

CUSTODIAL LEGISLATION (OFFICERS DISCIPLINE) AMENDMENT BILL 2013

Second Reading

Resumed from 20 November 2013.

MR P. PAPALIA (Warnbro) [12.25 pm]: I rise as the lead speaker for the opposition on the Custodial Legislation (Officers Discipline) Amendment Bill 2013. At the outset I would like to place on the record that the opposition reserves judgement on this bill at this time. It is our intention to make what we believe are reasonable amendments to this legislation, to observe the government's response and then to make our determination as to where we stand. When I say that, we do not make this move lightly. We are acutely aware that the workforces impacted upon by this legislation see it as unnecessary and unfair. In the course of consultation they have indicated that they do not believe it is required and they cannot understand the motivation for introducing it other than perhaps something that is not listed in the second reading speech, and we are aware of that. However, we are also aware that the government has been re-elected and it is the government. The minister, as we understand it, sees some need for adjusting legislation governing prison officers' discipline, including youth custodial officers, and so we intend to be reasonable. To that end, as members can see on the notice paper, we have submitted a substantial list of amendments to the legislation that do not weaken it or change it in a fashion that I believe would be unsatisfactory to the minister, but would make it better and fairer legislation. Were this legislation to be passed with our amendments, it would be more focused, specifically focused on those people who commit wrongdoing, and limited in the negative outcomes that may be consequent from the current legislation. That is what we are doing. We are being reasonable and I hope that the government will consider our proposals and respond in a similar fashion.

Having said that, I think it is almost inevitable that in addressing this legislation we have to go to the history surrounding this minister in this portfolio of corrective services; it is impossible to avoid. We go back to when the minister was first appointed on 21 of March 2013 and given the portfolio. Almost immediately after having been appointed as a minister of the Crown responsible for corrective services, this minister proclaimed to the world that he had identified something that no other minister in history had seen. No other corrective services minister in his own government—there have been three others—had identified what he found. No other minister in any previous government had identified what he found. According to the minister, within days of taking up his role, he was evidently capable of identifying, with the incredible Sherlock Holmes-like skill sets he brings to the job, something that no other minister and no other department prior to him had been able to identify; that is, there is a widespread culture of corruption within the Department of Corrective Services that must be dealt with through a number of measures. One of the measures he eventually introduced into Parliament is this legislation. That is the argument; that is what began in late March last year when the minister was appointed to his current role. Within days, without having ever met the man and without ever having spoken to him, he sacked the incumbent Commissioner of Corrective Services. The minister then spent some time denying that he had actually sacked him and suggested that perhaps somehow the Public Sector Commissioner had taken it upon himself to terminate his contract with an expensive bill to the taxpayers of Western Australia of around half a million dollars. In one of his first, but subsequently frequent, acts of denying responsibility, the Minister for Corrective Services said that that was not his problem—he did not do it; it just happened. Apparently neither did the Premier. The Premier knew about it but he was not responsible either! That is another pattern of behaviour that we have become accustomed to since the March 2013 election.

I will refer to some of the reporting at the time, because it is worth reminding members of what was stated in the media. The minister said, as reported by Amanda Banks in *The West Australian* on 26 April 2013 —

“We have new challenges facing our prisons and will embark on reforms to meet those challenges.

“It was mutually agreed that new leadership will best position the Department of Corrective Services to implement the necessary changes.”

Without any explanation other than they came to some mutual agreement about the need for the commissioner to be sacked, the Minister for Corrective Services, within days of assuming his role, sacked the then commissioner who had been there for seven years.

[Quorum formed.]

Mr P. PAPALIA: As I was saying, within days of taking on his role as Minister for Corrective Services, the minister sacked Commissioner Johnson without any explanation, with a consequent significant bill to the taxpayers of Western Australia. Amanda Banks also reported —

Mr Francis would not answer questions, but in a statement he acknowledged the service and dedication provided by Mr Johnson.

Extraordinarily, having just sacked the man after taking up the role of Minister for Corrective Services only a month prior, but never having met him, the minister released a statement acknowledging the service of Commissioner Johnson and, paradoxically, suggesting he had done a good job. The minister was reported as saying —

“Ian Johnson has spent seven years in this challenging role—I thank him for his efforts while in charge of our prisons system and wish him well in his future endeavours.”

That is completely contradictory and set a pattern for the sort of thing we have come to expect from this minister in the corrections portfolio from day one until the present.

The next significant event occurred only a few days later. I found the commissioner to be an honest and responsible man whose integrity I did not call into question in my dealings with him. As troubling as the commissioner’s sacking was, the minister chose not to give any explanation as to why he was sacked. That was also troubling. Within a week or so something far more troubling, in my mind, occurred, which is pertinent to this legislation and needs to be responded to by the minister in his response to the second reading debate. On 6 May, the minister chose to commence an unprecedented and extraordinary attack on the workforce for which he was responsible and to whom he should have been providing leadership. As reported by the Australian Associated Press on 6 May, the minister chose to attack some of the state’s most dedicated and valuable public servants. Youth custodial officers are people who, in many respects, are more akin to social workers. They are driven by a desire to make a difference to the state. That is what tends to entice them into this particular role. I have met many of them. I have met people who had other careers and often see youth custodial work as a second or third option in their lives. Having made one contribution in one career path, they choose to serve as youth custodial officers in an effort to change the lives of some troubled young Western Australians and make our society better. But the minister chose to attack those people in early May. He had been the minister for only about five weeks when he chose to suggest that they were in the wrong job. I felt that that was completely unwarranted. It was a patent diversion from his government’s failings that had resulted in many of the stressors and challenges being confronted within youth custodial at that time. The minister chose to do this as a cheap political ploy. The consequence is that the minister damaged people, many of whom may already have been suffering from stress-related injuries and mental illness associated with the nature of their employment. There is no denying that both prison officers and youth custodial officers suffer from post-traumatic stress syndrome, but the minister chose to come out and attack them. He blamed the workforce.

Prior to him becoming the Minister for Corrective Services, the minister’s government chose to make the appalling decision to shut one of only two juvenile detention centres in the state and to cram all juveniles, both remand and sentenced, into the one remaining centre at Banksia Hill. Not unpredictably, not surprisingly, there was a lot of trouble and a lot of difficulty. There were increased stresses on the workforce and ultimately there was a riot early last year that resulted in millions of dollars’ worth of damage and great inconvenience and disruption to both the adult custodial and juvenile detention worlds. All of that was down to this government—no-one else. The Liberal Party made a promise prior to the 2008 election that it would build a new prison for young men. Instead of doing that, it chose to shut one of only two juvenile detention centres and to cram all juveniles into the remaining facility. The outcome was almost inevitable. For the minister to then go out and blame the workforce for the problems it was encountering was just extraordinary.

