



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE COUNCIL

Wednesday, 27 October 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

STANDING COMMITTEE ON LEGISLATION

Hon Tom Stephens, Resignation

THE PRESIDENT (Hon George Cash): I have today received the following letter addressed to me -

Dear President

I write to advise that I seek to resign and be discharged from the Legislation Committee by the House.

Yours sincerely

HON TOM STEPHENS MLC
Leader of the Opposition in the Legislative Council
Labor Member for Mining and Pastoral Region

Hon J.A. Cowdell, Appointment

On motion by Hon N.F. Moore (Leader of the House), resolved -

That Hon J.A. Cowdell be appointed as a member of the Standing Committee on Legislation.

GOVERNMENT PRIORITIES AND FUNDING COMMITMENTS

Motion

Resumed from 21 October on the following motion moved by Hon Tom Stephens (Leader of the Opposition) -

That this House -

- (a) condemns the Government for its misplaced priorities and funding commitments to projects such as the belltower and the convention centre at the expense of core areas of state government responsibility such as health, education, community safety and public transport; and
- (b) calls upon the Government to remedy its failure to deliver government services at affordable rates and give priority to hospitals, schools, police and public transport.

HON SIMON O'BRIEN (South Metropolitan) [4.05 pm]: When I last spoke on this motion I gave considerable time to the theme of priorities in government spending and pointed out that any sophisticated society needs also to produce creations of beauty to reinforce the vigour and vision of that society. In so doing, I spoke about the belltower project in particular, which is mentioned specifically in this motion.

In my concluding remarks, I intend to return to those few outstanding points which I indicated in my earlier remarks I would touch upon in response to the Opposition's claims that our priorities are non-existent in certain core areas of public policy, while at the same time it claims by inference that it has its priorities right. As I pointed out last Thursday, the fact is that much of the comments of the Leader of the Opposition and his colleagues is nothing more than political football with certain matters that they would like to turn into issues of the day. I mention in particular their claims about education. Today I want to quickly close with a couple of other issues relating to public transport, transport generally and health, simply by giving a brief example or two in each area as it relates to my electorate.

In health, the Government has taken an initiative, which was noticeably lacking under the previous Labor Government, of building new hospitals. Indeed, even when this Government wants to provide a new hospital for the Armadale district, all the Opposition wants to do is to turn it into a political football. Members opposite want to do that with renal dialysis as well. I remind the House that in 1996 we had basically two key dialysis locations available to the people of Western Australia, which were Royal Perth Hospital and Sir Charles Gairdner Hospital. Now we have renal dialysis units available at Fremantle, Joondalup, Geraldton, Bunbury, Armadale and a number of other regional centres. I might add that although other members are issuing press releases about it, I am actively pursuing the availability of dialysis facilities in Melville and Rockingham.

In public transport, a recent independent survey was reported not so long ago by the Minister for Transport, Hon Murray Criddle. The survey was conducted by marketing consultant Donovan Research, and is one of those commissioned annually by Transperth and regarded as an industry benchmark. It interviewed 2 593 people who use our bus service at least once a fortnight. Those 2 593 people are quite a reasonable sample. It found that 71 per cent of patrons were satisfied or very satisfied with the overall system. That indicates and supports what the Minister for Transport has been saying: That we are continuing to treat this area of transport as a matter of priority. As a member for the South Metropolitan Region, I am delighted with the amount of funds that are being allocated to the South Metropolitan Region. I roundly reject the motion moved by the Leader of the Opposition.

HON RAY HALLIGAN (North Metropolitan) [4.09 pm]: I do not propose to take up much of the House's time but I want to place a few of my thoughts on record, the first of which is that, like many of my colleagues, I thank the Leader of the

Opposition for providing us with the opportunity to speak to a motion that certainly gives members on this side of the House the opportunity to make known all the good things that the Court Government has provided to the people of Western Australia.

Hon Simon O'Brien: It would take such a long time.

Hon RAY HALLIGAN: That is why we have had so many speeches.

Hon Bob Thomas: Go and ask the mums and dads out in the suburbs what they think about it.

Hon Simon O'Brien: I did.

Hon RAY HALLIGAN: The mums and dads in the suburbs are quite happy.

Hon Bob Thomas: Like lemmings to the cliff.

Hon RAY HALLIGAN: We will see about that the next time around. This Government, after being left a legacy of debt from the previous Labor Government, has turned around that debt and is now taking a step forward.

Hon Bob Thomas: You borrowed \$800m this year and you have a \$638m deficit.

Hon RAY HALLIGAN: How much did Hon Bob Thomas's Government waste? This Government is providing for the people of Western Australia a number of enduring assets for generations to come.

Hon Bob Thomas: You are selling them all off.

Hon RAY HALLIGAN: Hon Bob Thomas does not want us to build the belltower as he does not believe that is an asset.

Hon Bob Thomas: No.

Hon RAY HALLIGAN: He does not believe that the convention centre is an asset.

Hon Bob Thomas: If the private sector wants to build it, let it.

Hon RAY HALLIGAN: However, Hon Bob Thomas believes that the \$400m that the former Labor Government gave to Laurie Connell and his friends in the form of a blank piece of ground was an asset.

Hon Bob Thomas: No, let us talk about your debt.

Hon RAY HALLIGAN: Hon Bob Thomas does not want to hear the facts; he wants to bring up rhetoric. The most unfortunate aspect in all of these debates is that members on the other side of this Chamber, under the banner of the Australian Labor Party, start to believe their own rhetoric. The Leader of the Labor Party in this place stands and looks up continually to the press gallery expecting the members of the Press to take on board the rhetoric that comes from his mouth, hoping that it will be presented as fact to the general populace. Unfortunately, this State's only daily midweek newspaper often tends not to check those so-called facts. It is unfortunate, but true, that often no balanced view is given in that newspaper.

I spoke about the people of our future; that is, the children. This Government has done, and continues to do, a great deal for the youth of this State. I have had some dealings in the area of enterprise, showing the young people of this State that to create jobs, as the previous Labor Government tried to do at both the state and federal levels, by continually spending money and throwing money at problems got previous Governments absolutely nowhere. I have first-hand experience of this. People started to shy away from what those Governments were offering. This Court Government and the Howard Federal Government are taking a different tack entirely and showing the young people of this State, and all of Australia generally, that there must be a change that places them in a position in which they can be masters of their own destiny so that they can decide the method by which they will generate income in the future and not expect companies to automatically employ them nor expect, when they leave places of learning, that the first place to look for the job they want is in the newspaper on a Wednesday or a Saturday. This Government is taking those youngsters down a road that will enable them to make decisions for themselves. Some of those decisions will not necessarily involve full time employment but, rather, casual or part-time employment, working for a number of institutions or working for themselves. This was not encouraged in the past as people expected that jobs would be created or become available. People on this side of the House have always recognised that those things just do not occur. I believe that Governments should not be expected to create jobs but, rather, provide an atmosphere in which companies can expand to provide opportunities for people to determine what they will do with their lives.

