituents about the Native Title (State Provisions) Bill. What is the Premier's estimate of the time frame assuming the legislation is passed in this place today and in the upper House, including the Nevill amendment, very soon?

Mr Court: I understand that if it goes through both Houses, the process in the Senate could take until April or May. Then we will know whether it will be allowed.

Ms ANWYL: I heard an estimate of July for Queensland.

Mr Court: The Northern Territory has already been knocked off.

Ms ANWYL: I know that. I would like an estimate from the Premier of which parts of the legislation relating to the state commission will proceed forthwith and which parts will be dependent on federal approval. How does he see that system operating? I would like some detail of what talks have been held with the Federal Government and its attitude.

MR COURT (Nedlands - Premier) [3.14 pm]: I thank members opposite for being willing to go through the second reading stage and then into consideration in detail. The Opposition has said that if its amendments are not accepted, it will then vote against the legislation.

The member for Kalgoorlie asked about the time frames for the schedule 3 transitional provisions. That is a complex issue, and we may go into that a bit more during consideration in detail. The objective of the transitional arrangements is to deal with the backlog as soon as possible, but in an orderly manner. With regard to the requirements of the Federal Government, the member mentioned that Queensland and the Northern Territory had a lot of amendments. As the member knows, we had to bring in a lot of amendments the last time around. However, members will notice that we are not bringing in any amendments on this occasion. We have had some time to discuss these matters with the Federal Government. The federal Attorney General cannot give this legislation a tick until he sees what has gone through the Parliament, and he must then go through the process of getting some independent assessments, etc. I am reasonably confident that our hurdle with regard to this legislation will be not the Federal Government but the Senate. Part 4 of the legislation will become operational straight away, and parts 2 and 3 will need to go through the Federal Parliament. The member for Kalgoorlie made some comments about low impact. That has nothing to do with this legislation but relates to another process under the Native Title Act. The member also made some comments about amalgamation of the Wongatha claim. We support amalgamations that are sustainable.

Ms Anwyl: What is the test?

Mr COURT: The Wongatha claim is a classic example of an amalgamated claim that is not sustainable, because it is falling apart, and the claimants acknowledge that. Certain practices have been taking place with regard to claims like Wongatha, the asks of which are nothing short of blackmail. Mining companies, for example, try to have a reasonable negotiation, but they then get a financial ask, sometimes in the form of secret commissions and the like. If that is the way people think they can carry on this sort of negotiation, they will not get too far.

Ms Anwyl: Who has briefed the Premier on the Wongatha blackmail allegation that he is making?

Mr COURT: Mining companies in their negotiations on these claims have been asked to pay secret commissions - and that is just unacceptable - by people who say they are parties to these claims. That is why I say that if an amalgamated claim is sustainable, that is fine, but what is happening is that groups that say they are representatives of these bodies have been making these sorts of claims. The member knows that as well as I know it.

Ms Anwyl: Are you saying the Goldfields Lands Council is doing this?

Mr COURT: I am saying that when a mining company genuinely wants to negotiate, groups come in and say they are parties to the claim and it must deal with them, and part of their deal is things like secret commissions. That is the problem.

Mr Ripper: You are not talking about the representative body, are you?

Mr COURT: I am talking about whether an amalgamated claim is sustainable; and in the Wongatha case, it has been proved not to be sustainable. With regard to the time frame, it may take four to five years to determine claims in the Kalgoorlie area, but the sooner we find out if there is native title in Kalgoorlie, and, if there is, who are the holders and what is the incidence of it, the better off we will all be. Currently it is a free for all and the system is being rorted, to put it bluntly. The sooner the Wongatha claim gets to trial, the better, so that we can start to get some certainty into the process.

With regard to the accreditation of legal people, the member for Kalgoorlie would know more about how the profession operates than would I. I thought it would be difficult to have accreditation, but I do not know the profession as well as does the member for Kalgoorlie. I do know that a lot of people are rubbing their hands together and are saying, quite openly, that native title has been one of their big growth areas of business, and we have litigation that is not resolved and keeps piling up. That is why we have been saying for years, and why I get so frustrated and angry, that millions and millions of dollars are being spent on trying to make an unworkable legislative framework work, when everyone knows that it cannot work.

I will repeat what I am saying, in simple language: Members opposite had seven years with their legislation and with their right to negotiate provision on leasehold land. They know it does not work. All we are saying is, give us a chance with the consultation regime, which I believe we can make work, and which will lead to genuine negotiation, because we will not have a threat during the course of that negotiation and it will be in the interests of all the parties to get some certainty in place. That is all we ask. Members opposite have had their chance. They had seven years. It has not worked. Why not give us a chance? That is why we have said to the Australian Democrats, "Let us get a consultation regime in place. Give us five years with it, and at the end of that five years you can disallow it if it has not worked." We have had seven years of a system that does not work. If within that five year period we were to amend the legislation in a way that did not comply with the federal native title legislation, the federal Attorney General, whoever he or she might be at the time, would have a legal obligation to rule out our regime. That is the safeguard.

Ms Anwyl: Do you have legal advice to that effect?

Mr COURT: Under the federal native title legislation, if a state regime that has been established is then changed and does not comply with the federal legislation, it must be ruled out.

Ms Anwyl: Who will rule it out?

Mr COURT: Let us see whether we are wrong. Give us a chance to try to get some negotiation that will give us some positive results. Aboriginal people in this country are getting next to nothing but legal bills out of this legislation. We could

be in a consultation regime and be negotiating arrangements that guaranteed that elderly people in communities in Fitzroy, Broome and Halls Creek, etc, received immediate assistance, and we could be negotiating in such a way that a long-term benefit flowed through. Members opposite are so bloody-minded about this -

Mr Ripper interjected.

Mr COURT: These are not the Opposition's amendments. They have come from Kim Beazley's office in Canberra. The federal advisers come over here, and it has now reached the stage where they say, "Court is having another go at his native title legislation. Let us try to obstruct it again." The member for Belmont knows who are the lawyers who are advising the Opposition, and I know who are the lawyers who are advising the Opposition. It is as transparent as night and day. Let us get back to basics. Members opposite have had seven years with a right to negotiate regime that does not work. Members opposite have said that it is the Howard-Harradine legislation. The amendments to the Keating legislation have allowed us to establish a state tribunal with a consultation regime over leasehold land. That is all we are asking for. Members opposite want to stick with the right to negotiate provisions, which have been shown not to work.

The Leader of the Opposition gets up in this House and says, "Oh bliss, let us follow some of the Canadian models". I will tell members what: I talked to a person who used to be involved in the Nova Scotia fishing industry and there have been rulings there that the local aboriginal people are able to fish whatever they like; they do not have to worry what the Government says on conservation laws; they have a native title right to fish what they like, and what are they doing? They are doing just that - they are fishing the place out and destroying the industry. That is the sort of problem they are coming up against in Canada. The Leader of the Opposition says British Columbia is the model that we should follow. The Government there has recently concluded an agreement with the Nisga'a community that took over 20 years to negotiate. The agreement is over a relatively small part of British Columbia. It has cost over $200m in negotiation costs; compensation costs are well in excess of $100m and the agreement was recently put to the British Columbia Parliament where it was vigorously opposed. The native title parties are divided with many saying the agreement is unsatisfactory and that they want more. The non-aboriginal community is divided with many saying that it gives away too much. The feeling over there is that the Government will lose office in a forthcoming election over this issue. The Opposition is seeking a referendum on the matter and it seems that the agreement under a referendum could be rejected. The Canadian Federal Government is sitting on the fence on the issue; it does not want to take a position on the matter. There are legal challenges to it and the summary we have received about the British Columbia exercise is that it has been a complete disaster. Yet the Leader of the Opposition gets up here and says that Canada has the panacea for it; why can't we do what Canada has done? We can do what is best for Australia and particularly for Western Australia by sitting down and negotiating fair, reasonable, long-term arrangements with the Aboriginal people but not under a ludicrous legal framework that has only divided communities and put lawyers on the gravy train.

I conclude by saying there is nothing new about this debate. We have an opportunity to ensure that the Aboriginal people in Western Australia get more in the way of short-term and long-term benefits than any other Aboriginal people in this country. A relatively small part of the State has been given over to freehold. There is a lot of land in this State and we have an economy that is growing. We also have the means to negotiate arrangements that will give these people access to long-term benefits, and yet, this legislation has become a litigation nightmare. I have said on many occasions it will be hard to make work the regime that we want to put in place. I have said all along that we have been the first people to say that. We see this process as compromise upon compromise, but we are prepared to give it a go. The Opposition has had seven years to do something. Let us try to get on with making a regime work that we believe can work.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1.1 and 1.2 put and passed.

New clause -

Mr RIPPER: I move -

Page 3, after line 4 - To insert the following new clause -

1.3 Principles of Act

The principles underlying this Act are -

(a) to provide for the acknowledgement and protection of native title;

(b) to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and

(c) to ensure that Western Australian law is consistent with standards set by the Commonwealth Native Title Act for future dealings affecting native title.

This legislation lacks a genuine objects clause. Some clauses purport to be objects clauses. For example, clause 1.3 states-

The objects of this Act are those set out in -

(a) sections 2.4 and 3.3 . . .

(b) section 4.1 . . .

(c) section 6.10 . . .

The problem with that clause which purports to be an objects clause is that when one turns to the sections of the Act to which it refers, one finds that the purported objects are extremely technical and legalistic in nature. The Opposition believes that there should be a declaration of the principle at the front of of the Bill stating what it is about. It should say that this Bill acknowledges and protects native title. It should say that this Bill establishes standards for future dealings affecting native title. It should declare that the object of the Bill is for it to be consistent with the commonwealth Native Title Act.

Given the Premier's approach to native title, which he seems to regard not as a right for indigenous people but as a problem for all other title holders and non-indigenous people, it is important that we endorse the first principle we proposed; that is, to acknowledge and protect native title. This legislation should not merely deal with a perceived problem of native title. It should acknowledge native title and assist native title holders to exercise their native title rights. We should not forget when we debate this legislation that we are talking about property rights. We should never forget when we are debating in this legislation the right to negotiate a compromise that has been accepted by indigenous people.

At the beginning of this exercise, every indigenous person who thought they had a claim to land could have attempted to resolve his native title claim, as Eddie Mabo did. That process would have taken decades to resolve. It could have taken as long as 50 years, costing hundreds of billions of dollars and delaying development in this country. If every native title claim had been settled through common law processes, there would be injunctions in the courts preventing development from going ahead. Hundreds of millions of dollars would have been spent on legal fees. What occurred was a historic compromise whereby indigenous interests accepted the extinguishment of native title by past Acts and the validation of titles. They accepted that development would proceed pending the resolution of native title issues. As a compromise, indigenous interests were offered the right to negotiate. If that compromise had not been offered and accepted, that lengthy and expensive common law process would remain. This House should recognise the true starting point in this debate and not assume that the right to negotiate is a benefit that was generously conferred on Aboriginal people. The right to negotiate is a compromise from the point of view of indigenous interests and that is why we should endorse the principles in my amendment.

Mr CARPENTER: The member for Belmont has not finished his comments and I would like to give him the opportunity to continue.

Mr RIPPER: I would be interested in some sort of response from the Premier -

Mr Court: I would have got up if I had known the member for Belmont had finished speaking.

Mr RIPPER: I said that the right to negotiate should not be seen as some sort of generous gift and should instead be seen as what it is. That right was part of the compromise process and a deal with indigenous people. It has assisted development. If the deal had not been accepted by indigenous people, we would have been left with the expensive and lengthy common law processes which would have frustrated development in this country. The Premier's attitude to the right to negotiate gives me grave doubts about his interest in protecting native title. I would like to hear his comments on the Opposition's suggestion to insert an objects clause into the Bill.

Mr COURT: The Government will not support the amendment because it is not necessary. Paragraph (a) states -

to provide for the acknowledgement and protection of native title;

The federal legislation does that. The Native Title (State Provisions) Bill simply enables the State to implement some of the components of the federal legislation. What is stated in paragraph (c) is not the State Government's responsibility; it is the federal minister's responsibility. It is the federal minister's role to decide whether the state provisions comply with the federal legislation. Paragraph (b) is certainly covered by the state legislation, but it is not necessary to put it into the legislation.

I have been involved in this debate since it first started. I was heavily involved in the federal legislation. As I have said on numerous occasions, the then Prime Minister said that the right to negotiate was not an issue with pastoral lease land. He said that because he made a deal that meant pastoral lease lands extinguished native title. The Prime Minister not only said it publicly on many occasions; he also said it directly to me in meetings. Time is a funny thing and we have moved on from those commitments. Those commitments were important because, as the member might recall, there was a crunch time with the federal legislation. Those commitments were made to bring the pastoralists on board. The Prime Minister repeatedly said that he made it clear during negotiations that pastoral leases extinguished native title. We all know that since then High Court rulings have said otherwise. All the State Government has said about a consultation regime is that it removes one of the major stumbling blocks in getting some realistic determinations in this State.

Mr RIPPER: Paragraph (c) is relevant to the legislation.

Mr Court: We have no involvement in that.

Mr RIPPER: Surely it is this Parliament's responsibility to try to make the state legislation consistent with the commonwealth Native Title Act. The Parliament is attempting to legislate within a framework set by the commonwealth Native Title Act. The legislation will be declared invalid if it is not consistent with the federal Act. The legislation will not be a solution to native title problems in this State if it is not consistent with that Act.

Mr Court: The Parliament cannot ensure the legislation is consistent because Western Australia does not make that determination. The federal Attorney General makes that determination after it goes through Federal Parliament.

Mr RIPPER: We can read the Native Title Act. The Government can take advice from federal officials. I do not think those federal officials have been available to advise the state Opposition. If we really want a solution to native title, this Parliament must make the legislation, as far as it can determine, consistent with the commonwealth Native Title Act.

Mr Court: We can send the Bill to Federal Parliament and say that we have ensured it is consistent with the Act, and they can say it is not. Although the State can say it has ensured it is consistent, it does not make that determination. It is not the State's role. The federal Attorney General was given that role.

Mr RIPPER: The Opposition is saying, through the amendment, that an underlying principle of the Bill is that it is seeking to ensure it is consistent with standards set by the commonwealth Native Title Act. The amendment states that "The principles underlying this Act are", and lists those principles. There are times when a declaration of principle at the beginning of an Act is later determined by a court to be inconsistent with a particular clause. One of the reasons for having a declaration of principles at the beginning of an Act is to assist in the later interpretation of the detail. This legislation is missing an objects clause. Technical, legalistic object statements are buried in subsequent clauses, but nothing sets out the principle by which this Parliament seeks to approach native title issues. This Parliament should be setting down what it thinks it is attempting to do with this legislation, which is fairly complex in its cross-references, particularly the references to the commonwealth Native Title Act. The Premier does not think we should say that the State Parliament proposes to acknowledge and protect native title or that it wants the legislation to be consistent with the commonwealth Native Title Act. I regret that because, if the amendment moved by the Opposition were accepted, it would give the legislation a more substantial image and embody a more statesmanlike approach.

New clause put and a division taken with the following result -

Ayes (17)

Ms Anwyl	Mr Graham	Mr McGowan	Mrs Roberts
Mr Brown	Mr Grill	Ms McHale	Mr Thomas
Mr Carpenter	Mr Kobelke	Mr Riebeling	Ms Warnock
Dr Edwards	Mr McGinty	Mr Ripper	Mr Cunningham *(Teller)*
Dr Gallop			

Noes (32)

Mr Ainsworth	Mr Court	Mr Kierath	Mr Prince
Mr Baker	Mr Cowan	Mr MacLean	Mr Shave
Mr Barnett	Mr Day	Mr Masters	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr McNee	Mr Tubby
Mr Bloffwitch	Dr Hames	Mr Minson	Dr Turnbull
Mr Board	Mrs Hodson-Thomas	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr House	Mrs Parker	Mr Wiese
Dr Constable	Mr Johnson	Mr Pendal	Mr Osborne *(Teller)*

Pairs

Mr Bridge	Mr Marshall
Mr Marlborough	Mr Omodei
Ms MacTiernan	Mr Sweetman

New clause thus negatived.

Clauses 1.3 to 1.8 put and passed.

Clause 2.1: Definitions -

Mr RIPPER: I move -

Page 8, line 12 - To insert the following -

or

(c) that is current vacant Crown land;

"current vacant Crown land" means Crown land that -

(i) is vacant as at; and

(ii) in relation to which any tenure of non-exclusive possession had ceased to have any effect on or before,

the 23 December 1996;

This is one of the most critical of the amendments to be moved by the Opposition. The crux of the Bill is to apply an inferior alternative consultation regime to leasehold land in the State and a right-to-negotiate regime to vacant crown land. Unfortunately, the definition of "vacant Crown land" in the legislation is deficient. Any current vacant crown land which

previously had a tenure of non-exclusive possession over it will not be included in the right-to-negotiate procedures established under the legislation. Instead, such land, which may look like vacant crown land, but which may once have had a historic tenure on it, will be included in the land subject to the consultation procedures. In other words, it will be considered to be part of an alternative provision area. This has implications for both the fairness and the workability of the legislation.

I refer first to fairness. It does not seem fair to me that land which looks like vacant crown land and which currently has no other interests above the interests of the State and potential native title interests should be dealt with in the same way as land that has competing private interests applying to it. The whole rationale for having a consultation regime for alternative provision areas is that those areas, in the main pastoral leasehold lands, have competing private interests. Native title parties and pastoralists have interests in the alternative provision areas. There is therefore a rationale for an alternative consultation regime because of a difference between that type of land and vacant crown land.

This legislation will subject currently vacant crown land to the same regime as the regime that applies to land when there are competing private interests. It is not fair for indigenous interests to have to further compromise on the right to negotiate on land that any passerby, observer of land matters or anybody who looks at the status of land in the records of the Department of Land Administration could say was vacant crown land. Why should native title parties be subjected to inferior consultation procedures just because there may have been a lease over that land between 1920 and 1922? Why should they be subjected to inferior consultation procedures because someone may have been granted a lease over that land between 1915 and 1917 and may never have taken up the lease, exercised any of the rights under the lease, visited the land or done anything at all on the land? The mere existence of such a historic expired lease suddenly under this legislation will derogate from indigenous people's rights. I do not regard that as a fair approach. It is not in accordance with the rationale for the establishment of alternative provision areas and inferior consultation procedures in the first place. There are also implications for the workability of the legislation with which I will deal later.

Mr KOBELKE: The workability of native title in a range of areas depends on mutual respect and people operating in good faith. If the Government continues to take away the rights of people seeking native title, no good faith negotiations will proceed. This amendment will give to potential claimants an understanding of their right to land in this one respect; that is, a basis for the establishment of trust and negotiation, which at the end of the day is the only way we will effectively resolve a range of problems in this area. It is unfortunate that, time after time, this Government has refused to negotiate in good faith.

Mr RIPPER: In my earlier contribution I referred to fairness and workability. I now come to the implications for the workability of the legislation of the Government's approach. The possibility exists that disputes between people will arise about whether future acts on a piece of land should be covered by the part 2 consultation procedures or by the part 3 right-to-negotiate procedures. Most people will conclude that the right-to-negotiate procedures are more favourable to indigenous interests. The consultation regime is more favourable to developers. Consequently there is an interest for indigenous people in having a future act covered by the part 3 right-to-negotiate procedures and on the other hand for developers to have a future act covered by the part 2 consultation procedures. How will people solve such arguments about land which looks like current vacant crown land, but which may have had tenure on it in the past? People will have to refer to the historical records as far back as late last century to ascertain whether a piece of land was once covered by any tenure. That will negatively affect the workability of the legislation. It will add an element of uncertainty.

People may not find it easy to discover whether a tenure operated on a piece of land in days before records were computerised. Litigation may arise about the issue. Surely it would be an unproductive development for people to engage in litigation about whether the right to negotiate procedures or the consultation procedures should apply to a piece of land that appears to be current vacant crown land. As a result of the Government's unfair provision, people may face the possibility of having to search through the dusty records of the Department of Land Administration for evidence that things occurred early this century, and then have to argue in the courts about what they have discovered or not discovered.

We may be creating both inconvenience for people and expensive legal argument that could have been avoided had the Government adopted a fair approach to this matter in the first place. If it looks like current vacant crown land, why can it not be treated like that by indigenous interests? Why is the Government seeking to apply a regime designed to deal with land on which there are competing private interests to land on which there are no competing private interests? The only reason I can see is that the Government wants to constrict the right to negotiate as much as possible. Any reason is good enough for the Government to restrict the area of land on which the right to negotiate applies.

One of the Government's favourite tricks in this debate has been to use expired historic tenures to undermine Aboriginal rights. It is interesting that when the Government dealt with the Titles Validation Amendment Bill it was prepared to restrict the extinguishing effect of scheduled interests on native title to scheduled interests that were in force at 23 December 1996. The Government has partially moved towards the Opposition's position on the issue of historic tenures. However, it does not appear to be ready to move towards the adoption of a similar principle concerning the crown land that can be included in part 2 or part 3 procedures.