I expect the minister to actually answer this, because he quite frequently uses throwaway lines about investigations, inquiries and reviews that are being undertaken. As reported by AAP on the PerthNow website, the minister reported —

... chronic absenteeism among YCOs —

That is youth custodial officers —

might reflect poor staffing choices, following recent revelations that one-quarter of the workforce was not available, with many on workers’ compensation leave and long-term sick leave.

Mr Francis said the selection process for YCOs would be reviewed.

Did the minister conduct a review?

Mr J.M. Francis: The commissioner has looked at the selection process for everyone.

Mr P. PAPALIA: The Commissioner of Corrective Services, who was appointed in late 2013, conducted a review that the minister indicated would be conducted in May 2013. I feel the whole process was just a sham. The minister chose, as a means of diverting from his government’s failures, to blame subordinates. I do not know where the minister learnt leadership. I know the minister claims he gained some degree of leadership skill in the military. I understand that and I respect his service in submarines; I understand that that can be a challenging and difficult environment in which, as an officer, skills will be learnt. I cannot say that the tendency to avoid

responsibility and blame subordinates was ever something I was taught in the military. I have pretty extensive experience of leadership, both witnessing it and exercising it, in peace and war over a long period. Never did I encounter anyone who would advocate that leadership involves blaming subordinates and avoiding responsibility on one's own behalf. It really shocked me when the minister chose to do that. It was not only youth custodial officers. The very next day it was reported that the Minister for Corrective Services was attacking prison officers and claiming that there was widespread rotting of the system by prison officers. This all followed the minister's claim that he had discovered something that no other minister in history had found. This all followed Hon Christian Porter, now in federal Parliament, who served as corrections minister from 23 September 2008 to 13 December 2010; the honourable Leader of the National Party, Terry Redman, MLA, who served in the corrections minister's position from 14 December 2010 to 28 June 2012; and even the much maligned and harshly dealt with Murray Cowper, who served in the position from 29 June 2012 to 20 March 2013. None of those former ministers identified what this minister has claimed to have identified. Is the minister claiming that they were all incompetent? Is he claiming that they all failed to do their jobs to the high standard that he has set? Is the minister suggesting that every one of his three predecessors in the Barnett government was incapable of identifying what he has found or is it really, minister, that this is a contrivance and that the entire suggestion that there is a widespread problem in the Department of Corrective Services, which is systemic and culturally based, is just something that the minister could use because he realised that when he took up the role that his government has completely undermined the Department of Corrective Services in Western Australia? The minister knows, because he sat there and watched it, and I drew it to his attention and the attention of the minister at the time. In the first 18 months of government, this government, through its policies, appointments and directions, increased the prison muster in this state by 27 per cent. It is undeniable that an almost 30 per cent increase on demand on any system will result in many failures and enormous challenges, cause great anxiety and hardship for the workforce involved and result in danger and increased risk for those people working inside that environment.

The minister also knew that the government had just spent \$665 million of taxpayers' money on double-bunking most of the prison system, and it did not even make a dent. It was clear that in the course of increasing the prison muster over that time that the vast majority of the increase of people incarcerated were not the serious criminals that the minister claimed but that, according to the Chief Justice, most of them—in fact, the vast majority of that growth—were people who were mentally incapacitated, people who could not afford to pay fines, Aboriginal people and people who had offended at the lower end of the spectrum. That was the observation of the Chief Justice in 2010, and nothing has changed. Under the Barnett government serious criminals are escaping and the entire prison system is clogging up with those people, and that makes things more dangerous. It is also questionable whether we are getting value for money, because it is costing a lot of money. Under this government the recurrent expenditure budget of corrective services has increased by 57.7 per cent. We do not know what it has gone up by this year, but it probably has gone up even further because the prison muster has continued to escalate. That is serious money. As the minister trumpets regularly, the corrective services budget is the fourth biggest government budget. It is not a good thing if the prison muster keeps going up, and that is what is driving it, because money is not being spent on reducing recidivism, changing behaviour and making communities safer. What the government is doing is completely incredible and illogical. The government has created havoc within the system and continues to throw money at it. The minister has created chaos. I reckon that is what drove the minister, when he took over the role of Minister for Corrective Services, to attack the prison officers on 7 May last year. Last year Gareth Parker reported in *The West Australian* that the minister believed prison officers were systematically rotting sick and personal leave and that the job required a certain "thickness of skin". That is an interesting observation. The minister, who has never worked in a prison, chose to malign the character of state prison officers within six weeks of taking over the role of corrective services minister. How many prisons had the minister visited in that time? I would suggest that it was not many. It is extraordinary that the minister would chose at so early a stage in his role as the Minister for Corrective Services to attack the workforce whom he is supposed to represent and lead. Again I refer to my observations about his leadership skills and his motivations in this particular matter. It is not the leadership that he learned in the Navy that was driving him; I think it was his long and well-documented history as a political apparatchik. From a very young age the minister was involved in the Young Liberals in New South Wales, where they play pretty tough, and his education was at the foot of the master, as a staffer for the soon-to-be Prime Minister, Hon Tony Abbott.

Mr J.R. Quigley: Didn't he get sacked there?

Mr P. PAPALIA: I do not want to go there.

That is where the Minister for Corrective Services learned his skills and these particular leadership skills were picked up in that environment as a branch president of the Liberal Party. He was the guy who got the numbers together on behalf of certain factions within the New South Wales Liberal Party to push his man up the totem pole. That is where he got those skills and that is what they are based on. They are not based on leadership skills taught in the military because, as I have said, it is undeniable that the military does not teach leaders to attack

their subordinates and avoid responsibility. That is just not what we do. He knows that. It is extraordinary for the minister to suggest that he had somehow discovered something that none of his other predecessors could find and to take it out and attack his workforce in an effort to justify his next move. I think it was done to divert attention from the failure that the Barnett government has created in the prison system—it has completely stuffed it! In fact, that could be extended to law and order in Western Australia. For all the rhetoric, all the government has done is increase the bill to the taxpayers and make Western Australia a less safe place because the people going into our prisons will come out more likely to reoffend as a consequence of what the government has done.

I now make an observation about the minister's claims about workers' compensation, stress and prison officers. Did the minister ever conduct a full inquiry? Did he ever compile a report that justified his attacks on prison officers and, for that matter, youth custodial officers, within five weeks of taking over his role, or was it, as I suggest, a clear and transparent attempt to divert attention from his failings and to find a way out? The way out became clear later in the year. Within another month—late in June—a leaked document was made available to the state's media that resulted in a flurry of stories in about relationships particularly between a former prison officer and bikies. The minister used that story to build his argument, without ever providing detailed justification or a substantiated evidence trail. He made suggestions, and continued to do so even into this year, that there is a problem of widespread corruption amongst both prison officers and youth custodial officers. They are large workforces. Prison officers are a large workforce. It is undeniable that there will be individuals who will do the wrong things and they should be dealt with—they pretty much are, and the minister knows that.