It is also important for people, youngsters in particular, to have an opportunity to be presented with all aspects of income generation that they may require in the future. This Government provides many training programs and encourages private enterprise to provide a number of them. One program with which I am involved, and have been for the past 13 years, is called Operation Livewire. It was set up, and is currently organised, by the Rotary club of Perth and sponsored by Shell Australia Limited. This project encourages young people between 18 and 25 to come forward with a business idea that they may have. They are provided with "mentors" who usually come from the business people associated with Rotary clubs. Those mentors assist the young people in developing a business plan around their idea and those plans are brought forward and reviewed by a committee. The committee, in turn, decides on the best four ideas and those youngsters, who own those business proposals, are then provided with prize money provided by Shell Australia Limited. The Shell company certainly must be applauded for what it does, and has done so for the past 12 years. That particular project, which started in the United Kingdom and was first recognised in Western Australia, is now in every State of Australia. Young people are provided with all of these opportunities via self-employment, via training and also in the area of cadetships that were started

in Western Australia and are now being recognised by other States of Australia. It is recognised in some of the high schools where I have seen the cadetships in operation that it provides young people with an opportunity to show leadership and to be provided with leadership by others. The principals of those schools have said to me that they believe it is one of the best programs they have seen for some students in their schools who had lost direction. Now that the cadetships are available to them, they have regained direction and are now providing direction to other youngsters in those schools.

I will mention two other issues. We have heard a great deal about the belltower, the maritime museum and other proposals that this Government has put forward. Hon Simon O'Brien brought to the attention of the House the article by André Malan in *The West Australian* of Thursday, 21 October this year. It was an article that was worthy of reproduction in *Hansard*. However, I will not take up the time of the House by reading the total article but just parts thereof. The article speaks of people with vision. If people in control carried on like Labor members on the other side of this House, there would be no pyramids, no Taj Mahal, no Eiffel Tower, no Statue of Liberty and no Sydney Opera House, and there would not be the millions of people who flock to the cities to see those wonderful buildings. The article concludes by saying -

The buildings that societies leave behind are a measure of how much energy, vitality and vision they had.

The belltower will be evidence to future generations that those attributes were not totally absent in WA at the end of this millennium.

If it were left to the members of the Labor Party, this State would not have the type of edifice that is being proposed. The same could be said for the convention centre and the maritime museum.

I will raise one more issue, that being moneys provided for hospitals. Considerable concern has been expressed about the amount of money going into hospitals. People have said over the past few weeks that the \$5m to be spent on the belltower could build a number of hospitals.

Hon Derrick Tomlinson: They would be cheap hospitals.

Hon RAY HALLIGAN: That is what the Labor Party is expecting for this \$5m.

Hon Derrick Tomlinson: That is probably the amount they spent on hospitals.

Hon RAY HALLIGAN: It is probably what they spent on the maintenance of hospitals; that is true.

There has been concern - and rightly so - about hospital waiting lists. However, something has been done in that area, and it has not been acknowledged by the opposition parties as a positive step for people who are in need of elective surgery. I am talking about the Central Wait List Bureau, which was a marvellous innovation of this Government to assist the many thousands, admittedly, who were waiting to have elective surgery.

Many problems have been associated with the waiting lists. A person rang my office asking for assistance because he had been waiting for two years for elective surgery. He had decided that the specialist he had been consulting was the only person, at least at that time, who was capable of undertaking the surgery and the only person he trusted to undertake the surgery. When my office inquired about the reason for the delay, it was found that that doctor had decided that he would operate in one hospital only. He had little time available because of the number of patients he had; therefore he told this patient that he would have to wait. On further inquiry through the Central Wait List Bureau, it was found that not only was space available in other hospitals, but also there were doctors with time on their hands. When this was mentioned to the patient, he made a decision - one that I am sure the majority of clear-thinking people would make. He said, "I will go where I need to go to have this surgery undertaken as soon as possible." That was arranged, and my understanding is that within four weeks the operation was undertaken. Because of his circumstances and the fact that he did not have all the information before him, it had taken this person two years to reach a point when he decided to ring my office.

The bureau has been doing amazing work, to the extent that on 7 August last year the Premier gave a commitment that every person who was then waiting for either a hip or knee replacement or cataract removal would be treated in the ensuing 12 months. My understanding is that at that time in August last year, 471 people were waiting for hip replacements, 740 for knee replacements and 2 059 for operations on their cataracts. The Premier's commitment has been met. It has been met for a number of reasons, not the least of which is the establishment of the bureau.

There has also been a significant downward trend in the size of the waiting lists since the establishment of the Central Wait List Bureau. The total number of elective surgery cases on teaching hospital waiting lists was 11 962 at the end of September this year. That is still a large number. However, it is the lowest number of cases on the waiting lists for 41 months; that is, since March 1996. Therefore, there has been a considerable downward trend in those numbers.

More importantly, we should look to the State Government's new strategies to reduce the waiting lists over the next five years. Those strategies include increasing the amount of same-day surgery, reducing the waiting times for procedures for which there are large bottlenecks, introducing an individual case management system through the Metropolitan Health Service Board's central wait list bureau, continuing the equality of access to country patients waiting for elective surgery by introducing a no-cancellation policy for country patients, and encouraging more patients to be seen by different specialists in other hospitals, thereby reducing waiting lists.

There is no doubt, irrespective of what is said by the other side of the House, that the Court Government has provided the citizens of Western Australia with good government and good financial management. This has been proved over time and will be proved in the future. There is no doubt that there will be hiccups and unforeseen circumstances, as we have seen through the Federal Government's changes to our tax laws, but the one thing this Government has done in the past and will

do in the future is turn those things around. This Government will not place itself in the situation, as have previous Labor Governments, where it is in so much debt that one may rightly believe that the State is bankrupt. I could go on with the many more things that could and should be said about the positive aspects of this Government and what it has provided to the people of this State, but I will leave that to my colleagues.

HON DERRICK TOMLINSON (East Metropolitan) [4.31 pm]: I have paid attention to this debate because I thought at first that the Opposition would take the opportunity to roundly disparage the Government, but, instead, government members have shown that rather than be condemned, this Government should be commended for its priorities in funding. I am of a mind to move an amendment to the motion -

Hon Bob Thomas: Please do!

Hon DERRICK TOMLINSON: If I were of a mind to move this amendment, I would suggest an amendment along these lines: In paragraph (a), to delete the word "condemns" and insert the word "commends", to delete the word "misplaced", and to delete the words "at the expense of" and insert the word "and"; and in the first line of paragraph (b) to delete the words "remedy its failure" and insert the word "continue". The motion would then read -

That this House -

- (a) commends the Government for its priorities and funding commitments to projects such as the belltower and the convention centre and core areas of state government responsibility such as health, education, community safety and public transport; and
- (b) calls upon the Government to continue to deliver government services at affordable rates and give priority to hospitals, schools, police and public transport.

Hon Bob Thomas: You do not have the guts to move that amendment!

Hon DERRICK TOMLINSON: I am of a mind to do that, and with the least encouragement - or provocation - I would move that amendment.

Hon Bob Thomas: I will not provoke you. I ask you to do it.

Hon DERRICK TOMLINSON: I am of such a mind because of the persuasive argument which has been presented by members on the government benches to demonstrate that this Government is truly a Government of good management in the best interests of all people in Western Australia, not just the privileged few who are the beneficiaries of the priorities of the previous Government.

Hon Bob Thomas: You do not have the guts to move that amendment!

Hon DERRICK TOMLINSON: Do not talk to me about guts, my boy! I am very well endowed in that capacity!