Mr COURT: The definition we have incorporated here is the same as that incorporated by the Labor Government in Queensland. We cannot be accused of being radical. Under the Opposition's amendment a pastoral lease for 100 years that is no longer a pastoral lease today would be included under the right to negotiate provisions. The definition of extinguishment is that if it has been freehold for 100 years and is returned to vacant crown land, the act of its being freehold means it extinguishes native title.

Mr Ripper: In the case of freehold title, but not non-exclusive possessions.

Mr COURT: The Opposition's proposal would be unworkable. Many little parcels of vacant crown land exist that have been taken out of pastoral leases. About 12.5 per cent of the State would be added to a right to negotiate regime. Hon Mark Nevill has proposed an amendment that the Government indicated it was prepared to consider in relation to pastoral leases that were basically granted, but in the early years of the grant they were either not taken up or they were forfeited. However, we will not support this amendment.

Mr RIPPER: We need to go back to first principles. The right to negotiate is not a gift from the rest of Australia to indigenous interests; it is itself a compromise. This Government wants to further constrain that compromise by restricting the amount of land to which the right to negotiate applies.

Mr Court: The right to negotiate was something Paul Keating put in legislation. It was created in the legislation by the then Labor Government, so don't say it is something it is not.

Mr RIPPER: It is the outcome of negotiations. The alternative to accepting that outcome was to put all native title claims through a common law process which would have stopped development in this country for half a century.

It was a worthwhile compromise for non-indigenous Australians to accept. It is outrageous and unfair for it to be treated as if it is a magnanimous gift to indigenous Australians, for which they gave nothing up. They gave up common law rights and extinguishment.

Mr Court: Tell us the other part of the negotiation.

Mr RIPPER: The Premier should tell what he thinks it is.

Mr Court: The other part of the negotiation was that the pastoral leases had extinguished native title.

Mr RIPPER: I think indigenous people did do that. Some other people thought they did that. As often happens in negotiations, people who have a slightly different view of the world can reach agreement. Each of them expects that his view will eventually be vindicated. That is common in negotiations, as the Premier knows. I do not think indigenous people ever thought pastoral leasehold land extinguished native title. That may have been the view of other people in the negotiations. I think I have established that the right to negotiate is a compromise position. The Premier is trying to restrict it to the smallest area of land possible that he can get away with under the commonwealth Native Title Act.

Mr Court: That is unfair.

Mr RIPPER: The rationale for an inferior regime is that a piece of land has interests in it from more than one private party; that is, the interests of a native title party are at stake and those of a pastoralist are at stake. There is a rationale for there to be different arrangements for that type of land than there is for land that has the interests of only one party - a native title party - and the Crown. Something for which is there is a rationale - alternative consultation procedures - is being applied to land which is in a different set of circumstances. I can understand why there would be a consultation regime.

I have already indicated that the state Parliamentary Labor Party has accepted the principle of a consultation regime, which is different from the right to negotiate regime. The Premier keeps saying that we want the right to negotiate over everything. If we wanted that, we would oppose this legislation, and say that we will have the federal legislation. No, we support the state native title legislation and a consultation regime. We disagree with the Premier over the content of that regime and over the nature of land to which it should apply. The consultation regime should apply only to land where there are competing private interests; it should not apply to vacant crown land where there are no competing private interests. It is a rort to apply the consultation procedures to this type of vacant crown land.

Amendment put and a division taken with the following result -

Ayes (17)

Ms Anwyl	Mr Graham	Mr McGowan	Mrs Roberts
Mr Brown	Mr Grill	Ms McHale	Mr Thomas
Mr Carpenter	Mr Kobelke	Mr Riebeling	Ms Warnock
Dr Edwards	Mr McGinty	Mr Ripper	Mr Cunningham *(Teller)*
Dr Gallop			

Noes (31)

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

Pairs

Mr Bridge	Mr Marshall
Mr Marlborough	Mr Omodei
Ms MacTiernan	Mr Sweetman

Amendment thus negatived.

Clause put and passed.

Clauses 2.2 to 2.11 put and passed.

Clause 2.12: Notification of acts -

Mr RIPPER: I move -

Page 14, after line 18 - To insert the following subclause -

(2) Before a Part 2 act is done, public notice of the act must be given by advertisement -

(a) in a newspaper circulating generally throughout the State; or

(b) in a newspaper that satisfies any requirements prescribed by the regulations for the purposes of this paragraph.

This subclause provides that notice in writing of an act must be given to any registered native title body corporate in relation to any of the relevant land; any registered native title claimant in relation to any of the relevant land; any representative body for an area that includes any of the relevant land; and the Native Title Registrar.

As a matter of fairness we want to make the notification requirements more substantial. This is the way the scheme works: Potential objectors must become aware that a future act is proposed to be done. There is a defined period within which the potential objector can lodge an objection and, following the lodgment of that objection, there is a possibility for consultations. Those consultations should be in good faith with a view to minimising and compensating for the effect of the act. The Government has a much lesser definition of the substance of the consultations which should occur. However, there is one common theme for the Government's position and our position: People must know that the act will occur, otherwise they will not have the chance to lodge an objection and participate in the consultations. It may be that there will be no registered native title body corporate and no registered native title claimant with regard to a particular piece of land. It may be that someone who wishes to object to an act may not yet have put in a native title claim. My understanding of the scheme is that there are provisions for those people to file a native title claim under the Native Title Act with regard to that particular piece of land, and then to lodge an objection. However, if those people are not already native title claimants, they may not have received notice of the act under the current provisions of clause 2.12. That is why we think there should be a general distribution of the notice via newspaper advertisements. Such a general distribution of the notice would pick up those people not covered by paragraphs (a) to (d) under existing clause 2.12. In particular, such an advertisement would pick up those people who have not yet put in a native title claim for the relevant land, and therefore cannot lodge an objection immediately, but who may be, if they become aware of the act, eligible to apply for a native title claim over the area and then be eligible to lodge an objection. It improves the fairness of the legislation. It is not an especially onerous requirement. It can be achieved with relatively little extra expense.

Mr COURT: The Government will not support this amendment. Under the legislation, the claimants, the representative bodies, the Commonwealth Native Title Tribunal and any registered native title holders must be told. The reason that the representative bodies must be notified is to catch those people that the Deputy Leader of the Opposition said might be in the process of putting in a claim or whatever. The Government will not support the amendment. The Government would be prepared to consider the insertion of subclause 2(a) in the other place, but not subclause (2)(b). We see it as unnecessary because of the current requirements that are already in the Act.

Mr RIPPER: I am pleased that the Premier may consider adopting in the other place at least half of the amendment. He is right in listing all of the groups that already must be notified under the existing clause. He pointed out that one of the groups which must be notified is any representative body for an area that includes any of the relevant land. In a perfect world, a perfectly operating representative body would notify any relevant person who might have an interest in the land and who might want to lodge a claim and then an objection. We all know enough about the frailties of organisations to know that there are no perfect organisations. There may well be cases in which representative bodies are not functioning properly and are therefore not communicating, as perhaps they might in a perfect world, with people with an interest in particular areas of land. That is why we think the clause should be broadened to provide for newspaper advertisements.

The Premier has indicated that he might be prepared to accept a version of this amendment in the other place. In any case, it is not the most significant of our amendments. It is a marginal improvement to the fairness and workability of the legislation. If the Premier is not prepared to accept it in this place we will not proceed to a division on this amendment, but we will seek to pursue this matter in the other place, and perhaps some agreement can be reached.

Amendment put and negatived.

Clause put and passed.

Clauses 2.13 to 2.18 put and passed.

Clause 2.19: Government party to notify the Commission of objections -

Mr RIPPER: I have provided the House with some additional amendments which were consolidated with my original amendments and which provide the list from which everybody should be operating. I move -

Page 18, after line 16 - To insert the following -

(c) where there are two or more objectors, any objector,

This clause provides that the government party must notify the Native Title Commission, and any proponent of a development, of objections to the proposed future act. It is possible that there will be objections from more than one party. Provision should be made for the notification of other objectors of the existence of an objection from someone else. Therefore, each objector should be notified of the objections of other objectors, and that is what we seek to achieve by this amendment, which would require the government party to notify, where there are two or more objectors, any other objector of the particulars of all objections.

I concede that in the way it is drafted an objector will be notified by the government party of the particulars of his own objection, as well as the objections of other objectors. Nevertheless, in the time available to us for the drafting of these amendments, that was the best drafting that could be achieved. It is not a problem for an objector to be notified of his or her own objection. It is in the way of an acknowledgment. It is also an advantage for any objector to know the particulars of all other objections.

Mr COURT: We will not support this amendment, but I will not rule it out. I think basically the Opposition wants any other objectors to be notified. However, the wording is a bit untidy. Hon Mark Nevill has put forward some proposals with slightly different wording. We will not support the amendment at this stage, but we will not rule it out in the other House.

Mr RIPPER: I appreciate the Premier's willingness to consider a version of this amendment in the other place. I have already indicated that it is not one of our most significant amendments. We will vote for it here, but we will not take the House to a division.

Amendment put and negatived.

Clause put and passed.

Clauses 2.20 and 2.21 put and passed.

Clause 2.22: Meaning of "consultation parties" -

Mr RIPPER: I move -

Page 19, after line 27 - To insert the following -

(2) In this Part **"consultation"** or **"consult"** mean consultation or consult in good faith.

One of the chief deficiencies of the Government's proposed consultation regime for alternative provision areas is that there is no requirement on parties to consult in good faith. I am amazed that the Government has been resisting the addition of these words since it first proposed a consultation regime in its earlier legislation. I cannot believe that the Government would want to imply that people should consult in other than good faith. It is important that these words be included because of the way in which the system works.

What are people consulting about and what are their bargaining strengths? They are consulting about the doing of a future act and the conditions in which that act might occur. In essence, they are consulting about the possibility of compensation. The bargaining position is that the proponent wants to proceed with the future act as soon as possible; that is natural - money could be lost if there were delays. That is a bargaining weakness for the proponent, but, on the other hand, it is a bargaining strength for an indigenous party seeking to extract some concessions for the doing of the future act. Nevertheless, the consultation process cannot be allowed to continue forever, and the scheme provides for a conclusion to the process. At the conclusion of that process, if agreement cannot be reached, the matter goes to the Native Title Commission for a recommendation. If the Government does not like the recommendation, the minister can overturn it.

Without a requirement for consultation parties to consult in good faith, the proponents could delay, fail to negotiate properly, string the indigenous parties along and, essentially, sabotage the process and rely on a commission recommendation or the minister to override it to secure permission for the performance of the future act. If the process is to work without excessive reference to the Native Title Commission for recommendation or to the minister for determinations overturning those recommendations, the parties must be required to negotiate in good faith. The requirement should apply to the proponents and the indigenous groups. Native title parties should not be allowed to abuse their bargaining position, which relies on the desire of the proponent to get the act done as soon as possible. Neither should the proponents be allowed to abuse their bargaining position, which in the end relies on the possibility of the commission's making a recommendation or a determination if the consultations fail. There should be a requirement for both parties to consult in good faith.

If the Government refuses to accept this amendment, it is saying that it will accept bad faith consultations with regard to these matters.

Mr Court: You cannot have consultation in bad faith.

Mr RIPPER: That is a very interesting comment. Perhaps that is correct and perhaps it is what a court would say. If the Parliament does not include this, the courts may. We all know that when the courts interpret they generally add complexity at greater cost and with more lengthy delays. If consultation does require good faith, why do we not include it rather than leaving it to the courts?

Mr COURT: We had a long debate on this question of good faith when the Bill was previously in this Parliament.

Mr Ripper: It was another Bill.

Mr COURT: Yes. It is pedantic because consultation must be in good faith.

Mr Ripper: Then include it.

Mr COURT: If we do include it, it should be in clause 2.23, because it relates to the process of consultation. This is a definition clause, so it is better placed in the next clause. A proposal has been put to the Government by Hon Mark Nevill that it be included in clause 2.23. I cannot comment on what will happen in the Legislative Council, but if this were seen to be necessary by the Parliament, the Government would be inclined to support its being included in the next clause.

Dr GALLOP: The Premier has not produced any rationale for not accepting this amendment. The Premier said that consultation must be in good faith, and it is implied in the notion. That being the case, there should be no problem including it. He then said that if it is included, it should be in the next clause, which deals with consultation. It does not matter either way. As the Premier knows, we have already foreshadowed an amendment to the next clause including reference to good faith and other aspects dealing with consultation. If we include an overarching definition of consultation, making it clear that it means consultation in good faith, that will be a good addition to this clause. I do not think the Premier has produced an argument against including it in this clause. It may appear to be inappropriate, but the entire division deals with consultation. If an overarching principle is included in this clause to make it clear what it means, it will be a good addition. The Premier has said that consultation must imply good faith consultation. We should be up-front about it and include it in the definition.

Mr RIPPER: The Premier has advanced a spurious argument that this amendment should be made to the next clause. The Opposition's view is that wherever consultation is referred to in this legislation, surely it should refer to consultation in good faith. The Premier confirmed that argument when he said that consultation by its nature includes good faith. He is saying that his understanding of the term "consultation" includes a good faith requirement. It is likely that a court would agree with the Premier. If the Parliament does not include a good faith requirement, the courts will. When the courts include requirements with regard to good faith, they tend to define them exhaustively. The scheme ends up being more complex and onerous than if the Parliament were to do its job in the first place.

The Government seems a little ambivalent on the question of good faith. The Premier said that the Government does not want to support the amendment and, on the other hand, that consultation includes good faith. He also said that, when Hon Mark Nevill in the other place moves an amendment with regard to good faith, the Government might accept it. Is the Government dealing with the Opposition in this place in good faith? It is the case that when Hon Mark Nevill moves an amendment, the Government says it will accept it, but when the state Parliamentary Labor Party moves an amendment with the same effect, the Premier says it is in the wrong clause, or it is covered within the meaning of "consultation". Is the Premier really operating in good faith here or is he not? It seems to me that he is determined that the only amendments that will be made to this legislation are the amendments proposed by Hon Mark Nevill. He is not willing to give the state Parliamentary Labor Party any credit or credibility when it comes to native title legislation, even if, in the end, he is forced to accept one of its arguments.

I believe that on the question of the consultation regime, the Premier's dealings with the Commonwealth are forcing him towards the position adopted by the state Parliamentary Labor Party. We notice, for example, that in the next clause, some mysterious new words have been introduced. Last time around, we did not have a requirement for consultation with a view to bringing about the withdrawal of the objections. Those latter words have been included since the earlier Bill was brought before the House. We believe that commonwealth pressure is being applied to the State Government. We believe the Commonwealth is saying to the State Government, in effect, "Your Opposition was right with regard to this clause last time around, and you need to make some changes to it otherwise it will not be consistent with commonwealth legislation." Let us do the right thing here. Let us do the workable thing. Let us have the Parliament say that consultation means consultation in good faith. Let us not leave it to the courts, Hon Mark Nevill or the Commonwealth's putting pressure on the State Government. Let us do it here right now and say, in good faith, that consultation means consultation in good faith.

Mr COURT: The only problem with what the member for Belmont is saying is that he happens to have the wrong clause. Clause 2.22 deals with the consultation parties. Clause 2.23 deals with the consultation process.

Mr KOBELKE: Negotiation in good faith has been an issue for some time. It is important not only that we establish it in this clause of the Bill - and we are seeking to find some way by which we can do that - but also that the Government, as a major player in this area, does negotiate in good faith. It is an appalling situation that this Government, in dealing with indigenous people who have rights in land under native title, has not always negotiated in good faith, as the courts have pointed out, and has sought to negotiate over native title to achieve its own narrow political ends rather than the resolution of a difficult and complex matter. If the negotiation does not take place in good faith, the complexity of the matters involved in native title will mean that the matters will not progress, because we all know that if matters cannot be dealt with through legislation and tribunals, they will revert to common law and will end up in the High Court. That is a much longer and more expensive process, and it will leave the process in a state of uncertainty. If we are to have the greatest possible degree of certainty, we need to have negotiation to resolve the areas of disputation, and that negotiation must be in good faith.

Mr COURT: We had this debate last time around and we said this amendment is not necessary because we must negotiate in good faith. However, for the sake of progressing this matter if this amendment were to be made, it must be made to clauses 2.23 and 2.24, and when we get to those clauses, I will move an amendment that will incorporate the Opposition's amendment.

Mr RIPPER: We have two concerns with regard to the consultation procedure. Our first concern is that the consultation should occur in good faith. Our second concern is that there should be more substance to the matters about which the

consultation in good faith should occur. When we come to clause 2.23, we will move our amendment, of which we have given some notice to the Government, which will address both of our concerns. I appreciate that that will involve putting two related but separate matters to the vote simultaneously. That is why we sought to give the Government the opportunity to vote for the inclusion in clause 2.22 of the good faith amendment alone. The Premier has indicated that he will decline that opportunity, but he will move an amendment to include the words "in good faith" in clauses 2.23 and 2.24. In view of the Premier's willingness to make that amendment via a government motion, we will not take him to a division on the question of including the words "in good faith" in the definition of "consultation" in clause 2.22.

Amendment put and negatived.

Clause put and passed.

Clause 2.23: Consultation -

Mr RIPPER: I move -

Page 20, lines 2 to 15 - To delete the lines and substitute the following -

(1) In the case of any Part 2 act, the consultation parties must consult with each other in good faith with a view to reaching an agreement about -

(a) minimizing the effect including about -

(i) any access to the relevant land; or

(ii) the way in which any thing authorized by the act may be done; and

(b) compensating for the effect,

of the act on the enjoyment of registered native title rights and interests in relation to the relevant land and waters.

The first aspect of this amendment is a further attempt by the Opposition to include the words "in good faith" to govern the concept of consultation. The second aspect is to expand the substance of the matters about which the parties can expect to consult. We believe that as well as discussing minimising the effect of the act on the enjoyment of registered native title rights and interests, parties should be able to discuss compensating for the effect of the act.

I know that this issue arouses conservative concerns. The idea that Aboriginal people might receive monetary compensation for an act done on land in which they have a native title interest alarms people on the conservative side of politics. The Premier and others are not keen to have compensation matters established as subjects for consultation or negotiation. Nevertheless, matters regarding compensation, in particular monetary compensation, are established as proper subjects for the right to negotiate. I note that a clause in the state version of the right-to-negotiate procedures - the Premier was very scornful of it when we moved it previously as an addition to the right-to-negotiate procedures - has magically found its way into this version of the Bill. Of course people will discuss compensation. If a mineral sands company wants to mine on a freehold property in the south west, it will certainly find itself discussing compensation with the non-indigenous property owner.

Mr Court: You mentioned freehold land but a mining company would not discuss compensation with pastoralists.

Mr Kobelke: That is not always true; most of the time they might not, but not always.

Mr RIPPER: The freehold land owner in the south west has a veto on whether mining can go ahead; therefore, the freehold land owner is in a particularly strong bargaining position when discussing compensation with a mining company. The bargaining position for native title parties under this proposed consultation regime would not be anything near as strong as the bargaining position of freehold property owners in the south west who have a veto on mining. Under our amendment, native title parties would be able to discuss compensation. However, were those discussions not to proceed to successful conclusion, the matter would go fairly quickly before the proposed native title commission which, under the legislation, will not have the power to award compensation. There is a fair incentive to reach agreement and a fair weakening of the bargaining position of native title parties even under our amendment, especially when compared with freehold property owners in the south west who have a veto over mining on their properties.

The ACTING SPEAKER (Mrs Holmes): Members, currently I have conflicting amendments in the names of the member for Belmont and the Premier. I propose to put a test vote to delete the words up to and including "with each other" because we cannot go backwards in the Bill. We must deal with the words prior to the Premier's amendment so that the amendments do not conflict with each other. We will have a test vote to see if members agree to delete the words up to and including the words "with each other" on page 20, line 4. If the vote is successful I will put the rest of the member for Belmont's amendment; if it is unsuccessful, the Premier is free to move his amendment.

Mr COURT: Yes, I understand, we will agree to that.

Mr KOBELKE: We understand there is a technical difficulty with two conflicting amendments and, therefore, a test vote is required. I am not clear as to whether the principles contained in the two amendments are conflicting or whether the conflict is in the structuring of the two amendments. Is the member for Belmont, as the mover of the motion, able to clear up that difficulty? We support the intent of the Premier's amendment but we wish to retain aspects of the member for Belmont's amendment.

The ACTING SPEAKER: If members wish to consult with the Premier on this issue, I will leave the Chair for a few moments to allow that consultation to take place.

Mr KOBELKE: We are happy for you to remain in the Chair, Madam Acting Speaker, and we can have a discussion.

The ACTING SPEAKER: I will agree to that.

