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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Governance arrangements for the Indian Ocean territories

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CHRISTMAS ISLAND

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**JOINT STANDING COMMITTEE ON
NATIONAL CAPITAL AND EXTERNAL TERRITORIES**

Monday, 30 January 2006

Members: Senator Lightfoot (*Chairman*), Senator Crossin (*Deputy Chair*), Senators Carr, Hogg, Joyce and Stott Despoja and Mr Causley, Ms Annette Ellis, Mr Neville, Ms Panopoulos, Mr Secker and Mr Snowdon

Members in attendance: Senators Carr, Crossin, Joyce and Lightfoot and Mr Causley, Mr Secker and Mr Snowdon

Terms of reference for the inquiry:

To inquire into and report on current and future governance arrangements for the Indian Ocean territories, with particular reference to:

- a. accountability and transparency of decision-making in relation to the Indian Ocean Territories;
- b. the role of the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands;
- c. aspirations of the residents of Christmas Island and Cocos (Keeling) Islands for more representative governance arrangements;
- d. the link between more effective governance and improved economic sustainability for the Indian Ocean Territories;
- e. the operation of Western Australian applied laws;
- f. community service delivery including the effectiveness of service delivery agreements with the Western Australian Government; and
- g. proposals for reform of governance arrangements.

WITNESSES

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Committee met at 8.32 am

CHAIRMAN (Senator Lightfoot)—I declare open this public hearing of the Joint Standing Committee on the National Capital and External Territories for this important inquiry into current and future governance arrangements for the Indian Ocean territories. This is the first hearing of the inquiry. The committee will also be holding a hearing on Cocos (Keeling) Islands on Wednesday and intends to conduct further hearings in Perth and Canberra. The inquiry was referred to the committee by the Senate on 11 May 2005. At the conclusion of the inquiry, the committee will table its findings, conclusions and recommendations in the parliament in a report which will be publicly available. The committee normally authorises submissions for publication, and they will be placed on the committee's website. To date, the committee has received 13 submissions from interested parties. If you would like further details about the inquiry, please ask any of the secretariat staff who are present at the hearing for assistance.

[8.34 am]

ROBINSON, Ms Margaret Lucie, Chief Executive Officer, Shire of Christmas Island

THOMSON, Mr Gordon, Shire President, Shire of Christmas Island

CHAIRMAN—I now turn to the proceedings at hand. I welcome Mr Gordon Thomson and Ms Margaret Robinson from the Shire of Christmas Island to give evidence. Do you have any additional comments to make about the capacity in which you appear?

Mr Thomson—I am also the general secretary of the Union of Christmas Island Workers. I appear in those capacities today.

CHAIRMAN—I remind witnesses that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and warrants the same respect as the proceedings of parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee has received a submission from the Shire of Christmas Island, submission No. 10. Are there any corrections or amendments you would like to make to that submission?

Mr Thomson—No, thank you. We simply seek leave to address in brief the content of that submission.

CHAIRMAN—You do not need to seek leave. We will proceed to that just as soon as I finish these small formalities. The committee prefers that evidence be taken in public but if you wish to give confidential evidence to the committee you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask you some questions, do you wish to make an opening statement?

Mr Thomson—Yes, thank you very much. On behalf of the shire and the people of Christmas Island, we welcome you to Christmas Island. It is the first time since the late 1980s that a comprehensive review of the legal arrangements applying to Christmas Island has been attempted, and we thank the committee for taking the trouble to come to Christmas Island at this time. It is also the first time that the community has had the opportunity to directly focus on the question of future governance arrangements. We regard this as probably the most important inquiry your committee has conducted on Christmas Island, or we hope it becomes the most important inquiry from the point of view of the findings and the recommendations that we might proceed with and see implemented.

The way we would like to approach our submission is that I will detail some of the issues in a brief statement. I would like to pay tribute to Ms Robinson at this point. She has been with the shire for a number of years and has worked very closely with the community representatives who have involved themselves in the making of this written submission. Ms Robinson has done a wonderful job of putting together a review of all of the previous inquiries and the major recommendations of those inquiries. She has done a great deal of work over a number of months

of quite in-depth research, and I would like to pay tribute at the outset to Ms Robinson's work. Together we will endeavour to answer your questions after the initial outline.

Firstly, the submission has been formally endorsed by the shire council. It was prepared with considerable input from the community, particularly through the community consultative committee. The CCC, the Community Consultative Committee, is a standing committee of the council, whose genesis lies in the law reform process of the early 1990s, where, in the absence of any formal arrangement, it became the focal point for consultation with the community about the implementation of the applied law system, which was a very significant change in the legal arrangements on Christmas Island around about 1992. The effect of WA laws was to be had.

The current members of the Community Consultative Committee are all the shire councillors, the Christmas Island Women's Association, the Chinese Literary Association, the Poon Saan Club, the Malay Association, the Islamic Council of Christmas Island, the Union of Christmas Island Workers, Christmas Island Phosphates, the Christmas Island Chamber of Commerce and the Austasia Business Council. We welcome the inquiry because overall we are extremely dissatisfied with the current governance arrangements. We do not have enough say in our own affairs. The government makes decisions without considering the impacts on us. The location of the temporary IRPC, the immigration reception and processing centre, the proposed direction of gates at the new IRPC and the contracting out of essential services are all indicative of the lack of consideration the Commonwealth government gives to community views.

The key problem as we see it is our status as a non-self-governing external territory. It does not deliver to us the same level of rights as mainland Australians. The question of our potential characterisation as a non-self-governing territory as defined by the United Nations is still unanswered. We believe we could attract United Nations interest. The DEET colonisation process is incomplete. Laws do not apply or do not apply in the same way as they do on the mainland and we have fewer voting rights than other Australians. While we have progressively come to enjoy some of the protections and benefits of Australia, we believe that in significant ways we are still treated like a colonial possession of the Commonwealth, as indeed constitutionally we are. Our ability to participate and be counted in the mainstream of Australian life, as well as to prosper as a community, suffers as a result of the lack of status. We want change in order to put our community on a surer and fairer footing so that we can realise that our future is in our hands. Our submission deals with this in some detail.

The path to change or in fact any promise of change is neither clear nor certain. We are somewhat pessimistic about whether any real outcomes will eventuate from this inquiry. This is not a criticism of the work of your committee, Mr Chairman. Rather, it is a realistic appraisal based on what has gone before. All the terms of reference of this inquiry have in one form or another been considered previously. As noted in our submission, at least 28 inquiries and reports over 25 years have addressed one or more of the terms of reference, with in most cases very little action. We have posited some reasons why it has been the case that, although things have changed over the past 25 years, the underlying lack of a say in our future remains. We have consultation fatigue. We have become cynical and our community is losing heart that there is a future here. Will a government inquiry deliver beneficial outcomes or are we too far away, too small, too insignificant or too different to be heard as part of the Australian community?

The shire have attempted throughout 51 or so recommendations to the committee to rise above this pessimism, suggesting a number of ways in which things can change. If we cannot get movement on the big issue of a new governance arrangement, we can at least improve the current system in many ways. The key to change is improving the relationship between the community and the Commonwealth. At this point I would like to note that, on a personal level, the current minister, Jim Lloyd, seems quite accessible and to have a genuine human interest in what we have to say. We do record our appreciation of that. But that in no way impacts on the application of government policy, which we are sometimes critical of, nor does it reflect in any other way on our relationship with the government, which we are dealing with today.

The relationship between the community and the government, of which I am speaking now, has to do with structural arrangements, not personal ones. We do not want to be characterised as mendicants fighting over titbits and craving reassurances from a colonial master. We do not want to be treated like children by a paternalistic service provider, which makes decisions and controls our lives for our own good. We are not dissatisfied with the bread and circuses offered from a distant and disdainful bureaucracy. We do not want to be divided by race and culture, where unfair distinction takes the place of tolerance of difference. We do not want the past to be forgotten or brushed over and ignored when commitments have yet to be fulfilled and vestiges of discrimination remain. We want a seat at the table. We want to be treated as partners with the Commonwealth in deciding how to best serve the community's interests effectively, efficiently and creatively. We want to be treated alike, not normalised or made the same. We want recognition of our contribution to the Australian economy. We want past discrimination redressed and we want the opportunity to contribute to our own future—to have a real say in what happens here.

To change the relationship requires commitment and respect from both parties. Unfortunately community relations with the Commonwealth are less than good. They are characterised by suspicion and distrust, a lack of effective communication and a lack of shared vision or plans. The shire have worked hard to improve the relationship but in many ways it remains difficult and unsatisfactory. We have a long-established strategic plan for Christmas Island, developed by this community under the auspices of the Shire of Christmas Island. The Commonwealth does not have a shared vision for this island or, indeed, we believe, a strategic plan. If there is one, it is secret. The shire have worked hard to improve the relationship but in many ways it remains difficult and unsatisfactory. Recognition of the local community's interest is vital. The community perception is that the Commonwealth is interested in the rock but not in the needs and interests of the people who live here.

A change in Commonwealth attitudes to the island and its inhabitants, as well as actions to cement such a change, is vital. A key component of a change in the relationship is creating an environment where accountability and shared decision making is the norm. In many cases there is no government accountability to this community, as the casino decision of July 2004 exemplifies. The shire are willing to work with the Commonwealth in this partnership, believing that we have a clear legal and community mandate to pursue such a partnership, but we need the Commonwealth to join with us.

A key area for change is the contested ground of state type decision making and service provision. In the absence of state government, Commonwealth bureaucrats claim they are the state government. A senior bureaucrat from Canberra made that statement. We find this

inappropriate. Along with the general shift away from localised decision making and in the absence of effective means of community involvement in decision making and with no community accountability, we get no real say in the provision of services that directly affect our lives. SDAs—service delivery agreements—are an example of this. They are made between the Commonwealth and the state of Western Australia without our involvement, despite commitments to the contrary. I refer specifically to the Department of Sport and Recreation service delivery agreement, which I was presented with last week. We will tender the copies of that service delivery agreement, Mr Chairman, with your permission.

CHAIRMAN—Thanks, Mr Thomson.

Mr Thomson—This service delivery agreement between the Western Australian Department of Sport and Recreation and the Commonwealth was arrived at without any consultation. There was no advance advice that it was being negotiated, and there are direct local impacts and implications. We believe that involving the community in decisions about state type services will lead to more effective and efficient service provision that supports our economy. Local jobs and local delivery can be very effective given our small size and remoteness and our particular stage of development.

In this context, the current government policy of market testing and contracting out of state type services is wrong and undermines both service quality and economic sustainability. It detracts from permanent job creation, from which certainty and confidence will flow. The shire is prepared to put its money where its mouth is on these subjects. We have a cadetship for an environmental health officer. We are assisting a local person to progress through a university degree, after proving himself on his own for two years. We are supporting him through the last of the two years of his degree. He will be bound to the shire to provide a service.

The health service is a case in point in terms of our dissatisfaction. Market testing has occurred via a tender process. We are awaiting the minister's decision. Why is the government contracting out the management of that health service instead of talking to this community about how health services could be delivered locally? Why hasn't the government encouraged the training and employment of locals in nursing roles, for example, and instead destabilised the service with fly-in, fly-out agency staff—at great expense, I might add? Why hasn't it looked at the contracting out of airport management and water and sewerage? Permanent jobs were lost in each case, to be replaced by short-term employment contracts—no certainty for those taken on by the incoming contractors and no future for those who lost their jobs.

We also believe that the shire, as the only on-island representative government, can be a key player in delivering state type services. This is what was proposed when law reform was recommended in the early 1990s in the *Islands in the sun* inquiry—that is summarised in the appendix of our submission. That was never delivered. With institutional arrangements in local hands, we can develop community capacity while providing services in culturally appropriate and effective ways. Community service delivery and community development are the heart of better governance arrangements. These need to be in community hands.

We are concerned that the Commonwealth has progressively narrowed the shire's role to that of a mainland local government, including arguing that we do not have a political role. In fact, recommendations of a Commonwealth sponsored inquiry by Western Australia's state

department of local government into certain matters found that the local government act restricted the shire's ability to participate in matters to do with governance. We will provide some detail about that later in an additional submission. The transition from the assembly to local government was predicated on the basis that the shire would continue to have the broader role that the assembly enjoyed. This has been ignored. We are also concerned that the transfer of assets and resources to the shire did not occur in a fair manner, and we are still pursuing—without outcome—these issues with the Commonwealth.

We have identified many areas in which the community, via the shire, could work in partnership with the Commonwealth with respect to state type services: planning effective service delivery and participating as a partner in negotiating service delivery with the Western Australia state government and other organisations; overhauling the system of applied laws; putting land planning, development and access on a practical course; agreeing on a strategic plan; and establishing effective consultation and decision making mechanisms. These are achievable, given effectively targeted resources and commitment.

The economic future of the island is at stake, in our view. We know the committee recognises this, as the inquiry was first recommended by the committee as a result of the no casino licence decision by the government in July 2004—a devastating decision. That decision hurt this community. It hurt its potential for economic diversity, for jobs and for a future beyond phosphate mining. We currently have the economic fillip of the construction of the detention centre, albeit that most of the money generated is going off the island. What future is there beyond the construction phase? The idea of the IRPC is a bad one. The island does not want its future economy based on a detention industry. It has the potential to detract from other economic developments such as tourism.

A new economic development strategy has been developed—the fifth in 20 years—but it has little chance of becoming anything other than a plan that sits on a shelf gathering dust with the others. While initially the community was involved in its development, the final draft has been sent to the minister without community endorsement. Its content has been watered down and rewritten to highlight the government's policy positions. No funds have been allocated to its implementation. Economic development has recently become a talking point as a result of the mine's application for new leases. According to CIP, 250 jobs directly or indirectly rely upon the mine. What happens in either the short or immediate term when the mine closes its doors? What do we do then? APSC, the space station, has failed, and a line needs to be drawn under it. The door has been closed on the opportunity for the resort casino by the government itself. Tourism is a fledging industry that needs considerably more infrastructure development to succeed.

Economic development can occur but, to be sustainable, it needs to be diverse and as much focused on improving island self-sufficiency as it is focused on attracting new investment and industry. For this to occur, we need access to land, industry development incentives, a clear and certain system of law and a plan. To achieve any of these, we need to work with the Commonwealth as partners, committed to a future for the long-term island residents and with resources to make things happen.