The PRESIDENT: Order! If the member were so minded in due course, I would need to look at it very closely, because my initial view is that it might negate the existing motion. However, as the member says, he has yet to decide, so we will listen to the argument.

Hon DERRICK TOMLINSON: Thank you, Mr President. I appreciate the good advice that you always give. One of the areas that I believe needs some attention is the question of mental health. We have just concluded Mental Health Week in this State. The purpose of Mental Health Week is to bring to the attention of the community the needs and priorities of mental health services and of people who suffer from mental illness. One of the things that one learns the longer one studies politics and government is that there is very little shift in priorities and programs between Governments of one persuasion and another. I will take the example of education. Any Government is confronted with the reality that there is very little room for manoeuvre in the expenditure on education. For example, 80 per cent of the recurrent expenditure for education is fixed to meet recurrent salary costs, 3 per cent of the recurrent expenditure for education is fixed to meet the cost of the transportation of students, and so on. About 99 per cent of the recurrent expenditure for education is committed in advance, so the priorities of Governments of either persuasion must be managed within a 1 per cent margin of total expenditure. The only other way to change priorities is by shifting priorities among government programs by spending less on health and more on education, or less on roads and more on health, and so on. However, the amount of latitude that is available for those priorities is similarly restricted; therefore, the priorities do not change a great deal.

This becomes very apparent in the mental health field. I will illustrate that by referring to two priorities that have persisted in the mental health field. I will start by commending the Burke Government for its enlightened shift in the treatment of mental health services in this State. Considerable advances have been made in the treatment of mental illness so that we are now in the privileged situation where mental illnesses which once condemned people to a lifetime of institutionalisation can be treated through a drug regime which enables those people to live near-normal lives in the community. This was recognised by the Burke Government in 1983, and one of the consequences of that 1983 decision was to progressively remove people whose conditions had been stabilised with medication from mental health institutions where they had suffered all manner of indignity simply because of the stigma associated with their illness, and allow them to live within the mainstream community. The Burke Government is to be commended on that initiative. That program was progressively followed by the Dowding, Lawrence and Court Governments.

Hon Max Evans: Carmen lost her memory!

Hon DERRICK TOMLINSON: Her condition can be treated with medication.

Hon J.A. Cowdell: It's a pity yours can't.

Hon DERRICK TOMLINSON: I always prescribe the medication, and it is a single malt.

I will continue to commend the Burke Government's initiatives in the field of mental health. The Burke Government also took a bold step in establishing a review of the Mental Health Act. The Mental Health Act that operated in this State until 1996 could best be described as based on antediluvian principles. Those principles dictated that the best thing to do with people suffering from a mental illness was to remove them from the community - to institutionalise them - for their own safety. The problem with that policy was that those people were condemned never to leave those institutions. When one analyses the underlying factors of that policy one finds that it is not about putting those people in institutions for their own safety but to protect the community from them. There was a fear of mental illness and people who suffered some form of psychiatric affliction. The best way to treat them was to lock them away on the pretence of protecting them from themselves, but really it was to protect us from them.

Not only did the Burke Government turn around that policy by progressively closing down psychiatric hospital beds, but it also saw the need to amend the Mental Health Act so that it reflected modern treatment of mental health in our community. That priority and those programs have continued. However, there was a flaw because priorities are one thing and programs are another. Between 1983 and 1993, progressive Governments had a set of priorities that were not supported by programs.

I had the privilege in 1995 to be invited by the then Minister for Health, Hon Graham Kierath, to be his deputy chairperson on the Mental Health Taskforce. When he ceased to be Minister for Health and was succeeded by Hon Kevin Prince, the new minister invited me to continue as chairperson of that task force. Frankly, it was one of the most stimulating, gratifying and challenging exercises I have worked on in the short time I have been a member of Parliament. It was satisfying because the members of the task force were among the most intelligent, informed and intellectually stimulating people with whom I have worked. It was challenging because for every step forward we took we appeared to be taking two steps backwards. It was gratifying because we produced a report which I believe is a benchmark for changes to mental health programs in this State and which will stand us in good stead, probably for another decade.

It was also a very depressing exercise. I will read some of the statistics the task force discovered in 1995, some 12 years after the enlightened initiatives of the Burke Government. We must start by recognising that one in five Western Australians will experience a mental disorder in his or her lifetime; that is, 20 per cent of the population will experience a mental disorder. Members should look around the Chamber. We have 34 members and, given the statistics, at least seven of us will suffer a mental disorder. I recognise four candidates already.

Several members interjected.

Hon DERRICK TOMLINSON: We can make light of this. However, were we to transpose that figure onto afflictions such as tuberculosis, diphtheria, venereal disease or AIDS, we would be facing an epidemic. The Government would spend an enormous amount of money combatting such an epidemic.

In any year, 8 per cent of the population - one in 12 - will experience symptoms so severe and persistent that they require professional help to deal with the problem, and 3 per cent will require help from specialised multidisciplinary mental health services. That was a revelation to me. Until that time, I was one of the great uninformed of the population who believed that mental illness was a rare affliction. I was totally unaware of the extent of depression, anxiety, postnatal trauma, adolescent suicide, paediatric psychiatric illness, geriatric psychiatric illness -

Hon J.A. Scott: Not to mention preselection anxiety.

Hon DERRICK TOMLINSON: There are some who suffer that. Is the member suffering? Is that his excuse? I can give him just the right medicine: It does not matter; there is life after politics!

Hon Norm Kelly: Are you having a close look?

Hon DERRICK TOMLINSON: The task force found that only 1 per cent of the community had contact with public mental health services and another 1 per cent had contact with a private psychiatrist. Why was this so?

In 1995, when the data were analysed, the task force found that for children and adolescents there were 12 community mental health staff per 100 000 of the population. The benchmark standard is 20 per 100 000. For adults, there were 18 community mental staff per 100 000 and the benchmark is 36 per 100 000 - we had only half the benchmark figure. For the elderly, there were seven community health staff per 100 000, and the benchmark is 11.5 per 100 000. For people in rural and remote areas, there were 17.5 community mental health staff per 100 000, and the benchmark is 55 per 100 000.

When one looked at the priorities of 1983 and the 10 years of government resourcing that by 1995 had resulted in those deficits, one had to question the difference between priority and program - priority meaning the good things that should be done and program being the way in which government resources will be regimented, allocated and implemented to achieve the goals which are the statements of those priorities. Quite clearly the data from the 1995 Mental Health Taskforce indicated a great disparity between the priorities which were soundly based, and the programs which produced a very real deficit in demand versus capacity to supply.

We found that 20 per cent of psychologists in public mental health services left to enter private practice in the previous three years. Many others opted for non-clinical roles. It indicates gross disenchantment with public health services. The recruitment rate for nurses into specialist mental health training has declined following the introduction of comprehensive nurse training in the university sector. One of the consequences of the closure of psychiatric beds and the corresponding

shift from in-service education to pre-service education in universities followed by in-service induction, was that there were not the beds nor the inclination for young people to chose psychiatric nursing over other forms of nursing.