Mr RIPPER: We are now clear about the technical need for what is called a test vote. I want to place on the record that although the vote and division that are about to occur will be on a technical matter, there is a point of great substance behind that technical matter; that is, the point of our amendment that relates to the substance of the consultations that might occur. It would seem that we have reached agreement across the Chamber on the necessity for consultations to occur in good faith.

Mr Court: Yes.

Mr RIPPER: We on this side of the Chamber, regard that as a great advance. We would like to see an additional advance in the ability for consultation parties to discuss compensation for the effect of the act. We would like to see the wording read "the enjoyment of registered native title rights" rather than "the impact of the act on registered native title rights and interests". We believe that our wording gives additional substance to the matters on which the consultation parties will consult. I have put that case at sufficient length and the Premier might explain why he does not like that aspect of our amendment; then perhaps we can proceed with the test vote.

Mr COURT: We will definitely vote no, but, as I said, we will insert the words "good faith" afterwards. The reason that we do not support the compensation proposals is that the amendment says the parties must reach agreement about compensation before the grant can proceed, which is basically a right to negotiate through another means. Sure, the parties can talk about compensation but a provision that says they must reach agreement puts in place a process that we could not accept under these circumstances.

Mr RIPPER: I must correct the Premier, which is a shame when we seem to be reaching some modest agreement. Our amendment does not require people to reach an agreement. Our amendment says that consultations have to be conducted in good faith with a view to reaching agreement.

Mr Court: It is the same thing.

Mr RIPPER: The parties must have an intention to reach an agreement. We are all involved in politics and we are all involved in discussions within our own parties. We know that people often start out with the intention of reaching an agreement but do not quite manage to reach it in the end and have to agree to disagree. I hope the Premier and I started out with the intention to agree on the wording of this amendment. However, we will have to disagree. The Premier's argument against the second part of the Opposition's amendment on the substance of the consultations is wrong. The words "with a view to reaching agreement" do not require an agreement, especially when there is a time limit on the consultations. If they have otherwise occurred in good faith, when that time limit expires it will go to the Native Title Commission. If the Government does not like what the commission does, it can overrule the determination under its legislation.

My understanding is that we must now vote yes on the test vote to be put before the House for our amendment to proceed.

The ACTING SPEAKER (Mrs Holmes): Yes. The question is that the words up to and including "with each other" at page 20, line 4 be deleted.

Amendment put and a division taken with the following result -

Ayes (17)

Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke	Ms McHale	Mr Thomas
Dr Edwards	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr McGinty	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham			

Noes (25)

Mr Baker	Mr Court	Mr Masters	Mr Shave
Mr Barnett	Mr Day	Mr McNee	Mr Tubby
Mr Barron-Sullivan	Mrs Edwardes	Mr Minson	Dr Turnbull
Mr Bloffwitch	Dr Hames	Mrs Parker	Mrs van de Klashorst
Mr Board	Mr Johnson	Mr Pendal	Mr Wiese
Mr Bradshaw	Mr Kierath	Mr Prince	Mr Osborne *(Teller)*
Dr Constable			

Pairs

Ms Anwyl	Mr Ainsworth
Mr Marlborough	Mr Cowan
Mr Bridge	Mr Marshall

Amendment thus negatived.

Mr COURT: I move -

Page 20, line 4 - To insert after "with each other", the words "in good faith".

Page 20, line 9 - To insert after "with each other", the words "in good faith".

We have already debated this matter, and in good faith, I have included the words "in good faith".

Mr RIPPER: The Premier has at last accepted the inclusion of "good faith" in this consultation regime. We are pleased to have participated in this modest advance in the legislation.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 2.24: Involvement of Commission, including mediation -

Mr RIPPER: I move -

Page 21, line 4 - To insert after "consult together" the words "in good faith".

The argument is the same as that for the previous clause. I expect that as the amendment is the same as the one the Premier proposed it will be accepted by the Government.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 2.25 to 2.32 put and passed.

Clause 2.33: Criteria for making recommendations -

Mr RIPPER: The Opposition intends to oppose this clause with a view to substituting the following -

(1) In making its determination in respect of a Part 2 act, the Commission must take into account the effect of the act on -

(a) the enjoyment by the objectors of their registered native title rights and interests;

(b) any area or site on the relevant land of particular significance to the objectors in accordance with their traditions; and

(c) the economic or other significance of the act to -

(i) Australia;

(ii) this State;

(iii) the area in which the relevant land is located; and

(iv) Aboriginal peoples who live in that area.

(2) In taking into account the matters mentioned in subsection (1), the Commission may also consider the effect of the act on -

(a) the way of life, culture, traditions and economic interests of any of the objectors;

(b) the freedom of access by any of the objectors to the relevant land;

(c) the carrying out, by any of the objectors, of rites, ceremonies or other activities of cultural significance, on the relevant land in accordance with their traditions; and

(d) any other matter that the Commission considers relevant.

(3) While taking into account the effect of a Part 2 act as mentioned in subsection (1)(a), the Commission must also take into account the nature and extent of -

(a) existing rights and interests that are not native title rights and interests, in relation to the relevant land;

(b) existing use of the relevant land by persons other than the objectors; and

(c) unless it recommends that the act not be done, consider ways in which the impact of the act on registered native title interests of the objectors in relation to the relevant land can be minimized.

(4) Taking into account the effect of a Part 2 act on an area or site mentioned in subsection (2)(d) does not affect the operation of any law of the Commonwealth or the State for the preservation or protection of those areas or sites.

This clause requires the commission to take into account the impact of the act on registered native title rights and interests and ways in which the impact of the act, if it is to go ahead, can be minimised. The commission must consider questions

of access to the land and the way in which the act might be done. It must also consider the existing rights and interests of non-native title holders in the land. Section 39 of the Native Title Act covers a similar set of provisions.

It provides the criteria which the National Native Title Tribunal must consider, following the failure of negotiation to result in an agreement. The proposed amendment will insert into the consultation procedures in the state legislation a version of section 39 of the Native Title Act. The proposed amendment seeks to require the commission to take into account certain matters, including sites of particular significance to the objectives and the economic or other significance of the act to Australia, Western Australia, the relevant locality and Aboriginal peoples who live in the area.

My proposed amendment allows the commission to consider the effect of the act on a variety of other matters. This is an important matter not only for the type of recommendation which the commission might make, but also for its reverse impact on the substance of the consultations that are likely to occur. Clearly the parties consulting will have an eye on what the commission might consider if the consultations fail. To the extent that the commission is required to consider a wider range of matters, and may consider an even wider range of measures, the consultations will have more substance.

I have said that we are proposing to move to include a version of section 39 of the Native Title Act. We are not including the full section, but a modified version of it based on what was put into the Queensland legislation. I have been advised that if I want the proposed amendment on the record, I will need to read it in. It would be clearer if I read it in. I am saying that it is a modified version of section 39 of the Native Title Act.

Mr COURT: We will not accept this amendment. The member says it is a modified version of the section 39 requirements, but it will include most of the provisions. We are not averse to the suggestion to include some of these requirements in the legislation between now and when the Bill goes to the other House, if those opposite believe the legislation will be improved by doing that. Although we will not accept what is proposed here, I will not rule out including these provisions in the legislation when it reaches the other place. If the member wants to read the proposed amendment into the record, I invite him to do so.

Mr RIPPER: I realise that I have said already that I move the amendment standing in my name, but I will read it into the record. The technicalities of this procedure have now been made clear to me. We are opposing the clause with a view to moving the following amendment. That is why it must be read into the record. Presumably the Government will act in accordance with the most recent comments of the Premier, and support the clause. I am pleased to hear the Premier say that there is the possibility of some advance on this clause. I hope he will discuss the matter with the State Parliamentary Labor Party, and not just Hon Mark Nevill. I hope he will consult with us in good faith on this foreshadowed amendment. I will point out some of the strengths of the foreshadowed amendment. The commission must take into account the economic or other significance of the act for Australia, the State and relevant locality. That is a very important consideration, a pro-development consideration, and should be seen by participants in the debate in its true light. Another matter which the commission must take into account, should our foreshadowed amendment be successful, is any area or site on the relevant land of particular significance to the objectives, in accordance with their traditions.

There is concern about what this Government might do with legislation to protect Aboriginal heritage. Because there is a lack of confidence among indigenous people about the security of the protection of Aboriginal heritage which the State Government might offer in the future, the inclusion of this matter in the part of the amendment which requires the commission to take into account various factors has been particularly requested by indigenous interests. I hope the Government will properly protect Aboriginal heritage in any revision of the relevant laws. Should the Government not properly protect that heritage, this amendment would provide an alternative mechanism for protection of Aboriginal heritage matters to occur.

Clause put and a division taken with the following result -

Ayes (26)

Mr Barnett	Mr Day	Mr McNee	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr Minson	Mr Tubby
Mr Bloffwitch	Dr Hames	Mrs Parker	Dr Turnbull
Mr Board	Mrs Hodson-Thomas	Mr Pendal	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Prince	Mr Wiese
Dr Constable	Mr Kierath	Mr Shave	Mr Osborne *(Teller)*
Mr Cowan	Mr Masters		

Noes (18)

Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke	Ms McHale	Mr Thomas
Dr Edwards	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham	Mr McGinty		

Pairs

Mr Marshall	Mr Bridge
Mr Ainsworth	Ms Anwyl

Clause thus passed.

Clauses 2.34 to 2.43 put and passed.

New clause -

Mr RIPPER: I move -

Page 30, after line 28 - To insert the following new clause -

2.44. Copy of determination to be laid before Parliament

(1) The responsible Minister must cause a copy of a determination under section 2.38, together with reasons for the determination, to be laid before each House of Parliament.

(2) Subsection (1) is to be complied with as soon as is practicable after the determination is made and in any case, in relation to a House of Parliament, within 15 sitting days of that House after the determination is made.

(3) A determination under section 2.38 is a regulation for the purposes of section 42 of the *Interpretation Act 1984*.

The scheme that applies is that the parties are now required to consult in good faith, following the Premier's acceptance of that concept. If the consultations fail to result in an agreement, the commission then makes a recommendation. If the responsible minister, who would usually be either the Minister for Lands or the Minister for Mines, does not like the recommendation of the commission, the minister can then, by determination, effectively overturn the commission's recommendation. We regard the commission's decision as being akin to a judicial decision. We are concerned that a minister has the power to override the commission's decision without any check or balance. Essentially, the minister overrules the commission's recommendation on political grounds. When I say that, I do not mean that the minister overrules the recommendation on purely party political grounds; what I mean is that the minister makes a political judgment about the interests of the State. The minister does not make a judicial decision; the minister makes the sort of judgment that politicians must make every day about what is in the interests of the State. That judgment should be subject to a political check and balance.

Our amendment would, therefore, require that that determination by the minister be subject to parliamentary disallowance as if it were a regulation. From our debate last time, I know that the Government is horrified at the prospect of parliamentary disallowance of a minister's determination to overrule a recommendation of the commission. I know that the mining industry is also concerned that there would be excessive politicisation of the process were parliamentary disallowance to be allowed. If the minister is overturning a commission recommendation, a political process has already been engaged in, and any political process should be subject to the possibility of check and balance. If it were a judicial decision, perhaps we would not be arguing this matter. However, since it is a political decision, there should be a political check and balance, and the appropriate check and balance is with the Parliament.

There are no two ways about it; this clause could cut both ways. Certainly, it could be used to stop a coalition Government overturning a commission recommendation which was in support of indigenous interests. However, there is no doubt that it could be used the other way as well. Under a future Government, the commission might make a ruling that an act should be allowed. The minister might make a determination to overturn that commission recommendation and say that the act should not go ahead. The minister's determination might then be disallowed by perhaps a coalition majority in the upper House, allowing the act to go ahead despite the fact that the minister had sought to prevent it. The Premier is right that the legislation could cut both ways. It could affect a coalition Government; it could affect a Labor Government. Whatever the circumstances, there should be that political check and balance, because the minister is making a political decision which overturns what is, in essence, a judicial decision.

Mr COURT: The Government definitely does not support this proposed new clause. By the time the minister makes a decision, he would be making an executive decision, not a political decision. There is no requirement for this to occur in the native title legislation. The disallowance to which the Deputy Leader of the Opposition referred would effectively take away the minister's ability to make a decision. If, for example, the Government did not have control in one of the Houses -

Mr Ripper: How much have you lost in the upper House to date - a bit of stuff but not much.

Mr COURT: A bit of stuff! It took four years to get this through the Parliament.

It would result in a lot of uncertainty and add months to the process. It is unnecessary considering the proposed judicial review procedures.

New clause put and a division taken with the following result -

Ayes (17)

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

Noes (26)

Mr Barnett	Mr Day	Mr McNee	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr Minson	Mr Tubby
Mr Bloffwitch	Dr Hames	Mrs Parker	Dr Turnbull
Mr Board	Mrs Holmes	Mr Pendal	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Prince	Mr Wiese
Dr Constable	Mr Kierath	Mr Shave	Mr Osborne *(Teller)*
Mr Court	Mr Masters		

Pairs

Ms Anwyl	Mr Ainsworth
Ms McHale	Mr Cowan

New clause thus negatived.

Clauses 2.44 to 3.17 put and passed.

Clause 3.18: Government party to notify the Commission of objections -

Mr RIPPER: I move -

Page 43, after line 18 - To insert the following -

(c) where there are two or more objectors, any objector.

This amendment is similar to a previous amendment. The Government did not agree with that amendment, but indicated that it might examine alternative wording in the other place. We have had the discussion on this. I will therefore allow it to go to the vote and hope the matter is fixed in the other place.

Mr COURT: I assure the member that the matter will be considered in the other place.

Amendment put and negatived.

Clause put and passed.

Clauses 3.19 to 3.37 put and passed.

Clause 3.38: Copy of determination to be laid before Parliament -

Mr RIPPER: I move -

Page 55, after line 8 - To insert the following -

(3) A determination under section 3.29 is a regulation for the purposes of section 42 of the *Interpretation Act 1984.*

The effect of this new subclause would be to provide for a ministerial determination under the right to negotiate procedures to be subject to parliamentary disallowance. We have had a debate on whether ministerial determinations should or should not be subject to parliamentary disallowance. It is not necessary for us to have the same debate on each occasion this issue arises. Nor is it necessary, having had one division on the matter, to have another. Nevertheless, the Opposition strongly supports the possibility of parliamentary disallowance of ministerial determinations.

I was distracted during an earlier part of the debate and I neglected to mention one aspect of the matter that I will elucidate for the benefit of the member for Nollamara and others. If we had a strong and independent native title commission, perhaps the argument for parliamentary disallowance would be weaker. I say that because the existence of a strong and independent commission would of itself be a political check and balance. If the commission were very strong, the minister would have to take into account the political impact of overturning one of its decisions. If the minister were politically deterred by the status of the commission from overturning one of its decisions, perhaps there would be no need for parliamentary disallowance. The notion of parliamentary disallowance has arisen because of the Oppositions's fear about the possibility of a weak, low-status, barely independent commission being established by the State Government. In future the commission might demonstrate sufficient status, standing and independence to lessen the need for consideration of parliamentary disallowance.

We have had the debate and the division on this issue; it is the same as the issue we debated only minutes ago. We therefore do not propose to proceed to a division, but that should not be seen as a lack of commitment.

Amendment put and negatived.

Clause put and passed.

Clauses 3.39 to 3.55 put and passed.

New clause -

Mr RIPPER: I move -

Page 65, after line 28 - To insert the following new clause -

3.56 Copy of declaration to be laid before Parliament

(1) The responsible Minister must cause a copy of a declaration under section 3.51, together with reasons for the declaration, to be laid before each House of Parliament.

(2) Subsection (1) is to be complied with as soon as is practicable after the declaration is made and in any case, in relation to a House of Parliament, within 15 sitting days of the House after the declaration is made.

(3) A declaration under section 3.51 is a regulation for the purposes of section 42 of the *Interpretation Act 1984.*

Once again this amendment deals with the question of parliamentary disallowance of a ministerial determination to override a decision of the Native Title Commission. We have had the debate and the division, and I do not intend that we have a further debate or division. However, the Opposition still supports and is committed to this amendment and hopes that the Government might consider it in the other place.

New clause put and negatived.

Clauses 3.56 to 4.7 put and passed.

Clause 4.8: Notification of acts by Government party -

Mr RIPPER: I move-

Page 70, after line 28 - To insert the following -

(2) Before a Part 4 act is done, public notice of the act must be given by advertisement -

(a) in a newspaper circulating generally through the State; or

(b) in a newspaper that satisfies any requirements prescribed by the regulations for the purpose of this paragraph.

This is an amendment very similar to one I moved with regard to the part 2 procedures. It requires public notice of a part 4 act to be given in a newspaper circulating generally throughout the State or in a newspaper that satisfies other requirements prescribed by the regulations. This is not one of our more significant amendments. We have already had the debate. As I recall, the Government said it would look at this matter with regard to the part 2 procedures, and I hope it will also look at it with regard to the part 4 procedures.

Amendment put and negatived.

Clause put and passed.

Clauses 4.9 to 4.13 put and passed.

Clause 4.14: Government party to notify the Commission of objections -

Mr RIPPER: I move-

Page 73, after line 20 - To insert the following -

(c) where there are two or more objectors, any objector,

Again, this is a similar amendment to one that was moved with regard to the part 2 procedures. We thought that objectors should be notified of the particulars of other objector's objections. The Premier indicated with regard to part 2 procedures that the matter would be reconsidered when the Bill reaches the other place. We accept his assurances and there is no need for further debate on this clause.

Amendment put and negatived.

Clause put and passed.

Clauses 4.15 and 4.16 put and passed.

Clause 4.17: Meaning of "consultation parties"-

Mr RIPPER: Clauses 4.17 and 4.18 are the equivalent clauses regarding consultation and good faith as are contained in part 2. We have similar amendments to those we moved to part 2. When we discussed this matter on part 2 of the Bill the Premier moved an amendment to incorporate the concept of good faith consultation. I hope that the Premier might be prepared to move a similar amendment to clause 4.18 and that would satisfy at least one of the purposes of this set of two amendments.

The second purpose of the set of amendments is to expand the substance of the matters about which the consultations can occur. We would still like to have a vote on that. On the part 2 procedures the Chair arranged for us to have a test vote so that we could have a decision on both the Premier's amendment to insert the words " in good faith" and on our amendment to include both "good faith" and additional substance to the nature of the consultations that are to occur. We have had the

debate about "good faith" and other matters. I hope we can take that as read and move on to deal with the matters in the same way we dealt with them in part 2.

Mr Court: We intend to move to insert the words "in good faith" in clause 4.18.

Mr RIPPER: On that basis, I will not move my foreshadowed amendment.

Clause put and passed.

Clause 4.18: Consultation -

Mr RIPPER: I move-

Page 75, lines 6 to 13 - To delete the lines and substitute the following -

(1) In the case of any Part 4 act, the consultation parties must consult with each other in good faith with a view to reaching an agreement about -

(a) minimizing the effect including about -

(i) any access to the relevant land; or

(ii) the way in which any thing authorized by the act may be done; and

(b) compensating for the effect,

of the act on the enjoyment of the registered native title rights and interests in relation to the relevant land and waters.

This is the same amendment we moved with regard to the consultation procedures in part 2. It has two effects: It requires consultation to take place in good faith and it expands the matters about which the consultations can occur; in particular, it allows consultations to occur about compensating for the effect of the act. When we debated this last time the Premier was prepared to accept "in good faith" but not the additional parts of the amendment. In order to allow for the Premier's amendment to be moved we may have to move to the technical test vote procedure. We know that we are voting on the substance of our amendment even if the forms of the House say we must have this test vote.

The ACTING SPEAKER (Mr Baker): The question is that all words appearing in line 6, up to and including the words "with each other" be deleted.

Amendment put and a division taken with the following result -

Ayes (16)

Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke		Mr Thomas
Dr Edwards	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham			

Noes (26)

Mr Barnett	Mr Day	Mr McNee	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr Minson	Mr Tubby
Mr Bloffwitch	Dr Hames	Mrs Parker	Dr Turnbull
Mr Board	Mrs Holmes	Mr Pendal	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Prince	Mr Wiese
Dr Constable	Mr Kierath	Mr Shave	Mr Osborne *(Teller)*
Mr Court	Mr Masters		

Pairs

Ms Anwyl	Mr Ainsworth
Mr Bridge	Mr Marshall
Ms McHale	Mr Cowan
Mr McGinty	Mr Omodei

Amendment thus negatived.

Mr COURT: I move -

Page 75, line 6 - To insert after "with each other" the words "in good faith".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4.19 to 4.27 and passed.