Improved local institutional relationships can lead to better governance arrangements. We do not support the Commonwealth's position that we are incorporated into Western Australia. We have no constitutional right to have a say in such incorporation. In any event, the

Commonwealth has done nothing to pursue such incorporation. We do not have a specific model for a new governance arrangement other than the development of an on-island government, with decision making being about state type services and laws. We believe research and community consultation is essential to develop a new arrangement. Such a process will provide the opportunity to reframe community-Commonwealth relationships, which is required, in our view, to reform the governance of Christmas Island.

Finally, I wish to record again the council's appreciation of Margaret Robinson's effort in putting together the comprehensive written submission to this inquiry. It represents an excellent review of previous inquiries and decisions—as well as the collective views of the community organisations that have wholeheartedly engaged in the debates and discussions about our community's future, which is the focus of this inquiry. Together Margaret and I will field any questions that the committee might wish us to answer. Thank you for your time.

CHAIRMAN—Thank you. Ms Robinson, do you wish to add to or augment Mr Thomson's remarks?

Ms Robinson—I could go to a couple of points in relation to the WA sport and recreation SDA, which we have tabled for the information of the committee. The agreement was signed between the state and the Commonwealth on 18 December last year. One of the key points about it is that we did not even get advice that this SDA was being considered or was being negotiated at all. Normally, the Commonwealth puts out a report every year on the service delivery arrangements performance reports. In this report they normally flag the key areas that they are working on.

CHAIRMAN—Perhaps you could name the report that we are talking about.

Ms Robinson—It is called 'Service delivery arrangements (SDA performance reports)'. It is for the year 2003-04, and it is produced by the Department of Transport and Regional Services of the Australian government. In relation to that, there is no information in this, the most recent one—which is quite out of date now—about them actually negotiating this SDA. That is a concern for us. Normally we are at least given the courtesy of being told what the agenda is for Commonwealth-state negotiations about SDAs.

The other issue is that some of these SDAs really do impact directly on us. Not all of them impact to such a degree—for instance, there might be a service provision arrangement that is largely about advice-giving by the state to the Commonwealth. There are many of those SDAs—the committee is aware, of course, of the recreation centre that has been built and the shire's management of that centre and the ongoing issues in relation to getting that established. But, in regard to this SDA, we had no knowledge or information about it. It talks about one of the objectives being to promote sound infrastructure. The last couple of pages at the back of the SDA, at schedule A, are the ones that set out the detail. The rest is the standard stuff about what the formal legal arrangement is between the Commonwealth and the state. It is actually the last four pages of the document that set out the detail on the agreed levels of service.

In relation to 2.3, the objective is to promote sound infrastructure planning and sustainable facilities. In relation to the recreation centre, we have had a pretty comprehensive look already at other recreation facilities and so forth. We are really not sure whether the proposal here is that

the Department of Sport and Recreation from Western Australia will review those things again when we have a lot of infrastructure here. It may be very relevant to Cocos, but not to us.

And 2.4 particularly concerns us. The objective is to assist DOTARS and the territory communities in their strategic recreational planning process. Also, it commits the department to undertake an initial strategic recreation planning assessment at the commencement of the arrangement. The service description is: to facilitate a needs assessment and feasibility study for each of the territory's communities—that is, Christmas and Cocos—and monitor progress on an annual basis.

These things concern us directly. We are the largest on island recreation deliverer, and yet we do not even get spoken to about what the proposal is and what the arrangement with the state is. We are very concerned about that. It may be that there are things that the Department of Sport and Recreation can offer; we are not saying that that is not possible. But this denies us even a chance to comment and leaves us speculating about what this might mean. Does this mean that the government are suggesting that, in regard to our recreation centre—which, as we know, at the moment is subject to further audit and agreement with the Commonwealth about an ongoing funding arrangement—it is going to be the Department of Sport and Recreation to whom we look? We do not know and this concerns us. That is just an example—one of many, but the most recent—of the sort of locking out of the community from any involvement in service delivery that directly impinges on us.

CHAIRMAN—Thank you, Ms Robinson. Is it the wish of the committee that the document tabled by Mr Thomson, the President of the Shire of Christmas Island, be accepted as an exhibit? There being no objection, it is so ordered. I will ask a couple of brief questions before I defer to one of the other committee members. With respect to the past—if am quoting you correctly, Mr Thomson—discriminations being redressed, would you elaborate a little on those perceived discriminations?

Mr Thomson—Do you want to deal with cultural?

CHAIRMAN—Just give us some idea of what they are, not perhaps in full detail—unless we stay here all day, and we do not have that largesse. Just a few points where you see the discrimination on the island, and by whom.

Mr Thomson—The Sweetland commission was where substantial work was done in identifying the discrimination in all forms of life on Christmas Island, whether it be social, industrial, the provision of services, accommodation—that is, housing for workers under the previous regime, the British Phosphate Commission. I think if our starting point on discrimination was there, and we go to the Sweetland commission, we find that major changes occurred as a result of that inquiry. For one, the dismantling of the British Phosphate Commission was required because there was a total corruption of human relations as a result of that regime.

CHAIRMAN—How is that manifested today?

Mr Thomson—It was manifested in racial discrimination between the treatment of workers in every aspect of life, including in social life outside work. How is that reflected today? The

people who experienced that discrimination, who lived under that regime, are still living in this community.

CHAIRMAN—Are they being discriminated against?

Mr Thomson—The hangover is still there, and it is a hangover of attitude. The formal, legal structures have been removed; the effects are still there. There is a colonial attitude, certainly, in some sections of our society. The people who were the receivers of the treatment still perceive that discriminatory attitude. There is a white supremacist attitude in the view of many of our people. They see many manifestations of that in the way they are treated, the way they are received in the community and in the way they are dealt with. In fact, my position as the General Secretary of the Union of Christmas Island Workers, as a European cultural base with my experience as a union official on the mainland, is very desirable, and that is why people wanted me to come from the mainland to be the union secretary. But my attempts to recruit and train a local person to take on that responsibility are blocked because people perceive, when you are dealing with the Australian government, with Australian officials, that if you are not a whitefella, you have no chance of getting heard. That is the perception of the people I represent, and I am blocked when I attempt to train, take on and mentor people to take on the position of union secretary.

I guess that is a fairly good example of how people perceive relations now. Of course, the way things are done, perceptions are all important. To change that perception, you have to change the institutional and constitutional arrangements. There has been no change. We are still a colony. We were passed as the colonial possession of Great Britain to become the colonial possession of the Australian government in 1958; nothing has changed, and that is what this inquiry is about. If you change those relations, if you change those structures, if you change those constitutional and institutional arrangements, you will change the culture, you will change the attitude. But you will not change anything until you do.

CHAIRMAN—Is that what you meant when you said that you suffer as a result of your status here or your lack of status, which means the same, I suppose? Is that intertwined with your problems with respect to discrimination but more specifically now with your status? Are you discriminated against because of your status?

Mr Thomson—Of course. A very good case in point—and I will call on Margaret, who has done a great deal of research in this area—was during the *Tampa* visit to our waters when the harbour master, Captain Don O'Donnell, was instructed at that time to close the port to prevent journalists from going to sea and taking photographs of vessels, the *Tampa* in particular. The port of Christmas Island, the waters of Christmas Island, were closed on the instruction probably of the Prime Minister. We were not allowed to put a boat in the water; it was forbidden. It would be against the law, we were told, if somebody were to take their tinny and go fishing because the political interests of the government would not be served by photographers taking photographs of ships. There was total disregard for the dietary needs of people for over a week. The instructions of a government appointed official on Christmas Island were: close the port, and he did. That is the way things are. Where would that be tolerated in the rest of Australia? Nowhere.

CHAIRMAN—Do you believe that your status then requires more autonomy? I do not want to put words in your mouth, but is that what you are saying?

Mr Thomson—Certainly, of course.

CHAIRMAN—Is that what you are inferring?

Mr Thomson—‘Autonomy’ is not a word that I will use. That decision of the government was taken in the belief they could do what they damn well liked on Christmas Island. There was no political, institutional, legal or other power to protect the people’s interests. Any decision of the Prime Minister’s office or any other Commonwealth office is good enough, and we do not have any ability to deal with that. I will call on Margaret to give details about other issues.

Ms Robinson—To add to Gordon’s comments, pages 19 to 25 of our submission go to some of the examples where we see that the vestiges of past discrimination remain. I guess one of the key areas is occupational segregation on racial lines. There are still some very clear distinctions between who does what and we say that those lines are drawn racially. We have given a number of examples there. The types of things to look at include the health service, for example. There are no long-time residents who are actually in the position of registered nurse; they are only in the position of enrolled nurse, which is the lower designation of nurse. There has been no effort to actually break that barrier to get local, long-term skilled people into those higher positions. The school paints exactly the same picture. Until last year, no local residents were teachers; they were all white people imported from the mainland. That barrier has been broken not once but now twice with two local residents who were education assistants. All the education assistants at the school are local residents, largely of Malay or Chinese ethnic origin. So you have this occupational segregation that persists, with our long-term residents holding the lower positions. There has been no attempt to shift that.

There are also some examples within the employment of people. The enrolled nurses and education assistants are employed by the minister. They are not part of the Australian Public Service. The Europeans working in DOTARS are employed by the Australian Public Service; they enjoy all of those retaining conditions and are able to transfer and move around in the system. All of the local residents are engaged by the Administrator on non-APS conditions. That is a clear point of discrimination between the locally engaged people, who are largely of Asian origin, and the whitefellas who take the more senior positions and actually have far more security and better conditions of employment. They are the types of things that really have not shifted. Our argument is that very little has been done—and I think this committee noted it when it undertook an inquiry a couple of years ago—and that really no efforts have been made to train up people into more senior positions. It is a pattern that is going on, and it is not changing. The conditions are kept separate. People are treated differently, and we think wrongly. They are the sorts of examples.

Indirect discrimination is where you look more these days. In the early eighties it was very easy to see examples of very direct discrimination—in wages, conditions, the provision of housing and all of that. They shifted in the 1980s. In 1984 people here working in the mine earned one-tenth of what people on the mainland in similar jobs earned. It was very clear to see that there was a distinction based largely on race—

CHAIRMAN—That does not go on today, does it?

Ms Robinson—No, it does not. Those things have changed. The direct stuff has been dealt with. The easy to see stuff has been dealt with. The less easy to see stuff, the institutional arrangements, are the ones that keep people held in lesser occupations and with lesser opportunities to train and develop and contribute to this community.

CHAIRMAN—Is it subliminal? Is it more hidden?

Ms Robinson—It is called indirect discrimination.

CHAIRMAN—You do not believe it is the type of discrimination for which you could take action through a court?

Mr Thomson—Yes.

Ms Robinson—There are some possibilities of doing that. Yes, it is recognised under the Commonwealth discrimination legislation.

CHAIRMAN—Is there any reason why you should not initiate action in the courts?

Ms Robinson—We have been looking into that. We have had some discussion with the Human Rights and Equal Opportunity Commission about that.

Mr Thomson—We would not want to be sidelined, Senator. We would like to see some political action to right the dreadful wrongs instead of proceeding to deal with individual cases of indirect discrimination. It is very difficult to deal with. The political solution is there if the government has the will—if the governing parties, all of them, have the will.

CHAIRMAN—Thank you very much for the short time that I was able to spend with you.

Mr SNOWDON—For the sake of the committee, you might detail the issue about consultation and discussion. When the SDA arrangements were first entered into, a committee was set up on the island which was supposed to be consulted about every SDA. There was supposed to be advice on laws passed by the Western Australian parliament and how they would affect the community.

Mr Thomson—The department has wound up the legal advice section, I believe. I think you are referring to when the new legal regime was introduced. The department was required to produce a brief which set out an impact statement: what this law means and what is the direct impact. Those are circulated to the Community Consultative Committee. The Community Consultative Committee representatives take it back to their organisations, and you develop awareness of the laws. Yes, that was the practice when you were the minister, Mr Snowdon, but as I understand it, the department does not have those resources any more to provide that sort of advice. The service delivery arrangements obviously dealt with how service was delivered under those new laws. The service delivery arrangements are between the Commonwealth and the state government, and neither the Premier's office representatives from the WA state government nor the Commonwealth will agree that we should have a formal role. We never have had, and we do not have, a formal role.

Mr SNOWDON—Can we go to three or four examples: the migration zone legislation, the casino licence issue, and any other examples in recent times about which you can talk to us where there has been no consultation but decisions have been made which affected the community, and what the reaction of the community has been to those decisions?

Mr Thomson—The migration zone was a political act. We were not allowed to put our boats in the water for a week. Why would they talk to us about what we thought about their laws? As to the casino licence, Mr Ruddock was the minister for immigration at that time, and I do recall some discussion with him about what they were going to do, but that was the limit of it. There is no formal consultation process that means anything. As to the community reaction, a large number of people on Christmas Island enjoy permanent residency status, and Mr Ruddock's office was prepared to guarantee that none of the locally resident people would have their permanent residency status changed or affected. That was the limit of any assurance.

Mr SNOWDON—With the casino licence, again for the sake of the committee, would you explain what happened.

Mr Thomson—With regard to the casino licence, I think it was on 14 July 2004, the last day of Senator Campbell's reign as minister for territories—I think you will recall he was moved up to the cabinet as the minister for environment—he announced that there would never be a casino licence issued on Christmas Island. The government was concerned about the social fabric of the island being destroyed. At the same time, I think the same week, the Packer organisation was making its third and final and successful bid to take over the Burswood Casino in Perth. That was the external context of the decision.

Internally, your committee has conducted an inquiry into the sale and tender process for the Christmas Island casino. The owner of the property, David Kwon, through his company Soft Star Pty Ltd, had given an undertaking to make sure that the casino was up and running within 18 months of his taking over the lease. Senator Macdonald, the minister at the time, issued the lease to Mr Kwon's organisation after the finalisation of the liquidation. It contained a clause which we say required Mr Kwon to reopen the casino resort as a casino. Senator Macdonald argued no, it was not a requirement that a casino be reopened within any specific period; the lease was permissive, that is, it was not required, it was not a term of the lease, that you must operate a casino, but it permitted the operation of a casino. We were taking the government to task for allowing someone to take over key tourism infrastructure on this island, to close it, to keep it closed and not to do what he should do. The minister said, 'No, he can do it, but the government cannot force him to do so.'