The Corruption and Crime Commission in Western Australia is looking for work. If the minister finds evidence of corruption within any workforce, the minister knows that he is duty-bound to report that matter to the Corruption and Crime Commission. Earlier this year we witnessed yet another escape—this time a dangerous drug-dealing, gun-toting individual allowed to go puppy walking—and the minister suggested that some form of corruption was involved. The minister intimated in the media that there was something behind it other than error. Did he ever report that to the Corruption and Crime Commission?

Mr J.M. Francis: What I said was that you have to rule that out when you consider—this will only take a second—the fact that this guy, aged 59, was three years into a 15-year sentence. The possibility that he was going to be a high risk for escape was obvious to everyone.

Mr P. PAPALIA: Did you refer it to the Corruption and Crime Commission?

Mr J.M. Francis: No. I asked the commissioner to investigate the escape, and that included any possibility that something untoward may have occurred in the assessment for allowing him out under section 95. I'm not going to go into it further because I spoke to him again yesterday and he is still investigating that. It was two weeks ago in fact.

Mr P. PAPALIA: I think the minister overstepped the mark. I think he slipped into auto there. He gave the standard response when there was an opportunity to back his argument, which is looking pretty flimsy. His standard response is to suggest that there is a huge problem out there that no-one else has been able to identify; that Christian Porter, Terry Redman and Murray Cowper were all too incompetent to see; and that he has found. I do not think it holds water. I believe there are people in the prison officers' workforce who do the wrong thing, because it is a big workforce. It is the same in any workforce. It is like the police; there are people in the police who do the wrong thing. There is no doubt that individuals do wrong things; some indeed are even corrupt. There is not, in my view, a systemic widespread cultural problem that the minister is claiming. He has not presented the evidence for that, and I will be going to that matter in a little while. I want to point out that the real motivation and the minister's justification —

Mr J.M. Francis: Get onto the bill because you've got 35 minutes.

Mr P. PAPALIA: I know how long I have; there is a clock up there.

The real motivation became clear later in the year when, after a series of failures in the privately operated prison system, instead of addressing the matter and being transparent about the issues and what was being done about them, the minister every single time chose to defend the private operators of private prisons and private services and shifted his focus onto the public system. It became very clear, not just on one occasion but on multiple occasions, that the minister was angling towards widespread privatisation within the prison system. It is not inconceivable because, when we think about how this government has completely messed up the state budget, it has taken the best state books in the history of Western Australia and turned them into the worst. Net state debt is at a record high. As it inherited \$3.6 billion worth of net debt that is now well over \$20 billion and going north at a rapid rate, obviously it had to look around for ways to save. Clearly, the Minister for Corrective Services, after last year's very late budget, directed his department to come up with proposals for making cuts. Those proposals confirmed what was becoming very evident to just about everyone in Western Australia, particularly the workforce involved, that the minister had plans to privatise and roll out further privatisation. It was clear, minister. The commissioner's senior executive team of the corrective services department did not just go off on

its own and compile a spreadsheet, which Gary Adshead placed on his website, without any direction. The members of the team did not just go and do it of their own volition. They did it because the minister said that they had to find savings and that there would be more to find. The Treasurer said it many times. The Premier said, “It is time for belt tightening. We’ve got to start making savings because we’ve blown the budget. We’re hopeless managers. We need you guys to now take the pain and find the savings.”

So the minister said that to those people in his department and they came up with proposals. In the adult custodial system and in juvenile detention the minister was proposing further privatisation. That is undeniable. The commissioner himself said that the document on the website was a real document; it was a commissioner’s executive team document from the second half of last year, post the budget. It responded to the minister’s demands for finding savings. It says that the minister is looking at privatising—not at this stage—all of juvenile detention. I think that events over the past month might have undermined the minister’s credibility on privatisation in the prison service; nevertheless, it is undeniable that that was the minister’s plan. In adult custodial there were numbers of prisons—hashtags of prisons. The minister was planning to build the case in the public eye that there was widespread corruption, widespread rotting and an incompetent and incapable workforce in the public sector, and that the minister would provide the answer, which would be privatisation. That is undeniable. It is so obvious now that we have some of these documents that show the failings that have occurred in recent times when the minister defends at all costs Serco and private providers. It is obvious and transparent what the minister is up to.

Unfortunately for the minister, January 2014 was not a good month for him. Prior to that there was a small event at Wandoo Reintegration Facility when a couple of offenders managed to escape from the clutches of Serco. I recall that they stole a vehicle and went on the lam. Subsequently in January there was the Geraldton escape fiasco, which drew further attention to the problems with privatised services.

Mr J.M. Francis: Did I defend the contractor for Geraldton?

Mr P. PAPALIA: Actually the minister was silent. Does the minister know what happened? He was silent until the commissioner came out and said that he had concerns about Serco. That afternoon, after he said it, the minister felt compelled to say something, and that was when he came out and said that Serco was skating on thin ice. I do not know what that means. I am looking forward to this afternoon’s briefing. I do not think it will be that enlightening; nevertheless I am looking forward to it. The fine imposed on Serco for that fiasco in Geraldton could have been paid off in three days with the money that this government is paying for the empty Fiona Stanley Hospital. Three days’ worth of payments to Serco for doing nothing at Fiona Stanley would cover the fine that the minister imposed on Serco for the loss of those prisoners in Geraldton. Extraordinary! The minister therefore should not suggest that he is giving Serco a hard time or that it is under the pump in any way. There has not been an open and independent inquiry. There needs to be. There have been all manner of failures at Acacia Prison, such as a massive hole found in an internal fence, the loss of tools, and prisoners left outside their cells at night and found only when they made the error of ringing and speaking to their families. The minister has at every stage stonewalled on those failures in the delivery of service at Acacia. He never allows any focus or attention to be given to them and he does not give the opposition any truth about what is actually going on inside that prison or inside the other contracts. The minister’s first move at all times is to defend Serco, and I can understand why. Since the government took office, it has given Serco \$5.2 billion worth of contracts. It is incredible! The minister would not want anyone in Western Australia to be asking whether Serco has questions to answer about privatised contracts because he has thrown so many billions of dollars at it that it is pretty much unprecedented in Australia—the 20-year contract certainly is—and probably around the world. I do not know how many other places have that length of contracts. It is incredible!