Clause 4.28: Criteria for making recommendations -

Mr RIPPER: We are proposing to oppose this clause with a view to substituting an alternative wording. This clause again deals with the criteria which the commission must take into account when it makes a determination following the failure of consultation procedures. Once again, the Opposition proposes to substitute for this clause a version of section 39 of the Native Title Act. That version is the same version as we proposed to substitute with regard to the same matter in part 2 of the Bill. We have read into the record the amendment with regard to part 2; we do not need to read it into the record again with regard to part 4. If members are interested in the arguments for this amendment, I refer them to the debate on part 2 of the Bill, because it is exactly the same amendment, moved for exactly the same purpose.

Mr KOBELKE: We do not intend to divide on this clause, because our support for the principle has been well established in the early division. We realise that the Government has the numbers, and we will not delay the House by calling for a division.

Clause put and passed.

Clauses 4.29 to 4.34 put and passed.

Clause 4.35: Consultation before making of determination -

Mr RIPPER: I move -

Page 83, lines 14 to 24 - To delete the lines and substitute the following -

(3) The responsible Minister must give written notice to the Commission requiring it, by the end of the day specified in the notice, to give to -

(a) the Minister; and

(b) each consultation party,

a summary of material that has been presented to the Commission in the course of the Commission making a recommendation under section 4.27 in respect of the act concerned.

(4) The responsible Minister must give written notice to each consultation party that the Minister is considering making the determination and that each consultation party -

(a) may, by the end of the day specified in the notice, give the Minister any submission or other material that the consultation party wants the Minister to take into account in deciding whether to make the determination and, if so, its terms;

(b) if the consultation party does so, must also give each of the other consultation parties a copy of the submission or other material; and

(c) may, within 7 days after the specified day, in response to any submission or other material given by -

(i) any other consultation party; or

(ii) the Commission,

give the Minister any further submission or other material that the consultation party wants the Minister to take into account as mentioned in paragraph (a).

(5) The day specified under subsection (3) or (4) must -

(a) be the same in all of the notices given under the subsections; and

(b) be a day by which, in the responsible Minister's opinion, it is reasonable to assume that all of the notices so given -

(i) will have been received by; or

(ii) will otherwise have come to the attention of,

the persons who must be so notified.

(6) If the responsible Minister complies with this section, there is requirement for any person to be given any further hearing before the responsible Minister makes the determination.

The purpose of this amendment is to establish a process for the minister's decision-making should he or she propose to overturn a commission decision. Some due process should enable parties to such a matter, in an orderly and fair way, to provide information and to answer arguments put by others before the minister makes a decision. I do not recall an argument from the Government on this matter on the previous version of the Bill, and I will be interested to know how the Government could oppose this amendment.

Mr COURT: The Government opposes this amendment as it will add an unnecessary bureaucratic process. The minister can make a decision only in the interests of the State after consultation with the Minister for Aboriginal Affairs.

Mr RIPPER: The amendment provides for the Government to consult with itself, which is fine - one hopes that ministers talk to each other from time to time. The purpose of the amendment is not to ensure harmony in the Government - which is a difficult task - but to require the Government to consult with people outside government to give them a fair go. It might be seen to be bureaucratic, but people may see great unfairness if a procedure were not in place governing what a minister can do if he or she does not accept a commission determination. People fear that the Government will arbitrarily use the power of the minister to override a commission decision. People fear that a matter will proceed as fast as possible through commission consideration until the real big stick is reached - that is, the ministerial decision.

The Opposition sought to impose a further check and balance on the ministerial decision by providing for parliamentary disallowance. This amendment is an associated measure which is aimed to allay fears that this process ultimately will be about the Minister for Mines overriding indigenous interests to allow mining to proceed regardless of the objection of native title parties. If consultations and commission decisions are to have meaning and credibility, a few limits must apply on what ministers can do. We proposed parliamentary disallowance, which the Government rejected. The Government is now rejecting a due process when the minister makes a decision on these matters. It might work out: Ministers might behave fairly and consult properly. A political check and balance may apply in that they might be subject to criticism if they do not consult. On the other hand, the fears of indigenous interests might be realised and the minister might use the power to override arbitrarily and with great frequency. How often does the Premier expect the minister to override commission decisions - frequently or rarely? If frequently, some due process is required.

Mr Court: I would see it happening rarely.

Mr RIPPER: I am pleased to have the Premier say that he would see that happening rarely. We will hold the Premier to account on that matter should his native title regime eventually make its tortuous path into law.

Amendment put and negatived.

Clause put and passed.

Clauses 4.36 to 4.38 put and passed.

New clause -

Mr RIPPER: I move -

Page 85, after line 7 - To insert the following new clause -

4.39. Copy of determination to be laid before Parliament

(1) The responsible Minister must cause a copy of a determination under section 4.33, together with reasons for the determination, to be laid before each House of Parliament.

(2) Subsection (1) is to be complied with as soon as is practicable after the determination is made and in any case, in relation to a House of Parliament, within 15 sitting days of that House after the determination is made.

(3) A determination under section 4.33 is a regulation for the purposes of section 42 of the *Interpretation Act 1984.*

This proposed new clause provides for parliamentary disallowance of a ministerial determination to override a commission decision. We moved the same amendment in parts 2 and 3. We have had the debate and the division. We have not lessened our commitment to this amendment but at this late stage we do not propose to take the Chamber through another debate and another division.

New clause put and negatived.

Clauses 4.39 to 4.42 put and passed.

Clause 5.1: Definition -

Mr RIPPER: The Opposition intends to oppose this clause with a view to substituting the following -

In this Part -

"**native title holders**" in relation to a Part 2 act, a Part 3 act or a Part 4 act means -

(a) a registered native title body corporate;

(b) a registered native title claimant; or

(c) the persons who held native title immediately before it was acquired by any such act.

The Opposition opposes clause 5.1 by substituting this amendment. This clause of the Bill deals with compensation procedures. It is of concern to the Opposition that compensation may not be determined or payable until there has been a determination of native title. This means that compensation may not be determined or payable until years after the decision to allow the act to proceed, perhaps to proceed with certain conditions. I appreciate the argument that a decision that compensation should be paid to particular people could be interpreted as a de facto decision that those people hold native title to the relevant area of land. We were advised in the briefing that the Commonwealth in particular wants that decision

on the determination of native title to be made by the Federal Court and not by a state tribunal making the decision in a de facto way by the award of compensation. We believe that it should be possible for the amount of compensation to be determined at the time the decision to approve the doing of the act is made.

If our amendment is accepted, it does not mean that the compensation would be immediately payable. In our view, the compensation should be placed in trust until there is a determination of native title. However, it is also our view that the compensation amount decision is probably best made in conjunction with the decision to allow the act to go ahead, in particular with any decision to allow the act to go ahead on the basis of certain conditions. We must recognise that the whole process for the approval of future acts needs to be sufficiently attractive to present a real alternative to pursuing action under common law. The way we have drafted this amendment is consistent with our proposed amendments to the consultation process in parts 2 and 4. Unfortunately the Government has not accepted those amendments.

If the commission cannot deal with compensation matters because there has been no determination of native title, it will detract from the attractiveness of the process from the point of view of native title parties. There is also a concern about what might happen to compensation payable to native title parties should a company go out of existence during the time it takes for a determination on the existence of native title to be made. The Act provides for the Crown to pay compensation in those circumstances but that is a matter of some concern to taxpayers. A decision could be made on the amount of compensation and that money could be placed in trust and paid out when the determination of native title is made. If we proceed with the Government's scheme and a company collapses while compensation is still payable, it will be paid by the taxpayers. With the amendment we have foreshadowed we have addressed the Commonwealth's concerns and improved the scheme from the point of view of the relevance of the decision and the protection of the taxpayers.

Mr COURT: The Government will not be supporting the foreshadowed amendment and will support the clause as it stands. It will do that because the words used in clause 5.1 need to be very precise to meet the Commonwealth's requirements for compliance. They are the same words as used in Queensland and the Northern Territory. It is a case of if we put this amendment through, we would not be in compliance with what the Federal Government is saying.

Mr Ripper: Are you saying that you have specific commonwealth advice on this matter which would not allow our amendment?

Mr COURT: Yes. The member is quite right. In a previous Bill the Opposition insisted on many amendments. The Northern Territory went through the same process, as did Queensland. We are getting to the stage where we know what will be accepted and what will not.

Mr Ripper: You are making a judgment about what the Commonwealth might do.

Mr COURT: Yes, but the Commonwealth has been pretty clear about it.

Clause put and passed.

Clause 5.2: Commission to determine compensation for certain acts -

Mr RIPPER: I move -

> Page 87, lines 7 to 9 - To delete the lines and substitute the following -
>
> (4) The Commission, on application made by the native title holders -
>
> (a) is to determine the amount of any such compensation and, where there has been an approved determination of native title, the native title holders entitled to receive it; and

This amendment has the same purpose as the previous amendment I moved. The purpose of the exercise is to allow the commission to approve compensation and where there has been an approved determination of native title, the native title holder is to receive it. The purpose of our argument is to allow the decision on compensation to be made at the same time as the decision on whether the act can proceed and whether it should proceed on certain conditions. The compensation should then be held in trust.

I am surprised that the Commonwealth would not agree with an amendment such as that. Clause 5.8(2) reads -

> If a condition is that an amount is to be paid and held in trust until it is dealt with in accordance with section 5.9 -
>
> (a) the Commission must determine the amount; and
>
> (b) the amount, when paid, must be held in trust in accordance with the regulations until it is dealt with in accordance with that section.

In other words a provision is in the Bill that clearly contemplates the commission's making a decision on compensation when it makes decisions about conditions governing the act. Given the Commonwealth has accepted this part of the legislation, I would be surprised if it knocked back the legislation on the basis of the Labor Party's amendment. Why is clause 5.8(2) acceptable when my proposed amendments regarding the compensation issue are not acceptable.

Mr COURT: The federal native title legislation spells out specifically these issues. It wants the wording in this format for it to comply.

Amendment put and negatived.

Clause put and passed.

Clauses 5.3 and 5.4 put and passed.

Clause 5.5: Compensation principles to be as for ordinary title -

Mr RIPPER: I move -

Page 89, line 12 - To insert after "sections" the passage "5.2(2)".

This clause governs compensation principles applying to the commission's determination of compensation. The relevant words are -

> The Commission in determining compensation for an act under this Part must, subject to sections 5.6 and 5.7, have regard to any principles or criteria for determining compensation set out in a written law . . .

Clause 5.2(2) reads -

> The native title holders are entitled to compensation on just terms under this section for any loss, diminution or impairment of, or other effect of the act on, their native title rights and interests.

The Opposition is suggesting that the compensation principles should, in effect, include the same words as those I quoted from clause 5.2(2). If the Act already states that native title holders are entitled to compensation on just terms that is what should be in the clause that clearly sets out the compensation principles.

This may be only a matter of philosophy. However, it may be possible that the criteria for determining compensation set out in a written law, which is what is referred to in clause 5.5, may not be in some circumstances entirely just for native title holders. There may be circumstances in which the provisions of written law do not accommodate the features of the native title which is applicable in a particular case. What we need to be saying is that above all else, native title holders are entitled to compensation on just terms for loss, diminution or impairment of their native title rights and interests. We have that sort of wording in the legislation. Let us put it into the clause that applies to the compensation principles.

Mr COURT: Clause 5.2 already provides that compensation must be on just terms. Therefore, it is not necessary to amend this clause in the way the Deputy Leader of the Opposition proposes.

Amendment put and a division taken with the following result -

Ayes (16)

Mr Brown	Mr Graham	Mr Marlborough	Mrs Roberts
Mr Carpenter	Mr Grill	Mr McGowan	Mr Thomas
Dr Edwards	Mr Kobelke	Mr Riebeling	Ms Warnock
Dr Gallop	Ms MacTiernan	Mr Ripper	Mr Cunningham *(Teller)*

Noes (27)

Mr Baker	Mr Court	Mr Masters	Mr Trenorden
Mr Barnett	Mr Day	Mr McNee	Mr Tubby
Mr Barron-Sullivan	Mrs Edwardes	Mr Minson	Dr Turnbull
Mr Bloffwitch	Dr Hames	Mrs Parker	Mrs van de Klashorst
Mr Board	Mrs Holmes	Mr Pendal	Mr Wiese
Mr Bradshaw	Mr Johnson	Mr Prince	Mr Osborne *(Teller)*
Dr Constable	Mr Kierath	Mr Shave	

Pairs

Ms Anwyl	Mr Ainsworth
Mr Bridge	Mr Marshall
Ms McHale	Mr Cowan
Mr McGinty	Mr Omodei

Amendment thus negatived.

Clause put and passed.

Clauses 5.6 and 5.7 put and passed.

Clause 5.8: Conditions for payment of amounts to be held in trust -

Mr RIPPER: I move -

Page 90, after line 21 - To insert the following -

(a) a recommendation by the Commission under section 2.32;

(b) a determination by the responsible Minister under section 2.39;

This clause deals with conditions for payments and amounts to be held in trust. Proposed subsection (1) applies to a

condition in some instruments. It refers to determinations and declarations by the commission and the responsible minister in part 3 of the legislation. That part deals with the State's version of the right to negotiate. In our view there should be provision in the legislation for the payment of compensation in trust arrangements to apply to decisions under part 2 of the Bill, which deal with the consultation procedures. We say that in part 2 of the Bill, there should be the possibility of decisions on compensation. In fact, despite the failure of government to accept our earlier amendments, we think there will be matters, which are basically compensation decisions. The provisions for payment and the holding of compensation payments in trust should also be applicable to the consultation procedures under part 2 of the Bill, and not be restricted solely to the right to negotiate procedures under part 3.

Mr COURT: Clause 5.8 applies to only part 3. Part 2 is about minimising the impact on native title. It is not about compensation. We see it as quite unacceptable that those opposite seek to bring it into clause 5.8.

Mr RIPPER: Nevertheless the commission might make a recommendation that an act be allowed to proceed on certain conditions, and one of those might be the payment of a monetary amount. I ask the Premier to tell me whether I have it wrong and the commission is prohibited from making that sort of decision. If that sort of decision is made, should there be provision for the money to be held in trust in the same way as payments made under the right to negotiate procedures?

Mr Court: It is prohibited from making those payments.

Mr RIPPER: I ask the Premier to direct me to the relevant clause. I do not think he is right. The commission cannot make a decision on a condition relevant to profits or income; however, I do not think it is precluded from making a decision for the payment of a monetary amount. I am prepared to be corrected if, due to the haste with which the legislation has been introduced, I have overlooked an aspect. There is a possibility of payments under the part 2 procedures.

Mr COURT: This provision set out in clause 2.32 relates to the making of a recommendation. There is nothing in there that allows the commission to make a compensation determination.

Mr RIPPER: There is nothing in there which allows it to make a compensation determination; however, the clause says that the commission may specify conditions under proposed subsection (1)(b) only if they relate to the doing of the act as it affects native title rights and interests in relation to the relevant land. One condition could be the payment of a monetary amount. It might not be described as compensation, but surely the commission is not prohibited from making a decision which involves the payment of money. We are saying that the payment in trust arrangements should be applicable to such a decision.

Mr COURT: In clause 5.8 we are talking specifically about the compensation provisions. The member is trying to relate it to clause 2.32. As I said, that is all about minimising the impact on native title. It is not a compensation area.

Mr RIPPER: The Opposition moved an amendment to allow discussions about compensation in part 2, so in this part we are proceeding consistently with the way in which we thought the approach should be made in part 2. Nevertheless, clause 2.32(3) states -

> The Commission must not specify a condition under subsection (1)(b) that has the effect that an objector is to be entitled to payments worked out by reference to -
>
> (a) the amount of profits made;
>
> (b) any income derived; or
>
> (c) any things produced,
>
> by any other consultation party as a result of doing anything in relation to the relevant land after the act is done.

I quoted that clause in full because if the commission were to be prohibited from specifying conditions regarding payments full stop, there would be a full stop after "payments". We would not have those payments worked out by reference to the amount of profits or by other income derived; in other words, the commission is prevented from specifying conditions with regard to payments of certain sorts but is not prevented from specifying conditions regarding payments in general.

Mr Court: You can have a payment, but not a compensation payment.

Mr RIPPER: We have reached agreement on that particular aspect - we can have a payment. If we can have a payment, why can it not be held in trust?

Mr Court: You can only put compensation in trust.

Amendment put and negatived.

Clause put and passed.

Clauses 5.9 to 6.4 put and passed.

Clause 6.5: Eligibility for appointment as Chief Commissioner -

Mr RIPPER: I move -

> Page 96, after line 11 - To insert the following -
>
> (2) Notwithstanding any other provision of this Act the Chief Commissioner shall be appointed by the Governor and shall hold office in accordance with this Act.

(3) Before making a recommendation under subsection (2) the Premier must consult the parliamentary leader of each party in the Parliament.

This amendment would require the Premier to consult with the parliamentary leader of each party in the Parliament before making any appointment of the chief commissioner of the state Native Title Commission. I move this amendment to bolster the status and independence of the commission. I know that by moving this amendment, I will be hampering my colleague, the member for Victoria Park, as he goes about his duties as Premier in the future. However, whether this Premier or the next appoints the chief commissioner of the state Native Title Commission, the whole standing of the commission will be enhanced if there are special procedures for the appointment of the chief commissioner and, in particular, if some consensus is encouraged in the making of that appointment. I was alarmed by the Premier's comment in the debate on the last version of this Bill that Bill Hassell would make an excellent chief commissioner of the state Native Title Commission. I advise the Premier that even if he rejects the clause, he will not need to send the Opposition a letter if he proposes to appoint Bill Hassell; we will be consulting with him via the media.

Mr COURT: We will not support this amendment. We see it as unnecessary. Bill Hassell would do the job well. I am not saying that he would get the job, but he would be loyal to the Queen.

Amendment put and negatived.

Clause put and passed.

Clauses 6.6 to 7.1 put and passed.

Clause 7.2: Review of Act -

Mr RIPPER: I move -

Page 113, after line 20 - To insert the following -

(4) In carrying out a review under this section the Minister must -

(a) ensure that a notice in accordance with subsection (5) is published in -

(i) the *Government Gazette*; and

(ii) a daily newspaper circulating generally throughout the State,

within 1 month of the commencement of the review; and

(b) consider any public comments or submissions made to the Minister within the period specified in such notice.

(5) A notice must -

(a) state -

(i) the fact of;

(ii) the reasons for; and

(iii) the objectives of the review; and

(b) invite public comments or submissions within 2 months from the publication of the notice.

This clause relates to the proposed review of the Act. The Opposition seeks to add to the substance of the review and the extent of the consultation and its preparation by including requirements for advertising of the review and the invitation of public comments or submissions. It is not a hugely important amendment, but it adds to the substance of the review of the act which is proposed.

Mr COURT: We see it as unnecessary because the representative bodies and the interested parties will know of the review and what it is for. The Government of the day will need to set up the review. We see it as being unnecessary. There will be plenty of publicity surrounding the review. I hope it is in five years' time.

Amendment put and negatived.

Clause put and passed.

New clauses -

Mr RIPPER: I move -

Page 113, after line 20 - To insert the following new clauses -

7.3 Special report

(1) The Commission may at any time make a special report to the Minister on any matter arising from or in relation to the exercise of its functions.

(2) The Minister is to cause a report prepared under this section to be laid before both Houses of Parliament as soon as is practicable after its receipt by the Minister.

7.4 Restriction on publication

The Commission must not in any annual or special report disclose any matters known to the Commission to be of sacred, ritual or ceremonial significance to Aboriginal persons or a particular community or group of Aboriginal persons.

Proposed new clause 7.3 provides for the commission to at any time make a special report to the minister. The clause further requires the minister to cause a report prepared under this section to be laid before both Houses of Parliament as soon as is practicable. This clause provides the Native Title Commission with direct access to the Parliament. This access would be similar to the access enjoyed by the Ombudsman, the Auditor General or the Director of Public Prosecutions. It is a further measure to enhance the status, standing and independence of the commission. The credibility of this body will be critical to the acceptance of the state native title regime. If the Premier wants his regime to work, he should be doing everything possible to enhance the credibility of the commission. After all, there is the possibility of court action if indigenous interests are dissatisfied with the way in which the native title regime in this State is to work. Enlightened self-interest on the coalition's side would lead the coalition to give the commission as much independence and status as possible. If the Government wants its legislation accepted by the Senate and accepted as legitimate by the indigenous community, a few gestures like this would not go astray.

Mr COURT: Again we see this as quite unnecessary, because the commission can only report to the Parliament. If it wants to report, it will report.

New clauses put and negatived.

Clauses 7.3 and 7.4 put and passed.

Schedule 1 put and passed.

Schedule 2 -

Mr RIPPER: I move -

Page 136, line 23 to page 137, line 4 - To delete the lines.

