Archaic law delays Darwin rail project

By State Political Reporter GREG KELTON

A CENTURIES old law passed before Australia was even discovered by white settlers, is one of a series of legal problems threatening to cause further delays in the Darwin-Alice Springs rail project.

Lawyers working on contract documents associated with the project are worried the Westminster system law - passed in 1603 - could conceivably be used in legal action against the railway operators.

The law allows for the creation of a monopoly under British law and the rail operators are worried that under the law, they could be classed as a monopoly and face anti-competition legal action by other operators.

Government sources said yesterday they thought the lawyers were “joking” when they first raised the issue and recommended that the law be repealed.

Legal problems could delay major construction work on the $1.3 billion project for up to five months.

An investigation by The Advertiser has found the 50-year rail contract, which at one stage was to have been signed last month, is now not likely to be signed until the end of next month.

This would delay the start of construction work until late November, which then raises problems because the Northern Territory wet season runs from late November to April.

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More than 100 documents relating to the contract now make a pile 2m high.

Premier John Olsen hinted at the continuing problems when he made a keynote address to a rail industry conference in Sydney on Monday.

"We are hopeful that, by the end of this year, work will be under way and Australia will have the largest and most important national infrastructure project since the Snowy River Scheme half a century ago," Mr Olsen said.

He said yesterday while he was frustrated with the delays, he expected the contract to be signed next month and work to start in November.

He acknowledged the onset of the wet season would pose problems and one of the options being examined was starting work from the Alice Springs end of the line instead of Katherine.

"We want to move the matter forward as quickly as we can," he said.

"This is an unusual project in that you have three governments involved, you have a consortium involved and there are effectively six boards who have to sign off on each aspect."

A senior public servant in Adelaide told The Advertiser contract negotiations had become "bogged down" mainly over what lawyers described as the "what if" clauses.

He said the financiers were seeking guarantees that neither the NT nor SA Governments would introduce laws which could harm the line's future operations.

The public servant said the SA Government was "pushing things to the limit" in a bid to get the contracts signed. The continuing legal issues were first raised publicly by NT Chief Minister Denis Burke in a radio interview in Darwin on August 3, when he said he was getting extremely frustrated" with the delays.

But one of the major snags was the fact the project was a "build, own and operate" enterprise. "The operator wants comfort that there won't be laws introduced in the NT that would negatively impact on the economics of the railway," Mr Burke said.

"For example, laws that could be introduced that would benefit the road transport industry to the detriment of the rail."

Highly educated, young city dwellers and well-heeled rural families have benefited the most, from rapid technological change of the past 20 years. Young men were the biggest users of the Internet while usage generally declined the higher the age group.

The study was compiled by NATSEM, the research arm of the University of Canberra, with help from the Council for Social Service and the Communications Law Centre.

It found those most likely to remain unconnected to the Internet included retirees, the unemployed and those earning less than $24,000 annually.

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