Management restructures have eliminated positions which provided professional focus and career structure for mental health professionals. At the core of the reasons for the disparity between priority and programs was the downgrading of mental health services within the Health Department of Western Australia. I quote from the report of the ministerial taskforce, volume 1, page 7 -

In the course of its deliberations the Taskforce received many reports of insufficient resources for mental health. While an estimated three per cent of the population at any one time experiences a significant mental disorder that would benefit from treatment by specialised mental health services, services are provided to less than half of this group.

That was the situation as reported in March 1996. I continue-

The Taskforce was made aware of the lack of even basic services in a number of areas and of the frustration of family members in trying to obtain needed assistance for their family member with mental disorder. Of great concern, also, was hearing that resources allocated for mental health services had been directed by local service managers to funding other aspects of health care.

That indicates a lack of control, management and proper supervision, as well as a lack of leadership, within the Health Department. I quote again -

Across the State services are patchy, especially in the rural and remote areas, with the Pilbara seeming to be most poorly resourced.

I interpolate there to say that while the Pilbara was poorly resourced, there was an escalation of alcohol-related psychiatric illness in the area and in the Kimberley generally, particularly among the Aboriginal population. The mental health services were poorly resourced; for Aboriginals they were grossly deficient. To continue -

Specialised services for children and adolescents and for elderly people with mental disorder are grossly insufficient to meet the obvious needs.

That was the situation 12 years after the worthy priorities of the Burke Government were translated into programs which were unfunded, unresourced and poorly managed.

That report was produced two years after the Court Government won office. Two years after the report was produced what do we find? I will refer now to the mental health service reforms two years on. I turn to the significant changes that have occurred. Over the period 1992-1993 to 1995-1996 gross recurrent expenditure on mental health services increased by \$15.5m to \$122.5m, an increase of almost 15 per cent. Per capita spending on psychiatric in-patient services was \$46, the highest of all jurisdictions and 20 per cent above the national average. These data are not generated by the Health Department of Western Australia to justify its own position but are data generated by the National Mental Health Taskforce. Western Australia's per capita spending is 21 per cent above the national average as reported in August 1998. That is two years after the condemning report of the taskforce of March 1996.

Mental health services reforms two years on show that Western Australia had 24 acute and 17 non-acute public psychiatric beds per 100 000 people. The Australian average is 20 and 15 respectively. In presenting the achievements of this Government, which has turned priorities into programs and converted dismal deficit into positive action, it is important that one be balanced and recognise that there are some areas where there is still a long way to go.

I spoke about the decision in 1983 to progressively shift people away from institutionalised psychiatric care and to close down psychiatric beds. One of the assumptions which seems to have been made is that once one closes down a psychiatric bed and puts a person into the community with a properly managed regime of medication, the person does not need anything more than the occasional visit to the psychiatrist to have a prescription renewed. It is a false presumption. It is not cheaper to maintain people in psychiatric wards than to maintain them in the community; in fact it is considerably more expensive. What do we find between 1983 and 1995? We find that there was not only a shift of funding away from mental health services into other aspects of health programs, but also a deficiency in the funding of community programs.

This is probably the greatest of all the deficiencies found by the Mental Health Taskforce in 1996. I must be honest: We have not made up that deficiency. The report of August 1998 outlined that expenditure on community-based mental health services had increased from \$16 to \$24 per capita, and, as a proportion of total mental health expenditure, community funding had increased from 26 to 35 per cent. Finally - before I continue my remarks next week - the national average of community contribution was 41 per cent.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

REVIEW OF THE CRIMINAL AND CIVIL JUSTICE SYSTEM IN WESTERN AUSTRALIA

Statement by Attorney General

HON PETER FOSS (East Metropolitan - Attorney General) [5.35 pm]: Earlier today I tabled the Law Reform Commission's final report on the Review of the Criminal and Civil Justice System in Western Australia. The purpose of the

review was to recommend changes to make the system more fair and accessible while reducing delay and cutting costs. The extensive report contains 447 recommendations to improve the justice system.

Once members have had an opportunity to examine the report I am sure that it will be seen as an outstanding achievement on the part of the recently restructured Law Reform Commission. As far as I am aware, the scope of the review is the largest ever given to any Law Reform Commission anywhere in the world.

The report, the first of the re-energised commission, is remarkable in term of its thoroughness, comprehensiveness, quality and quantity of research and extent of community consultation. It has also been remarkably timely in its preparation, given the width of the reference and the extensive consultation processes undertaken. It is also timely in giving the State a path forward into the new millennium for our justice system.

The report is written in plain English, which by its nature debunks much of the mythology and formality of our criminal and civil justice system. Its importance in this respect cannot be overestimated.

When members take advantage of the opportunity to study the report they will gain a number of clear first impressions. First, it is obvious that highly consultative methods were employed in the preparation of the report. Secondly, the report does not have the formal appearance and highly academic style of many Law Reform Commission reports produced to date in various jurisdictions. Thirdly, it will be clear to members that the report tackles head on a lot of the formality of the current system and unashamedly recommends different and innovative approaches to the delivery of justice services to the community. In short, Law Reform Commission reporting has been brought into a contemporary context in terms of innovative research methods and presentation, and in terms of the range of innovative proposals for reform.

The report sets up a number of standards of principles by which the performance and relevance of the criminal and civil justice system can be judged. A number of those same standards can be applied to the report of the review itself. Key concepts include clarity, simplicity, accessibility and an absence of delay. Given its style of presentation, the report speaks for itself, both in terms of its analysis and its conclusions. Because of that, it requires no detailed explanation on my part. In this statement to the House I will therefore restrict myself to comments on several important aspects which stand out in the report.

First, woven throughout the report is a focus on the customer or client; that is, the members of the public who have contact with the justice system generally, and our courts in particular. It is clear that the Law Reform Commission would not be properly positioned to review the justice system from the perspective of the customer unless it put the customer to the fore in its review methodology. This is transparent in its approach and in its proposals for reform. In this respect the commission consulted widely and used different research methods, including "have your say" public meetings, surveys and thoughtful review of public submissions.

The Law Reform Commission recognises that all court users need to understand the processes and procedures used in the justice system. The report makes a number of recommendations to bring this about. It also makes a number of specific recommendations with respect to particular groups, including victims and people with special needs. The report recommends, for example, that courts survey customers to assist in providing services to meet their needs. More generally though, and reflected throughout its recommendations, is a recognition by the Law Reform Commission that court users want to get rid of much that is archaic and replace it with a system and processes they can understand. The commission has also made a number of recommendations directed at establishing a relationship between clients and their lawyers which will nurture greater understanding, equality and respect. The report encourages training in ethics and specifically recommends that lawyers be more accountable.

Second, the Law Reform Commission set out to write its report in plain English. Reflecting this, many of its recommendations place the same onus on the institutions and systems of the criminal and civil justice system. The report recommends that court communications and procedures should be simple, straightforward and clear enough to be understood by ordinary users. The Law Reform Commission took great pains in its report to set out in very clear terms an explanation of the operations of important component parts of the justice system. Reflecting this, the commission suggests that courts, among others, communicate information to their users in a way which is easily understood by all.

Third, the Law Reform Commission has obviously worked from the premise that if people do not understand the system, they surely cannot feel that it is accessible to them. The commission has made numerous proposals to curb delays and cut costs. It is a pedantic and time-consuming process, which is costly and incomprehensible, and can only alienate itself from those it is intended to serve - its immediate users and the broader community. The commission suggests improving accessibility by facilitating people's understanding of the system and their role in it. For example, the commission recommends that all court actions should be commenced using a simple standard application form. Also, as the Local Court should be particularly sensitive to the special needs of self-represented litigants, and those with English as a second language, or other special needs, the commission has recommended that for Local Court matters all forms should be available in a simple booklet that outlines the court's procedure.