The schedule proposed by the Government amends the Parliamentary Commissioner Act 1971 so that the Native Title Commission is no longer subject to the jurisdiction of the Ombudsman. I want to move for the deletion of that provision. In its administrative operations, the state Native Title Commission should be subject to the jurisdiction of the Ombudsman. Once again a question is raised over the legitimacy of these arrangements and their acceptance by the indigenous community. There will be considerable scepticism about the way in which this commission operates and whether it will be a body that is fair to indigenous interests. Making its administrative arrangements subject to the Ombudsman is one assurance that can be offered to the indigenous community. Instead, this legislation will remove this body, which is potentially so controversial, from the jurisdiction of the Ombudsman.

Mr COURT: The Deputy Leader of the Opposition is incorrect. If the commission is acting in an administrative role it is subject to review by the parliamentary commissioner. If it is acting in its role as a quasi-judicial body, that is not the case. We would not want it to be. It would be like having court decisions reviewed by the Ombudsman.

Mr Ripper: What is the effect of this schedule then?

Mr COURT: The schedule will specifically exclude quasi-judicial matters from review by the parliamentary commissioner.

Mr Ripper: It does not say that. Does the Premier have legal advice which says that?

Mr COURT: That is what the parliamentary counsel said was the effect. We mentioned that to the Deputy Leader of the Opposition in briefings.

Mr RIPPER: The Opposition is being asked to take the assurance of the Premier which is contrary to what we see on the paper before us. If it is intended that the administrative actions of the Native Title Commission be subject to the Ombudsman, why does the legislation not say that in black and white? It is obviously not possible to resolve this matter here. If the Premier says he has parliamentary counsel advice to the effect that we are wrong in our assumption and he cannot produce the parliamentary counsel's advice right now, perhaps it is a matter that should be further pursued in the upper House. I do not think it is acceptable as things stand for us to accept the Premier's assurance, which appears to be contrary to the black and white provisions before us.

Mr COURT: I will get Mr Greg Calcutt to talk with the Deputy Leader of the Opposition to explain this.

Amendment put and negatived.

Schedule put and passed.

Schedule 3 put and passed.

Title put and passed.

Third Reading

MR COURT (Nedlands - Premier) [6.58 pm]: I move -

That the Bill be now read a third time.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [6.59 pm]: The Opposition voted for this Bill at the second reading stage. We indicated during the second reading debate that the Government needed to take our amendments seriously in order to secure our support at the third reading stage. Some progress has been made in the consideration in detail stage. At last, the Premier has accepted the inclusion of "good faith" in the consultation procedures. However, insufficient progress has been made. The inclusion of "good faith" as a qualifier for consultation was one of the Opposition's key amendments. Another amendment to the consultation procedures dealt with the substance of the matters that can be the subject of consultation, and that was also rejected by the Government. A significant amendment was moved by the Opposition requiring all current vacant crown land, regardless of expired and historic tenure matters, to be considered under the right to negotiate procedures rather than under the alternative consultation procedures. A number of other significant amendments were moved by the Opposition but were not accepted by the Government.

In view of the Government's failure to accept the bulk of the Opposition's amendments, members on this side will vote against the third reading. We do so because we do not regard legislation without these amendments to be either fair or, in the final analysis, workable. For this legislation to be truly workable, it will have to be approved by the Senate. Without the Opposition's amendments, this legislation is at serious risk of disallowance by the Senate. There is nothing so unworkable as invalid legislation. No matter how plausible it might be or how attractive it might be to particular interest groups, if it is invalid, it is no solution and it is unworkable.

I appeal to the Government to give further consideration to these matters when the legislation goes before the upper House if it truly wants a state native title regime and if it is not simply politicking on this matter.

Question put and a division taken with the following result -

Ayes (27)

Mr Baker	Mr Court	Mr Masters	Mr Trenorden
Mr Barnett	Mr Cowan	Mr McNee	Mr Tubby
Mr Barron-Sullivan	Mr Day	Mr Minson	Dr Turnbull
Mr Bloffwitch	Mrs Edwardes	Mrs Parker	Mrs van de Klashorst
Mr Board	Mrs Holmes	Mr Pendal	Mr Wiese
Mr Bradshaw	Mr Johnson	Mr Prince	Mr Osborne *(Teller)*
Dr Constable	Mr Kierath	Mr Shave	

Noes (16)

Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke		Mr Thomas
Dr Edwards	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham			

Pairs

Mr Ainsworth	Ms Anwyl
Dr Hames	Ms McHale
Mr Omodei	Mr McGinty
Mr Marshall	Mr Bridge

Question thus passed.

Bill read a third time and transmitted to the Council.

NUCLEAR WASTE STORAGE (PROHIBITION) BILL 1999

Standing and Sessional Orders Suspension

On motion by Mr Cowan (Deputy Premier), resolved with an absolute majority -

That so much of the standing and sessional orders be suspended as is necessary to enable the Nuclear Waste Storage (Prohibition) Bill 1999 to be taken forthwith.

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No 1.

Clause 3, page 2, line 11 - To delete the line.

No 2.

Clause 3, page 2, line 11 - To insert the following -

(b) for which the Radiological Council is satisfied that no beneficial use is envisaged,

No 3.

Clause 3, page 2, after line 24 - To insert the following definition -

"Radiological Council" has the meaning given to it by section 13 of" the *Radiation Safety Act 1975*.

Dr GALLOP: I move -

That the amendments made by the Council be agreed to.

When this legislation was last considered in this House it was supported by all members of the Legislative Assembly, and the matter was sent to the Legislative Council. Members will recall that when we discussed the matter in the Legislative Assembly, the Government moved an amendment to the definition of "nuclear waste". The Opposition said it was happy to go along with that amendment, but it reserved its right to reconsider the matter in the Legislative Council.

I am pleased to say that discussions on that question continued between the Government and the Labor Opposition, and it was agreed that the matter would be clarified if the question of whether or not radioactive material was constituted as waste would ultimately be decided by the Radiological Council. Given that in the original legislation the Labor Party exempted the work of the Radiological Council, the Labor Party was quite satisfied that it would be in a position to determine if no beneficial use was envisaged for any radioactive material, in which case it would be decreed waste and fully covered by the legislation.

I can report to the House that these amendments are the result of a cross-Chamber agreement between the Government and the Opposition Labor Party to ensure that the legislation passes through with the agreement of both sides.

Finally, I emphasise that this is important legislation. It means that the State of Western Australia is making it absolutely clear to any people who want to establish a nuclear waste dump in WA that they must deal not just with this Government or any future Government, but with the Parliament of Western Australia. That is important for two reasons. First, it sends a clear and unambiguous message from the Parliament of Western Australia as to its position on this subject. It is not just a message from the Legislative Assembly by way of a motion, but is legislation passed by both Houses. Should a future Government want to do such a thing, it must deal with both Houses of Parliament and, given that the Legislative Council is constituted differently from the Legislative Assembly, it provides an important check and balance for the future situation. It is with great pride that I report to the House that the Legislative Council has supported this Labor Party initiative. It is also pleasing to note that amendments have been made with the agreement of both sides, and that is a good achievement for the Parliament of Western Australia.

Mr COURT: The Government supports the amendments.

Question put and passed; the Council's amendments agreed to, and the Council acquainted accordingly.

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

Council's Amendment

Amendment made by the Council now considered.

Consideration in Detail

The amendment made by the Council was as follows -

No 1.

Clause 4, page 2, lines 10 to 13 - To delete the lines and substitute the following lines -

Section 12I(1) is repealed and the following subsections are inserted instead -

(1) In this section -

"relevant act" means a previous exclusive possession act -

(a) under section 23B(2)(a), (b) and (c)(ii) of the NTA (including because of Section 23B(3)); or

(b) under section 23B(2)(a), (b) and (c)(i), (iii), (iv), (v), (vi), (vii) or (viii) of the NTA if the Scheduled interest or lease concerned was still in force on 23 December 1996.

(2) If a relevant act is attributable to the State -

Mr COURT: I move -

That the amendment made by the Council be agreed to.

The effect of this amendment is to exclude from the operation of the confirmation of extinguishment provisions leases that were not in existence as at 23 December 1996. I understand that the titles affected were identified in the other place. Whether or not extinguishment has occurred will be a matter for common law. We believe they have extinguished native title, but that will be up to the courts to determine.

Mr RIPPER: It is important to outline the history of this matter. The Government proposed last year to extinguish native title on the basis of a list of scheduled leases and interests. The Opposition was successful in securing Legislative Council support to limit the extent of that extinguishment of native title. There were three aspects to the limits which the Opposition was successful in placing on the extinguishment of native title. The first of those aspects was to limit extinguishment to leases which were current as at 23 December 1996. The second aspect was to limit extinguishment to leases which had been determined by the common law to extinguish native title. The third aspect was to limit the extinguishment of native title caused by public works. That had two sub-aspects. The first was to limit the extinguishment of native title to the actual footprint of the public work so that a small public work in a large block of land could not extinguish native title across the whole block of land. The second sub-aspect was to limit extinguishment of native title via public works to those public works which were in existence as at 23 December 1996. We did not want a small public work which had crumbled away in 1943 to extinguish native title today.

What we have this year is a government attempt to overturn the limits which the Opposition placed on the extinguishment of native title last year. The Government brought in a Bill essentially to repeal those opposition amendments. That Bill has gone to the other place and has been modified. Essentially, the first of those opposition limitations on the extinguishment of native title has been retained, and the Government has accepted that amendment.

The extinguishment of native title should not be achieved on leases which were not current as at 23 December 1996. That view was accepted again by the upper House, and it has been accepted, apparently willingly, this time by the Government. Therefore, a portion of the victory which we achieved for the rights of indigenous people is preserved by the motion moved today by the Premier. On the other hand, we lost the latter two aspects to which I have referred. In the upper House the Government's attempt to allow a scheduled list of leases to extinguish native title, despite common law issues, has succeeded. Also, the Government has succeeded in having the Legislative Council accept the extinguishment of native title on entire parcels of land which have been subject to a public work.

The Opposition is in an interesting position. The Labor Party prefers the legislation that is now law, which was passed by Parliament last year; the worst position is that represented in the Government's original Bill put before us this year; and the halfway position is the one adopted by the Legislative Council.

Mr KOBELKE: I wish to hear more comments from the Deputy Leader of the Opposition.

Mr RIPPER: The Opposition will essentially abstain from the vote on this legislation. Our preferred position is the existing law.

Mr Court: How do you abstain from voting?

Mr RIPPER: One does not say anything. I indicated the Opposition's preferred position which limits the extinguishment of native title to the provisions of common law; that is, the existing law. The Government has tried to overturn the amendments which we successfully achieved last time. The Government backed off on at least one amendment. I congratulate government members for accepting the justice of at least one of our amendments, and the justice of our position on historic leases and their non-extinguishing effect on native title. I condemn the Government for not accepting, as it did earlier this year, the rest of the amendments the Opposition was successful in passing last year. It is unfair to go beyond common law and to extinguish by parliamentary action native title found by the Federal Court of Australia to exist on leases. It is unfair to have long extinct public works extinguish native title, and to have small public works extinguish native title on large blocks of land. The Opposition cannot support the Government's current Bill, but it recognises that the Legislative Council has removed at least one aspect of the injustices the Government is perpetrating on the native title rights of indigenous people.

Dr GALLOP: I endorse the comments of the Deputy Leader of the Opposition. Members will recall that when we initially debated the legislation, the point was to validate a lot of uncertain titles. We did so last time around with agreement on both sides of this House and the Legislative Council. The other part of the legislation was simply to confirm that extinguishment had occurred in those areas where it was clearly a case of exclusive possession as demonstrated by a common law decision. In other words, it was not to create extinguishments, it was to confirm it where it had already occurred as a result of the issuing of particular interests to land. That principle which was intended to be the basis of the legislation was not carried through in practice in the legislation itself. The Federal and State Governments - the two Executives - got together and decided which leases had extinguished native title. It was always the Opposition's concern that caught up in the net of extinguishment was some land where native title had not been extinguished by the common law decisions; in other words, the issuing of particular titles had not extinguished native title.

Of course, we know that where one interest exists and a native title interest exists at the same time, the issuing of that particular interest would override native title in the event that the two were to contradict each other; but that is another issue. The fact is that there was no necessity for the Government to go beyond what the common law said; that is, where an interest was issued and it was an exclusive possession, that extinguished native title. However, the Government chose to go further than that. It chose a great deal of issued interests and determined that they had extinguished native title. I remind members to think about all the issues that come up in this Parliament from time to time and how easy it is for them to make a decision about somebody else's property; how easy it is for the government side in this House and for the majority in the other place to decide that this Parliament, on the basis of the numbers that exist in it, should extinguish that native title, which is what it did.

Our view is that if native title is extinguished, due process should be followed, a proper process of negotiation should occur and so on. However, this Parliament has chosen a different path and it sends a very bad message out to indigenous Western

Australians. I am sure that if we were dealing with someone else's property, it would be different. For example, down at Leighton at the moment there is local opposition to a development based on good arguments by the people down there. The Premier has said that no development will occur there unless there is full agreement by all the people. Those people do not have any direct interest in that land; they have an indirect interest because they live in the area and want to preserve the open space, have access to the beach and so on. However, the Premier is quite happy to say that nothing will happen unless they agree with it. However, when it comes to the indigenous interests in this State, as small as they might be in this case - we are not talking about an enormous area of land but about a key issue for a particular group of people in our community - it is all right to wipe away their rights, there will be no problem in passing it through the Parliament, we will all be happy and stability in Western Australia will be restored. That is a very bad message for the Parliament of Western Australia to send out to the indigenous people when we are trying to establish a framework for reconciliation in this country. I say to the Government that it is a sad day when it is unwilling to back up the legislation that passed through the Parliament earlier and which constrained the extinguishment to those areas that simply confirmed what the common law had already said. The Government went further than that, and in doing so we have sent a most unfortunate message to one group of Western Australians and we have discriminated against that group of Western Australian citizens.

Question put and passed; the Council's amendment agreed to, and the Council acquainted accordingly.

BILLS - RETURNED

1. Financial Relations Agreement (Consequential Provisions) Bill 1999.
2. State Entities (Payments) Bill 1999.
3. New Tax System Price Exploitation Code (Taxing) Bill 1999.
4. New Tax System Price Exploitation Code (Western Australia) Bill 1999.

Bills returned from the Council without amendment.

ADJOURNMENT OF THE HOUSE

MR COWAN (Merredin - Deputy Premier) [7.25 pm]: I move -

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

MR KOBELKE (Nollamara) [7.26 pm]: In speaking to the motion that the House adjourn until a date and time to be fixed by the Speaker I would like to comment on two matters. First, it was the stated intention of the Leader of the House that the extra sitting day which is required to deal with possible amendments from the Legislative Council would be Tuesday, 21 December. That day suited members on this side of the House and it was an appropriate day for the members on the other side to whom I have spoken. Through a motion on the Notice Paper we now have a suggestion that we will return on Thursday, 16 December. That date is most inappropriate for members, given their commitments in schools. The Government has given no reason for us to come back on that day and I hope that that plan will not be proceeded with. I spoke briefly on this at an earlier opportunity. I will not repeat those remarks because the House has been sitting longer than normal and many members have other commitments and need to leave. I simply reiterate that I hope Mr Speaker will take note of the strong opposition from members on this side of the House to sitting on a day when many schools will be holding their final assemblies and graduation ceremonies.

The second and final point I wish to make concerns the problem the Government has had in managing its business. This relates to the fact that we are about to finish this sitting week and we are not sitting next week but are looking for one day to finish off the sittings before Christmas. Of course, that will not be the end of the sitting year as that will occur around June next year. However, the Government has a great deal of difficulty in getting legislation into this place. We have had a rush at the last minute. The second reading speeches of five Bills were down for today and seven Bills had their second reading speeches given yesterday. The Opposition today assisted the Government in putting through a Bill which was second read only yesterday. At every opportunity the Opposition has sought to assist the Government in the passage of Bills, unless they were Bills to which the Labor Party wished to express great opposition or were of a controversial nature.

However, when we looked through the Notice Paper yesterday we saw that there were two Bills on it which have been around for some time but which the Government had no desire to go ahead with. The Parks and Reserves Amendment Bill 1998 is under consideration in detail and has been for well over a year. The Gender Reassignment Bill (No. 2) 1997, which was passed last night, had been sitting on the Notice Paper for more than two and a half years. This indicates that the Government had some difficulty with those Bills and was not able to manage them appropriately. We have had a last minute rush of legislation which the Government has wanted the House to deal with. Some Bills have been sitting on the Notice Paper for an inordinate time and we have Bills on the Notice Paper which the Government does not wish to deal with, such as the Culture, Libraries and the Arts Bill 1998, the Heritage Bill 1999 and the Planning Appeals Bill 1999. The Government has run into major problems with those Bills and they are languishing on the Notice Paper because the Government is yet to determine its position on them.

I have sought briefly to point out matters on which I could go into a great deal more detail. The Government has had major problems with its legislation this year, to the extent that we took a week out of the parliamentary sitting dates. Hopefully the Government will be able to deal with some of these important matters. Yesterday we rushed through the Prostitution Bill to deal with matters that the Opposition thought should have been dealt with ages ago. Of course, Bills dealing with the major areas of prostitution are the ones the Government has not been able to bring to the Parliament, even though it has been promising to do so for years.

In closing, I reiterate that I hope the Government will not countenance this House returning on that last week of the school year, when many of us have a strong commitment to representing our community at the final school assemblies and graduations.

MR BARNETT (Cottesloe - Leader of the House) [7.29 pm]: I am aware of the comments of the member for Nollamara. I am sure his view is shared by members on both sides of the House. As I originally indicated, it is the Government's desire to come back on Tuesday, 21 December, and we will try to achieve that. However, we must be conscious of the requirements concerning legislation and amendments in the upper House.

If the upper House is not sitting that last week and legislation needs to come back here and be returned to the Legislative Council, it may be necessary to sit on Thursday, 23 December. If that is not the case we will come back, if necessary, on Tuesday, 21 December, for the reasons the member outlined.

Mr Kobelke: I hope that the key component in making that decision about the date relates to the interests of members in both Chambers rather than one member in the other place. It seems that most members in this place do not want to come back on Thursday, 23 December, nor do most members to whom I have spoken in the other place.

Mr BARNETT: I understand the member's point of view. School events are particularly important for members in country areas. The motion is to return at a date and time fixed by the Speaker. However, it is the intention of the Government to come back on Tuesday, 21 December, if required. I now defer to the Deputy Premier, who has made a major run to be the Leader of the House, and I wish him well in that!

Question put and passed.

House adjourned at 7.31 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

POLICE, EUCLA INVESTIGATION

540. Mrs ROBERTS to the Minister for Police:

(1) What were the terms of reference for the Australian Federal Police inquiry relating to the Eucla matter?

(2) Will the Minister table the Australian Federal Police investigation report into the matter?

(3) If not, why not?

Mr PRINCE replied:

The terms of reference associated with the Australian Federal Police review of the Eucla matter have been received from the Commissioner of Police. Before I can table the report on the outcome of the investigation there is a need for a legal opinion on issues of natural justice and procedural fairness in respect of people named in the report. When the opinion is received I will advise the Parliament of my intention.

ALINTAGAS SALE STEERING COMMITTEE

576. Mr RIPPER to the Minister for Energy:

I refer to the AlintaGas Sale Steering Committee, and ask -

(a) on what date was the Committee formed;

(b) who are its members;

(c) for what period is each member appointed;

(d) what are relevant qualifications of each member;

(e) what remuneration does each member receive; and

(f) how many meetings of the Committee has each member attended since the Committee was formed?

Mr BARNETT replied:

(a) The AlintaGas Sale Steering Committee (ASSC) first met on 6 January 1999.

(b) ASSC members are:

- Dr Des Kelly - Chairman
- Dr Les Farrant - Coordinator of Energy, Office of Energy
- Mr John Langoulant - Under Treasurer, Department of Treasury.
- Mr Phil Harvey - Chief Executive Officer, AlintaGas.

(c) The membership of the Committee is at any time determined by the Minister for Energy. It is expected that the ASSC will exist until 30 June 2000 or such other date as the Minister determines.

(d) The Chief Executive Officers of the Office of Energy, Treasury and AlintaGas are appointed in an ex-officio status. The Chair of the Committee is Dr Des Kelly in a personal capacity. Dr Kelly was until 4 February 1999 the Chief Executive Officer of the Department of Resources Development. The members of the Committee collectively have a relevant range of commercial, technical and policy making qualifications.

(e) The ex-officio members are remunerated in accordance with the positions to which they are ordinarily appointed. Dr Des Kelly as independent Chairperson responding on behalf of the ASSC to the Minister for Energy, is remunerated in accordance with a consultancy services contract to the Office of Energy. That contract is reported by the Government in accordance with its overall reporting of consultancy arrangements.

(f) There have been 35 meetings held together with one special meeting. Members attending and the number of meetings they have attended are as follows:

Dr Kelly	-	30
Dr Farrant	-	27
Mr Langoulant	-	29
Mr Harvey	-	32

Members other than Dr Kelly are normally represented by designated alternates when the member is absent. Dr Farrant has chaired the ASSC when Dr Kelly has been absent from the Chair.