In July 2004, the government changed its mind and said, 'That lease is no longer permissive, it is not compulsory, it does not require anything; in fact, you are not allowed to have a casino.' That just destroyed our spirit, to be frank. We had been waiting some years for that resort to be reopened and operational. We had an organisation prepared to invest \$60 million in refurbishing and reopening that resort. That resort employed 320 people when it closed in April 1998. That is something for which we have been hanging out for years and years. We have been pressuring the owner: 'Come on, you've got to do something. You can't hold our community back. You're holding the biggest bit of infrastructure that our community needs to get our economy going.' The government is encouraging him by offering him a \$100 million package to open a space station. He has not done that, he has not delivered that; he has a nice property for \$5.5 million

that cost \$75 million to build. He will squat on it until someone comes along and offers him a price for his real estate. We said, 'That is not acceptable to our community.' Your committee said that was not acceptable. I congratulate your committee on the recommendations that you made, and we thank you for them, but they have not been implemented.

With the inquiry conducted by your committee and the recommendations that you made, the future of that resort must be discussed with this community. What happens out there has to be a product of discussion and consultation with the community, and what did we get? We got a decision that killed us. It killed our spirit, it killed everybody. We even had the Chamber of Commerce joining the UCIW in the process, and I congratulate them on that. It was a killer. We just cannot go on like that. There is no plan for this community.

Mr SNOWDON—Other members want to ask questions, but I want to go to the current work of DOTARS on the island. What is happening with DOTARS in terms of its presence on the island, your relationship with it and how you actually interact with the DOTARS representatives here or on the mainland?

Mr Thomson—The relationship building that we have attempted in the time that I have been the shire president has been about developing a positive relationship, wherever we can. That has paid dividends. The officer to officer relationship has been good. We have new people in the key positions locally, and there is a very positive attitude. Not a lot of business has been conducted in the time that the new director has been here, but we have seen over the last two years an improvement in that relationship.

We have seen the mouthing of words from elsewhere, Perth and Canberra, that say, 'We're looking for a better relationship', and I guess they were all a bit shell shocked. Senator Campbell, thank God, took over from the former minister, Wilson Tuckey, who made it his business to aggravate everybody and try to destroy any interests that we had. As to the relationship since Tuckey, I guess Senator Campbell understood our problems, and he has given instructions to the bureaucracy to try to improve things. We have gone out of our way to improve relationships, but they are all people working within a structure. They have to follow the direction from government in implementing government policy. All I can say is that we are very willing and able, and we have demonstrated an improved relationship at certain levels, officer to officer, and even politically at our level of elected representatives with the new minister. I hope we are working very positively. I certainly find Jim Lloyd a very decent human being, which is a very good start.

Mr CAUSLEY—I want to go back to a couple of things. First, I listened very carefully to your introduction and it seemed to me that obviously you want self-determination, and we can all understand that. Have you done any work on how, say, you would see the cost of the services that are delivered in these areas being funded—what proportion from local and what proportion from government?

Mr Thomson—We have not done a fiscus, I think it is called—the flows. That has been done by SGS Consulting, both the EIS for the mine and also I think SGS was the consultant for the Commonwealth in the development of the economic development plan. In terms of costings, we think that the shire could deliver certain of the state type services that are contracted out more effectively, and probably at lesser cost. As to specific figures, I had a discussion with Margaret

this morning about that. I reckoned this was a question we would get, so I would ask Margaret to comment on that.

Ms Robinson—We have not done a specific breakdown of the dollars. In fact, one of the problems is actually getting the details of what the real dollars are that it is costing now. The service delivery arrangements report that I referred to earlier actually sets out how much each of the SDAs cost and what is the cost of particular service delivery. Clearly in many cases, the service delivery cost here is much, much higher than the same service delivery would be on the mainland. The big cost of that, of course, is getting people to come here, the airfares, accommodation, and the time out. For instance, the magistrate who might come here to deal with 10 cases has to be here for a minimum of three or four days, so a number of factors that have to be taken into account when looking at the cost.

In relation to a number of those services, if local people were trained up to deliver those services, you would immediately start to cut out a lot of the costs of bring people here. Often the largest component of the service delivery is actually the cost of getting people here. The costs of negotiating the SDA are hidden in the process, but the Commonwealth pays the state to negotiate with it. Those costs are not disclosed in the SDA report, so there are other costs. It is very difficult to get a real sense of the cost.

We did a fairly large study last year looking at the whole question of community service delivery, the sorts of services we needed here and how they could be delivered. I will just give an example. We have a small number of disabled people on the island. If you look around, you will see that it is not a very disabled-friendly place, and there are not services, for instance, to assist a disabled person who wants to go into independent living. One of the reasons for that is that it is just too expensive. How the hell are we going to provide a service for one or two disabled people here who want support going into independent living? The only way that can be done effectively and give people the right to that service is by actually looking at training up local people into those roles who can provide them on an as needs basis. We are seeing areas where there is no service provision because of what is seen as a prohibition of cost. We do not have the economy of scale to actually deliver that service, but we say there are other ways you can look at it. We believe you could actually run and deliver a fair and equitable service to a disabled person if you actually had those services delivered locally. If it were someone from the mainland who has to come here four times a year to look and go snorkelling and all the other things they do while they are here, we see a lot of waste.

We also think there are ways that services could be combined. Western Australia has the Department for Community Development and there is also an SDA with the Disability Services Commission; we think there could be some economies of scale if some of those services were brought into a local framework and delivered locally without having to rely on lots of visits here from people to look around, give advice and go away again. Often the real key service delivery that we need, for example, getting a disabled person into independent living, does not happen. There is no service for that. We have not looked at it in a lot of detail, but we have certainly looked at models of how we could effectively deliver community services here in a way that actually meets community need and is culturally appropriate, works for us, and we believe would be a lot cheaper than just buying in advice services from the state who do not really know much about us and how we could deliver services here.

Mr CAUSLEY—Secondly, you said that the council has a vision for the island, and you did not believe that that vision was shared. Could you identify to me where you believe the divergences are?

Mr Thomson—The Local Government Act recommends that we provide a strategic plan, which we have done. We do have a principal activities plan. The strategic plan is shared because it is produced by the shire through consultation; a process of sitting people down and working through the vision stuff, writing it up, sending it out for discussion, and then it is adopted by the council. It is certainly a shared vision for the island, or it should be, because anybody can participate in it.

Mr CAUSLEY—In the local plan?

Mr Thomson—Yes. But the Commonwealth do not have to take any notice of it; they ignore it. I think the Commonwealth have the capacity to ignore most laws as they apply to themselves. For example, the Environmental Protection and Biodiversity Conservation Act was ignored in the planning processes for the IRPC because it was of interest to the government to do that. Now, in saying that, I understand that they have made all sorts of commitments to work in accordance with the requirements of the act, just not the time frame.

In what specific areas do they not share our vision? Obviously with respect to the resort casino establishment out at Nui Nui, Waterfall Bay, we see that as a key bit of infrastructure to build the smaller businesses around that key resort, if that can be quite a large five-star establishment, and expand it. That can be the key infrastructure, and from that, when you get people staying there, you develop other businesses off it. When the government says, ‘Well, you won’t get a licence for that,’ and a \$60 million investment dries up overnight, you do not have a shared vision. That sort of thing is a big issue. We would like the government to commit to—we cannot dictate the terms—a strategic plan of which everybody is a part. Now, the government will not participate in it.

The government has also withdrawn DOTARS for good reasons, I presume, from the Community Consultative Committee. The Community Consultative Committee has been reformed a few times, but the Community Consultative Committee had direct input from the department of territories having a seat on that committee. Now, they have withdrawn from that. They want to withdraw from that sort of community consultation, that sort of participation in developing ideas. I think that is a negative. I think that is a bad thing. So they do not make it easy for themselves to get in there at the Community Consultative Committee and participate, receive and put in. Then, when it comes to the big decisions about our community, they completely ignore us. I think they are two examples of what we are talking about.

Mr CAUSLEY—Finally, I note in your submission that you are not entirely happy that you fall under Western Australian law, and you say that it probably does not reflect the community that you have here at the present time. Could you outline some areas where you believe that the law should be, say, different here to what it is in Western Australia?

Mr Thomson—I would ask Margaret to answer that, with your permission.

Ms Robinson—It is all Commonwealth law which applies state law here. From the analysis that we have done in the study, over 50 per cent of those laws are irrelevant, so they have no relevance to us at all. They apply to a district or whatever on the mainland. We would say for a start that those laws could be culled. The system is quite complicated for us because if you do not have service delivery or boards and other sorts of things that give form to laws in Western Australia, they do not have any practical effect. We are finding that you scratch around trying to identify what the law is here and you find at the end of the day that there is nothing there, even though technically the law applies. There are a lot of areas in which the law is confusing; it does not work for us, and we think that that needs to be looked at.

Another example, one that we have only really understood recently, is that the shire is under the Local Government Act of Western Australia. In that local government act, there are a whole lot of arrangements that local governments can make with each other—regional, local government and so forth. We cannot, because we are the only local government in the law. There is no other local government to whom our law applies, because it is not the Western Australian act, it is the Western Australian Christmas Island version of the act. Cocos is the same. We actually have these laws that in many ways do not work. It links to service delivery and delegations. At times the shire has done things such as collect a construction industry training levy only to find that really we cannot do that because there is no fund here. We go down these paths of trying to follow the law but then find at the end of the day that the law cannot work here. We think that we have the most complex system of law of any place in Australia. That seems quite absurd when you think that we are a small population of 1,200 people or whatever with some fairly simple sorts of arrangements required. We think it is a burden to us.

Also, there are key laws that do not apply, and they actually deny us opportunities. For instance, there is no companies law here. You cannot register a company on Christmas Island. I think the advice from the legal office of the Australian government was: ‘We have tried to look at this issue, but no-one is really interested. We don’t really know why you don’t have a corporations act or state type companies law here; sorry, we don’t not really know.’ We are left with this sort of lacuna of the law, where there is an absence of law. Our concern is that, if you just say, ‘Oh well, it is all WA law’, people get the wrong idea. They actually think we are the same as Western Australia, and we are not. A lot of advice from Western Australian government departments is suspect because they do not understand that it is actually Commonwealth law. They do not understand how to interpret the law and apply it in this context.

We have a lot of legislation where we are required to comply but there is no service delivery arrangement with the Commonwealth and the state, so there is no one to comply to. We are just left with situations where we do not know—maybe we are breaking the law, maybe we are not, we do not know. Unfortunately, the situation here generally is that the only time you understand the law is when there is a problem. For instance, in the case of child protection, child welfare, it was not until there was an issue that you suddenly go, ‘Oh dear, we don’t actually understand how the system works.’ There is an absence of effective delegation. It is all of these things. We have spent a lot of detail in this submission in trying to explain how complex it all is. In fact, we think that the sort of exercise and resources that we need is a system of actually going through carefully and saying: ‘What are the laws that are necessary here? How should they be applied? How does it work in Western Australia? How can we adapt that to make it work here effectively?’ But we have been told by the Australian government, ‘Well, law reform is over; that’s it.’

Senator CARR—Thank you very much for coming today. Because of the size of this committee, I cannot ask the range of questions I actually would like to. I will concentrate on two questions: you indicate in your submission very clearly that you are highly critical of the relationship that has developed between the shire and the Commonwealth and the department. You say that the Commonwealth essentially is unaccountable. You have explained a number of reasons as examples of where that has occurred. Can I get from you an understanding of what sorts of arrangements you would like to see? In your opening statements, you referred to partnerships. Can I get some understanding from you as to what sorts of services you think you can run and what sorts of services the Commonwealth should run, given your hostility to the notion of incorporation into Western Australia?

Mr Thomson—I think we would like to see an agreement that, before any service is contracted out, a discussion is had here regarding what to do with it piece by piece. That would be my first answer; we would like to see a structure that requires the minister and the department not to do anything without the consent of the community. That is, simply, there has to be a legal requirement that, when it comes to these sorts of services, there is a discussion here, a decision here. Why do we want it? I do not want to go back to the casino decision.

Ms Robinson—In terms of the sorts of areas that we are particularly interested in, and we have identified the state type services—health, education, the provision of utilities—those things have been discussed in quite a lot of depth both within the council here and also with Cocos in terms of our aspirations for actual local service delivery and how we can go about it. I think the idea of a plan is to look at ways in which we can agree with the Commonwealth, in partnership, and say: ‘Okay, these are the services. We can deliver them in this way, and these are the funding arrangements that attach to them.’ We have some very good examples of that currently, and we could develop a lot more. It seems very piecemeal at the moment. We think that in a planned way you could have a real partnership if there was an agreement about what DOTARS are doing now that they do not want to do, what we are not doing and what we would like to do, and how in fact those arrangements can be handled, and what expertise or whatever we need to assist us in delivering them. We think that, if you took a strategic and planned approach to that, an agreement to work together, you could then reasonably quickly come to an understanding about a range of services on island delivery of state type services.

Senator CARR—In Queensland the Cairns council runs an airport. Water and sewerage are run by councils. In my own municipality, they used to run the electricity supply. Are those the sorts of services that you think you can provide?

Ms Robinson—Yes, utilities—all of those services that are normally delivered—airport, hospital, health, court services, power and water. The shire used to provide water and sewerage until it was taken off us. In the days when we were the corporation, before we were the shire, we used to do the power service, we used to do housing. Public housing would be an area that we would very much like to talk to the Commonwealth about. We think we can look at an effective local delivery of all of those services.

CHAIRMAN—Have you put a submission to the Commonwealth or to the minister for handling the housing?

Mr Thomson—Cocos shire and Christmas Island shire have put a joint position to ministers certainly over my time in the forum, and the forum has been going for three years. We have put to the Commonwealth that all of those state type services should be discussed with the shires of Christmas and Cocos.

CHAIRMAN—Perhaps a fresh letter might be in order, seeing there is a relatively new minister there.

Ms Robinson—We have raised those issues—

Mr Thomson—We will do that again, yes.