The commission also recommends that all courts provide information in various forms - booklets, videos and through the Internet, translated into forms and languages people commonly use. For people who are defending themselves in criminal matters, and representing themselves in civil cases, the court should provide more in the way of explanatory and self-help materials. To enhance accessibility to the justice system and a community feeling of ownership, the commission recommends education and improved community access to information about the courts and court activities.

Fourth, in reading the report, members will gain an appreciation of the extent to which new technology methods have been employed in accessing community views on matters under consideration by the Law Reform Commission. For example,

the commission's web site played an incredibly important role as a link to the community, and will continue to play a significant role in the distribution of the complete collection of the Law Reform Commission's publications and Report on the Review of the Criminal and Civil Justice System. Similarly, the Law Reform Commission's recommendations provide insight into the importance of modern technology as a means of providing customer information, and it recommends the establishment of a justice information exchange to provide facilities for the electronic exchange of justice information in Western Australia.

More generally, the report discusses potential uses of technology for administrative purposes within the justice system, and so reinforces momentum in Western Australia for the wider application of digital courtrooms. This, members will appreciate, is an important means of ensuring improved public access to the system. The commission has made a number of specific recommendations which recognise the particular impact on the legal system of the digital representation of documents and evidence. For example, it recommends expanding the use of advanced information technology to develop electronic appeals procedures in all civil and criminal appellate courts.

Fifth, members will soon appreciate that the Law Reform Commission has not tinkered at the margin of the justice system; rather it has opted for a range of fundamental reforms. The commission has not shirked from making major recommendations concerning important legislation, such as the Justices Act, the Evidence Act and the Criminal Code. Neither has it shirked from recommending the adoption of new approaches, and the extension of successful approaches more broadly across the system. It has, for example, recommended the extension of diversionary schemes, which are currently available only to juvenile offenders and to some categories of young adults. The commission has also questioned the fundamentals of our adversarial system of justice. It has made recommendations for the expanded adoption of alternative dispute resolution techniques aimed at reducing resort to trials. As further demonstration of its rejection of some current notions, it has recommended a pilot private courts project.

In this statement I have not sought to provide a detailed explanation of the various recommendations of the commission, or an analysis of the basis upon which it arrived at its recommended proposals for reform. As I indicated earlier, I hope that members of the House, and more generally that members of the community, will make the effort to study this landmark report. The report is extensive. It contains more than 100 recommendations dealing specifically with criminal matters, over 60 proposals to curb delays and cut costs, and 80 recommendations for resolving disputes without going to trial. Many of the recommendations for reform are administrative in nature and can be actioned without further recourse to the Parliament. However, many others will require the considered deliberation of members in order to advance the reform of our criminal and civil justice system in the interests of customers and the wider community.

Looking to the future, it is essential for the system to be, and be seen to be, fair. There are a number of touchstones, several of which I have commented on in this statement, against which the customer would assess the performance of the justice system -

People should feel that they understand the processes they are involved in.

They should feel that they were heard, understood and respected.

They should feel that the costs borne were reasonable.

They should feel that there was proportionality between the processes they had to undergo, and what was at stake.

If they do, they will feel that they got a fair go; that they got justice. I firmly believe that this landmark report will play an important role in moving our justice system in the desired direction. With due respect and thanks to all contributors to the process to date, I commend the report to the House.

COURT SECURITY AND CUSTODIAL SERVICES BILL 1998

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL 1998

Report

HON PETER FOSS (East Metropolitan - Attorney General) [5.45 pm]: I move -

That the reports be adopted.

HON JOHN HALDEN (South Metropolitan) [5.46 pm]: I noticed some remarks in *The West Australian* today about the activities of the Legislative Council. I hope that those who made the comments were not referring to the debate I was involved in last night. Clearly the Australian Labor Party does not agree with the process being undertaken by the Government. It is my obligation to test the strength of this legislation with whatever capacities I have. I do not believe that the day I took up debating this matter was excessive.

Hon N.F. Moore: To my knowledge, no-one thinks that.

Hon JOHN HALDEN: If anyone holds that view, I take this opportunity to correct the record.

Hon N.F. Moore: We can get Mr McGiveron in.

Hon JOHN HALDEN: I did not see a thing.

Hon N.F. Moore: Did he whack you too?

Hon JOHN HALDEN: I said during the second reading debate that the Labor Party would accept the decision of the House

and that it would not call for a division during the committee stage, and it did not. However, members of the Labor Party will call for a division on the third reading.

The PRESIDENT: We are debating whether the reports should be adopted. If, as I detect, there is a small problem, I presume that will be decided on the third reading.

Hon Peter Foss: That will be done tomorrow.

Hon JOHN HALDEN: The Whips had the problem and I was trying to assist. The Australian Labor Party will divide on the third reading tomorrow.

Question put and passed.

MIDLAND REDEVELOPMENT BILL 1999

Committee

Resumed from 26 October. The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 20: Powers -

Progress was reported after Hon Giz Watson had moved the following amendments -

Page 12, line 29 - To insert after the word "the" the word "cultural".

Page 12, line 29 - To delete the word "and".

Page 12, line 30 - To insert after the word "significance" the words "and environment".

Page 13, after line 28 - To insert the following new subclause -

(9) In subsection (5) —

"cultural heritage significance" has the meaning defined in subsection 3(1) of the *Heritage of Western Australia Act 1990*; and

"environment" has the meaning defined in section 3 of the *Environmental Protection Act 1986*.

Hon PETER FOSS: These amendments should be put separately because I will vote for the inclusion of "cultural", and against the deletion of "and" and the insertion of "and environment".

The DEPUTY CHAIRMAN (Hon W.N. Stretch): I will put the amendments separately. The question is that "cultural" be inserted after "the" in line 29.

Hon NORM KELLY: The Australian Democrats support the amendment for different reasons from those of the Attorney General. We support it as part of the package of amendments. We support the other amendments for reasons I will explain when we reach them.

Hon J.A. COWDELL: I previously indicated that the Australian Labor Party will support the inclusion of "cultural" so that reference is made to cultural heritage, not only heritage. I will seek some added comments from the minister on his objection to the forthcoming amendments.

Amendment put and passed.

The DEPUTY CHAIRMAN (Hon W.N. Stretch): The Committee is now considering the amendment to delete "and" from line 20.

Hon PETER FOSS: The Government gives every assurance that the cultural heritage significance and the environment will be properly regarded in this development. In fact, two Acts of the Western Australian Parliament will ensure that that happens. That will be the intent of the development authority once constituted. Although it is nice to add words like "and environment", we must not lose sight of the fact that it is intended to be an authority which overcomes a malaise which has existed in the Midland area for some time. Without going into detail, it is interesting that the local government authority has been one of the great supporters of this proposal. Most other development authorities have met degrees of resistance from the relevant local authorities, at least at the beginning of the process, because of lost powers. The Shire of Swan regards this development authority as a means of getting things moving, and hopes that it will lead to increased employment in the area.