REGISTRY OF THE WA INDUSTRIAL RELATIONS COMMISSION, COMPUTER AND INFORMATION TECHNOLOGY PURCHASES

889. Mr KOBELKE to the Minister for Labour Relations:

(1) When did the Registry of the Western Australian Industrial Relations Commission last make a major acquisition of computers or information technology?

(2) Was finance sought from Treasury to fund this acquisition and if so, what was the date of this request?

(3) What was the response of Treasury to this request and what was the date of such a response?

(4) Which bank or other agency provided the finance for the acquisition of this equipment and what was the date that the financial arrangements were put into place?

(5) Were the financial arrangements for the acquisition of this equipment fully in keeping with Treasury guidelines?

(6) Will the Minister table all documents relating to the financing of this equipment?

Mrs EDWARDES replied:

(1) June 1998.

(2) Yes. Discussed on 4/11/97 and formal request on 10/11/97.

(3) Treasury advised the agency it could not borrow against forward capital appropriation.

(4) Westpac Banking Corporation on June 5, 1998.

(5) Yes.

(6) As there are many documents, some of which are commercially sensitive, it would be helpful if the member could be more specific about which documents he would like tabled.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONSULTANTS' REPORTS

893. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) Since 1 January 1999, what reports has each department and agency under the Minister's control received from consultants employed by it?

(2) What is the title of each report?

(3) In brief terms, what is the subject of each report?

(4) What recommendations are contained in each report?

Mr BARNETT replied:

(1)-(4) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on consultants.

INTENSIVE LANGUAGE CENTRES, RESOURCES FOR ENGLISH CLASSES

928. Ms WARNOCK to the Minister for Education:

(1) What resources are provided for English classes at Intensive Language Centres in this State?

(2) Where are those classes held?

(3) What is the annual budget for those classes?

(4) Does the Department provide transport to special language classes?

(5) If so, where does this funding come from?

Mr BARNETT replied:

(1) 6.0 FTE deputy principals Level 3; 2.0 FTE deputy principals Level 4; 51.9 FTE specialist English as a second language (ESL) teachers; 20.7 FTE bilingual teaching assistants; 5.2 FTE school officers; 4.0 ESL Visiting Teachers, 1.4 FTE Education Support teachers; 4.0 FTE Curriculum Support Officers; transport services; bus ticket provision; contingency budget; ESL teacher professional development; and the annual School Grant.

(2) Primary Intensive Language Centres (ILCs) are located at Beaconsfield, Graylands, Highgate and Koondoola Primary Schools. Secondary ILCs are located at Balga, Melville, Perth Modern and Swanbourne Senior High Schools.

(3) $4 375 000

(4) The Education Department currently contracts bus services to transport permanent resident migrants at Beaconsfield, Graylands and Koondoola ILCs. The Department also provides multirider bus tickets to permanent residents attending Highgate Primary School, and Balga, Melville and Perth Modern Senior High Schools.

(5) The Commonwealth ESL New Arrival per capita grant, the ESL General Element component of the Commonwealth Literacy Program and the Consolidated Revenue Fund.

POLICE, TERMS OF REFERENCE OF EUCLA INQUIRY

936. Mrs ROBERTS to the Minister for Police:

(1) What were the terms of reference for the Australian Federal Police inquiry relating to the Eucla matter?

(2) Will the Minister table the Australian Federal Police investigation report?

(3) If not, why not?

Mr PRINCE replied:

Please refer to question 540.

WHITTAKERS' MILL, GREENBUSHES - JARRAH, KARRI AND PINE LOGS

967. Dr EDWARDS to the Minister for the Environment:

Of the 149 627.96 cubic metres of jarrah, karri and pine logs supplied by Department of Conservation and Land Management (CALM) to the Whittakers mill at Greenbushes in 1997-98, will the Minister state how much of this was -

(a) jarrah logs;

(b) karri logs; and

(c) pine logs?

Mrs EDWARDES replied:

(a) 29 749.77 cubic metres.

(b) 52 051.53 cubic metres.

(c) 67 826.66 cubic metres.

NO INTEREST LOAN SCHEME, AVAILABILITY

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

(1) Will the Minister advise if the No Interest Loan Scheme is now available to Western Australian families?

(2) If not, when will the Scheme be available?

Mrs PARKER replied:

(1)-(2) The WA No Interest Loans Network Inc. has appointed a Project Officer to oversee the establishment of the WA No Interest Loans Scheme. This includes the development of policies, procedures and agency systems for the scheme. Clients will be able to access loans through the Network's member agencies, such as welfare or financial counselling services from January 2000. I table a copy of the WA NILS Network November newsletter. [See paper No 468.]

GOVERNMENT DEPARTMENTS AND AGENCIES, EXPENDITURE

980. Mr RIEBELING to the Minister for Resources Development; Energy; Education:

What was the total expenditure for each of the Departments within the Minister's responsibility for the financial year 1998-99 on -

(a) consultancies;

(b) contracts and services; and

(c) overseas travel and accommodation?

Mr BARNETT replied:

(a) Six monthly reports providing information on consultants engaged by Government agencies are tabled in Parliament. The member should access these reports to obtain details of total expenditure on consultants.

(b) Annual reports tabled in Parliament in accordance with the Financial Administration and Audit Act contain the agency's operating statement, which discloses a total incurred on administrative expenses including contracts and services. The member should access these reports to obtain information on costs of services.

(c) Quarterly reports detailing overseas and interstate travel undertaken by Ministers and government officials are tabled in Parliament. The member should access these reports to obtain information on total expenditure for overseas travel and accommodation.

SCHOOLS, MALE TO FEMALE TEACHING STAFF RATIO

1006. Mr CARPENTER to the Minister for Education:

(1) What is the current ratio of male to female teaching staff in -

(a) State Government primary schools; and
(b) State Government secondary schools?

(2) What are the numbers, currently and for the past six (6) years, of people studying to become teachers in Western Australia?

(3) What is the ratio of male to female, in both primary and secondary, currently studying to become teachers in Western Australia?

(4) What are the projected number of retirees from teaching for the next ten (10) years?

(5) What are the projected number of teaching graduates for the next four (4) years in Western Australia?

(6) What is the rate of teacher absenteeism for Western Australian State Schools for the year to date?

(7) How many relief teachers are currently available for Western Australian State Schools?

Mr BARNETT replied:

(1) (a) State Government Primary schools (including early childhood education) 1:4.34
(b) State Government Secondary schools 1:1.11

(2) The number of students commencing pre-service education courses over the last six years is:

Year	Number
1994	1 776
1995	1 726
1996	1 752
1997	1 918
1998	1 833
1999	1 956

(3) The ratio of male to female students enrolled in pre-service education courses is:

Primary 1:7.8
Secondary 1:1.5

(4) The number of teacher retirees from the Education Department is expected to increase from approximately 250 in 2000 to 500 in 2004 and 1 000 in 2009. These retirement forecasts are based on the current age profile of the teaching workforce.

(5) The Universities are forecasting a total of approximately 1 430 teacher graduates next year. It is anticipated there will be slightly fewer in the next four years depending upon the flow through effects of the change from three to four year programs and mid-year intake levels.

(6) The rate varies considerably from day to day. As at 15 September 1999 the total number of teachers absent on all types of leave was 2 781. Between 8 and 10 per cent of this number are calculated to be on sick leave.

(7) The precise number of relief teachers available is not easily ascertained. Each school maintains a list of available relief teachers. 16 038 persons have undertaken relief work in the past 12 months. This figure includes part time staff who continue normal duties with relief work.

ILUKA RESOURCES LTD, SOUTH CAPEL

1020. Dr EDWARDS to the Minister for the Environment:

(1) In respect to the planned decommissioning of the Iluka Resources Limited South Capel operations has the Department of Environmental Protection (DEP) undertaken an assessment to determine whether the minesite and the Synthetic Rutile (SR) plants constitute contaminated sites?

(2) If not, why not?

(3) If yes to (1) above, what was the conclusion from the assessment?

(4) What are the major contaminants of concern to the DEP at the minesite?

(5) What are the major contaminants of concern to the DEP at the site of the SR plant?

(6) For what purpose has the newly constructed containment dam been built at the minesite?

(7) What is intended to be contained in the new containment dam?

(8) What are the contaminants of most concern to the DEP which are intended to be contained in the new dam?

(9) What is the expected duration of operation for the new containment dam?

(10) Will there be any public consultation over remediation and rehabilitation of the South Capel site?

(11) If not, why not?

Mrs EDWARDES replied:

(1) The DEP has not undertaken an assessment to determine if the minesite and synthetic rutile (SR) plant at the South Capel operations of Iluka Resources Limited (IRL) constitute contaminated sites.

(2) The assessment of contamination at the South Capel operations is currently being conducted by IRL. The results of this assessment will be reported to the DEP.

(3) Not applicable.

(4) The mining of mineral sands at the South Capel minesite involved the physical extraction of heavy mineral ore using water. Accordingly, the DEP does not anticipate any contamination issues at the minesite.

(5) The processing of mineral sands at the synthetic rutile plant involves chemical processes which produce waste products containing ammonia, sulphate and manganese. Historic waste disposal practices have resulted in these materials causing contamination at the plant site.

(6)-(7) I have been advised that the "newly constructed containment dam" the member refers to in his question is the Hutton Road Containment Facility (HRCF). If so, this facility was specifically designed and constructed for the stabilisation and long-term containment of process waste materials and contaminated soil recovered from the site as part of the decontamination process. The engineered facility is consistent with Best Practice and is similar to other tailings and waste containment facilities in Australia.

(8) As the material contained within the HRCF is the same material which once posed a risk to the groundwater beneath the site, the same contaminants will be present within the HRCF.

(9) The HRCF is expected to be capped in early 2000 once recovery and transfer of all historical wastes and contaminated soil from the South Capel is complete.

(10) It has been agreed by the regulatory agencies participating in the site decommissioning that some level of public consultation should form part of the decommissioning process.

(11) Not applicable.

CHANNEL 31

1060. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) Is the Minister aware of the service provided by Channel 31 in terms of it being a completely local service and providing opportunities for local talent, ideas and Western Australian content?

(2) Is the Minister aware that Channel 31 programs reach a diverse range of specialist audiences nearly impossible to reach through other media?

(3) If so, what efforts has the Minister and/or the Minister's departments/agencies made to place Government advertising or paid community announcements with Channel 31?

(4) Since it commenced broadcasting four months ago, how much Government advertising and paid community announcements have been allocated to Channel 31?

Mr BARNETT replied:

(1)-(3) A few months after Channel 31 commenced on air, a comprehensive dossier on its activities was requested by Government and distributed to each Ministerial office for information. Through the publication "Preferred Position", every Government Department was advised of the Channel's services and that it should consider making use of them.

(4) The State Government's master media agency Media Decisions is responsible for purchasing all advertising for Government Departments and advises that, to date, there has been no expenditure on Channel 31 by Departments under the Minister's responsibility. However, it has advised that it has held discussions with a number of Government agencies regarding the possible future inclusion of Channel 31 in up-coming media schedules.

CHANNEL 31

1062. Mr BROWN to the Minister for the Environment; Labour Relations:

(1) Is the Minister aware of the service provided by Channel 31 in terms of it being a completely local service and providing opportunities for local talent, ideas and Western Australian content?

(2) Is the Minister aware that Channel 31 programs reach a diverse range of specialist audiences nearly impossible to reach through other media?

(3) If so, what efforts has the Minister and/or the Minister's departments/agencies made to place Government advertising or paid community announcements with Channel 31?

(4) Since it commenced broadcasting four months ago, how much Government advertising and paid community announcements have been allocated to Channel 31?

Mrs EDWARDES replied:

(1)-(3) A few months after Channel 31 commenced on air, a comprehensive dossier on its activities was requested by Government and distributed to each Ministerial office for information. Through the publication "Preferred Position", every Government Department was advised of the Channel's services and that it should consider making use of them.

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COMO PREPRIMARY, RELOCATION OF TRANSPORTABLE

1115. Mr PENDAL to the Minister for Education:

I refer to the Minister's letter of 13 September 1999 relating to the Como pre-primary program and the possible relocation of the transportable facility currently on the Thelma Street frontage and ask -

(a) is the report, which the Minister commissioned from the Department to consider the site suggested by parent and local groups complete, and, if so, has it been received by the Minister;

(b) will the Minister make a copy of the report available to parents and local Members;

(c) was the City of South Perth consulted, given its previous criticism that local authorities' views and roles were being disregarded;

(d) in the preparation of the report were parents and local Members consulted as undertaken in the Minister's letter;

(e) if not, why not; and

(f) will the Minister advise when the Minister or his Department will make a final decision on the possible relocation of the transportable, or the adaptation of the neighbouring property as an off-site early-childhood facility?

Mr BARNETT replied:

(a) The report is not quite complete. Discussions with the City of South Perth regarding a possible relocation of the pre-primary program off-site and arranging costings on necessary modifications took slightly longer than anticipated. I expect to receive the Department's report on this shortly.

(b) It is intended to discuss the situation with parents and local members, as soon as the above matter is clarified. I will be happy to provide the details of the report to the member at this time.

(c) Yes.

(d) Refer to (b) above. As the member is aware, the report was commissioned specifically to consider the cost and feasibility of the local parents' alternative options. Once I have this information I will seek further input from the various interest parties.

(e) Not applicable.

(f) It is anticipated that a final decision on this matter will be made by the end of the year.

EDUCATION, FUNDING CUT BACKS

1117. Mr CARPENTER to the Minister for Education:

(1) Are the recent $10 million cutbacks announced by the Minister caused by the Minister and his Government's inability to adequately fund schools?

(2) If not, are they because of executive directors not properly managing their budgets?

(2) If the answer to (2) above is yes, who are those executive directors?

Mr BARNETT replied:

(1) No, in fact the Coalition Government has an outstanding record on the funding of education in Western Australia. The member will recall that this Government recently committed $100 million to increasing technology in schools. In addition, over the last five years this Government has increased funding to the Education Department by an average of about 8.5 per cent per year. This has included such major new initiatives as the expansion of Early Childhood Education at a cost of over $110 million and the commitment of at least $88 million for new and improved secondary facilities arising from Local Area Education Planning. This Government remains committed to providing the resources necessary for quality education in this State.

(2) No, the Education Department is fortunate in having Executive Directors who have a wealth of experience in education and throughout government, impressive qualifications and a commitment to the continual improvement of the Education Department. They are quite capable of managing their budgets properly.

(3) Not applicable.

PUBLIC EDUCATION ENDOWMENT TRUST, TERMS OF REFERENCE

1126. Mr CARPENTER to the Minister for Education:

(1) What were the original terms of reference under which the Public Education Endowment Trust was established by State Parliament?

(2) Under the original terms was the Trust to be used to fund only Government Schools?

(3) If yes, is this still the case?

(4) Have the original terms been altered at any time?

(5) If yes, when did this change take place?

Mr BARNETT replied:

(1) The Public Education Endowment Trust (PEET) was established in 1909 to provide for the needs of primary and secondary schools in the State in times of financial stringency.

(2) This was not specified. The Act refers only to the assets of the Trust being used "for the purposes of public education". This term is not defined by the Act.

(3) Not applicable.

(4) No, however, the way Trust moneys have been utilised has changed gradually over time. For many years it was used chiefly to fund scholarships for secondary education before being specifically expanded to allow for the development of accommodation facilities at teacher's colleges. More recently Trust moneys have been disbursed as grants to fund specific projects. Grants are now provided to both government and non-government schools, as well as to other worthy groups working in the education sector. Criteria that must be met for funding include:

- Projects should be of relevance to and capable of implementation in a wide range of educational environments.
- Projects should be complementary to directions in education in Western Australia.

(5) Not applicable.

SCHOOL CLEANERS, GOLDFIELDS AND SOUTH WEST

1130. Ms ANWYL to the Minister for Education:

I refer to the Minister's decision not to axe school cleaning jobs in South West timber towns due to anticipated job losses from the revised Regional Forest Agreement and two Kambalda positions and ask -

(a) why has the Minister decided to sack 26 school cleaners in the Goldfields when that region has suffered hundreds of losses in the mining industry;

(b) will the Minister show the same consideration for workers in the whole Goldfields as he has for those in the South West;

(c) will the Minister suspend plans to contract out these jobs and if not, why not;

(d) what is the reason for the decisions;

(e) what cost saving will result;

(f) how much money will be saved in each Goldfields school (will the Minister provide detail for each);

(g) how many hours are spent cleaning in each Goldfields school and what number of hours will be contracted out in each school next year; and

(h) will the Minister provide a copy of all correspondence sent to the cleaners about this issue?

Mr BARNETT replied:

(a) Permanent cleaners in the Goldfields Education District have three options: voluntary severance, work for the contractor or redeployment to an equivalent position (Education Assistant, Gardener or Home Economics Assistant). No permanent cleaner will have their employment terminated.

(b)-(c) Consideration has already been given to schools in the Goldfields Education District. As a result, the implementation of contract cleaning in the schools in Kambalda will be postponed for 12 months. Cleaners wishing to access their preferred option now can do so as long as a temporary replacement can be found.

(d) Changed circumstances in a number of towns in the Warren-Blackwood Education District, resulting from the Regional Forest Agreement, have had an impact on the communities in the area. It was considered that similar circumstances exist in Kambalda due to the impact of the downturn in the resources sector. Such changed circumstances are not applicable to the Goldfields as a whole.

(e) The Education Department estimates that the change to contract cleaning is currently saving approximately $5 million annually.

(f) Details on savings at individual schools cannot be provided, as the analysis of savings has not been done on a school by school basis.

(g) Schools in the Goldfields Education District are currently cleaned and staffed according to a formula developed jointly by the Education Department and the Australian Liquor, Hospitality and Miscellaneous Workers Union. School cleaning contracts are outcomes based, which requires that schools will be cleaned to a standard determined by the Department by 8:00am each day. The resources required to achieve the standard are determined by the cleaning contractor.

(h) The Education Department has been requested to forward copies of all relevant correspondence to the member's office.

SCHOOL RETENTION RATES, BUNBURY, NEWTON MOORE AND AUSTRALIND HIGH SCHOOLS

1133. Mr CARPENTER to the Minister for Education:

In relation to the Bunbury, Newton Moore and Australind High Schools -

(a) what was the retention rate (to year 12) for each year for the period 1992-99; and

(b) what were the retention rates for boys and girls over the same period?

Mr BARNETT replied:

(a)

Year	Bunbury SHS	Newton Moore SHS	Australind SHS
1992	81.5	53.6	68.2
1993	81.0	53.3	60.7
1994	73.4	46.0	65.6
1995	70.4	47.4	74.3
1996	63.5	47.3	55.6
1997	74.2	50.6	59.7
1998	65.7	51.1	54.6
1999	62.2	47.1	57.9

(b)

Year	Bunbury SHS		Newton Moore SHS		Australind SHS	
	Male	*Female*	*Male*	*Female*	*Male*	*Female*
1992	74.6	87.2	43.2	62.9	65.0	72.0
1993	73.1	87.5	54.1	52.5	55.1	66.7
1994	59.7	86.4	43.2	49.6	60.6	71.7
1995	63.2	78.7	37.6	58.8	59.7	90.1
1996	64.5	73.2	42.7	52.0	48.0	66.2
1997	59.5	86.5	34.5	65.9	46.9	70.5
1998	51.7	80.0	45.2	58.8	41.7	65.8
1999	56.4	67.4	35.3	59.6	49.6	66.7

GOVERNMENT CONTRACTS, IN EXCESS OF $50 000

1161. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) How many contracts of $50,000 or more (excluding employment contracts) has each department and agency under the Minister's control entered into between 1 August and 30 September 1999?

(2) What was the amount of each contract?

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

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

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

Mr BARNETT replied:

Department of Resources Development
(1) Nil.

(2)-(5) Not applicable.

Office of Energy
(1) Nil.

(2)-(5) Not applicable.

Western Power
Western Power entered into many contracts during 1 August 1999 and 30 September 1999. Western Power operates as a corporatised entity within a competitive framework. It is inconsistent with corporatisation for Western Power to be subject to Parliamentary scrutiny to this detailed extent when its competitors are not. Also, Western Power regards details of contracts, such as those requested, to be commercially confidential.

AlintaGas
AlintaGas operates as a corporatised entity within a competitive framework. It is inconsistent with corporatisation for AlintaGas to be subject to Parliamentary scrutiny to this detailed extent when its competitors are not. Also, AlintaGas regards details of contracts, such as those requested, to be commercially confidential.

Education Department of Western Australia
(1) Twenty.

(2)-(5) [See paper No 469.]

Note: Contract EDTC041/1999 was awarded for LOTE In-Country Intensive Language Courses in Indonesian and Italian only. The total value expressed in the spreadsheet is the total contract value for both courses.