Senator CARR—This committee is the appropriate place to raise it, given the nature of this inquiry. Can I go forward to the next question about the impact of service delivery. The department's submission advises us and appreciates that the economic impact of decisions in regard to service provision is quite profound. Referring to the Indian Ocean territories, it says, for instance, that:

Relatively minor decisions on government capital investments and programme funding often have a significant impact on their small economies.

I have seen estimates that up to \$80 million is coming into these territories from the Commonwealth. You might question me about how much, but a significant proportion of the economy is actually sourced from the Commonwealth at some point. In your view, how significant is the question of service provision to the economic sustainability of this territory?

Mr Thomson—In the context of our economy, I think the mine's gross income from sale of products was approximately \$60 million. So, the mine on Christmas Island is the economic engine. Services to people who live here because they work at the mine, whether it be the school, the power station, the hospital, are paid for by the Commonwealth. I think \$80 million is probably the total for the Indian Ocean territories.

Senator CARR—It may include the money spent in Western Australia for them to negotiate with the Commonwealth as well.

Mr Thomson—Yes, well, we could buy a bloody airline if we wanted to keep up there. A lot of people travel here regularly on these SDAs just to consult about what needs to be done. Once it is set up, I reckon we could do it ourselves. Those sorts of costs would be eliminated. So your \$80 million cost of delivering services certainly could be reduced if it was handed to the local governments. If the administration was located on the island and a capacity to deliver services—the expertise, the trained people, the breadth and depth of administrative talent that we need on the island—was developed on Christmas and Cocos instead of being spread all over Canberra, Perth, Christmas and Cocos, the costs would be brought down. I think that \$80 million figure might shrink a little bit, not that we would advocate that. We would question the way that money is spent, and we would certainly do a better job.

Senator CARR—There is an argument in some quarters that autonomy—whatever term you use—more local decision making, will lead to higher costs and waste. Is it your submission that you would get better efficiencies and perhaps more effective service delivery?

Mr Thomson—Yes. For example, with the provision of disability services, if the service provider is located on the island the service provider might not only deliver disability services type activities but also deliver associated activities. A person delivering that sort of service might be doing something else as well, and the administration and supervision of the service is in one place instead of being spread out and very costly. If the administration of services is concentrated and centralised in one entity instead of spreading it out, of course there will be efficiencies.

Ms Robinson—Just adding to that very briefly, the other cost of course in importing a lot of skills here is that you have to give them housing and pay airfares and all of that. Having to provide all of that to bring a professional or skilled worker to the island is adding probably a minimum of 50 per cent to our wages bill. If people are locally engaged, all of the ancillary support to that worker does not have to be provided and there is a better chance that they will actually stay here and develop over the long term. We think that local jobs is a very key aspect and outcome from local service delivery.

Senator CARR—Finally, I have a question on the so-called normalisation of service delivery. I notice in your submission that privatisation is a matter about which you are concerned. What has been the impact of the privatisation of services on the island?

Mr Thomson—Privatisation of the management of the airport took a significant number of local jobs out of the system. There were eight people employed up at the airport. With the privatisation of the management, none of those eight local people are employed at the airport any more. It has a significant social impact. Of those people, one has found a permanent position at the shire with the new recreation centre being opened. That was fortuitous, and it satisfied a legal requirement of the Commonwealth to relocate that person. That was a good example of the Commonwealth's bureaucrats and the shire working well together locally. As to the people employed there, I think three people replaced eight. There has been an increase in the casualisation of work at the airport. There has been an increased requirement of work to be performed at the airport with security, so there is an increased number of people employed, with increased hours of work. I think all of that labour is pretty well casualised. Security of employment has been lost, although the security services were not provided by the permanent employees of DOTARS. The social impact is there.

Mr SECKER—Just on that, if you took away the fly-in, fly-out people, which obviously costs a lot more money, as you say, would the airport survive? How big a part of the airport's economy are those who fly-in, fly-out? You probably have not done a study on it.

Mr Thomson—I think that the accommodation businesses in the National Jet Systems, the airline that the Commonwealth contracts to run services, would go broke if we did not have all these SDAs, because most of their business is government business. The mine is a big user. The tourist association will be able to provide you with accurate figures, but most of the air travel is business travel. We do not have much tourism. You are right; that could impact. Put it this way: if that money was invested elsewhere and the tourism industry was developed and you got

sensible about our resort, those visitors could be replaced with others who were coming here to spend more money. All of these public servants, we look after our travel allowance and put it in our back pocket as much as we can, don't we?

Mr SECKER—I would not comment on that at all. Obviously you are not happy with the present governance, with the mixture of state and federal, but mainly under Commonwealth control, and you have told us what you want to achieve, which is more local decision making. What sort of model are you looking at? You do not like the present one; you do not want state government. Do you want to be like the Northern Territory? What sort of model do you want to deliver? We understand what you want to achieve, but what is the model that you would be recommending that you use to deliver what you are trying to achieve?

Mr Thomson—We have deliberately avoided recommending a model. We have indicated that the Norfolk model is not acceptable. We have indicated that the Isle of Man might be worth a visit for your parliamentary committee—probably not us; we would not be able to afford it. There are various models of self-government around the world which could be looked at. There is a pretty basic Australian way of looking at government: it is democratic; everybody is equal, and everybody gets a vote. The people elect their own representatives from their own community to make decisions about what happens in that community, including the allocation of resources. We do not have that. State governments do most of the allocations of resources, don't they? They have the purse. So if we have a system that allows the people of the island to elect people to make those sorts of decisions about the allocation of resources, we will be happy. We deliberately avoid making a proposal about the model of government for two reasons. First, we are not satisfied that we can stand or sit in front of you and say, 'This is the model that our community wants.' We are not ready for that. Secondly, it is not a good idea to tell you the model that we want if you do not agree. We cannot do anything without the agreement of the party of government, whether it be Labor, Liberal, National or Green.

The people who are elected to our federal parliament will be making the decisions, when they are in government, about what happens on Christmas Island, and we are sick of it. We think you are people of good conscience who will go to the government and say, 'Look, it's about time you sat down with and together worked out what should be an appropriate model.' We are in the middle of the Indian Ocean. We will always be bound in so many ways financially to the government. In the foreseeable future—and I am talking about the foreseeable future for change in decision making—I do not think we will have a sustainable economy where all of a sudden we can declare independence from Australia. The Australian government has a strategic interest in holding Christmas Island. We cannot go and talk the revolutionary rhetoric of independence and self-government. I used to, when I was younger, but we have to be sensible. We will not say, 'This is the model we want,' because we do not know what are the interests of the government. They are secret interests as far as we are concerned, because they never, ever produced a strategic plan for this island, a vision that we can all get behind and share and work to. It chops and changes.

Mr SECKER—DOTARS suggests that we go down the track of your becoming part of the state of Western Australia, just like Kangaroo Island is in South Australia and King Island and Flinders Island are in Tasmania. I am interested in why you are rejecting that model quite outright.

Mr Thomson—I have never been to Kangaroo Island, but if you hop on the ferry and go to Kangaroo Island, what does it take, four hours, two hours?

Mr SECKER—By ferry, less than an hour.

Mr Thomson—Yes, it is like going to Bruny Island from Hobart, for instance. There is not much different about the place, is there? You get on the ferry and the people are much the same; the shops are much the same; they have the same newspaper. We do not get newspapers. We do not get news and current affairs from the Northern Territory, which is where we elect our federal representative; we get it from WA. It is totally inappropriate. There is no recognition of our community. There is no—

Mr SNOWDON—You are not missing much by not getting the NT newspaper!

Mr Thomson—We are not like Kangaroo Island; we are not like Bruny Island; we are not like King Island. We do not have the same people; we do not have the same neighbourhood. You are very close to the mainland where you are. This is a special place. It has a special history. It does not have recognition of an indigenous people. It does not have a history of habitation. We are different from Cocos. Cocos has recognition. It has had an act of self-determination; we have not. There are differences wherever we look. Christmas Island is different. Your arrangements must recognise the community that you are, then there will be a successful community. Then there will be an elimination of the bad things we have talked about.

We do not have a formula. We have had one referendum during the referendum on the republic. The previous administration of the shire held a referendum about self-government and advocated at that time something like the Norfolk model. Although it was a 66 per cent vote in favour of self-government, it was indicative of dissatisfaction, and there was not a real commitment from the people. In talking with them, of the 66 per cent I think 50 per cent of them voted out of loyalty in favour of the referendum, with the idea of shaking out the Commonwealth a bit. When you get only 66 per cent of your people voting for a model of government that they do not understand and do not know much about, and what they do know they do not want, then you have not done your work. We have not progressed much on that.

Mr SECKER—Would I be right in saying that if the Australian government actually spoke with you more and gave you more right to make local decisions, you could actually live with the present model or the present arrangement of delivery, provided you had a far greater say in the decisions that affect you?

Mr Thomson—If we had institutional arrangements that reflected what you say immediately, that would mean you could start talking to your community about taking responsibility. If you have never given people responsibility for administering themselves, you cannot expect them to pick it up overnight. You have to move in the right direction—to the left or the centre, whatever you want to call it—in the correct way, taking people with you. People are not there. There is a bit of a cargo cult activity in some sections of our community. I am not talking about people I represent particularly, but directly at the union office, for example, where people do not have any understanding of economy. We have a very good understanding of economy, probably the most sophisticated understanding, because we have the greatest responsibility. People are always saying, ‘The Commonwealth should do this, the Commonwealth should do that,’ or ‘The

Commonwealth should give this or that. We went broke; you pay our bank bills.' If you go broke because you make a bad investment decision, bad luck. If you go broke because of Commonwealth government decisions, then the Commonwealth should compensate you. There is a bit of that going on in the community. We want to go together.

Ms Robinson—We have given some outline in the submission about what we see as the main reasons against incorporation into a state, including Western Australia, not the least of which is I guess the fact that the chances of that being achieved are fairly remote. At the moment, if you have a state government that is being paid for every cent of its activity in the IOTs, what incentive would there be for the Western Australian government to take us on? It is quite difficult, but we have never been given an opportunity, for instance, to hear any fleshing out of the Commonwealth's proposal. Which seat would our political representation be in? How would we be represented in a state government? It is very difficult to comment in detail on something about which we do not have any detail.

The other thing is that, in terms of all of the financial issues around how we are funded and all of that, one of our submissions is that we do not actually have a full picture of the ins and outs, the fiscus. There was an attempt at a fiscus in 1995 under a Commonwealth Grants Commission, but they identified then that it was actually most difficult to work out what Commonwealth money was being spent, and what Commonwealth money was being drawn out of this island in terms of taxes and so forth. It is very difficult to gather that data. You do not want to be ambushed into proposing something if you do not really understand the ins and outs, the financial arrangements that could flow. It is quite difficult to propose something in great detail, to say, 'We want this,' when we do not have the full information, when it is very inaccessible to us to make an informed view of that.

Senator CROSSIN—I wish to clarify a couple of things. I am looking at the submission from the department that states:

The Territories Minister has also endorsed protocols for a new committee of the Shire of Christmas Island whose objectives will be to facilitate communication between the community and the Minister.

Is the committee they refer to the one that Evan Williams had established?

Mr Thomson—Yes. The minister's advisory committee is referred to there.

Senator CROSSIN—They do not give it any name. They just describe some committee without naming what it is or who set it up.

Mr Thomson—Yes. We proposed that the Community Consultative Committee's function be enlarged by the inclusion of the Administrator, at that time Evan Williams, and that that committee provide advice to the minister about significant decisions.

Ms Robinson—In our submission we note that we had put forward a proposal but that it had not been accepted or rejected. We have certainly worked on the way that that could operate. I think we have even proposed some protocols and so forth for that. With the Administrator's leaving, that has not been really progressed any further, but certainly the minister indicated his interest. It was really a question of how we get that going, and what was going to be the subject

matter of that. It is a possibility to explore, but it was really just consultation and information. There was certainly no suggestion that there would really be a full consideration of local views before decisions were made. For instance, in the case of the health service, despite an agreement from Mr Lloyd that he would look at that, he has not given us any opportunity to really engage with him about that decision.

Senator CROSSIN—I am just trying to get a handle on what the department may say to us when they appear before us in Canberra. They will probably say to us, ‘But a consultative committee does exist.’ Is there such a current committee or is it now to be reviewed seeing you have a new Administrator arriving today?

Mr Thomson—No. It is a committee that we proposed. The minister’s office has agreed to set it up and there was a caustic comment in the letter that was drafted by the Administrator—it has never met. The Administrator proposed that the first meeting should be to meet a bureaucrat, which defeats the whole purpose.

Senator CROSSIN—Is this the committee that does not have DOTARS on it now?

Mr Thomson—The Community Consultative Committee, yes.

Senator CROSSIN—Is that different to the Administrator’s advisory committee or is it one and the same?

Mr Thomson—We have said to the minister, ‘This is our Community Consultative Committee, add water, the Administrator, and we have the minister’s advisory committee.’

Senator CROSSIN—In their report they are suggesting that the *Islands in the sun* produced in 1991 is the base for their platform now. This report was written by the House of Representatives; it recommended incorporation in WA, ‘So here we go; this is our policy.’ What is your response to that now? Has the community moved on?

Mr Thomson—They do not follow the policy.

Senator CROSSIN—You are telling us it is not where you want to go now. You do not want incorporation to WA. Has the community moved on?

Mr Thomson—The community has moved on. That is our view and that is one thing about which our community is clear.

Ms Robinson—If you read in context the *Islands in the sun* report and all of the recommendations and options that were considered by the House of Representatives committee, it seems that people at the time said: ‘We have got to have something better than we have now. Linking us with WA seems the right sort of thing—it is where we have links.’ In terms of really testing the questions of how you would be incorporated; what would that involve and how would you be represented? None of those issues were canvassed at the time. Notwithstanding that recommendation it was also put in the context that there must be more local decision making. If you are looking at that as a whole package of things, it seems that the Commonwealth said, ‘We’ll take that bit but we’ll ignore all the rest of the deliberations of that committee.’ There is

quite a bit we have looked at in our submission to try and identify that the whole package has not been delivered. If you just pick off a bit of it, it is unfair.

Senator CROSSIN—Are you putting to us that they should implement all of the recommendations of *Islands in the sun*?