The Government totally supports the sentiments expressed in the amendments. I have a problem in adding the proposed words in a powers provision. Clause 20 would read as follows if the amendments were passed -

In performing its functions the Authority is to have regard to, and is to seek to enhance and preserve, the cultural heritage and environment of the redevelopment area and its adjacent areas.

I am happy that appropriate environmental constraints apply on developments. However, one does not say that one must exercise such power and that before one steps, one must seek to enhance and preserve the environment. That provision would apply to almost anything done, as developments will cause a change in the environment. We hope to have some changes in the environment up there, including the cultural environment. If we include the proposed wording in the

provision, we will not achieve the appropriate balance between heritage and environment. The Environmental Protection Authority on one hand assesses impacts when someone wants to change the environment, but it makes the appropriate balance. This amendment states, "Forget the balance. If doing anything, you must seek to enhance and preserve the environment." Instead of saying that we are seeking to develop Midland and employment, the amended provision would state that the measure will seek to preserve the environment. Unfortunately, one cannot say that is within the powers of this authority.

When seeking to develop, one must have regard to the provisions of the Environmental Protection Act. Balance must be involved. If one is to develop, one cannot do so to the detriment of the environment to an extent which is unreasonable. An Act stipulates how that is to be done.

Hon Norm Kelly: We also have a heritage Act.

Hon PETER FOSS: Yes. We are happy to preserve heritage. However, I cannot see how one preserves the environment and develops it at the same time. My concern is that as soon as anything is done to change the environment, injunctions will be issued. People will say, "Sorry, you do not have any power to develop in that way as you're obliged to enhance and preserve the environment." We cannot allow that to occur. The Government is fully committed to the observance of the Environmental Protection Act, and will be mindful of the need to protect the environment. A change in the powers clause would not be a safe way to proceed.

Hon Tom Stephens: How would the amendment impact on the passage of the Bill?

Hon PETER FOSS: We would have to reconsider the value of the Bill. This is an expensive and difficult exercise for the Government, and I do not want to make it any more expensive and difficult than it already is. It will make it almost impossible to function. It will seriously undermine the capacity of the development authority to operate.

Hon J.A. COWDELL: I feel that the Attorney was speaking to the next amendment, because the amendment before us is to delete "and" in line 29. If we were to take the momentous step of deleting "and", the provision would simply read -

In performing its function the Authority is to have regard to, and is to seek to enhance and preserve, the cultural heritage significance of the redevelopment area and its adjacent areas.

I do not see the problem with the deletion of "and". I feel sure that the Attorney's comments were addressed to the next amendment on the Supplementary Notice Paper; that is, the proposal to insert after "significance" the words "and environment".

Hon Peter Foss: I accept that point. Well said!

The DEPUTY CHAIRMAN: The amendment is to delete "and" in line 29.

Amendment put and passed.

Hon J.A. COWDELL: I am sure the Attorney would want to refresh our memories shortly on the importance of "environment" linked with "and" in this context.

Sitting suspended from 6.02 to 7.30 pm

The DEPUTY CHAIRMAN: We are dealing with the amendment to page 12, line 30, to insert after the word "significance" the words "and environment".

Hon J.A. COWDELL: I had been expecting some preliminary comments before I spoke but no doubt I shall receive some backhanders after I speak. I see nothing wrong with the proposed amendments F20 and D20, and I think that the Government's view of their dire nature is an exaggeration, but noting the Government's threat to the redevelopment authority, the ALP will not be supporting further amendment.

Hon GIZ WATSON: We live in interesting times. I am exceedingly disappointed that neither the Government nor the ALP is choosing to support the amendment. I remind members that all we are seeking to do with the amendment is to elevate the requirement to have regard to, and seek to enhance and preserve the environment in the same light as the Bill seeks to enhance and preserve the cultural heritage. I hear very clearly that neither the Government nor the ALP is willing to seek to enhance and preserve the environment in this redevelopment proposal. I remind members that the definition of environment that I am proposing to insert here is the definition in the Environmental Protection Act 1986, section 3(2) -

For the purpose of the definition "environment" in subsection (1), the social surroundings of man are his aesthetic, cultural, economic and social surroundings to the extent that those surroundings directly affect or are affected by his physical or biological surroundings.

What I understand from that is that the environment is defined in a very broad way and, of course, would consider things like the social impact of this redevelopment. What I hear the Government and the ALP saying in not supporting the amendment is that they do not wish to incorporate those requirements into the Bill. It is an appalling shame that this has been beaten up as something that will completely destroy the Bill. I find that extraordinary. Any member of the public would completely understand why a Bill or a law would have within its functions and powers a regard for the environment. I think it makes plain sense and I think I have mentioned before that it is highly likely that as the redevelopment progresses, whoever undertakes the redevelopment will encounter contamination. I can guarantee it. I have little faith that it will be handled in a way that will be to the maximum benefit of either the environment or the community if the current Government's record is anything to go by.

Hon Peter Foss: Who has done all the work? That is nonsense. Typical rubbish. Who has done the only clean up?

Hon GIZ WATSON: All I can say is that a substantial proportion of the community is not happy with the way contaminated sites are currently being cleaned up.

Hon Derrick Tomlinson: Who was cleaning them up before?

Hon GIZ WATSON: I agree that they were not being cleaned up before, but the way they are being cleaned up at the moment does not adequately -

Hon Peter Foss: I think it indicates why it should not go in.

Hon GIZ WATSON: In my contribution to the second reading debate I said that the main concern raised by the people in the Midland area was that they are opposed to canal development that would impact on the flood plain and wetlands in the eastern portion of the proposed redevelopment area. The amendment specifically addresses those concerns and I am sure that those people will be exceedingly disappointed that neither the Government nor the ALP has seen fit to support the amendment. I am sure people will hear more on that matter later. I do not wish to say any more other than that I am exceedingly disappointed. The indication I had from the Government was that it did not support the amendment, and I accept that. My understanding of the ALP's stand until approximately five minutes ago was that it would support the amendment. It concerns me that its members have been bluffed into a certain position here and have reneged on the view that the amendment is a simple request to include reference to the environment in this Bill.

Hon DERRICK TOMLINSON: I am provoked to respond to that. The member has shown her appalling ignorance of the Midland development area. If she were familiar with the Midland Workshops site she would know that as early as 1994 the task force appointed in 1993 one week after the closure of the workshops identified the industrial contamination on the site. Considerable resources were invested to identify the industrial contamination and to investigate the transfer of the industrial contamination into the Helena River. The task force invested considerable resources in determining the management of the industrial contamination which came from the activities of the former railway workshops. No development of that railway workshop site could proceed without proper management of those contaminated sites. Every proposal, and there have been several of them since 1994, has addressed those issues.

As for the Woodbridge canals development, which is a proposal, let me tell the House about Blackadder Creek, which is the basis of the Woodbridge canals development. It is not a creek, it is a drain, because at the time that Marshall Park was used for sanitary landfill, one of the areas that was filled by landfill was Blackadder Creek. The solution was to divert Blackadder Creek and turn it into a drain. One of the proposals to be discussed in the Midland redevelopment is to restore Blackadder Creek, which means there is a great deal of work to be done on the landfill site.