All of that happened, undermining the minister’s credibility and his ability to suggest that it was all a problem with the public system and that he had the answer. Then he was still stuck with this legislation because he had second-read it in November. This was part of the plan all along. The justification for it was the supposed trail of failure, cultural issues, widespread corruption and systemic problems within the department that the minister had identified within five weeks of taking office. That was supposedly going to be then the clincher when he delivered this legislation to Parliament and—I assume—challenged us to determine whether or not we would support him. I can tell the minister that we have looked at it. My natural inclination, being the sort of character that I am, would be to turn around to the minister and say that this bill is ridiculous, that the whole thing has been contrived, that he does not deserve any responsible or reasonable approach from us and that what he actually deserves is to be condemned and to have the bill opposed from the outset, but I am not going to do that. Cooler heads than mine, minister, have prevailed and have suggested, “No, let’s give a reasonable doubt to the minister and the government and suggest they have won office; they have concerns regarding discipline, well, let’s make their legislation fairer and more workable.” That is what we intend to do. The amendments we propose are based on that premise. I will not even go to the minister’s motivations for privatisation other than what I have just said in this speech. It was important that I placed my comments on this legislation on the record. When the minister

laid out the points, he referred to the moment he took office, sacking the commissioner within a month without ever having met him; within a week of that, attacking youth custodial officers; within a day of that, attacking prison officers, setting himself up to have an argument that there is some sort of widespread conspiracy, and somehow a leaked package of information containing salacious photographs that suggested the minister was on the trail found its way to the media. He was hot to trot; he was the one who identified things that no other minister in the Barnett government had been able to, despite there having been three other ministers. One of them was Christian Porter whose meticulous stakes, I suggest, might rate a little higher than the minister's. I reckon that guy has very well-organised sock drawers, but I do not think the minister does; I do not think he would rate that highly.

Mr J.M. Francis: I confess; I do not organise myself very well.

Mr P. PAPALIA: We saw Christian Porter come into the estimates hearings wheeling his trolley and we knew then that he was a meticulous man. I did not agree with his politics or his strategies. I think we are suffering from the consequences of the policies he largely implemented; nevertheless, I do not think anyone could suggest that this minister, Hercule, was able to find something that had slipped through the radar of Christian Porter. For that matter, we have to wonder about the Leader of the Nationals. Is he sitting over there when these debates are going on—when the minister is standing over there illuminating the chamber about what he has discovered—thinking, “Hang on a minute, is he having a crack at me?”

Mr F.M. Logan: Was that the same department I was in charge of?

Mr P. PAPALIA: Is Hon Terry Redman saying, “Is that the same department that I was trumpeting at every opportunity when I was the minister?” He must be looking at the present Minister for Corrective Services shaking his head. I know who is shaking his head; it is the fellow sitting way in the backblocks of the government back bench, the poor old member for Murray–Wellington. What did he do to get sacked? Is he not a good bobcat driver? Is that why he got sacked? He is a good bobcat driver; perhaps that is why he got sacked. He was in the job for seven and a half months, a month and a half of which was the election campaign. Before that there were holidays. The poor bloke. What did he do? He did not cause the riot. It was not his fault that the government made the dumb decision to shut Rangeview and create that circumstance. He made a kind of interesting observation about having a bit of fun at a riot, but, that aside, that is his character. What did he do? He succumbed, I think, to not having those skill sets the minister picked up in New South Wales as a young fellow in the Liberal Party. He did not have those; he is just a big honest former cop.

Mr F.M. Logan: He's still trying to pull the knives out of his back.

Mr P. PAPALIA: He is still wondering what happened; he is still looking for the bus. He certainly did not do anything to justify being sacked.

I will finish my observations of how we got to this stage; I seriously think it is very transparent. So soon after coming into the role, without any real evidence, the minister attacked the workforce and sacked the previous Commissioner of Corrective Services, setting him up as the scapegoat so that the unspoken observation was that Commissioner Johnson was incompetent. Worse, because he was sacked, he was unable to comment so no observations were made further. The minister even went so far as to say that Commissioner Johnson had done a good job for seven and a half years, but he sacked him anyway. All that happened very soon after the minister had taken on the role, without having met the commissioner. That rang alarm bells and created a lot of focus on the minister's motivations. When the minister attacked the workforce immediately after, it began to be clear.

The minister subsequently denied any concerns about privatisation of the prison system. He began to build his case towards providing the ultimate solution, which would have been widespread further rollout of privatisation. It will be interesting to see what happens now. I acknowledge that the minister has said publicly he will not privatise juvenile detention. It will be interesting to see what else happens. I think the government is floundering around looking for ways to cut and by “cut” I mean to cut also the quality of service. There was nothing in the document tabled from Gary Adshead's website about creating a better quality of service. That was not the motivation of that document; it was about finding cost-cutting measures. It pretty much stated very clearly that if we privatise adult custodial prisons, juvenile detention or community corrections—those other services within Corrective Services—it will become a cheaper service. That is the motivation that drove that document, and that is concerning.

I will now look to the minister's second reading speech because I have outlined my concerns about the events that led to the position we are in now following the introduction of this legislation in November last year. I want to address the arguments the minister conveyed in his second reading speech to justify this legislation. I refer to the notice paper, which I hope the minister has seen by now, which contains eight pages of the opposition's amendments. The first amendment relates to youth custodial officers. From reading and listening to the minister's second reading speech, I do not think he has made the case for including youth custodial officers in

this legislation. He has attacked them and maligned their character. He has probably done some of them damage emotionally and physically by attacking them when they are at a particularly low point. That aside, he has not presented a case in his second reading speech to Parliament for why youth custodial officers should even be considered in this legislation. Part of this legislation seeks to bring prison officers under the Public Sector Management Act. Youth custodial officers already come under that act. What is the motivation for including youth custodial officers in this legislation? Is the minister suggesting that they have a widespread corruption problem? Is he suggesting that there is a problem with the culture of youth custodial officers in this state? Bear in mind that there are not that many of them; I think I have met three-quarters of them at least. They seem to me to be pretty reasonable people who are doing a tough job in circumstances made far worse by the minister's government than was the case before. I do not see that there is a problem with them. Why does the minister feel that their discipline process needs to be changed? Is there any justification for that or does he want to wrap up all custodial officers under one piece of legislation?

Mr J.M. Francis: I will explain why when you've finished.

Mr P. PAPALIA: I note and I see—it is not that powerful—the suggestion that youth custodial officers have powers beyond the average citizen akin to police powers: the use of force. Is that the minister's motivation for putting youth custodial officers in this legislation?

Mr J.M. Francis: I have tried to answer your questions for the last 41 minutes and you talk over the top of me, so I am not going to start now.

Mr P. PAPALIA: Mostly they are rhetorical questions; this one is not.

Mr J.M. Francis: When you finish, I'll address it.

Mr P. PAPALIA: The minister knows that we will deal with it in consideration in detail. I am putting the minister on notice that it is a significant point. I do not think he has made the case. I understand that youth custodial officers do not like the minister very much and they have passed a motion of no confidence in him, but that is not justification for including them in this bill so the minister can impose upon them a harsh, and, in many respects, unfair, regime, which they do not endure now and for which there does not appear to be any justification. The minister cannot do it just because he does not like them or they do not like him. That is not good enough. I expect in the minister's response that he will provide some very specific justification—far more specific than is in the second reading speech.

[Quorum formed.]