Department of Education Services
(1) The Department of Education Services did not enter into any contracts over $50 000 between 1 August and 30 September 1999.

(2)-(5) Not applicable.

Curriculum Council
(1) One.

(2) $75 000

(3) Sands Printing Group.

(4) Printing of Tertiary Entrance Examination papers.

(5) 23 October 1999.

ERN CLARKE ATHLETIC CENTRE, CANNINGTON

1214. Ms McHALE to the Minister for Education:

(1) Does the Education Department intend to sell Ern Clarke Athletic Centre in Cannington?

(2) If so, when?

(3) If this is the case, what plans are being made to protect the interests of the current users?

(4) Is there an alternative site proposed to relocate the Athletics Centre?

(5) If so, which site?

(6) If not, why not?

(7) Is it possible that the lease of Ern Clark Athletic Centre could be extended?

(8) If so, until when?

(9) What will the impact of the closure of Ern Clark Athletic Centre be on junior athletics?

Mr BARNETT replied:

(1)-(2) The part of the Ern Clarke Athletics Centre situated on Education Department land is subject to a lease agreement with the City of Canning that expires in February 2004. The Education Department intends to dispose of the land at this time. However, following recent discussions between the Minister for Sport and Recreation, the City of Canning, the Education Department and Athletica, it was agreed that the City of Canning would investigate and cost a number of options for the redevelopment of the Ern Clarke Athletic Centre on Coker Park. If possible the Education Department is prepared to further negotiate the sale of the site to a purchaser to enable the site to be retained for athletics in the southern suburbs.

(3) The WA Athletics Commission is seeking funding to purchase the site for continued use by the athletic group.

(4) The Education Department is not aware of an alternative site.

(5) Not applicable.

(6) It is hoped that agreement can be reached to retain the current site for athletics activities.

(7)-(8) Yes, until arrangements can be made by the Department to finalise disposal of the site.

(9) In the event of the centre being closed an alternative venue would be required.

WORKERS COMPENSATION, REVIEW

1224. Mr KOBELKE to the Minister for Labour Relations:

(1) Did the Minister indicate during the debates over the recent changes to the Workers' Compensation and Rehabilitation Act 1981 that there was a need for a more wide ranging review of the workers' compensation system in Western Australia?

(2) If so, has the Minister made any decisions as to the timing and nature of such a review of the Workers' Compensation and Rehabilitation system?

(3) Will the Minister indicate as to the nature and timing of any such further review of the Workers' Compensation and Rehabilitation system?

Mrs EDWARDES replied:

(1) During debate on changes to the Workers' Compensation and Rehabilitation Act 1981 I made a reference to an ongoing review of the system, as recommended by the Pearson Review. A review of medical and associated costs in the workers' compensation system has recently been announced and the Government will also progress a review of the insurance industry, as recommended by the Pearson Review.

(2) Terms of reference for a review of approved insurers are being finalised and will be released shortly.

(3) As the recommendations of the Pearson Review are implemented, the workers' compensation and rehabilitation system will be subject to ongoing monitoring and review to ensure the scheme is balanced and economically viable.

EDUCATION DEPARTMENT, RESTRICTED FILES

1225. Mrs ROBERTS to the Minister for Education:

(1) Does the Education Department have restricted files which are restricted for the viewing or use of the Executive and Director General?

(2) If not, what is the case?

(3) If so, what is in place to ensure that the information on such files is not leaked or viewed by people who do not have access?

(4) What penalties are there for the viewing or the leaking of information from such files by unauthorised persons?

Mr BARNETT replied:

(1) Yes.

(2) Not applicable.

(3) The following procedures are in place to ensure that such files are not viewed by people who do not have access to them:

- physical security is maintained by storing such files in locked cabinets, which are accessible only to authorised personnel; and
- access to such files is also restricted through the corporate records management system. The audit log on the computer system is monitored daily for any breach of security.

(4) Staff are aware of their obligations under *the Public Sector Management Act 1994* and a copy of the *Western Australian Public Sector Code of Ethics* has been distributed to all staff. In addition, the new School Education Act 1999 has a penalty of $5 000 or imprisonment for 6 months for unauthorised disclosure of confidential information.

EDUCATION DEPARTMENT, REGULATION 135 COMPLAINTS

1226. Mrs ROBERTS to the Minister for Education:

(1) How many complaints under Education Department Regulation 135 did the Education Department receive in the last financial year?

(2) How many proceeded to the inquiry stage?

(3) How many departmental forms were issued?

Mr BARNETT replied:

(1) Sixteen.

(2) Eight.

(3) No "departmental forms" now exist. The complainants use Statutory Declarations when required, which the Education Department considers to be the appropriate form.

EDUCATION DEPARTMENT, REGULATION 135 COMPLAINTS

1227. Mrs ROBERTS to the Minister for Education:

(1) Has the Education Department ever caused notification of a Regulation 135 against someone in the last five years without having the requisite Statutory Declarations?

(2) If so, in how many instances and on what dates?

Mr BARNETT replied:

(1)-(2) No. A Statutory Declaration is only required if a complaint against a teacher is formally investigated under the provisions of Education Act Regulation 135. According to the Education Department database, no complaints have proceeded to a formal investigation under Regulation 135 without a Statutory Declaration.

EDUCATION DEPARTMENT, NEGLIGENCE, DAMAGES AND WORKERS COMPENSATION CLAIMS

1228. Mrs ROBERTS to the Minister for Education:

(1) What is the quantum of the money paid out by the Education Department in the last financial year for negligence, damages and workers' compensation claims?

(2) How many successful claims were there in each category?

Mr BARNETT replied:

(1) In the financial year 1998/99 the total monies paid for workers' compensation claims was $11 906 273.

(2) For the financial year 1998/99, as of 31 October 1999, there were a total of 1 321 claims. Of this amount, 1 274 have been accepted, 17 declined and 30 are still pending a decision. It is impossible to provide this information by category.

EDUCATION DEPARTMENT, INVESTIGATORS

1229. Mrs ROBERTS to the Minister for Education:

(1) How much did the Education Department pay investigators in the last financial year for inquiries?

(2) What qualifications are required of investigators appointed by the Education Department to conduct inquiries?

(3) Are investigators given a time frame for completing an inquiry?

(4) What happens if the time frame is not met?

(5) Does the investigator determine what information to give persons or do they get this approved by Central Office?

Mr BARNETT replied:

(1) RiskCover paid, on behalf of the Education Department, $215 776 to investigators last financial year for workers' compensation claims inquiries.

(2) Investigators are appointed by RiskCover. A panel of investigator firms are under contract with the Insurance Commission of Western Australia. Investigation firms are appointed following a rigorous selection process. Investigator firms must have an Investigation Licence to conduct inquiries.

(3) Investigators are given a time frame for completing an inquiry, which varies depending on the circumstances of each workers' compensation claim.

(4) If a delay in the investigation is anticipated, the investigator will contact RiskCover, provide a reason and propose a new time frame.

(5) Investigators are contracted by RiskCover to provide information to RiskCover Claims Officers. The type or content of the information provided to the Claims Officers is not determined by the Central Office of the Education Department.

SCHOOLS, SPECIAL FINANCIAL AUDITS

1230. Mrs ROBERTS to the Minister for Education:

(1) Other than routine financial audits, how many special financial audits were done on schools in the Perth district in 1998?

(2) Which schools had such audits?

Mr BARNETT replied:

(1)-(2) Nil.

EDUCATION, LITERACY AND NUMERACY PROGRAMS

1285. Mr CARPENTER to the Minister for Education:

Will the Minister detail what programs, both at the school level and more broadly, on a system level, have been developed to meet the needs of those children who do not meet the benchmarks set in the last Literacy and Numeracy Assessments?

Mr BARNETT replied:

When students are identified as needing assistance either through the Literacy and Numeracy Assessment or another avenue, schools design plans using the strategies listed below to address the students' needs.

Education Department of Western Australia (Government Schools)

The following Programs are designed to meet the needs of students experiencing difficulties with literacy and numeracy.

Literacy Net Program: The Literacy Net program was introduced to support teachers in their work with students experiencing difficulty with literacy. The National Benchmark standards have been incorporated into the Literacy Net checkpoints developed for all year levels P-7. During 1999 all P-3 teachers have been able to access Literacy Net professional development and training which provides teachers with a diagnostic tool to identify the specific literacy learning needs of individual students. The Literacy Net program will be expanded during 2000 to include professional development and training for teachers of years 4-7 and 8-10 students.

National Literacy and Numeracy Cross-Sectoral Project: The project focuses on the provision of professional development to support mainstream classroom teachers (P-3) in early identification and intervention and in the use of the National Literacy and Numeracy Benchmarks. In-class support is also provided.

Early Literacy Assessment Strategies Project for Aboriginal Students: The Early Literacy Assessment Strategies Project for Aboriginal Students is a professional development program to assist school to improve the literacy outcomes of P-2 Indigenous students. The project promotes an integrated approach to improve literacy outcomes, involving the whole school, P-2 teachers, Aboriginal and Islander Education Workers, parents and care givers.

First Steps in Mathematics Project: The First Steps in Mathematics Project will improve the mathematics learning outcomes of primary schools students by providing professional development for teachers which focuses on improving teachers' understanding of mathematics teaching and learning. The implementation of this program will commence in the year 2000.

Early Numeracy Learning Tasks Project: A series of early numeracy learning tasks are being developed to provide information for teachers about students' early mathematical thinking. They are being trialed and will be available as part of the First Steps in Mathematics curriculum development material.

The Students at Educational Risk Strategy: The Students at Educational Risk Strategy coordinates programs and services to improve the educational outcomes for all students considered to be at educational risk. The focus for the implementation phase (1999-2004) is early identification and the links with the Curriculum Framework. Fifty-five schools and some district education offices have been allocated funding for the development of products to assist schools address the needs of students.

The Commonwealth Literacy Program: The Commonwealth Literacy Program funding has been allocated to 450 schools throughout the State to assist those schools implement programs appropriate for their students' needs.

The Indigenous Language Speaking Student Program: The Indigenous Language Speaking Student Program provides funding to facilitate the entry of Aboriginal students into education by providing intensive English language tuition to each eligible student. This program has been developed for Aboriginal students who rarely hear English until they arrive at school.

District Curriculum Improvement Officers: District Curriculum Improvement Officers work with schools in the areas of early identification and intervention. Teachers are supported in developing literacy programs for individual and groups of students who are identified as working below the benchmark standard.

The Centre for Inclusive Schooling (formerly the District Service Centre – Learning Difficulties): The Centre for Inclusive Schooling was established in 1998 to provide support services to District Education Offices and through them to schools. The Centre provides services to support students at risk of not achieving appropriate levels of literacy and numeracy.

Literacy and Numeracy Strategy: The Education Department's strategy in support of improved literacy and numeracy standards will be launched in February 2000. The implementation of the Literacy and Numeracy Strategy for the government school system in Western Australia represents a five-year commitment to dedicate resources and focus effort across the school system.

Department of Education Services (Non-Government Schools)

The State Government does not mandate specific literacy and numeracy programs for non-government schools. These schools are individually responsible for adopting programs and strategies appropriate to the needs of their students. Non-government schools adopt similar strategies to government schools which may include:

early assessment of students in the early years of formal schooling;
early intervention strategies;
professional development for teachers;
monitoring student performance against relevant benchmarks; and
research into effective teaching.

SPECIAL LANGUAGE DEVELOPMENT CENTRES, WAITING LISTS

1286. Mr CARPENTER to the Minister for Education:

What are the current waiting list numbers and times for places at each Special Language Development Centre?

Mr BARNETT replied:

Language Development Centres (LDCs) are located in the Swan, Perth, Cannington and Fremantle Education Districts. Satellite classes also operate from these centres. The waiting list numbers for the year 2000 are:

North West Metro LDC (Perth)	96 students placed, 54 waiting
North East Metro LDC (Swan)	78 students placed, 90 waiting
South East Metro LDC (Cannington)	91 students placed, 55 waiting
Carawatha LDC (Fremantle)	135 students placed, 83 waiting

During the school year, students are enrolled in the LDCs as vacancies become available. The Department recognises that unfortunately not all students on waiting lists to access LDCs will be placed for 2000. Those students with less severe impairment, or who remain on LDC waiting lists, will continue to be supported at their local schools. This support includes school based programs, LDC outreach programs, Disability Services Commission – School Aged Therapy Services program (SATA), Health Department programs, access to private practitioners and services and support provided through the local district education office. Staffing for LDCs is currently under review and will be completed by the end of 1999.

VACSWIM PROGRAM

1288. Mr CARPENTER to the Minister for Education:

(1) How many children took part in the October 1999 Vacswim programme?

(2) How does this compare with the previous three years?

(3) What were the average class sizes?

(4) How does this compare with the previous four years?

(5) How many children were in the largest class held?

(6) How many children were in the smallest class held?

Mr BARNETT replied:

(1) 6 437

(2)

1998	7 568
1997	7 043
1996	7 114

(3)

Stages 1-4	8.8 students per class
Stages 5-14	11.1 students per class
Stages 15-16	11.0 students per class

(4) Specific statistics are not available. However, under the Education Department's management the following class sizes operated:

Stages 1-4	10 students per class	(12 maximum)
Stages 5-15	14 students per class	(16 maximum)
Stage 16	10 students per class	

(5) Stage 7 Swan Park Recreation Centre 14 children

(6) Stage 8 South Hedland Aquatic Centre 1 child

GOVERNMENT CONTRACTS, SUBSIDIES

1292. Mr BROWN to the Minister for Resources Development:

(1) Have any of the companies which were awarded Government contracts in the last year received Government funded subsidies?

(2) If yes -

(a) what are the companies which received subsidies; and
(b) what is the amount they each received?

Mr BARNETT replied:

(1) The Department of Resources Development is not aware of any government funded subsidies being paid to companies it has contracted.

(2) (a)-(b) Not applicable.

RESOURCE DEVELOPMENT AGREEMENTS, BREACHES OF LOCAL CONTENT PROVISIONS

1293. Mr BROWN to the Minister for Resources Development:

(1) Is the Minister aware of any companies covered by a State Agreement that are in breach of complying with the local content provisions of the Act?

(2) If yes, which companies are in breach and what action is proposed to correct the breach?

Mr BARNETT replied:

(1) No.

(2) Not applicable.

KEMERTON INDUSTRIAL PARK, EXPANSION

1375. Mr GRILL to the Minister for Resources Development:

In relation to the proposal to expand the Kemerton Industrial Park -

(a) has a potential waste site been identified within the proposed expanded area; and

(b) if yes, where is the site and what studies have been conducted on the suitability of that site?

Mr BARNETT replied:

(a) No.

(b) Not applicable.

KEMERTON COMMUNITY COMMITTEE AND KEMERTON ADVISORY BOARD, MEETINGS

1376. Mr GRILL to the Minister for Resources Development:

(1) Does the Kemerton Community Committee and the Kemerton Advisory Board still meet on a regular basis?

(2) If yes, when did they last meet and on what dates will they next meet?

(3) What are the names of the current members of the Committee and Board?

Mr BARNETT replied:

(1) The Kemerton Advisory Board (KAB) and the Kemerton Community Committee (KCC) normally meet on a quarterly basis, with the KCC meeting about a week before the KAB. Neither the KAB nor the KCC have met so far during 1999.

(2) The KCC last met on 26 November 1998 and the KAB on 4 December 1998. Both bodies are likely to meet again in the New Year.

(3) The following are currently represented on the KAB:

Ms Vanessa Lewis South West Development Commission	Mr Bob Chandler Department of Conservation & Land Management
Cr Jim Offer Cr John Sabourne Shire of Harvey	Mr Peter O'Shaughnessy Millennium Inorganic Chemicals
Mr Larry Guise Ministry for Planning	Mr Jim Brosnan Simcoa Pty Ltd
Mr Paul Davis Chair of the Community Committee	Mr Paul Jacobs Western Power
Mr Graham Sunderland LandCorp	Mr John Prior (Acting Chair) Department of Resources Development

Representation on the KAB changes from time to time, dependent on changes in staff in the organisations and availability.

The KCC is currently made up of representatives of community groups and individuals with an interest in the development of the Kemerton Industrial Park, as follows:

Members

Mr Paul Davis (Chair)	Mr Graham Manning	Mr Graeme Reading
Ms Pam Cam	Mr Geoff Tothill	Mr Bernard Ridley
Mr Doug Burns	Mr Keith Mell	Mr Morgan Smith
Mr John Farnan	Mr Bill Mitchell	Mr Rod Thompson
Ms Emily Hill	Mr Ken Parker	Ms Kylie Truss
Ms Anne Jennings	Mr Fiore Rando	
Mr Andy Males		

Observers

South West Development Commission — Department of Resources Development

KEMERTON INDUSTRIAL PARK, FLORA AND FAUNA AND WATER STUDIES

1378. Mr GRILL to the Minister for Resources Development:

(1) I refer to question on notice No. 2492 of 1999 in relation to the flora and fauna study and the water study carried out on the Kemerton Industrial Park -

(a) will the Minister now table Phase 1 of the flora and fauna study and the water study;
(b) if not, why not; and
(c) when is it expected Phase 2 of the flora and fauna study will conclude?

(2) What is the value of the contract?

(3) How is the management fee calculated?

Mr BARNETT replied:

(1) (a) Yes. [See papers Nos 470-472.]
(b) Not applicable.
(c) Phase II of the Flora and Fauna Study is anticipated to be completed by the end of December 1999.

(2) The value of the contracts is as follows:

· Flora and Fauna Phase I $36 000
· Flora and Fauna Phase II $24 000
· Water Study Phase I $22 410

(3) The contracts were awarded through a tender process.

GRANDPARENTS, CUSTODY OF GRANDCHILDREN

1424. Mr BROWN to the Minister for Family and Children's Services:

(1) Is the Minister aware of any cases where grandparents have, by order of the Court, been made responsible for the care and upbringing of grandchildren?

(2) Is it true that grandparents in this position fill the role of a foster parent?

(3) Is the State giving or prepared to give any consideration to ensuring that grandparents that are faced with this situation receive the same as those available to foster parents? If not, why not?

Mrs PARKER replied:

(1) Yes, I am aware of some instances where the Family Court has made parenting orders in favour of grandparents.

(2) No.

(3) I have requested that further information be obtained on the extent and management of this issue. The issue of ongoing financial support for grandparents under these circumstances comes under the jurisdiction of the Commonwealth Government. If appropriate Family and Children's Services provides short term assistance through the Family Crisis and Child and Family Support Services.

QUESTIONS WITHOUT NOTICE

LEGAL COSTS, INTERNAL AFFAIRS OFFICERS

506. Mrs ROBERTS to the Minister for Police:

(1) Given the minister's claim that legal costs are paid only for officers who are believed to have acted in good faith, why is taxpayers' money being spent appealing a recent District Court decision that found two internal affairs officers guilty of malicious prosecution and other offences?

(2) How can the minister still justify the funding given the damning findings of the District Court judge against these officers?

(3) Can he assure the House that damages awarded against the two internal affairs officers will not be and have not been paid out of taxpayers' funds; and, if he cannot give such an assurance, why not?

Mr PRINCE replied:

(1)-(3) I have said this on a number of occasions to the member, and if I have to sit down with John Quigley and explain in words of one syllable, I am happy to do that. A decision is made to fund a civil action, not a criminal one. The member talked about an offence; that is wrong. A decision to fund a civil action is made on the basis of the information then known. The decision, having been made, stands, irrespective of the result of the court action.

> It is not a retrospective review. The decision was made. The advice received from not only the officers' lawyers but also independent counsel is that the decision is appealable. It is the decision of the officers - not the Police Service - whether they want to appeal. I think they have exercised their right to appeal, and that is fine. It is entirely up to them.

Mrs Roberts: However, the Police Service must make a decision whether to fund that appeal.

Mr PRINCE: The decision having been made to fund their civil action - that includes obviously an appeal, but not an appeal that is made under any vexatious circumstances or without cause, but when counsel and solicitors are saying that there are a number of appealable factors in the judge's decision; in other words, the appeal is justified - the funding continues. I think I am correct in saying that part and parcel of going on with the appeal is that there must be a payment into court of the amount of the pecuniary damages ordered. If that must be done, that will be done, because it must be done in order for the appeal to go on.

Mrs Roberts: By the Police Service?

Mr PRINCE: It is part of the funding package.

Mrs Roberts: That is unbelievable!

Mr PRINCE: No, it is not.

Mrs Roberts: What if they lose the appeal? Does the Police Service get back the taxpayers' money?

Mr PRINCE: This is a civil action brought against two serving police officers.

Mrs Roberts: If they lose the appeal, do the taxpayers get back their money?

Mr PRINCE: We must wait and see the result of the appeal. The appeal decision may be to send the matter back for retrial or it could be to change the judge's decision. It could be all sorts of options.