Hon Giz Watson has displayed appalling ignorance under the guise of being warm to the environment. She is not even aware of the environment she is talking about! If this is her justification of the amendment she is moving, it is not an exaggeration to say that she is totally uninformed about the matter she is addressing.

Hon GIZ WATSON: I must respond to that. I understand that Blackadder Creek has been modified.

Hon Derrick Tomlinson: Modified!

Hon Peter Foss: It has been moved.

Hon GIZ WATSON: I understand there has been a drain there since the area was used as a landfill site. However, the area is environmentally significant. Hon Derrick Tomlinson has almost made the point I am making: What is the problem with including a requirement to have regard for the environment if the intent of the Bill is to improve the environment? Where is the problem?

Hon Peter Foss: The member wants to put the amendment in a place that creates legal problems. She is a lawmaker, not an agitator. She should have some responsibility.

Hon GIZ WATSON: The second issue is the level of contamination of the railway workshop sites. I appreciate the comments Hon Derrick Tomlinson made because I was unaware of that. The briefing I received was wholly inadequate. When I asked, I was told that contamination on the site had not been investigated. I accept the member's criticism that I did not fully research that aspect. However, I relied on the briefing that was given to me on this Bill. When I asked about the level of contamination on the site, I was told that it had not been assessed and would need drilling and assessment. I take the member's additional information on board and thank him for it.

Hon PETER FOSS: I make one point. We are in this place as lawmakers. I sincerely hope that the Bill results in a better environment. I do not want a provision contained in the powers part of the Bill that will allow people to obstruct the work of the Midland Redevelopment Authority by taking out injunctions. We are here as lawmakers, not to make warm fuzzy statements about things. We are here to try to do something. Hon Giz Watson made outrageous statements about this Government's clean-up records. It has spent millions on that work, such as at the gasworks. Nobody did anything on the Omex site until we came into Government.

Hon Derrick Tomlinson: The Labor Party poured a bucket of sand over it and hoped it would go away.

Hon PETER FOSS: And it stirred it up. That is one of the problems the Government had to deal with. It worries me that I cannot seem to get through the point that, although the Government and Greens (WA) may have identical intentions, the member is trying to do the sort of rubbishy thing that rises at a public meeting where what one does has no consequences

and does not mean anything in law. We are not here to make warm fuzzy statements, we are here to pass a law. The Government's biggest concern is that people will use the proposed amendments to get injunctions. I am sure the member does not want that to happen. She does not want nuisance injunctions. She hopes for the same result as us. I hope she does not want to put into the Bill a clause that will allow people needlessly to obstruct the business of the redevelopment authority. The authority will comply with the law and do what is necessary to improve the environment. However, that provision should not be included in the powers part of the Bill. That is my objection. I do not know why Hon Giz Watson lashes out at everybody with wild statements about clean ups. I am talking about the legal effect of the proposed amendment. The legal effect would have the capacity to undermine the whole operation of a redevelopment authority whose task is already difficult. That is why the Government opposes the amendments. It does not oppose the member's sentiments; it opposes the crummy amendments. The Government agrees with what the member wants to happen. It probably will happen. Of course, it has not been planned yet, but the intent is the same. However, one does not stick things in Bills for the sheer fun of it.

Hon GIZ WATSON: I am interested in the Attorney General's comment that he anticipates injunctions. Can he indicate what he anticipates injunctions over?

Hon Peter Foss: No. Let us get on and vote. This is just nonsense.

Hon NORM KELLY: It is wrong for the Attorney General to be so flippant about this amendment. It is a serious amendment. We realise it could have serious ramifications if it were passed. It could also have serious ramifications if it were not passed. The Australian Democrats support the amendment. We believe that any party with a sincere commitment to the environment would do so.

Hon J.A. Cowdell: Hon Norm Kelly wanted to ditch the amendment last night.

Hon NORM KELLY: I spoke to the amendment last night and I told the Attorney General that I would appreciate feedback on an alternative way of inserting the intention of the amendment into the Bill. It could be inserted in different wording but still maintain the intent of the original amendment moved by Hon Giz Watson. Neither the Government nor its advisers had the decency to respond to those questions and remarks made both in and outside of this Chamber. Nobody has responded with other ways of putting this amendment into the Bill. I asked whether it could be put into other parts of the Bill so that it was not contained within this part about the powers of the authority. Yet, after my questions and suggestions, I did not get a single response as to how that could be achieved. It is wrong for the Attorney General to now say that the amendment should be ignored when the Government ignores legitimate questions and queries.

Hon Peter Foss: The Government will not write the member's amendments. He should write his amendments. I oppose the amendments. I will not try to find some other way to make them work.

Hon NORM KELLY: If that is the Government's attitude, it could be in for some long debates in this place in the next few weeks. The Australian Democrats believe strongly that the amendment has been made with the finest intention of putting into the Bill something that is necessary to ensure the environment is enhanced and preserved, as is stated in the subclause. As I said last night, and was agreed outside the Chamber after the debate, it is not essential that the words in subclause (5) - "to seek to enhance and preserve" - be binding.

Hon Peter Foss: That is nonsense. I did not agree with that.

Hon NORM KELLY: It may be nonsense to the Attorney General now, but that is different from what the Government is saying outside the Chamber. We come into this place and debate these issues after the Government has ignored all our queries. It did not even respond.

Hon Peter Foss: It has been claimed that I said something outside this Chamber. I do not know what the member means.

Hon NORM KELLY: I was saying that the Government, through its advisers and officers -

Hon Peter Foss: The Government is me and the 16 other members in this place.

Hon NORM KELLY: I now ask the Attorney General what other parts of this Bill were considered for the inclusion of such an amendment to show that this Government intends to enhance and preserve the environment?

Hon PETER FOSS: That is not necessary. I do not believe this amendment is necessary. It is window dressing. It should not be in the Bill. Two other pieces of legislation do what it seeks to do. Let us get on with this. Does the member want this redevelopment authority or not? It seems clear that the Australian Democrats and the Greens (WA) do not want it.

Hon Norm Kelly: That is rubbish.

Hon PETER FOSS: The members should get on with it and perhaps we can pass the Bill.

Hon NORM KELLY: I ask the Attorney General why the Environmental Protection Act has a different standing than the Heritage of Western Australia Act, considering special allowance has been made for the cultural heritage significance of this area. I am asking genuine questions which I have asked previously, last night in the Chamber and before last night outside the Chamber. I am still waiting for answers. We can get on with the debate once I start getting some answers.

Hon PETER FOSS: The member got the answers yesterday in the Chamber. The fact is that we do not have any problem with preserving heritage buildings because they are preserved when they are preserved. When an environment is developed, it is changed. If the Bill provides that the Government will seek not to change it, the area cannot be developed. The Bill contains the words "seek to enhance and preserve". That will necessarily mean change. The member may not agree with

me, but he has his answer and I will not keep repeating myself. Apart from anything else, it is against standing orders. I will sit down and the member can talk his head off, but let us get on and pass this legislation. I have never said I believe there is any other way to include this. The Government has never given the member any of those considerations. I have said nothing other than what the Government has said in this Chamber. I have been quite consistent. Let us get on with this please, because the legislation must be passed. The member is repeating himself; this is tedious repetition. I will not stand and repeat myself again.