Mr P. PAPALIA: Compared with the Minister for Corrective Services' predecessor—the now Leader of the National Party—this minister provides very succinct second reading speeches. I would have preferred in this case for it to be a little longer, but in comparison with the one the minister delivered this morning, this one is short. The second reading speech states —

The vast majority of corrective services officers uphold the highest standards of ethical behaviour. However, as minister I became concerned to learn that in the 24 months from July 2011 to June 2013, 59 custodial officers were charged under the Prisons Act 1981. Of these officers, only three were dismissed, while a further 10 resigned during the course of the investigation and/or as a result of disciplinary action.

That was an interesting claim that the minister threw out there as being outrageous—59 officers in that 24-month period—and it piqued my interest. I thought, "Why would the minister choose that particular period, and why did he group that 24-month period together?" I asked a few questions of the minister in the other place, which the minister was incapable of answering. His office was incapable of breaking down that figure. I wanted to know what type of offences they were, and I also wanted to know how many were in each year. I would have thought that was not too big a challenge, but the minister was incapable of providing the answers to the other place. That kind of angered me a little and further piqued my interest. It was interesting that when the Commissioner of Corrective Services, in his first official duty of this nature—his first appearance before the upper house estimates committee—was asked a similar question, he was able to answer it. He was able to provide the answers through the minister, interestingly, that the minister was not able to provide in the other place. It became clear that the minister's argument about this widespread cultural problem—this discipline problem that cannot be dealt with in any other way than this legislation—does not really hold water. Because if we actually look at the response provided to Hon Ken Travers when he asked about prison officer discipline matters—he asked about three years; he extended it a little beyond what the minister had told us in his second reading speech—they included the years 2010-11, 2011-12 and 2012-13. The two years to which the minister referred in his second reading speech were included in a very detailed breakdown table, and it became clear that a lot of the incidents to which the minister was referring were potentially pretty minor things.

What became apparent was that disciplinary cases amongst prison officers are not trending up. Three years ago there were 52 cases, two of whom were found not guilty. In 2011-12 there were 58 cases, which was an increase, but in 2012-13 there were 24 cases; the number of disciplinary cases had halved. In the year before the minister decided there was this massive problem, the number of cases had halved. At the very time the minister was claiming there to be a systemic problem with prison officers and that the minister was the only one who had discovered it, and despite claiming his predecessors—the Leader of the Nationals, the member for Murray–Wellington and the former Attorney General—had all missed it, despite all those claims being made, the number of disciplinary cases was trending down.

As I started to say before, the type of offences are fairly varied. There are some serious ones, as I identified earlier, and I concede that it is a big workforce and there will be people who do the wrong thing. Some people do things for which they should be punished, kicked out of Corrective Services and prosecuted. If someone breaks the law, they should be prosecuted. If they are corrupt, the minister should refer it to the Corruption and Crime Commission and it will take the appropriate action. But the minister should not be playing political games in which he tries to construct a systemic problem that does not exist.

In 2011-12, there were 58 incidents; 43 were found guilty, and 14 were deemed to be neglect of duty—compromise security. In prisons it is pretty easy to do a fairly minor thing that compromises security and results in somebody being charged, as the minister is aware; it is not necessarily a heinous crime. There were other offences committed of neglect duty—disobey lawful order. I am former military and I have seen a lot of disobeying lawful orders. It occurs quite regularly in the military but it does not necessarily result in someone being kicked out. I would expect the same thing to be true of the prison service. Depending on what it is, disobeying a direct order may not be that great a crime or that serious an issue.

There were two incidents of failure to report—twice, people were charged for failure to report. These are some of the incidents that the minister is adding in to make it seem like there is a massive problem in the prison officers' system. I do not know what the charge “neglect of duty—other” is, and there was one incident of removal of keys. The minister knows that removal of keys occurs on occasion and that people make that mistake. But all those incidents, which constitute well over half of the incidents in 2011-12, were relatively minor in comparison with what the minister was suggesting. From what the minister said, the inference was that there were 59 serious offences. That is not true, and it does not justify the type of legislation the minister has introduced.

If we look at 2012-13, when the offences halved, there are some relatively minor offences. I am not sure what the offence “misuse of resources” is—it may be serious or it may not be. There were three charges of “compromise security again”; two of “neglect of duty—disobey lawful order”; and four of “personal behaviour—unprofessional conduct”, of which two were found not guilty. I think the justification the minister has provided and the arguments he has pursued are not backed up by the facts he put on the table. Maybe I am wrong and maybe the minister has some world-beating piece of evidence that will suggest that there is widespread corruption amongst prison officers, but I do not take one or two individuals being reported for having acted in a corrupt or illegal fashion as evidence of what the minister is claiming. The minister's second reading speech tried to make it sound as though 59 offences was a big figure—considering the workforce of several thousand, that is not a big number over two years. But that aside, the minister tried to suggest that they were all really serious offences. If they are, put it on the table; let us know. I do not think they were, and I think the minister is stretching the boundaries of credulity by suggesting they were and that he was rightly shocked. His words were —

I became concerned to learn that in the 24 months from July 2011 to June 2013, 59 custodial officers were charged under the Prisons Act 1981.

I think the outcomes listed in the document provided to Hon Ken Travers suggest that the system is pretty much working. The vast majority of the officers who looked to be the serious offenders have either gone, resigned or been sacked. If that is not the case, I would hope that if they have conducted an illegal activity or engaged in corrupt behaviour they have been charged or referred to the Corruption and Crime Commission; and, if not, why not? That is not a prison officers' issue; that is a leadership issue.

The minister's speech then referred to a few cases—not a large number—but because the minister did not name people, even though they were named in media reports, trying to work out who the minister was referring to was a little confusing. Nevertheless, the minister gave a few examples, but my observation is that it is a very large workforce and a very small number of examples were provided, and as far as I can see those people have gone anyway. The justification the minister gave for changing the system to ensure the commissioner is capable of dismissing someone has not really been proved. One other point about the second reading speech is that the minister suggested the Department of Corrective Services was the source of this legislation. I may have misinterpreted the minister's speech. The minister states —

The department's review into the above circumstances —

The minister is referring to these cases —

identified that the current disciplinary process for prison officers is outdated, is focused on an adversarial hearing-based process, and does little to improve employee performance and behaviour.

I am a bit concerned about that observation, because at the time of my initial briefing on this bill I asked who decided to bring forward this legislation and whether it had come from the minister's office or the department. They said it came from the minister. I may be misinterpreting the suggestion in the minister's second reading speech that this bill is department driven. It may be that after the minister directed the department that the department wanted this bill and then took the appropriate action. However, I do not think the minister's suggestion that this was a problem identified within the department, which then proposed this legislation to solve the problem, is right. I may be wrong, but that was the answer that was given to me. Perhaps the minister can address that when he responds to the second reading debate.

Other issues in the second reading speech concern me. The minister states that the legislation introduces three basic changes, and I will talk about them in consideration in detail quite extensively. I am not too concerned about getting to them now, but I will try to get to each of them briefly and make a couple of observations to let the minister know what is motivating the opposition's amendments and where we are going with those amendments. After we start consideration in detail, I will move to suspend standing orders to completely remove youth custodial officers from the legislation. I think that is fair as I do not think the minister has made the case to include them in this legislation. I would like the minister to be challenged by the need to consider whether that is necessary; and, if the minister does consider it is necessary to include them, he should make the case for that. The minister has not done that yet.