Ms Robinson—In terms of the issues that they raised—that there needed to be greater local decision making, there needed to be an assembly type of role; the Christmas Island Assembly existed at that time and they were looking at that role continuing—they saw that as very important, as well as looking at the application of laws. We say to a large degree the actual recommendations have not been fully implemented. I do not have that in front of me but the whole spirit of it was to fix up a lot of big problems in the system of laws. As a side thing they also looked at the other issues to do with what would be the ultimate future for the island. Those issues were not canvassed in detail and I think left a lot of work there. I do not think the principles on which they were operating have been implemented in terms of retaining the unique and special character of the place and recognising that in any future form of governance.

Senator CROSSIN—You also talk about engaging an honest broker—a formal process with an independent broker who will keep the process on a firm footing. Why do you think there is a need to have such a person? If you could improve the consultation or negotiations between the shire and the government why do you feel you need a go between there?

Mr Thomson—We indicate we do not have all wisdom. It is not going to be confrontational and there are potentially confrontations on two sides and someone in the middle has to keep it going; that is just mechanical.

Ms Robinson—It is the UN model. The UN describes itself as an honest broker when it is trying to actually assist non-self-governing territories to move to a better arrangement and to decide on their future. They say it is very important for their education and consultation as well as someone who can keep the process going. These processes can take a long time.

Senator CROSSIN—You recommend an accessible complaints mechanism in terms of all areas. Is the Commonwealth Ombudsman what you need?

Mr Thomson—I do not know how many visits the Commonwealth Ombudsman made—I think one. The state Ombudsman has been a couple of times.

Ms Robinson—There is no transparent internal process if you are unhappy with service provision, for example, DOTARS' own complaint process. The federal Ombudsman, who has been here once, said, 'We will go back to these departments and say, "Have you followed the complaint procedures that are available within these departments?"' The point is they do not appear to be very visible to us and I do not think the Ombudsman has ever dealt with an issue. It is interesting that the Commonwealth has a relationship, an SDA, with the state Ombudsman. The state Ombudsman has come here at least twice now, but that is only for us to complain about state government services—it is very minor. Then she brought the federal Ombudsman here because she was very concerned that most of the concerns and the decision making were actually Commonwealth, not state, issues.

Mr Thomson—That was last year?

Ms Robinson—Yes. Unfortunately, as soon as he left the island he was given all the additional migration detention issues to look at and, although we certainly raised some issues with him, we have never heard back.

Mr Thomson—It is a lack of that representation that people on the mainland have through their state representatives. We felt that we really do need additional care.

Senator JOYCE—I would like to acknowledge the discussions you have had so far and the statements, as all councils say they would like a greater involvement in their decision making process. There were a couple of things in your statements that disturbed me a bit. You talk about the ‘righting of the dreadful wrongs’, that there is a belief, you said, that it has in the past been almost a ‘white supremacist’ belief. It seemed to draw a picture of something that I certainly do not see walking around the island—I may be missing it. I fail to see how trying to manipulate something from history prior to 1958 is going to be a possibility in any way, shape or form. It is just an ongoing process and you really do manage that on your own behalf if you inspire a sense of community engagement and everybody gets along—only you can do that. Nobody else can do that from anywhere else but yourself.

Mr Thomson—We do that.

Senator JOYCE—I draw a couple of analogies between where I come from—being south-west Queensland; if you drive responsibly it is a six-hour drive to Brisbane—and where you are here. You have a population of approximately 1,500 people, about half the size of our shire, about the size of Dirranbandi. I am looking at the resources that you have here. We have a swimming pool at Dirranbandi too, it is called ‘a river’; and the childminding centre is ‘a tree’. What knocks me over when I am here is how much Commonwealth money has been spent here—absolute buckets full. I feel quite jealous about the resources that you have had expended in your community which are completely lacking in ours. Do you think you are not on a pretty good wicket?

Mr Thomson—We are talking about the institutional and constitutional arrangements for decision making. We have a recreation centre that you saw yesterday that came about from a political deal. Mr Snowden spoke with Mr Ruddock and they came up with \$8 million because we had been complaining that the sports hall down here was not a place to put human beings—and it was not.

So, after some years of pressure, it was agreed that the government would put up \$8 million and we would have a dual purpose community facility and a place to house refugees in decent accommodation, who are arriving periodically over a period of 10 years. The government decided that an \$8 million facility was not good enough—they wanted a \$200 million one. They decided to build this other thing. I said, ‘You can keep the \$8 million and it will not be a dual purpose facility; it will be a recreation centre for the community completely and you can have this and you can have that.’ It is by accident, Senator Joyce, that we have a beautiful and magnificent facility which is designed for a population of 70,000 people. It is not something we said we had to have but it was a commitment that the government honoured. It was just an accident. We do have a magnificent facility, that is true.

In terms of the other services and facilities we have on Christmas Island, I do not know whether they are outstanding by comparison to other communities. I am a Queenslander by birth and upbringing myself. I understand that Queensland has always been in my lifetime—I was born in 1956—a backward state when it comes to the provision of services to country areas. I come from a country area and I know what you are talking about and I may well be backward, but in the nicest possible way.

CHAIRMAN—That is not a feeling the committee shares, Mr Thomson.

Mr Thomson—Thank you very much for that, Senator Lightfoot. I know I can rely on you to be very decent in all things. In terms of other facilities, what other facilities are there?

Senator JOYCE—Your hospital, your sealed roads, your ports, the airport—I could go on. They are way in excess of the facilities that we have in our area.

Mr Thomson—My advocacy is very good obviously. It is a shame that not all communities have sealed roads and schools. Certainly the school is been air-conditioned and it has been for some time.

Senator JOYCE—It seems like if you had to fund your housing yourself on a more limited budget, if there was not such a good arrangement, you might be lacking a lot of those facilities.

Mr Thomson—Yes, indeed that is the dilemma for all small communities. I think that popular thinking or the contemporary official thinking is that a society or community is not self-sustaining until it reaches a population of about 100,000. That is the planning view as I understand it. I do not think we would ever hope to be able to sustain all of the services that we enjoy if we relied on our current economy.

Senator JOYCE—The other thing is the casino panacea; have you done any sort of study into what the downside of that might be for the district?

Mr Thomson—A study was done in the late 1990s by a social worker; some effort was put in there. In terms of the negative social impacts?

Senator JOYCE—Yes. You as one living in a western town in Queensland at some stage would understand that it is also very easy to inspire problems into your community and once they are there you will not get rid of them.

Mr Thomson—We do have gambling on the island.

Ms Robinson—It is legislated.

Mr Thomson—There are legislative arrangements for the Poon Saan Club. At this time in particular during Chinese New Year you will see some gambling that is licensed by the government. I am not one of those people who say that people should not do those sorts of things if that is what they really want to do. One thing our community did before the support for the original casino licence was given was to conduct a formal referendum. The result of that referendum was that a very high percentage of the people involved and living here were in

favour of the casino licence being granted and the casino being built. I think in the order of 90 per cent of the people voted in favour of the casino. I can see the shortcomings personally—I am not a gambler myself, but it is not my role as an elected representative to say, ‘There should not be gambling because I do not like it.’ When 90 per cent of the people voted in favour of a casino before, it is not my role to tell them that is not what they want. This government should not be telling our community: ‘You are a dead duck and you will not have a sustainable community. You will never be able to afford to provide services. You will never being able to stand on your own two feet because we are going to keep you that way; we are going to keep you totally dependent on government financing,’ and then make it sweet for us by giving us good facilities. That is no answer. That casino was working. It was providing jobs and our community was humming. There were two big engines. A very successful business out there became unsuccessful because of decisions elsewhere.

Senator JOYCE—You would not end up owning the casino; it would be managed by an external party. You have a very strong belief that there would be a continued correlation between the wealth generated there recycling back through your community, as opposed to people bringing in their own workers and their own contractors to run everything for that casino, like they do with the tourist runs in Cairns?

Mr Thomson—What do they do in Cairns?

Senator JOYCE—If something is owned by a Japanese contractor they try their very best to make sure it is owned and operated and sustained by Japanese contractors.

Ms Robinson—It was not the case here when the casino was operating. Over 200 of the 300 jobs were actually held by local people, with the croupier and those types of people being brought in from the circuit of Australian casinos that people seem to work in. It was largely Indonesian owned but there was strong local employment.

Mr Thomson—Hundreds of local people retrained to do those jobs so it was very successful. One of your members—Mr Snowdon—was here, supervising. The government required that and the commitment was there. It was a great employer; the conditions were good and the people who did not know much about being croupiers were trained as croupiers. People enjoyed it, they loved it and it was a great for their social life. I did not gamble—I never gambled—but I went out there every Saturday night because there was a live band every night of the week. It was a focus for social activity and it was not just about doing your dough at the casino. In fact, the people who did most of their dough were the high rollers from overseas. That is what I like about it.

CHAIRMAN—Thank you, Senator Joyce, and thank you again, Mr Thomson. On behalf of the committee I thank both Mr Thomson and Ms Robinson for their contribution and attendance here today. If there are any matters on which we might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections.

Proceedings suspended from 10.19 am to 10.33 am

ASIMS, Mr Michael Nicholas, Executive Member, Christmas Island Chamber of Commerce (Inc)

O'DONNELL, Captain Noel Patrick (Don), Executive Member, Christmas Island Chamber of Commerce (Inc)

PAYNE, Mr Russell David, President, Christmas Island Chamber of Commerce (Inc)

CHAIRMAN—Welcome. I remind you that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and warrants the same respect as the proceedings of the parliament itself. The giving of false evidence or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee has received a submission from the Chamber of Commerce, No. 4. Are there any corrections or amendments you would like to make to your submission?

Mr Payne—No, not at this stage.

CHAIRMAN—The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask some questions, do you wish to make an opening statement?

Mr Payne—Yes, we do.

CHAIRMAN—Please proceed, Mr Payne.

Mr Payne—Thank you for the opportunity to make this submission to the committee. The Christmas Island Chamber of Commerce welcomes this inquiry into governance. We feel that effective governance, based on self-determination, is the only way the Indian Ocean territories will attain sustainable economic development and social cohesion. The current colonial style administration has demonstratively failed this community. It has demoralised our economy, destroyed investor confidence and has critically undermined this island's sense of community. The Commonwealth of Australia attained sovereignty over the territory of Christmas Island in 1958. For 48 years the people who have worked here and have chosen to make this their home have been denied the basic rights, obligations and responsibilities enjoyed by every other Australian citizen. The Commonwealth has acknowledged that the Indian Ocean territories are geographically separate, and also distinct both ethnically and culturally from Australia. It recognises the differences in the administrative, political, juridical, historical and economic elements between territories and Australia. By virtue of this recognition and acknowledgment, the Commonwealth has conceded that the peoples of the Indian Ocean territories are in a position of subordination as determined by the United Nations under principle 5 of resolution 1541. Complicit with this concession, the Commonwealth has an obligation erga omnes under international law to ensure that the violation of the territory's right to self-determination ceases. It also has a sacred duty under article 73b of the United Nations charter to develop self-determination, to take due account of the political aspirations of the peoples to assist them in the progressive development of their free political institutions. Principle 6 of resolution 1541 states:

A non self governing territory can be said to have reached a full measure of self government by (a) an emergence as a sovereign independent state; (b) free association with an independent state; and (c) integration with an independent state.

Under principle 9(b) these outcomes are to be the result of the freely expressed wishes of the territory's people, acting with full knowledge of their change in status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. However, despite these very clear processes, in 2000 the Commonwealth, in an unambiguous violation of its obligations under international law, unilaterally decided to impose a policy of full integration with the state of Western Australia onto the peoples of the Indian Ocean territories. This policy was written in Canberra, by Canberra, for Canberra. The policy was compiled in secret without any consideration to the aspirations or democratic rights of the peoples of the Indian Ocean territories. It took 3½ years for this policy to be officially promulgated. Residents of the territories were not informed of the existence of this policy until January 2004.

While it is obvious that the Commonwealth's integration policy does not comply with the basic norms of jus cogens in internal law, it is also an unintelligent, very poorly conceived document. It is fatally flawed. Under section 123 of chapter 6, titled 'New States in the Constitution of the Commonwealth of Australia', to integrate the Indian Ocean territories with Western Australia requires that the parliament of the Commonwealth may, with the consent of the parliament of the state and the approval of the majority of the electors of that state, voting upon the question, increase, diminish or otherwise alter the limits of that state.

Any hypothetical examination of these processes would show that, while it is theoretically possible, in reality it can never be achieved. It requires both houses of federal parliament, both houses of the Western Australian state parliament and then a plebiscite of the Western Australian people to agree to amend the territorial boundaries of Western Australia to include those boundaries of the Indian Ocean territories. It simply cannot happen.

How much longer does this inequity have to be perpetuated? Our minister stated in Senate estimates in May 2004 that it may take another decade before we achieve self-determination. He was certainly in no hurry—he had much more important things to worry about than the democratic rights of a few islanders in the middle of the Indian Ocean. That will make 58 years of colonial rule on Christmas Island.

While we persist in this status of subordination we will always remain second-class Australian citizens. Our government deliberately discriminates against the peoples of the Indian Ocean territories by its lack of care for the aspirations of these island communities. You have tried for years to find an existing model on which to base decisions but have failed comprehensively. We are comprehensively different from any other community in Australia. We require a fresh approach with new ideas. The chamber's submission is but our opinion but should provide an insight into the direction where a solution may be found. There is most certainly no solution contained in the department of territories' policy.

I would now like to discuss the economic benefits of internal self-government. This can be best illustrated by that infamous cabinet decision to remove casino regulation from Christmas Island statutes that saw the end of a \$50 million resurrection of the casino and associated private business. I use this example because these issues generally lie within the responsibilities of a

state level government. That is the legislative level in which the Commonwealth refuses to allow the Indian Ocean territories to participate.

I will now hand over to Michael Asims to run through the content of the Ocean Star Resort's proposal, and what it would have meant to Christmas Island.

Mr Asims—Firstly, I would like to extend a welcome to all the members of the committee and certainly to the new members of the committee who are here for the first time. When I last spoke to this committee three years ago, in early 2003, we spoke at length about the Christmas Island casino. A number of significant events have occurred since then, most of them in 2004. The most significant event was a media release by Senator Ian Campbell on 16 July 2004, which I believe was his very last day as the minister. It was in the form of a media release advising us that:

In the interests of the Christmas Island community, the Australian Government has decided to make legislative changes to prohibit casino operations on Christmas Island.