Mrs Roberts: Exemplary damages were awarded against them.

Mr PRINCE: The decision having been made to fund their defence, that is it. When it comes to the payment of the damages, that is not covered by the indemnity Bill that has now gone through, because it quite specifically says that any award of damages by way of pecuniary damages is not to be paid by the State.

Mrs Roberts: Why has the Police Service paid it?

Mr PRINCE: Because it is necessary to pay it for the appeal to be heard.

Mrs Roberts: Does it have a capacity to get back that money if the appeal fails?

Mr PRINCE: If the appeal fails and the matter does not proceed any further, that is a matter that must be determined at that time. On the basis of the law that we have now passed, which was not in place when these decisions were made, those pecuniary damages would not be paid by the State in any event. They will be paid by the officers.

Mr Court: I thought that we had arrangements with the union in relation to legal fees and that we were doing it properly, quickly and under the rules.

Mr PRINCE: Yes, we are.

Mrs Roberts: You have paid damages to officers who have been found guilty of malicious prosecution.

Mr PRINCE: They have had a civil award against them. It is not a matter of a finding of guilt; that is a criminal matter. We are talking about a civil action, not a criminal one.

Mrs Roberts: These are damages. They are not provided for in the Bill nor in any guidelines you have in place.

Mr PRINCE: The member simply and willfully does not want to understand this and nor does her instructing solicitor.

FRINGE BENEFITS TAX, EXEMPTION FOR REMOTE HOUSING

507. Mr OSBORNE to the Premier:

(1) Is the Premier aware that the federal Treasurer has today announced an extension of the fringe benefits tax exemption for remote housing to all employees?

Mr COURT replied:

The federal Treasurer has today put out a press release stating that the Federal Government will exempt remote housing related to the mining industry. I will read out part of his press release. It states -

> The Government's tax reform package *A New Tax System* announced that the fringe benefits tax exemption for remote area housing provided by primary producers would be extended to mining industry employers from 1 April 2000.

That is a most welcome announcement.

Mr Graham: It has taken 22 years.

Mr COURT: As the member for Pilbara has said, it has been a big issue, particularly in the Pilbara, the Kimberley and the goldfields. We now have a situation in which the Federal Government has appreciated this. We have formally requested that the federal Treasurer change this policy. When he was here a couple of weeks ago, he said that he appreciated the difficulties it was creating. Today's announcement is a pleasing result. The benefits will flow to a wide range of businesses. It is not just the big -

Mr Graham: Is it only for the mining industry?

Mr COURT: It says that remote area housing provided by primary producers will be extended to mining industry employers. The press release continues -

> The Government has decided to broaden this exemption to all employers who provide remote area housing fringe benefits to their employees. This measure will provide assistance to small businesses, remote area communities and State and local governments and highlights the Government's commitment to the promotion of development in rural and regional Australia.

As I read the statement, it refers to all employers. The extension of the exemption will provide a $15m boost to employers in Australia's remote areas and it will assist in job creation.

[See paper No 473.]

MFA FINANCE PTY LTD

508. Mr McGINTY to the Minister for Fair Trading:

(1) Will the minister remove Mr Ross Fisher, the Executive Director of MFA Finance Pty Ltd, from the Finance Brokers Supervisory Board pending the outcome of the investigations into his company?

(2) Will the minister direct his department to review the suitability of licensed valuer Stephen Olifent to retain his licence in light of his involvement in overvaluing a number of related failed financial deals in the south west?

(3) Will the minister explain why licensed valuer Mr Ron O'Connor, who has been associated with a large number of overvaluations and consequential failed financial deals, is having his suitability to retain his licence reviewed by the Ministry of Fair Trading.

Mr SHAVE replied:

(1)-(3) As the member for Fremantle must realise, at this point no matters have been substantiated in relation to Mr Fisher outside of the allegations he has made. Clearly, I am not in a position to prejudge someone. Unlike the members for Fremantle and Armadale, I do not intend to prejudge Mr Fisher in any way.

Ms MacTiernan: We are not asking you to sack him.

Mr SHAVE: The member's offsider asked me to get him to stand down.

Ms MacTiernan interjected.

The SPEAKER: Order! During the first question, we had a minister who took interjection after interjection, and it got to the stage where I believed it was almost a debate. We are now in a similar situation. One member has asked a question and another member is interjecting with a lot more questions. The member should just relax, stand up next, and I will give her the call. Then she can ask her questions officially.

Mr SHAVE: Thank you very much for that, Mr Speaker. I said exactly the same thing to the member yesterday. I said that there is more to life than just arguing with people.

I have asked my staff to ensure that the head of the board is fully acquainted with the issues related to Mr Fisher and to ensure that the head of the board is aware of the fact that I do not want Mr Fisher involved in any way in the investigation or the matters which I have forwarded to him. That is the first point.

It is not my place to prejudge or decide what happens with Mr Olifent's licence. As to the information relating to Mr Olifent, I have asked my staff to prepare a reference to be sent to the head of the board, and I expect that the head of the board will deal with it appropriately. Currently a number of investigations are going on in relation to Mr O'Connor. As I said in my speech yesterday, which the member for Fremantle has obviously forgotten, it would not be appropriate for me to comment on Mr O'Connor. Until that investigation is concluded, I am not in a position to make a comment about Mr O'Connor.

BLUEGATE NOMINEES PTY LTD, SWAN BREWERY SITE

509. Mr BAKER to the Minister for Lands:

In view of the City of Perth's rejection of Bluegate Nominees Pty Ltd's proposal to place 28 residential units on the old Swan Brewery site, does the minister have a similar discretion to reject this plan?

Mr SHAVE replied:

It must be my day - two questions in a row.

I regret that I do not have that discretion. I will outline the reasons for that. Just prior to losing government in 1992, the

Labor regime signed a lease which prevents me, as the current Minister for Lands, from rejecting plans for an exclusive residential enclave on the old Swan Brewery site. This is a most unusual situation that has been created. In normal circumstances, a landlord would have some control over a building in his ownership, but that has been eliminated.

Clause 24.01 of the Labor lease entitles the leaseholder to use the site for any permitted uses - and residential use is a permitted use. Further, clause 4.3(a) of the Labor lease imposes a legal obligation on the Minister for Lands to "Use your best endeavours" to assist the leaseholder to obtain necessary approvals.

Mr McGinty interjected.

Mr SHAVE: That is correct. It was the member for Fremantle who negotiated that. I have received legal advice that this clause obliges me to sign the planning application, despite my opposing the plans. I have also been advised that if I breach clause 4.3(a) of the lease, the State could be sued for damages involving millions of dollars.

I urge the opposition spokeslady for planning to remember these constraints put in place by her and her Labor colleagues when she claims Bluegate should be made to comply with what she says were the original intentions of the lease. I table the head lease.

[See papers Nos 474 and 475.]

Point of Order

Mr KOBELKE: I understood that the minister was purporting to quote from a document. If that is the case, I seek that he be requested to table that document.

Mr Cowan: He just tabled it.

The SPEAKER: Order! I think the minister is aware of the standing order which states that if a member is quoting from an official document, there is a requirement to table it. On the other hand, if a member is quoting from his notes, there is no such requirement. It is up to the minister.

Questions without Notice Resumed

MAIN ROADS WA, FINDINGS OF COMMISSIONER FOR PUBLIC SECTOR STANDARDS

510. Ms MacTIERNAN to the Premier and Minister for Public Sector Management:

(1) Will the Premier explain why there still has been no apparent action in response to the report by the Commissioner for Public Sector Standards which found that Main Roads WA had acted unlawfully and unreasonably in the infamous private eye affair?

(2) In particular, will the Premier explain why the legal fees of $12 000 incurred by the victims in defending themselves have still not been paid, even though the claim was made over 12 months ago?

(3) Will the Premier also explain why the head of his department has not responded to a request by Mr Hillhorst for an appointment to discuss his victim impact statement?

Mr COURT replied:

I thank the member for the question.

(1)-(3) Main Roads has advised that it is still awaiting further information from the applicants' representatives.

Ms MacTiernan: They sent the letter 12 months ago.

Mr COURT: No, I said Main Roads is still awaiting further information from the applicants' representatives. To the best of his knowledge, the Director General of the Ministry of the Premier and Cabinet has received no request from Mr Hillhorst.

Ms MacTiernan: He has. I have seen a copy of the correspondence.

Mr COURT: Correspondence to the director general?

Ms MacTiernan: To the department - to Mr Wauchope.

Mr COURT: The Director General, Mal Wauchope, has said that he has received no request from Mr Hillhorst.

Ms MacTiernan: That is simply not correct. What have you done? Have you taken any action? You are the minister.

Mr COURT: That is the advice I have received from the director general.

Ms MacTiernan: What have you done?

Mr COURT: Hang on. I will ask him again. Yesterday the member said in this Parliament that I had given an instruction to Main Roads in relation to -

Ms MacTiernan: Mr Drabble said you had given an instruction.

Mr COURT: No. The member said yesterday that I had given an instruction.

Ms MacTiernan: Yes, that is what Mr Drabble said. Are you calling Mr Drabble a liar? The Commissioner for Public Sector Standards would probably agree with you.

Mr COURT: I will read from the memorandum, which states -

> The delivery of this project on time has critical events in each step of the process. Intervention by the Minister for Transport or Premier may be required (this was an instruction from the Premier to the previous Minister for Transport).

Ms MacTiernan: That is an instruction.

Mr COURT: That is in a memorandum. I am telling the member that there was no instruction.

EAST EATON PRIMARY SCHOOL, CONSTRUCTION

511. Mr BARRON-SULLIVAN to the Minister for Works:

I refer to the anticipated announcement by the Department of Contract and Management Services regarding the successful tenderer for the construction of the East Eaton Primary School. As the school is important not only for the families within my electorate in an educational sense, but also for the flow-on effect to small business subcontractors and the creation of employment, will the minister give the House further details of the benefits derived from such projects?

Mr BOARD replied:

That is a $4m project and the announcement of the successful tenderer is imminent. The member has raised a very significant issue; that is, the importance of capital public works, particularly to local businesses, and the flow on to the community. Unashamedly, the Government is spending $3.3b in capital works this year, which is a record amount in Western Australia. The flow-on effect of that, particularly in regional areas, is very significant. Education, health, power, housing, justice and police will benefit from the money spent on capital works this year. The Government will spend $765m in housing and community amenities; $860m will be spent on transport and communications; and a record amount of $400m will be spent on non-residential buildings. I have already indicated to the House that about 80 per cent of the work which is contracted through the Department of Contract and Management Services goes to local and regional areas.

The work completed by CAMS recently has indicated that every $1m spent on capital works generates about 20 jobs directly and about 30 jobs indirectly. As a result of that, probably over 100 000 Western Australians are enjoying the benefits of this injection of funds into capital works in Western Australia.

WESTRALIA AIRPORTS CORPORATION, DONATION TO NATIONAL PARTY

512. Ms MacTIERNAN to the Leader of the National Party:

(1) What aspect of National Party transport policy encouraged Westralia Airports Corporation to donate $50 000 in the 1997-98 financial year to the National Party?

(2) Was it the party's support for the introduction of a taxi and bus tax, which is estimated to have raised a windfall of about $2m for the company each year, or does the party's largest single political donation relate to yet another secret undertaking that the party does not wish to reveal?

Mr COWAN replied:

(1)-(2) I have no involvement in the seeking of funds for the National Party from corporate sponsors.

Ms MacTiernan: It is manna from heaven.

Mr COWAN: I assure the member that that donation would not have been made to the National Party with any strings attached.

WESTRALIA AIRPORTS CORPORATION, DONATION TO NATIONAL PARTY

513. Ms MacTIERNAN to the Leader of the National Party:

Is the Leader of the National Party aware that his federal colleagues guaranteed this corporation that it could exploit a loophole in the contract to impose this new tax before it signed the contract?

Mr COWAN replied:

I am not aware of that and I doubt its veracity.

LAND, MAYLANDS

514. Mr MASTERS to the Minister for Planning:

I refer to some clearly misleading statements made by the member for Maylands regarding the future use of land in Maylands previously occupied by the Police Academy. What level of public consultation will be involved in reclassifying the use of that land?

Mr KIERATH replied:

I have some degree of respect for the member for Maylands and I was somewhat surprised and very disappointed at her behaviour as reported in a recent article in *The Voice*. That article gave readers the impression that the public consultation phase was over.

Dr Edwards: Were you at the meeting?

Mr KIERATH: The member was quoted as saying that this was nothing but a cynical exercise to appear to be doing something after the event. Did the member say that?

Dr Edwards: Absolutely! The report was already submitted.

Several members interjected.

Mr KIERATH: Other members might jump to the same conclusion, so I will explain the process. Reading the member's comments, members could be forgiven for thinking that the process was complete and that there would be no further consultation. I will disabuse them of that impression.

Several members interjected.

Mr KIERATH: First, if the Perth Regional Planning Committee and the Minister for Planning are satisfied and the environmental issues are satisfied, the proposal could be advertised for a minimum of three months seeking public written comments. In addition, hearings are held so that people can communicate their points of view without having to put them in writing. It is obvious that the public consultation process has not commenced, but the member is making outrageous statements about its being concluded and that this is some sort of stunt after the event. Even when that process is completed, ultimately the proposal will be presented to both Houses of Parliament for debate. The consultation process has not started, yet this member is playing on people's fears and misleading them.

I must admit I have come to expect this type of behaviour from some of her colleagues, but I did not expect it from the member for Maylands.

Several members interjected.

The SPEAKER: Often I allow interjections from the member who has asked the question or a member immediately affected. However, I have had a minister interjecting and someone else wanting to have a go. It is not acceptable.

MINISTER FOR FAMILY AND CHILDREN'S SERVICES, CABINET POSITION

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

Has the minister asked to be demoted from Cabinet in the forthcoming reshuffle, or will she, like the Minister for Finance in the other place, need to be sacked to make way for someone who can do the job?

The SPEAKER: Order! There is a convention in this place that we are careful about referring to members in the other place. The member is sailing close to the wind with his comment. Lead-ins to questions are supposed to be sufficient to give an understanding of the content of the question. To refer to something that may or may not relate to a minister in another place is irrelevant to the question.

Mrs PARKER replied:

I am far better qualified to sit on the front bench of this side of the House than the member for Willagee will ever be. I am proud of my ministerial record in initiating for example, a comprehensive, across-government drug abuse strategy, new initiatives like the freedom from fear campaign and a wide range of other programs. I am on the record as saying that I have certainly not been asked to step down from Cabinet. Any matter regarding appointments to Cabinet is the province of the Premier.

ABORIGINAL COMMUNITIES, AWARDS

516. Mr BLOFFWITCH to the Minister for Aboriginal Affairs:

I understand the minister visited a number of remote Aboriginal communities over the weekend to present some awards. As those awards relate to the vexed issue of Aboriginal health, can the minister provide details about the programs?

Mr McGinty: Are you lobbying for a ministerial position?

Mr BLOFFWITCH: It may not be important to the member, but it is to me.

Mrs Edwardes: Did you use a government aircraft?

Dr HAMES replied:

I was hoping I would get this question the other day when we were talking about travel. Last weekend I had the pleasure of travelling to many remote Aboriginal communities in an aircraft similar to that used by the company that won the Government contract as part of a program started three years ago to reward those Aboriginal communities that had made a huge effort to look after the standards within their environment. At that time we called it the Aboriginal tidy towns competition. The funding is provided by the Minister for Housing, the Minister for Health, the Aboriginal and Torres Strait Islander Commission and one other body. The winning community receives $15 000; the runner-up community receives $10 000; and the third prize winning community receives $5 000. There are also two awards of $2 000 for communities that have performed very well and a $1 000 encouragement prize.

The purpose of the program is to reward those communities that have cleaned up their environment. It is well recognised that the health of the children within those communities is very much dependent on their cleanliness and management. I am

pleased to say that the community that won first prize is Jarlmadangah, which is about 120 kilometres from Derby. The second prize was won by Lombadina community on the Dampier Peninsula. The third prize of $5 000 was won by a small community called Quartz Blow, which I admit I had never heard of, which is 23 kilometres from Halls Creek. That community has only a small number of Aboriginal people - about 20 - and it is so clean that all of the ground is raked, there are a large number of very healthy Aboriginal children, and it even has a duck pond and a vegetable garden with stones around them that are painted in a multitude of colours. That shows us what those Aboriginal communities are able to do. The runner-up communities were Karmalinunga in Derby, and Ninga Mia just outside Kalgoorlie and in the member for Eyre's electorate, which is an extremely well run community. The final award of $1 000 was won by Iragul community near Norseman. I congratulate those communities for the tremendous work they have done and the tremendous example they set for all Aboriginal communities.

INDUSTRIAL RELATIONS LEGISLATION, INTERNATIONAL LABOUR OFFICE CONVENTION

517. Mr KOBELKE to the Minister for Labour Relations:

(1) Is it a fact that the International Labour Office in Geneva made a direct request in April this year about the failure of the Court Government's third wave industrial relations legislation to meet the standards of ILO convention 87 on freedom of association and protection of the right to organise, to which Australia is a signatory?

(2) Is it true that before this week, the minister had not even read the ILO request, let alone acted on it?

(3) Will the minister give urgent attention to reviewing the offending industrial relations legislation with a view to its repeal or amendment to ensure that our labour laws meet the minimum international standards required?

Mrs EDWARDES replied:

(1)-(2) As the member will know, it is the Australian Government which must respond to that, not the Western Australian Government. A copy of the direction was sent to me by the Trades and Labor Council. I suggest that its interpretation of what is contained within that direction may differ somewhat from some of the legal advice that I have received.

Mr Kobelke: Have you read it?

Mrs EDWARDES: Yes, I have. I will seek further legal advice, because the TLC's interpretation of that ILO direction is not necessarily correct.

COMMUNITY SERVICE INDUSTRY AWARDS, AVON YOUTH SERVICES

518. Mr TRENORDEN to the Minister for Family and Children's Services:

This question relates to one of my favourite groups in the Avon. I refer to the Community Service Industry Awards which were awarded last Tuesday. What award was received by the outstanding group Avon Youth Services, one of the unsung groups in the Avon Valley, and what is the significance of that award?

Mrs PARKER replied:

I thank the member for the question and some notice of it. Western Australia has a history as a community of people helping other people. The Community Service Industry Awards that were awarded on Tuesday night are a tangible commitment of the Government in recognising the important work of the community services sector. Those awards again highlighted that a wide range of services are in place throughout Western Australia. On Tuesday night, Avon Youth Services received the award for the category of management and leadership, in recognition of the fact that it has developed a unique approach -

Ms MacTiernan interjected.

Mrs PARKER: It is very rude when a very good organisation of volunteers at community level has been recognised for its significant community work and the member interrupts when the member for Avon has shown an interest. Avon Youth Services has developed a unique approach to help young people deal with their problems, whether they relate to family relationship issues, accommodation issues, substance abuse or unemployment. The service works with young people from Northam and surrounding areas, including Toodyay and York. The organisation, which, as the member said, is in his electorate, has also been recognised for its innovative approach to managing services for young people in the Avon Valley. It has forged partnerships within the community to help develop young people as leaders and managers of their own programs. The organisation was also recognised for its staff development plans and management of each client as an individual. The organisation calls upon a member of the community to mentor a young person and together come up with solutions to the issues that are being faced. It is a significant organisation that has been born out of a shared community spirit and commitment. The people in that organisation, along with all of the other winners and finalists who were present at the awards ceremony on Tuesday night - some 500 people - are to be congratulated because they all work together towards ensuring that we continue to have strong and healthy communities.

KWINANA SPEEDWAY, EPA RECOMMENDATIONS

519. Mr MARLBOROUGH to the Minister for Planning.

Last Friday afternoon on ABC Radio the minister told listeners that those interested in the siting of the proposed Kwinana speedway should accept the umpire's decision. In view of this comment, why does the minister not accept the recommendations of the Environmental Protection Authority as published in its September 1999 bulletin, which states that

a peer review of the proponent's risk report has indicated that the level of individual fatality risk is likely to be greater than previous estimates and may be approaching, or exceed, the EPA's recommended criterion; and a further risk assessment should be undertaken, and if this shows that the risk to patrons would exceed the EPA's criterion, the speedway should not be built? I emphasise that I am talking about individual risk, not societal risk.

Mr KIERATH replied:

In answer to the question about my accepting the umpire's decision, I will accept the umpire's decision. There is no doubt about that at all. With regard to risk, the EPA approval that the site has received so far requires some further assessment of individual risk. There is some requirement to undertake further studies. I want to make it plain to the House that I am advised by people who know a fair bit more about this than does the member that the risk to the individual is less than the risk of being hit and killed by lightning. It is about the same as the risk of a person being killed by a meteorite falling out of the sky and hitting him. I do not think that sort of risk is unreasonable, but I will abide by the umpire's decision.