The second change the minister proposes concerns the loss-of-confidence provision. The opposition is going to be reasonable. We are not saying that we do not want these things to happen at all. We want to compress the applicability of these clauses to people who really deserve this sort of treatment. Instead of this provision being a management tool, which I understand it has almost become within WA Police so that they get almost no disciplinary cases, with the exception of section 8 —

Mrs L.M. Harvey: That is not true.

Mr P. PAPALIA: That is the feedback we get, and I know the Minister for Police will not agree. I am talking about the people who have been impacted by this provision. Frequently we hear that with legislation such as this, which the minister intends to impose on prison officers and youth custodial officers, the administrative process and the whole leadership skillset around developing staff and correcting bad behaviour is forgone in favour of letting the behaviour go until such time as management wants to get rid of them and then uses this pretty heavy-handed power to get rid of them. Members on this side are not opposed to people who act in a corrupt or illegal fashion being dealt with by the system. The minister can read the opposition's amendments on the notice paper; they constrain the applicability of the legislation. The opposition thinks that the wording employed by the government is too broad. The minister has said himself that the vast majority of corrective service officers uphold the highest standards of ethical behaviour. The minister should acknowledge that in the legislation so that this legislation applies only to those people who break the law and act in a corrupt fashion. That is how the minister should acknowledge the high standards of corrective service officers. The minister cannot make one argument that implies they are all corrupt and propose legislation that backs up that statement, but then make a statement in the second reading speech that completely contradicts that.

The opposition's proposed changes to the loss-of-confidence provision are centred on restricting applicability. They also raise questions about the use of the term "confidence in". That is not being petty, as there is a potential for someone to be found to have lost the confidence of the commissioner and then to go through the process and be found not guilty; yet, having suffered from the commissioner's loss of confidence, how do they get that back? That problem needs to be acknowledged and we need to look at the wording. That is why we have proposed changes to the wording.

Another change proposed in the bill relates to streamlining the disciplinary process. The minister will note that a lot of our proposed amendments are trying to make this process fairer by constraining its applicability and giving people who are subject to this disciplinary process a bit of fairness through extending some of the time frames involved in the appeals process and ensuring that they are adequately compensated. It is not inconceivable that someone will go through a long process, all the way to an appeal, and ultimately be found to be not guilty, yet has suffered significantly and may even have lost their job in the meantime as a result of the time frames the minister has proposed in the current legislation. If the minister does not change the time frame, he could inadvertently cause hardship to someone who does not deserve this. The opposition has proposed amendments to address that.

The final change that is proposed in the bill relates to the abrogation of the privilege against self-incrimination. The one thing that leaps out at me about this part of the legislation is that the government is removing a right from prison officers and youth custodial officers that is given to the people they are locking up and guarding. The minister is taking away a fairly fundamental right in our legal system from people who are responsible for locking up people, the vast majority of whom have already been convicted and sentenced. The officers who hold the responsibility of guarding those people are losing that right. That is an observation that has to be made.

Every amendment the opposition has proposed is around making this legislation fairer. We are being reasonable. We are not doing what the minister probably hoped we would do or what I would have been inclined naturally to do had I been given my head. We are being reasonable and we are approaching this in a reasonable fashion. If the minister listens to the opposition and to the concerns of the people in the workforce who will be directly impacted by this bill, he will adjust the legislation to confine it to the people who absolutely deserve to be treated in this fashion and to be fairer for those people who get caught up in the process the minister is implementing. If the minister does not do that, it will draw our attention back to the initial observations about what has happened since he took this job. It is that sequence of events that indicated the minister was not motivated by trying to fix things, but wanted to divert attention from this government's failures in this department and the consequences suffered, and the minister's own intent to avoid responsibility at all possible stages.

MR F.M. LOGAN (Cockburn) [1.28 pm]: The issue I would like to address that is contained in the second reading speech of the Custodial Legislation (Officers Discipline) Amendment Bill 2013 is the way in which conditions of employment are being changed for both prison officers and youth custodial officers through legislation. I encourage interjection from the minister. Firstly, was the WA Prison Officers' Union involved in negotiations over the changes proposed in this bill that is currently before the house?

Mr J.M. Francis: They were consulted.

Mr F.M. LOGAN: Was the Community and Public Sector Union–Civil Service Association of WA, which represents youth custodial officers, involved in those discussions as well?

Mr J.M. Francis: My understanding is they were consulted by the department.

Mr F.M. LOGAN: Did either the Prison Officers' Union or the CPSU–CSA agree to these changes?

Mr J.M. Francis: No; they both raised objections.

Mr F.M. LOGAN: That goes to my concerns about the way in which the minister is introducing these changes. Those concerns go directly to the conditions of employment of both prison officers and youth custodial officers. In any other situation, when changes are made to people's conditions of employment, particularly in the public sector in Western Australia, those negotiations take place between either the appropriate minister's representatives and the labour relations section of the Department of Commerce, or the minister's representatives from that department, or the commissioner himself and his representatives and the appropriate unions—in this case, either the WA Prison Officers' Union or the Community and Public Sector Union–Civil Service Association of WA. If agreement cannot be reached, the matter can be arbitrated in the Industrial Relations Commission. That is the normal procedure. The example I give is the one that is currently being arbitrated before the Industrial Relations Commission—namely, the issue between the nurses and the Department of Health of outstanding matters from enterprise bargaining negotiations.

I put to the minister that these issues around enterprise bargaining agreements and any new conditions of employment in enterprise bargaining agreements were not raised in previous negotiations; I will bet the minister they were not raised. They were raised when the member for Jandakot became the minister. They were not raised previously in any enterprise bargaining negotiations. This is how it goes. The minister thinks that is all fine. He should put himself in other people's shoes. He should put himself in the members' shoes, the prison officers' shoes or the youth custodial officers' shoes. They have already done an agreement for a particular time. They believed their futures had been set and that the conditions of employment were fixed until the end of that agreement. In came a new minister who said, "I don't care about that agreement. I'm changing your conditions of employment, but I'm not doing it the normal way, by way of negotiations on the agreement and I'm not doing it in the normal way by taking it to the Industrial Relations Commission and having the matter arbitrated; I'm going to Parliament and bypassing the whole process and we're doing it through legislation." Why? It is because the minister can. He is a member of Parliament; he is a minister. He can do that. Is it right to do that? No, it is not right to do that at all. It is not ethically or morally right to do that. It is legally right—the minister has the legal right to do that—but it is certainly not morally and ethically right. The minister will then be amazed, I am sure, about why the people who work in his department—all the prison officers and all the youth custodial service officers—are absolutely cheesed off with him and move motions of no confidence in him. He will say, "Well, why are they like this?" They are like that because the minister has bypassed the normal process and come into this place with a piece of legislation that changes their conditions of employment. If it had happened to the minister when he was in any of his former jobs, including in the Army, he would have been cheesed off.