He went on to say in that media release:

To that extent, the Government is concerned about the impact a casino would pose to the social fabric of the Christmas Island community and the dislocation to families that problem gambling can cause.

Effectively, that put an end to any hope the community had to resurrect the casino on Christmas Island. The casino is considered to be not only a privately owned business, but in many ways a community asset to this community. When the casino was operational between 1993 and 1998, it employed at times over 400 people, with the payroll coming back to this community of over \$850,000 per fortnight.

In any event, I would like to go through a brief chronology of events leading up to this media release. We see in the *Hansard* report of 27 May that Senator Crossin asked Senator Ian Campbell about the casino. I quote:

Senator CROSSIN—Senator Campbell, you just said a minute ago and you said in February that you were keen to get the Christmas Island casino reopened. Are there actually any serious plans to reopen the casino on the island?

Senator Ian Campbell—There are probably discussions around all those options. Mr Kwon—

the owner of the casino—

has asked us about the process involved in getting the casino going. ... My understanding is that reopening the resort is one issue and getting a casino licence is another. Any casino licence would have to go through all of the proper probity and other processes.

He is not saying here that we cannot have a casino licence. He is not saying we cannot resurrect a casino licence. He is simply outlining the fact, which is that a probity process is in place and any future operation will have to meet that probity process. Interestingly, on 5 April, and this is only a couple of months before the media release, Senator Ian Campbell writes to the Minister for Immigration and Multicultural and Indigenous Affairs. Basically he is flagging the owner's desire to reopen the casino. He says in part, in this letter:

Tourism plays an important role in the Christmas Island community and I expect the current owner of the Christmas Island Resort to seek a casino licence in the near future. The re-opening of the casino would strengthen the local community market and be a major contributor to local economic activity.

The proximity of Christmas Island to Indonesia and Singapore makes it an attractive destination for visitors from that region, and I expect that the reopening of the casino would re-invigorate this market. While I recognise the heightened security measures we now face, SPV status for these visitors would be a substantial benefit to the casino and the Christmas Island economy.

Here, two months before the same minister releases a media release to say there will be no casino, he is actually supporting the casino idea. On the same day, he writes a letter to Mr David Kwon. Once again he outlines the process which needs to be followed in order for a casino licence to be issued. Again, it is a lengthy letter, and nowhere in this letter does it mention anything about the government thinking about not resurrecting the casino licence for this community.

On 14 July 2004 we have another letter. This letter is to Mr Don O'Donnell, the President of the Chamber of Commerce, by Ian Campbell. Briefly he says that he recently met with senior representatives from the Korean Freedom League. This is the group of people that were willing to enter into a joint venture partnership with the owner of the resort, and expend up to \$50 million to resurrect the resort. The letter states:

I recently met with senior representatives the Korean Freedom League to discuss the future of the Resort. I expect outstanding issues will be resolved in the near future.

This is on 14 July. Then on 16 July, the same day as the media release, there is a letter from the minister to KFL Star Resorts—this is the proposed joint venture partner—and the minister now says:

In the interests of the Christmas Island community the Australian Government has decided to make amendments to the law applying on Christmas Island to prohibit casino operations on Christmas Island.

That was basically it. So an investor who was willing to come here and bring \$50 million to resurrect a community asset and provide up to 400 jobs to this community simply walked away.

Mr Payne—If I can add to that. That was after 12 months of coming here and building this up. The architects and the builders had been here. Everybody had looked at what it would take to refurbish. All of that work had been done. We were actually expecting the construction to be finished, the resort part of the casino to be opened in January 2005, and with a casino operating in May 2005. That was the program. This company had been led along for 12 months by the Commonwealth government, by the minister for territories. I do not think it was by the minister for territories, but by the processes involved in dealing with the government. It is an international company. I do not know if you aware that the KFL group are the Korean equivalent of our RSL. They have compulsory conscription in South Korea, and they have millions of members, and they have resorts all around the world. These people would have parked 200 to 250 tourists here every day of the week, every day of the year, with a huge amount of resources. It would have done so much for the local economy. They got led along. This is one of the other aspects of poor governance on the island: that this is an international company that is worth

squillions, and now we have kicked them out. So, the investment reputation, internationally, of Christmas Island has taken a blow, a big blow. That is one of the aspects of it. I will allow Michael to continue.

Mr Asims—On 19 July 2004 KFL Star Resorts wrote a letter to Mr Andrew Wilson in the department of territories, and they basically highlighted their concerns in relation to this media release. It is a lengthy letter and I am only going to just paraphrase some of the important aspects of the letter.

CHAIRMAN—I will not interrupt you again with respect to the letters from which you are reading, Mr Asims, but just say that we would like copies of all that correspondence, if that is convenient. I am well aware of the company to which you allude about South Korea too.

Mr Asims—The letter states:

Our company's plan to invest and market Christmas Island Resort is as follows:

Refurbishment: Refurbish the resort into a world-class five class resort

World-class tourist attraction: Our company will concentrate on not only casino operations, but also concentrate on the tourism of the Island, and develop various activities in order to promote and market the Island into a worldwide tourist attraction

Airplane Routes: Organise and develop new airplane routes for gamblers and tourists, and purchase resort's own private jets ...

The proposed airline routes for Christmas Island were Indonesia (Jakarta)-Christmas Island; Singapore-Christmas Island; Thailand (Bangkok)-Christmas Island; Korea (Seoul)-Christmas Island; Malaysia; Japan; China et cetera. The letter continues:

Recreation Activities: Develop water recreation activities such as, scuba diving, fishing, jet skiing, and also develop horse riding, golf and other activities

Travel packages ...

Production of a Korean TV drama—

they were going to base a long term Korean TV drama on the island—

Asian Super Model Contest—

which was to be an annual event. It continues:

In order to fulfil the objectives ... KFL Star Resort and Casino is estimating an investment of about \$30 million for the first year. Currently, our company has already invested about \$3 million, and we are in the process of overcoming difficult problems relating to the project such as, air flight routes ... The reason our company—

and this is the key issue—

could invest into this project, was because we believed in the stable and secure Australian regulation and laws, and also because we believed in an additional commodity, which was the casino. But we were very shocked and surprised to receive Minister Campbell's letter concerning the proposed legislative changes to prohibit the casino operations on Christmas Island. Because Minister Campbell did not mention the slightest thing in regards to this matter during the meeting held on 28th of June.

Again, it came as a complete surprise to these people as well. The decision by the federal government not to renew the gaming licence for Christmas Island resort and casino has had a number of significant effects on the island population. The impact on the island and its populous is as follows.

In early 2004, KFL commenced a \$50 million refurbishment of the Christmas Island resort and casino, with the intention of attracting many international visitors to the island. The decision to prohibit gaming operations on Christmas Island terminated the refurbishment project. Gaming at the resort is required in order to make the redevelopment commercially viable. A sizeable proportion of the redevelopment funds would have been allocated to wages and goods and services provided by individuals and companies based on the island. This availability of new funds on the island would have promoted economic activity which, in turn, would have benefited many of the small businesses and their employees.

During the operation of the original resort casino from 1993 until 1998, in excess of 400 staff were employed at the resort. With a known population at that time of approximately 2,200, this represented around 20 per cent of the total population. Many islanders were employed in various departments at the resort, ranging from gaming to food and beverage and hotel operations. With the closure of the resort in 1998, many of the local employees became unemployed or had to take on lower paying jobs in local small businesses. The cumulative loss of income has had a profound effect on the workforce and local businesses support the community. There are no official statistics kept on unemployment levels on this island. However, it is a well known fact that in excess of 10 per cent of the workforce is currently unemployed. In addition to this, the island phosphate mine is in the process of winding down operations. Once this occurs, the level of unemployment on Christmas Island will increase alarmingly. Many of these long-term island residents are contemplating the closure of their businesses and relocating to the mainland where employment and education for their children is assured.

Tourism and ecotourism in particular was always identified as a necessity in order to sustain the economic viability of the island. During the period from 1993 until 1998, Christmas Island was serviced by a twice weekly air service from Perth, five return flights per week from Jakarta, and a number of chartered flights from Singapore or Thailand. These flights not only brought gamblers to the casino, they brought many tourists as well. Christmas Island boasts many wonderful natural features, rare and exotic flora and fauna. The annual crab migration, amongst other things, is known worldwide and attracts many visitors to the island. The fledgling tourism industry on Christmas Island was always dependent upon the arrival of visitors from Australia and South-East Asia.

The closure of the resort and subsequent suspension of flights from Indonesia and other countries has devastated this industry. Although there are a number of respectable lodges and

guest houses currently on the island, Christmas Island Resort provided the only four- to five-star accommodation and resort facilities that many travellers desire. The reopening of Christmas Island Resort, and the reintroduction of some of the air services, would reinvigorate this vital sector. The decision to prohibit gaming operations resulted in the immediate cancellation of numerous weekly flights to Asian ports. As a consequence, the only flight to the island, currently, is a twice weekly flight provided by National Jet Systems from Perth. However, the cost of a return fare with National Jet Systems is in excess of \$1,800. I recently flew to London for \$1,450 from Perth. Currently there is also a flight to Singapore, but that flight is really dependent on the North West project, the government's proposed detention centre. We are told that once that winds down it is likely that this service will discontinue also.

Finally, in the years 1993 to 1996 the casino operation was very successful, with average monthly gross gaming revenue in the region of \$20 million. This equated to approximately \$240 million annually. Based on what Mr Thomson said earlier this morning, that is five times the amount that the mine currently turns over. One per cent of this amount, or close to \$2.4 million, was provided for vital infrastructure projects on the island through the Community Benefit Fund.

To sum up, it seems that the government have discounted all these benefits that the casino would bring to the community, and they have told us that we cannot reopen our casino. However, the community has not given up and that is why we are speaking to you again today. We will continue to speak to people about the casino in the hope that we can, sometime down the track, resurrect this community asset. Thank you.

CHAIRMAN—Thank you, Mr Asims. I would urge you to continue doing that. Captain O'Donnell, do you have any comments?

Capt. O'Donnell—I would like to commend the shire for their presentation. It covered a lot of points and certainly the direction of that is in line with the aspirations for economic development of the Chamber of Commerce. Good governance and economic development go hand in hand, and there is abundant historical and empirical evidence to support that statement. Equally, bad governance, bad policy decisions and lack of economic development are the other side of the coin in the social equation. I raise this concept of governance and economic development because this island is economically going backwards. In fact it is in decline, and in 2006 it will be seen, in historical terms, as a watershed for either a positive or a negative future of development.

The last decade has seen Australia have unparalleled economic development, but not on Christmas Island. Why is this? It is the accumulation of a lack of political will by various Commonwealth governments to develop a democratic governance model for the island, and we have had the stop-start economic development of projects which have created very little financial residue on the island to benefit the Christmas Island community and the private sector and lessen the outlays of government. I will not go on about the rejection of the \$30 million for that.

It was the policy of the Chamber of Commerce to have three pillars of the economy. One was the casino resort; one was the government's IRPC project; and the one in the middle was the mine, because the mine has an uncertain future—it could be three years, it could be five years, but it has an uncertain future. The decision at the highest level of government to not grant a

future for the restoration of the casino demolished one pillar of the economy. There is the uncertain future of the mine, and then we look at the completion of the construction of the IRPC project, perhaps in 12 or 18 months; what is left for the island? What is left? It is a daunting picture, and it is the culmination of a lot of government inactivity to do something for this island.

We have made submissions. In fact, the last time I sat before you, Mr Chairman, I presented a submission to show that the government's cancellation of the Walter Construction Project cost the private sector, who had been exhorted to invest on the island, \$22 million collectively, and the private sector has never recovered from that. What happened two years later? The government reactivated the project. It has gone from 1,200 people to 800 and it has gone up by \$100 million. Yes, we are very disillusioned and we are very cynical. As Gordon Thomson said, the community is very cynical. We are wondering whether it is government policy to depopulate the island, because they are making a very good job of it.

I will leave you with that thought. The population is shrinking with everything that is being done. When I have a senior officer in DOTARS sitting across from me at a conference saying, 'I am your state government,' I find it very offensive. That was said; that was on record. I would just like to put it into nautical terms, if I may, and then I will finish. A lot of people, when they come to this island, say that it looks great, it is great and that is why they are there. I give them a model to get their mind around what the island is; it is like a great passenger ship. It has a permanent crew made up of ethnic different peoples, and that is normal on any ship in these days, and we are the permanent crew, we are running the ship.

Then there are specialists who come to the ship—the police, quarantine, teachers and so on; the technicians who come and look at communications and the infrastructure of the ship, and the board of management. You have come to inspect the asset of the Commonwealth. You come and enjoy the hospitality. Everything looks fine, everything is lush and green. You say that everything is fine, that it just needs a touch of paint. Well, let me tell you, gentlemen, the ship of Christmas Island is not going anywhere. We have no say in what we do or where we go. It has to end. I think that the case has been made by Russell. I feel very strongly about this. That is my concept model for people who come to this island. I put it before this committee in simplistic terms. The ship of Christmas Island is not going anywhere.

Senator CROSSIN—I thank the three of you for your submission today. I have been coming to the island for many years and I want to say publicly that I think you have a lot of fortitude to keep going and to stay here, and to not pull up stumps, because from my observation of what has happened on the island in the last couple of years that would be pretty easy to do basically. I particularly commend the Chamber of Commerce for the work that you do on the island. I know we have all reaped the benefits of your hard work in the last couple of days, and I think people ought to remember that as they formulate this report. I actually see some businesses that have a lot of enthusiasm and potential and just want the opportunity to grasp that. What sorts of services do you believe you could provide on this island, given the opportunity to do that?

Mr Payne—I believe that we can run an entire state government level of services on the island, with SDAs where they are needed. I agree with the shire's submission that a lot of those SDAs could be amortised and run by a bureaucracy that is based here. To me, it is not a question of services and that sort of thing; we cannot get the cart before the horse. Before we can do any of these things we have to go through those processes that are in the United Nations charter, with

the people of the Indian Ocean territories, to ask them what they want. In the first instance, we have to educate those people.