Mr J.M. Francis: The Navy.

Mr F.M. LOGAN: No, he would have been, and he would have been whingeing; he would have been carrying on.

Mrs L.M. Harvey: He said he was in the Navy, not “maybe”.

Mr F.M. LOGAN: I am sorry; I missed that.

Mr J.M. Francis: I said “Navy”. You said “Army”.

Mr F.M. LOGAN: Sorry. That is right.

Mr J.M. Francis: That’s the hardest thing someone has ever said to me in the Navy.

Mr F.M. LOGAN: Yes; that is right. That is the nastiest thing that someone said to the minister. I will let the minister sort that out with his Army colleagues. The minister would have been cheesed off as well.

I just cannot believe that we are here debating this legislation, which really goes to the conditions of employment of workers in prisons and in youth custodial facilities, rather than the minister’s new commissioner sitting down and negotiating those changes, as he should, with the relevant unions and their representatives, or the minister himself with the commissioner sitting down and negotiating those changes. Why are the changes needed? The minister has told the house and the media numerous times that there are instances of improper and inappropriate relationships, and in his second reading speech the minister cited —

... links between a prison officer and organised criminals; prison officers supplying drugs, and other contraband, to prisoners associated with outlaw motorcycle gangs; and sexual relationships between prison officers and prisoners where cells within a maximum security prison may be left unsecured, thereby compromising the security and good order of the prison.

Those examples that the minister has given and his own statements to the media relating directly to criminal behaviour being the reason for the introduction of the loss-of-confidence provisions are really the basis of this legislation. They are the reason the minister has brought this legislation into this house. The minister is changing the conditions of employment of all these public sector workers, not by way of negotiation, but by hammering the changes through by legislation, and he is doing that because he has told the media and this house that it is imperative that it be done because of the criminal behaviour effectively of many prison officers within the system, and the minister set that out in his second reading speech.

The minister and I know that provisions are already available to the commissioner and the minister to deal with criminal actions within the prison system, and it does not matter whether it is within the adult corrective services area or the youth corrective services area. There are plenty of elements in the act under which the commissioner can take action to resolve and prosecute criminal behaviour, but the minister is saying that the problems within the prison system and the youth custodial services area are such that he requires a complete change to the conditions of employment of these public servants. However, if we go on to see exactly what the minister is seeking to change, we find that it does not go to criminal matters; it goes to normal procedural matters regarding the way in which officers and employees are disciplined or dealt with by the commissioner. For example, further on in the minister’s second reading speech he states —

The commissioner will dismiss an officer only when the commissioner has lost confidence in the officer’s suitability to remain in office having regard to the officer’s integrity, honesty, competence or performance.

How does that relate to the link between a prison officer and organised criminals, or supplying drugs to prisoners associated with outlaw motorcycle gangs, or sexual relationships between prisoners and prison officers that allow them to leave the doors of cells open? The minister already has the legislation to deal with that. That is not what this bill is about. That is just more rubbish from the minister. This bill is about giving the commissioner more power to deal with prison officers and youth custodial service workers over any issue within their employment contract. That is why the minister has referred to “having regard to the officer’s integrity, honesty, competence or performance”. That goes to their day-to-day work; it has nothing to do with criminal behaviour. The minister is handing the commissioner power over those employees that is way over and above what the commissioner currently has to control his employees’ performance and methods of work in the workplace.

That is what the minister is doing. This has nothing to do with criminal behaviour. If it had, the minister would already have taken action against those officers; in some cases, the commissioner has. The minister has given instances in which the commissioner and previous commissioners have taken action against prison officers, and they have been dismissed or they have resigned. But this bill goes way beyond that; it goes to the day-to-day work of prison officers and youth custodial officers in their normal course of duties, their relationship with the commissioner and the power of the commissioner over the work that they do within prisons.

When the minister introduces things such as the loss-of-confidence provisions, which are the guts of it all, out of the Police Act and the abrogation of privilege under self-incrimination, which is also a provision that applies only to police officers or to people who appear in front of the CCC or a royal commission and when those conditions are brought into the prison service or the youth custodial service, the minister has to clearly justify why he is dramatically changing the conditions of employment of those workers. These are dramatic changes to their condition of employment and, as such, have to be justified, particularly for youth custodial officers, as set out by the member for Warnbro. Prison officers covered by the Prisons Act 1981 are sworn officers. There are similarities between prison officers and police officers because they are effectively servants of the Crown as sworn officers. Youth custodial officers are public servants; they are not sworn officers. Why are these provisions being applied against ordinary public servants?

In introducing these provisions, it looks like the minister is streamlining the prison system and taking action to stamp out supposed failings within the prison system. How that then applies to youth custodial officers is absolutely beyond me. They are public servants; they are not sworn officers. Where are the examples that the minister has given in his second reading speech relating to links between prison officers and criminals in supplying drugs and leaving doors open in the Banksia Hill Detention Centre? Where are the links between youth locked up in Banksia Hill and organised motorcycle gangs? Where are the links between youth custodial officers at Banksia Hill and criminals? What about the sexual relationships between prison officers and prisoners when cells are left open at Banksia Hill? I have not heard of any examples; the minister has never given this house any examples. He has certainly never told the media about any of it and I have never seen any report about those links either. Nevertheless, this legislation will apply to them whether they like it or not.

The minister has introduced this bill, arguing at one point that the bill will help overcome these problems. He has then applied the bill—stretched the bill out, as the member for Warnbro said—to cover youth custodial officers but he has not provided any justification for it whatsoever or any evidence to back up the introduction of the bill. If he has any evidence, he might supply it in his response to the second reading debate. If it comes down to the way in which he abused the work of the youth custodial officers in the media for supposedly taking extensive sick leave, applying for workers' compensation and various other issues that he mentioned about workers who work with youth custodial officers at Banksia Hill, I take him to the complaints that have been made by members of the Civil Service Association of WA and the Community and Public Sector Union going back to 2010. In July 2011, a delegation of those prison officers, including one who had just got out of hospital after having his jaw broken, was on the front steps of Parliament House confronting the then minister, Terry Redman, with details of the number of incidents that had occurred at Banksia Hill, including the number of people who had been injured and ended up hospitalised. They warned the minister at the time that if he did not do anything about it, there would be a riot out there. What happened a year later? There was a riot. The place was destroyed. What was the minister's response to that? He abused the work done by the youth custodial officers by effectively referring to the amount of workers' compensation claims they had made and the amount of sick leave they had taken. They were on the steps of Parliament House only two years before telling the then minister why, and that there would be a riot if something was not done.