I have absolutely no problem at all with understanding that we could have an internal local assembly running our entire state level services, based on the model that actually exists on the island now, where we receive Western Australian law and we receive the bureaucratic support from SDAs through Western Australia. It takes that onus away that, as you are all very well aware—and it goes on at Norfolk Island—where generally legislation is done after the horse has bolted. There is a very small population base to get the intellect and the life experience to develop good laws that really protect their people, and that is where they are failing badly at the moment. They really should look at a model very similar to the way that we receive our state government legislative base. We can do it here if we use that system.

One important tenet that we have that Norfolk Island does not have is that we have Western Australian laws and we, the people of the town, have the ability to obtain proper legal protection by lawyers and judges from Western Australia who are familiar with the laws. They do not have to be specialist lawyers or judges. That is an important part of any social structure—that the law is available to all of the people.

We can do all of these things, but we have start at the beginning. The beginning is to educate people, to start this process where self-determination can happen really well. You can look at the place now and say to yourselves: 'It's a bit of a ramshackle hick town. There aren't too many people around here. Do they have the resources to do this?' This place could crank up very quickly. I came here at the beginning of 1991. The casino was being built. The mine had just reopened and in May 1991 the first shipment went off of the CIP joint venture. There was construction of the casino, and in 1993 that casino opened and this place just took off. We talk about these people.

The thing that I liked about it best of all was at the beginning of the process it did not have a high local employment content, but that was really because of the lack of training within the community. The casino company started evolving into a higher level of employment amongst the local community. I go back to the people of Malaysian origins on the island. A number of wives came up here with their husbands in their early twenties and had lived on the island for 10 or 15 years and had not worked. Their husbands were working in the mine with the government. Suddenly these women were out there in the casino with a job that brought \$600-\$700 a week into the family. You started to see nice clothes around the place, people going on holiday, people painting their houses, doing some gardening, those sorts of things. The place was really, really taking off.

That is why it was very offensive when we were led on for a year to believe that we were going to have this. It was right there—the big carrot—and that was at a particular time when the economy was absolutely lousy. We were all going broke. I nearly went broke three times in the last two years. I am only here because I think I am too stupid actually. I should have left. I would have been a lot better off. We have to take control of this. You guys, at best, give us part-time governance. You are not here all the time. You are not proactive in our needs. You cannot react to our needs. We have got a crane out there that needs fixing. We still do not have a decision on that. And why has that crane broken down after three years?

Those are the sorts of issues. We need to have the helmsmen—getting back to Don’s ship—on the ship. We need it here, and we can do it. If we start this process the population will change, I hope, to bring back all these superbly well educated children that we see coming back here every Christmas—these bright, sparkling young people who have all these degrees and qualifications. They are all out there—hundreds of them were born on this island—and we just have to provide a future for them. My two children are the same. My two children are on the mainland because that is where the employment is. There is nothing to bring them back. We do have the capacity to provide the intellectual necessities to run the government on this island, but we need that. It is not so much that we need it; we are entitled to it. We are supposed to be Australian citizens. I am supposed to have the same rights as you guys, but I do not, because I live here and you live over there.

Senator CROSSIN—Mr Payne, the shire put to us this morning that there are quite a range of service delivery aspects they believe they could do quite quickly, like utilities for example—providing water and sewerage and managing that money and those arrangements. There are probably some, like health and education, that might come later rather than sooner. You are putting to us, though, that in due course you believe this community would have a service agreement with Western Australia, or you might even decide to have it with the Northern Territory. You are suggesting to us that instead of an SDA between the Commonwealth and a state government in the immediate future, probably sooner rather than later, this community could actually be responsible and, if it cannot deliver the service, it would have an SDA with somewhere else?

Mr Payne—The SDA would be with the legislative assembly based on Christmas Island, not with the Commonwealth government.

Senator CROSSIN—You talk about an assembly. You are not talking about the shire council initially sort of chewing away at this little by little, are you? Or are you talking about something larger?

Mr Payne—We have to do something different. Politically, my view on that is a shire council is a shire council. The shire council on Christmas Island is elected. It has a bigger role on this island because it is our only elected body. Ostensibly it is only elected to carry out those functions of a shire council.

This was the incongruity of the CCC. It is supposed to have been a body that looked at legislation and SDAs and gave comment on those things before they were passed. That is how it started off. I was here when that happened. It was supposed to be selected legislation, not all of it, but that quickly got dumped. We just took the lot. As Margaret said, probably 50 per cent of our legislation is totally inapplicable but it is on our statute. The body of legislation that sits here, as you are probably all aware, is a completely separate, but similar, body of legislation that exists on Cocos Island. It just becomes a nightmare.

We can do that. I have absolutely no problems in an orderly structured assembly—sorry I have gone off the track. To do this here, we need to immediately have the cessation of the introduction of any more laws or amendments on the island until we can get an assembly put together, a group of people elected by the people of the island for that purpose, to look and review SDAs and do this. When the gavel goes down at the second reading in the Western Australian lower

house and it becomes law, it is the law here on Christmas Island. I will give you an example that really made my blood boil. On 30 June 2004, right amongst all this stuff going on, I got an email from the Administrator of Christmas Island, telling me that as of 1 July—tomorrow—the stamp duty as a Commonwealth law, which again is a bit of a strange thing, is going to increase on both insurance premiums and property sales.

Mr CAUSLEY—State?

Mr Payne—No, this is a Commonwealth law applying it to us the next day—that is, one day's notice. When you research the actual act that the Western Australian parliament used to do that, they raised that level of taxation to raise revenue to build their underground railway. So, we got a tax increase, which you guys got, because it goes straight to Commonwealth funds. It does not go there; it goes to the Commonwealth revenue. That is what happens. What basis are you taxing us on? Should we pay taxes? Are we getting the full deal? Regarding the basic tenet in Australian law about ignorance of the law being no excuse, well I disagree. Out here, we would not have a clue what laws apply, as Margaret said. We could do anything we like and just say, 'Look I am sorry, Your Honour. That was never debated in this community. That was not passed by this'—

CHAIRMAN—I have been asked to interrupt you. I have six other members and your answers are extremely long. I wonder whether you would be kind enough—I do not want to inhibit you, I wonder if you cannot perhaps keep your answers just a little shorter so we can get through the other members. Sorry about that.

Senator CROSSIN—That is all right. I think we got the point there. Can I have the liberty of one more?

CHAIRMAN—Yes.

Senator CROSSIN—Your submission also is pretty critical about the administration—I think you were talking about actually the DOTARS people being relocated to Perth. You have given us examples. Does this relocation just compound that frustration?

Mr Payne—Yes it does. It actually stopped. They have already done it on Cocos and it was going to happen here, but they have turned around that policy and stopped it. All of the reports, I have the three of them here—the two Commonwealth Grants Commission hearings of 1999 and 1995 and the *Islands in the Sun*, all recommended that if you are going to make laws then you need to be pretty close to the place that they are going to affect. That is what I said in my submission. If DOTARS staff left, we would then end up in a situation where decisions would be totally arbitrary and the effects would not matter. They would not care about them. It would be more down the line.

Senator JOYCE—In summary, you raised the similar position of what the council said. You think there should be a greater engagement by the people of Christmas Island and how their laws are based, and also by SDAs. That is basically the underlying theme. Would you agree with that?

Mr Payne—Yes, I would.

Senator JOYCE—In your opening statement regarding your referrals to the United Nations charters for self-determination—I am going to be quite blunt—do you want to be part of Australia?

Mr Payne—If you read the submissions it says—I will just quickly read this out to you. This is actually plagiarised somewhat from the preamble to the Norfolk Island Act. This is it succinctly.

It is the wish of the peoples of Cocos (Keeling) Island and Christmas Island that Cocos (Keeling) Island and Christmas Island achieve, over a period of time, internal self government as a single Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of a representative Legislative Assembly and other separate political and administrative institutions.

Senator Joyce, all we need in the scheme of things, to bring us up to speed with Australia, is to have control over state level governance, and that is what we are talking about with self-determination.

CHAIRMAN—When you say Australia, do you mean the mainland?

Mr Payne—Yes. State laws are imposed on us under a colonial style administration, and that is the way it is. There is no practical way of actually doing it. In fact, the SDAs and adopting legal regimes from another state is actually a decolonisation process. It is a recognised one. That is what we are actually undergoing right now.

Senator JOYCE—You gave some examples of the stamp duty, and I imagine there would be people in the Kimberleys, even though they are part of Western Australia, who would raise exactly the same contention—why would they be paying a stamp duty for something that they are never going to enjoy. Can you give me an example of some taxes that would be paid by someone on the mainland that you would not pay here?

Mr Payne—Yes. Tobacco and alcohol to help our tourist industry would be really good, but that does not change legislation. That is in a regulation. You can vary the rates of liquor taxes and tobacco excises and things like that.

Senator JOYCE—There are no other excises you pay? Do you pay the GST on this island?

Mr Payne—No, we do not.

Senator JOYCE—You do not pay the GST. So, there are a couple of other advantages.

Mr Payne—GST is an interesting thing. The history of that goes back to the fact we never paid sales tax, and the reason we did not pay sales tax when the legal regime changed was because of the freight, the cost of getting things here. That was to the balance. We are also a duty-free port, which is another commercial advantage that we should be able to enjoy. If we paid the full gamut of taxes, if we paid GST and had to pay duty on all our imports, this place would not be here. It simply would not have anything here. If the government is committed to the long-term future of a populated Christmas Island—some say it is not—those sorts of things

have to be there. Otherwise you would have to do a similar thing as the Tasmanian shipping with direct subsidies, which is a dirty word these days. We would want to stay away from subsidies.

Senator JOYCE—There was a long dissertation about the casino, and obviously there is a strong interest. We acknowledge the interest that has been shown by both yourselves and the council about the casino. Did you do any comparative analysis to casinos in any other countries similar to yours, islands similar to Christmas Island, and what the effects have been there, both beneficial and consequential of that?

Mr Asims—Senator, the casino was open for a total of five years. During that time 99.9 per cent of its revenue, and 100 per cent of its profit came from overseas visitors. Most of the money in this casino was made in the VIP room, which is the smallest room in the casino. It has six tables.

CHAIRMAN—When you say overseas, does that include the mainland or is that excluding all Australia?

Mr Asims—Yes sir. It includes Indonesia, Singapore and Thailand. The locals did have access to the casino, but only to lower level gaming—\$5, \$10, \$20 bets. The bets in the VIP room were anything up to \$100,000 bets. The locals could visit the VIP room but did not have access to the gaming facilities of the VIP room.

Senator JOYCE—Are there studies of any other industries? What I am getting is this continual referral to the casino, and that is probably just. I am at an inquiry, so I am inquiring. Are there any other possible avenues? There is the IRPC, the phosphate mine, eco tourism. Apart from the casino, have any other ventures been contemplated or considered by the Chamber of Commerce as a step forward that would take the people of the island with them?

Mr Asims—I actually work for the owning company as well. We spoke to a number of potential investors. They did visit the island and they did conduct feasibility studies to open the casino as a resort facility, rather than a gaming facility. On all occasions, those people decided that this property could not survive simply with tourism. It is also very interesting to note that the highest occupancy this resort ever enjoyed, even at its peak, was 28 per cent overall, but it did not matter. It could have stayed at five per cent, because it made all its money from a very, very small percentage of its visitors, and that was the gaming visitors. It did support airlines. It did support a number of things on the island, but without the revenue stream of the gaming operation, it could not do so, and it can never do so in the future. Yes it was looked at for a resort, but it was never, ever going to be a resort.

Mr Payne—Senator Joyce, also prior to the federal government issuing the first licence or the go-ahead to do it, there was a whole lot of research done into the effects of the casino, both economically and socially. There were some social effects after the casino opened, but on the whole, and I was here through that whole time, they were very small. There were one or two people who were casualties of the system, probably more than that, but overall it did not affect the community too much at all. In fact, if you went out and took a vote on whether they want their casino back—to the extent that the Islamic Council on Christmas Island, which religiously is against gambling, said that the social aspects of the casino operating in the town were worth them supporting it. That is the thing. I know people who had to pack up and go to Perth and sell

their home and stuff like that, but that was a very small minority of the people on the island. In that respect we know that we can handle it.

Mr Asims—When we spoke to the Commonwealth recently about a casino licence, we proposed a range of harm minimisation measures that would be implemented with any new casino licence, but even that did not move the Commonwealth to reconsider our proposal.

Senator CARR—Mr Asims, do you have any indication from the government as to the reason for its decision to change tack so dramatically, given the sequence of events you have outlined in your submission today?

Mr Asims—We are not really sure what the reason was, and in the absence of any logical explanation by the Commonwealth people in this community speculate. When the Commonwealth fails to deliver a logical answer, or a logical reason as to why they will not give us a casino licence, the community speculates and when they do the Commonwealth cannot complain.

Mr Payne—Can I add a little more to that chronology of events. Some time around 21 June 2004, PBL issued its final offer on the Burswood Casino and it said, ‘You have until 16 July to make up your mind.’ It is quite interesting when you think about major casino news, that on the morning of 16th, eastern standard time, the department issues the press release saying it would remove that from the statutes, and then around lunch time Western Australian time, the chairman of the Burswood Group recommended to its shareholders to accept the PBL offer. Now that is a chronology of events. That is fact. That is what happened on that day.

Senator CARR—It is clearly in your minds that this is related to what happened with the Western Australian casino?

Captain O’Donnell—Precisely.

Senator CARR—There is no question about—

Mr Payne—It seems that way

Senator CARR—Thank you.

Mr Payne—We have had other indications, which are totally speculative and I will not go into here, but we are reasonably certain that it reinforced that decision.

Senator CARR—Who are you now dealing with within the government about trying to reopen this question?

Mr Payne—The minister for territories.

Mr Asims—Really nobody because they have told us not to bother.

Senator CARR—There is nobody, no one within the department?

Mr Asims—No, sir. The joint venture partners have left. They are no longer interested.

Capt. O'Donnell—Senator Carr, the first time that Minister Jim Lloyd was here we discussed this at great length, and submitted certain documents and we were told that it was a dead issue. We replied that we did not consider it a dead issue, and we would pursue this by all and any means at our disposal. We have not forgotten, and we have not given up on it, because we think the decision was a very bad decision from the very highest level of government.