This bill will not resolve the issues that the minister thinks will be resolved by this bill. This bill will hand power to the commissioner; it will not resolve the problems in prisons and it will not resolve the problems in Banksia Hill. The issues are far deeper than that piece of legislation; they go to morale and lack thereof, investment in services out there and the ability of those prison officers and youth custodial officers to be heard.

[Member's time extended.]

Mr F.M. LOGAN: The issues go to the way in which those employees have been treated and the way in which the system, particularly ministers, has failed to listen to them. The minister has said that the problem is related to a culture within the prison system. This is a perceived culture because he clearly has not outlined or defined the culture that he has such problems with. He talks about the bad people in the system. This bill will not resolve that. It will just get people more and more upset, which is why representatives of the prison system have been watching this debate in the gallery. The relationship between management, the commissioner and his subordinates and their employees will not be enhanced or improved by this bill. It is not the Army or the Navy; we cannot force these things on them, particularly youth custodial officers. They are public servants; they are not sworn officers, yet the minister is forcing these things on them, including taking away the rights of abrogation of privilege against self-incrimination. The minister is taking away their right under the award to go through the normal disciplinary system, whereby they ultimately end up in the commission, which is the right of any other public servant. In introducing this piece of legislation, the minister is taking away from the Banksia Hill Detention Centre workers their right to the privilege against self-incrimination. As the minister pointed out in his second reading speech, the compelled information will not be used in any other proceedings—that is, in criminal proceedings—but it will be used in termination proceedings and disciplinary proceedings. Even though the bill contains the right to appeal the commissioner's decision of termination to the Western Australian Industrial

Relations Commission, prison officers and youth custodial officers had the right to go to the Industrial Relations Commission on appeal anyway. However, the proposal for the abrogation of the privilege against self-incrimination, particularly for youth custodial officers, means that any information provided to the commission will be used in termination proceedings and any appeal proceedings against them. That is a major change to their conditions of employment. Many public servants who have become youth custodial workers will say that these are not the conditions of employment that they signed up for. The reason that they will be so cheesed off is that the minister has changed the conditions of employment by way of legislation, not through the normal proceedings of negotiation and discussion with the people who the minister expects will be bound by this piece of legislation and will supposedly change their pattern of behaviour as a result of it.

There are many issues that the minister needs to explain to the house to justify this bill. I have put questions to the minister that he has not responded to and I will ask them again by way of interjection when he gives his response to the second reading debate. The member for Warnbro also raised many issues that he expects to be answered in the minister's response to the second reading debate.

MR J.M. FRANCIS (Jandakot — Minister for Corrective Services) [1.52 pm] — in reply: I do not want to dwell at great length on the reform process in the Department of Corrective Services and the reasons behind it, but I will touch on some of the issues that the member for Warnbro started with. The reality is that when I became Minister for Corrective Services, obviously I had very little knowledge of or involvement in the prison system. I had never been to a prison. I had never met many people who had shared experiences in the prison system. A few people came out of the woodwork. People with whom I had served in the Defence Force who went on to become prison officers called me and said, "You're the minister now. Let me start by telling you what it's really like behind the walls of a prison. Let me tell you what the job is like. Let me tell you about the pros and cons of it." I am sure that the member for Warnbro and I have mutual friends; in fact, I know we have a mutual friend who works in the Department of Corrective Services because we have crossed paths in the past. I think this friend is an absolutely outstanding individual, and I am sure that the member does as well.

It became a bit of an eye-opener. Of course, I got the incoming ministerial briefs; my head was turned inside out with briefs about the financial status of all the departments, but particularly the Department of Corrective Services, and with issues relating to workers' compensation premiums, industrial relations, resources, the capacity of the prison system, individual prisons, the old and new infrastructure, what the department was doing and what needed to be done. Of course, the more I was told when I was bright-eyed and bushy-tailed, the more questions I seemed to ask. I do not want to go into it for too long, but obviously in the first three or four weeks, the more questions I asked and the more answers I got, the more questions I had to ask.

Mr P. Papalia: But you didn't ask the commissioner.

Mr J.M. FRANCIS: I am not going to go into the history of this, but the reality is that the day I was sworn in as minister, the commissioner was somewhere else in the state on leave and I did not have the opportunity to meet him.

Mr F.M. Logan: Yes, you did.

Mr J.M. FRANCIS: No, I did not.

Mr F.M. Logan: You could have waited for him to come back from holiday.

Mr J.M. FRANCIS: So I should have sat around for three or four weeks or I should have driven down to Esperance. Come on!

Several members interjected.

The SPEAKER: Members!

Mr J.M. FRANCIS: The reality is that after a number of weeks, I formed the view that I had such significant concerns with the way that the department had been run that I raised those concerns with both the Premier and the Public Sector Commissioner, as I should have done. They were significant issues, including workers' compensation premiums. From 2010 to 2013, the workers' compensation premium paid by the department for its entire workforce blew out by tens of millions of dollars up to a peak of about \$31.7 million. That should have been ringing alarm bells a lot louder than it obviously was.

Several members interjected.

The SPEAKER: Members!

Mr J.M. FRANCIS: Obviously, the Banksia Hill riot occurred a few months prior to my time. My understanding—previous ministers can speak for themselves—is that these issues were raised with the minister by the union and workers at Banksia Hill. These issues were raised by the Inspector of Custodial Services with the minister. Professor Neil Morgan's report into the riot at Banksia Hill makes it quite clear that these issues

were raised. The minister at the time, Minister Redman, asked the commissioner about these issues and he was assured that they were not issues or, if they were, they had been taken care of.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Mr J.M. FRANCIS: The member can have the debate as long as he likes.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: It was before my time, but the situation is pretty clear in the report of the Inspector of Custodial Services. If the minister told the commissioner that the independent inspector or the union had certain concerns and asked whether they were legitimate and the commissioner said to the minister that they were not legitimate or they were but they had been taken care of, of course Minister Redman would say, “Thank you, commissioner; I appreciate your advice. Thank you for putting my mind at rest.” I do not know how far the member expects the minister to delve into it.

Several members interjected.

The SPEAKER: Members, can you please settle down.

Mr J.M. FRANCIS: I became aware of a number of different issues that obviously led to the riot, and they are all reflected in the report of the Inspector of Custodial Services, so I will not rehash that in my comments. That report is open for every person to read. There are a number of recommendations in the report. The inspector acknowledged that the riot could have been avoided, but, as I said, Minister Redman and, I am sure, other ministers —

Mr P. Papalia: He said that it was entirely predictable.

Mr J.M. FRANCIS: Absolutely. The previous minister can defend himself, but if he says to the commissioner that there are issues and asks whether they are serious and what is being done about them, and his mind is put at rest and it is all taken care of, the question then is about the relationship between the commissioner and the minister.

Obviously that was forefront in my mind also. It was not just these issues. It was also issues around culture, around reports of racism among prison officers, around the financial management of the department and the structure of the department, and around the effort that we were putting in.

Debate interrupted, pursuant to standing orders.

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