Senator CARR—Is it your view that this committee should examine this question in terms of its report?

Mr Payne—Yes. We would love someone to look into it because we need more of an answer than the stipulated one here that it was, 'In the interests of the Christmas Island community that the Australian government has decided to make legislative'—if it is in our interests, well how about asking us. That never occurred. What is on this piece of paper is a furphy, because clearly the people who know our interests best are us and we were not asked.

Senator CARR—Finally, is it your view that should an appropriate tender process be reopened, that there would be parties interested in reopening the casino and seeking a licence?

Mr Asims—Senator, we are still in contact with the previous interested party, and they certainly would be interested in looking at reinvesting and coming back to the island should the government reconsider its decision on the casino licence.

Senator CARR—Can I ask the other members of the chamber, is it your view that there would be other parties, apart from the Korean interest, that would also be interested in such a licence arrangement?

Mr Payne—That is very difficult because it took David quote a long time to find—like Michael said, there were people who came up and had a look at it, reviewed it for them, and the casino was the economic catalyst. In fact, it is the island's economic catalyst; it is the thing that brings everything else together. Over the years, it was really only this one company that has come up. Given time, even the APSC project might come to fruition. That is the thing. I do not know that there are that many people out here. This was one group that came out but they are not queuing up if you know what I mean. There is no great queue.

There has also been a lot of other recent casino activity in Macau, Hong Kong and even perhaps in Singapore. That sort of thing changes the market so people are looking at more accessible, glitzy places. As the KFL Group said, it is the stability that the Australian government is supposed to provide, that security of their investment, that they were looking at when they looked at Christmas Island, and that decision muddied a bit. What is going on here? We expect this from Indonesia or some place like that. That is the trick of it. Like I said, 'in our interests' is just so far removed from the truth—that this is the decision and how it was made. They never asked us—not one word. In fact, two days prior to that the minister said that it was all okay.

Mr SECKER—If you had self-determination, in a perfect world, what do you think would happen with the island's mining operations? Do you think you would open up more areas for mining or go along as you are now?

Mr Payne—That is a very hot topic at the moment. I would say that at this point, if we had internal self-government, that would be an island decision to be made, and I would say, given the current political thing on it, that mining lease application would go through, at least at a state government level, because that would be the overwhelming feeling of the people here. Now that is to take that question in context of today. If this casino was operating, that would have opened in May last year. We are now seven or eight months into salaries of \$400,000 a week getting pumped into this community. We may have then had a different outcome on it, but given the economic future that the government provides for us, no.

I think that the mining leases would get approved through a local legislature now. That is being realistic. It is not a view that I agree with, but practically that is what would happen. It would be our decision, and that is the most important part about it—our decision.

Mr CAUSLEY—Can I just get one thing straight, because it worries me that I think in both of the submissions you have painted the picture that you are second-rate citizens of Australia. Let us get one thing clear. As Senator Carr has said, the estimate for spending on the Indian Ocean territories in Australia was \$80 million.

Senator CARR—That is right.

Mr CAUSLEY—If you divide that by \$2,100—\$1,500 here and \$600 in Cocos—that is \$38,000 a resident. I have an electorate of 100,000 people, and I can tell you that you are getting 3½ times every member of my electorate. So we are trying. On this business of the casino, it seems to me to be a bit like a cargo culture. You see that the casino is the answer to everything. What else have you done with Tourism Australia, for instance, to try and attract tourists to the island?

Mr Payne—We have done things with that, but I am not qualified to actually speak on it. There are some limitations, especially with the SDAs with Western Australia, about a Western Australian tourism organisation promoting another place besides Western Australia. The best people to ask about that would be the tourist authority, or ask Michael.

Mr Asims—One of the problems in relation to tourism here is the fact that it costs nearly \$2,000 to get here from Perth. Tourism from the mainland simply does not exist.

Mr CAUSLEY—What about the north?

Mr Asims—To the north. We have a charter flight to the north; it is not a regular flight. It is not something you can book a year out. It is also very expensive—in excess of \$1,000 to get here from Singapore. The problem is not only with the cost but with the frequency. The flight is only once a week. Most people do not wish to travel and stay here for a week. They want to come here for three or four days.

Mr CAUSLEY—That is called a chicken and an egg situation. You have to overcome that. What comes first the chicken or the egg? It is something that you have to work on. If you can develop some sort of tourism then the passengers will start to grow, and that is when your airline becomes more profitable.

Mr Payne—As Gordon said, we have done about five economic development plans since I have been here. One of them I sat down for three days and did, but they are all sitting on a shelf. One of the consensus things that has come through here is that Christmas Island's tourism will always be niche tourism. There is no way we can afford to have a thousand tourists a day here, because they will just destroy everything.

Mr CAUSLEY—Lord Howe is the same.

Mr Payne—What you need to have here is niche tourism, which is high cost, high return, low volume tourism. We have all the necessary things to do it.

Mr CAUSLEY—Scuba divers.

Mr Payne—Scuba divers, fishermen, speleologists, birdwatchers, nature things—there is a whole list. There are something like 42 of these different types of ecotourism things, where people are paying \$400 a day to be where they are and do these things—when you look up the websites. Ninety per cent of those opportunities are available here, but we do not have the wherewithal to set all that up. Say you were to take a bush tour. You might be lucky to get me as I know a few trees, and someone else would know a couple of others, but you will get nothing. There is no organised tourism on the island. If we are going to look at doing something, it is to incubate some of these businesses through CEDA and so on. You buy a vehicle that is suitable for taking people around, in luxury, because they want to spend money and come here and do the thing properly. So you get good vehicles and good well-trained staff running it. You run these things until we build the numbers up and then flog them off to the people who operate them. But you finance them at the beginning. That is one of the options.

There are a whole lot of other things too: aquaculture, hydroponics. We even have a movie studio, and that came out of left field. We had never thought of that one until the KFL Group came up. They are the best soapie makers in Asia, so they have a market for it. There are a whole gamut of things that we can do. The APC project is a catalytic program. If that happens, all these other things fall into place too. The program is still on the cards, though it is going really slowly at the moment. There is no funding for it. If the funding starts, we can crank that one up again.

Mr CAUSLEY—There are several vacation clubs across the world, and they have resorts right around the world. Members use these resorts. Have you approached any of those clubs?

Mr Asims—Yes, we have. A number of them have been here. They are simply not interested. If you can recommend any to us we would be very happy to talk to them.

Mr SNOWDON—I must say I am extremely disappointed with the issue of the licence. For the purpose of the members of this committee who do not know, my signature is on the original licence because I approved it, and I went through the process of examining the potential impact of gambling on this community. To my knowledge, apart from a couple of instances which

Russell referred to, there was no long-term detrimental negative impact on the community of the gambling at the casino, and the social implications were very positive. I know the answer to this question but I am going to ask it in any event. Are you aware whether or not Senator Campbell actually did a study informing himself of the impacts of gambling on this community?

Mr Asims—No, not to my knowledge. I do not believe a study was done.

Mr SNOWDON—Are you aware that the ACT and the Northern Territory are both territories whose laws can be overridden by the Commonwealth?

Mr Asims—No, I am not aware of that.

Mr Payne—Yes.

Mr SNOWDON—Do you know whether or not the Commonwealth has considered suspending the casino licences which operate in Alice Springs, Darwin and Canberra?

Mr Asims—No.

Mr Payne—Not at all.

Mr SNOWDON—So, for some reason or rather, gambling is a real problem here but it is not in Canberra, Darwin and Alice Springs?

Mr Payne—Mentioning discrimination, yes. Absolutely.

Mr SNOWDON—We have not got a response as to how the government came to this view, but they have given us this view that they are very concerned about the community on Christmas Island, in particular, apart from any other community in Australia.

Mr Payne—We are special. We keep saying that.

Mr SNOWDON—I just wanted to draw that out because it becomes patently obvious.

Mr Asims—There has been no explanation given to us.

Mr SNOWDON—This morning we have discussed proposals to diversify the economy, which have centred around tourism, and you have mentioned others which may be considered. But it is also true that in the past there have been proposals which have been about servicing, such as a language school, an apprentice school, a trade school, specialist medical services. A range of other proposals have been discussed in this community about how the community infrastructure might be best used to facilitate economic development. I think we need to make sure that this committee understands that the discussion has not just been about tourism. The discussion over the years has penetrated a whole range of different areas, including aquaculture, services in the health industry and the education industry.

Mr Payne—There was an another example, if I can just interrupt for a second. The ESOS Act—which is a Commonwealth act—governs the way you manage overseas students. The

school is designed to have overseas paying students in it, and we actually started cranking it up in the chamber to get this started. We looked up the act and we were specifically excluded. It said 'a state', but when you looked up the definition of 'a state' it said just about everywhere in the world except Christmas and Cocos Islands, and there are a lot of those acts. This is the thing. We do not have that representation. The act itself only set up the regulations. Why exclude anybody? Why not say, 'If you want to do it, here are the rules.'

Senator CROSSIN—I apologise for interrupting you, Mr Payne. I have asked question after question about the ESOS Act and Christmas Island being excluded, and the latest we have is that the ESOS Act has been reviewed. I am told through the estimates process that the department is mindful of the Christmas Island request, but we have not seen any outcome of that review yet.

Mr Payne—It has not come through yet but we know it is in the pipeline, so then we can start. We could have started that this year.

Senator CROSSIN—Your raising it perhaps is a good trigger for this committee to ask where it is at.

Mr Payne—Thank you. I would appreciate that, because we could start it next year.

Mr SNOWDON—You have the Grants Commission report of 1995 in front of you. You are aware of the discussion in that report about the process for informing the community about laws passed in Western Australia?

Mr Payne—Yes.

Mr SNOWDON—You are aware of the shire submission—which I am happy to refer to—which at page 87 outlines decisions which I took as parliamentary secretary in 1995 to set up a process which would involve the community in consultation about any laws passed in Western Australia, and a process by which, if the opposition of the community were expressed, we could suspend the operation of those laws. Are you aware of that?

Mr Payne—Yes.

Mr SNOWDON—In 1996 that all changed. Why did it change in 1996?

Mr Payne—What happened in 1996? There was a change of government.

Mr SNOWDON—I just wanted to make a partisan point that the Labor Party's approach to the way Christmas Island is governed historically has been very different from the approach which has been adopted by the current government. In 1995 the Labor Party was moving towards a self-government model. They discussed a self-government model over a period of years which would have provided much of what you are after, and indeed the work of the Grants Commission in 1995 was at the express request of the Labor Party, to determine whether or not a fiscus could operate in this community, bearing in mind the income that was coming in from the casino. It was very clear that, when you looked at the fiscus—the total income stream from the casino and the other commercial activities happening on the island at the time—there could well have been a case for isolating this fiscus from intervention by the Commonwealth. We need to

understand that the world changed dramatically. As we all know, we win and lose elections. I lost an election in 1996. The coalition, under John Howard, got elected. Things changed dramatically in this place as a result of that event and have not been remediated since.

Mr CAUSLEY—There is no election for two years. There is no need for a speech.

Mr SNOWDON—It is just a bit of history which is important to understand.

CHAIRMAN—It is important to ask questions, I think.

Mr SNOWDON—I am about to.

CHAIRMAN—I am very pleased to hear that!

Mr SNOWDON—The important thing to try and understand, though, is what compelling new arguments can we elucidate to get into the government's mind the importance of having this representation on the island? Canberra saw the arguments and they have taken no notice. So what are the new arguments that we can put forward that will convince the government of the error of their ways?

Mr Payne—One of the things that happened under the Labor Party, as you are obviously well aware of, was that we had a parliamentary secretary for the territories. We did not have a minister who spent most of his time, like Ian Campbell did, creating billions of dollars worth of roadworks on the eastern seaboard, which is what he was doing during that last month leading up to the election. I do not know how many billions, but it was lots and lots of money. We were just forgotten, but in fairness to Senator Campbell, everything here was on remote control so we could have this casino, so he thought this place was fixed basically. It just had to go through its processes until that end happened. A parliamentary secretary who is devoted—

CHAIRMAN—Is this answering Mr Snowdon's question?

Mr Payne—It is, yes. He asked me what steps I would like to see happen to change what is going on now and that is what I would like to see. I would like to see a parliamentary secretary for the territories, where we have a full-time person in the parliament who is responsible for us, and with direct consultation, because that did work and that was a good system. Another thing we need to do—do not lose track of the point—is let the people of Christmas Island achieve self-determination, and you need to take steps to ensure that that happens. You have an international responsibility under law to do that.

Senator JOYCE—You want a parliamentary secretary, a member of the government, to be full-time? What about the Cocos (Keeling)—

Mr Payne—It would be all the territories.

Senator CROSSIN—Jervis Bay.

Senator JOYCE—What was yours? That was all the territories, all the external territories?

CHAIRMAN—We have three or four people speaking at once. Come to order please. One more question please, if there is one more.

Mr SECKER—Why did the casino stop in 1998, and what is to say that if you had a casino going again it would not close again?

CHAIRMAN—It went bankrupt, did it not?

Mr Payne—It went bankrupt only because the owner wanted it to go bankrupt. He just stepped away and left it.

Mr Asims—The reason the casino finally closed was because in 1997 the Suharto government in Indonesia decreed that all flights to Christmas Island and from Christmas Island to Indonesia would be cancelled; no permits would be given for any flights from this place to Jakarta. All of our business came from Indonesia. It was a purpose-built casino for the Indonesian high roller market. When this happened, basically the flights stopped coming, the gamblers stopped coming, the resort was left with no revenue stream and a very high cost base. This cost base was not a problem when the revenue stream was there. It was not a problem employing 400 people; it was not a problem paying the Community Benefit Fund but, when it stopped, it became very difficult to sustain the cost base. The owner did attempt to continue for quite some time without a revenue stream, but finally the casino closed down and eventually the owner or the business went bankrupt.

Mr SECKER—The currency collapsed in Indonesia at the same time.

Mr Payne—Yes, also that.

CHAIRMAN—On behalf of the committee I thank you, Captain O'Donnell, Mr Payne and Mr Asims for your presence here today. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make editorial corrections.

Resolved (on motion by **Senator Crossin**):

That the committee authorise publication of the evidence given to it at the public hearing today, including publication on the parliamentary electronic database of the proof transcript.

Committee adjourned at 11.50 am