Hon NORM KELLY: Further to the reasons mentioned in the second reading debate last night that we consider it important to include the words "and environment" in the subclause, we are concerned about the northern portion of the development area, around the Blackadder Creek or drain. It is also known as the 100-year flood plain. I want to know whether the Government has considered the possibility of referring to that area of the overall site in the Bill, in the same way that it has referred to the culture of the Midland railway workshops.

Hon PETER FOSS: No.

Hon NORM KELLY: Clearly the Government has not given consideration to the debate last night. Once again, members should take a good look at the definition of "environment" in the Environmental Protection Act, which clearly shows the holistic meaning of the word. It is not just what some people may call the green environment; it is much broader than that and the Government should not be afraid to include it. This suggestion by the Attorney General that "to enhance and preserve the environment" means we should not touch it, is absolute rubbish. A simple example is the contaminated sites, where there should be massive intervention which would improve the environment.

Hon Peter Foss: If it is negative, but what about if it is positive? That means we cannot touch it.

Hon NORM KELLY: If there is an impact on the area to remove contaminated soil from the site, for example, it is a positive thing.

Hon Peter Foss: Is that all we can do?

Hon NORM KELLY: No. That leads me to the other part of the clause which includes the phrase "to seek to enhance and preserve". It is obvious that what I have been told by the minister's adviser outside this Chamber is that the words "to seek" -

Hon Peter Foss: This is outrageous.

The DEPUTY CHAIRMAN (Hon W.N. Stretch): It is not meaningful or proper to refer to conversations or briefings held outside the Chamber. The member is aware of that, and he should bear it in mind.

Hon NORM KELLY: I am sorry for those comments. It is very difficult for us when we are legitimately trying to improve the Bill. It is difficult to get good advice on how best to implement changes in the Bill.

Amendment put and a division taken with the following result -

Ayes (5)

Hon Helen Hodgson
Hon Norm Kelly

Hon Christine Sharp

Hon Giz Watson

Hon J.A. Scott (*Teller*)

Noes (21)

Hon Kim Chance
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Cheryl Davenport
Hon Dexter Davies
Hon E.R.J. Dermer

Hon Max Evans
Hon Peter Foss
Hon N.D. Griffiths
Hon John Halden
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon Ljiljana Ravlich

Hon Tom Stephens
Hon W.N. Stretch
Hon Bob Thomas
Hon Derrick Tomlinson
Hon B.K. Donaldson (*Teller*)

Amendment thus negated.

Hon PETER FOSS: By reason of that decision of the Committee, the second part of the next amendment cannot be allowed to proceed.

The DEPUTY CHAIRMAN: That is correct. I move to Hon Giz Watson's next amendment, which is now -

Page 13, after line 28 - To insert the following new subclause -

(9) In subsection (5) -

"cultural heritage significance" has the meaning defined in subsection 3(1) of the *Heritage of Western Australia Act 1990*;

The word "and" has been deleted from the end of the paragraph in the original amendment, and the second paragraph cannot be included. The question is that that part of the proposed subclause be inserted.

Hon NORM KELLY: If the authority were seeking to enhance and preserve the cultural heritage and significance of the site - in particular, the workshop buildings - and in so doing planned to make substantial changes to those buildings, would that contravene the legislation? I understand that plans are afoot to restore the workshops as working facilities in another form.

Hon PETER FOSS: A series of things must be done with a heritage building. One very important issue is maintaining it as a living building rather than converting it into a museum. Obviously some changes would not be allowed by the Heritage Council. There is generally a reasonable balance between the enhancement that results from being occupied and the preservation that results from not being altered. I hope the buildings do not need to have their fabric significantly impaired to enhance their cultural significance by maintaining their use.

Hon J.A. COWDELL: Does the term "cultural heritage significance" have the same meaning in law whether or not this definition is included in subclause (8)? Does including a definition in the Bill add anything to the term as it is used; will it be interpreted the same way regardless of the inclusion of this definition?

Hon PETER FOSS: Possibly, but not necessarily. There is no requirement at law for it to be given the same meaning as that given in the other legislation. However, the term might have been interpreted in some other case and given a particular meaning. The Parliament might be deemed to know that and it would pick up that meaning. Generally speaking, the legislation would give it some indicative meaning rather than necessarily the same meaning. This clause leaves no doubt that one can refer to the other legislation to determine what it means.

Hon NORM KELLY: This definition refers to the aesthetic values of the structures or buildings. Often people interpret that as the external appearance of buildings. Hon John Cowdell referred to the possibility of the interior being changed to convert them to working buildings. This is one of the reasons for my concern about the previous amendment not being passed. Now that we have a definition, that could be subject to injunction because people might determine that significant internal change to the building contravenes the definition in the Heritage of Western Australia Act.

The Democrats fully support the move to develop these buildings. As I said in the second reading debate last night, if they are converted to working buildings they become more a part of the community. However, I am concerned about the inclusion of the definition making it possible for injunctions to be taken out against such works. Although I support this amendment, it appears to be an about-face in the Government's argument in respect of the environmental issue.

Hon PETER FOSS: I obviously have not successfully argued my point that there is a difference between heritage values and the environment. The important thing about heritage is that the cultural significance of a place can be changed; in fact, that is recognised in the definition, which refers to the significance of the present community and future generations. My concern about the environment is that if we change it, it stays changed. If we leave a heritage building as it is, most people agree that that is a negative. I have no problems with removing pollution. One could argue that leaving the environment untouched is a positive. However, that argument could not be made with regard to heritage buildings. We know that eventually they will deteriorate.

We have always had problems with the environment. Many people say that we cannot do the slightest thing to it unless we can show that nothing will go wrong.

Hon Norm Kelly: That is taking the precautionary principle to the extreme.

Hon PETER FOSS: That can be very difficult. It is very easy to get injunctions, and it might be two or three years before a decision is made. I have never heard of any precautionary principles with regard to heritage buildings. I do not think one could argue that leaving them as they are would be a benefit. I am not saying that a heritage building is like a polluted site, but such a building would need something done to preserve it.

Hon DERRICK TOMLINSON: I will give one simple illustration of where the built heritage will have to be changed. Workshops Nos 1, 2 and 3 have asbestos roofs. Several hectares of asbestos sheeting will have to be removed for public safety, if for no other reason. If we were to follow the letter of the law - that is, preserve the buildings as they are - that asbestos sheeting could not be removed. That type of work will be essential in this project.

Amendment put and negatived.

Clause, as amended, put and passed.

Clauses 21 and 22 put and passed.

Clause 23: Compulsory taking of land -

Hon GIZ WATSON: Has consideration been given to the native title implications of the compulsory taking of land?

Hon PETER FOSS: That is now part of the whole public works acquisition process.

Hon Giz Watson: Could you explain how - briefly?

Hon PETER FOSS: There are provisions relating to native title contained in the commonwealth Native Title Act. We have mirrored those in our state legislation to deal with such things as, for instance, how to go about resuming land. When we do that now, we resume all interests in the land, including native title interests. For public works, generally speaking, there is not a right to negotiate but a right to be consulted. The whole process turns through, taking into account the changes being made at a commonwealth level.

Hon GIZ WATSON: If under this legislation, land was compulsorily acquired, would that mean there would be a requirement for consultation, but no right to negotiate?

Hon PETER FOSS: No. Most of the land to be resumed under this legislation will be freehold, so there is no right for that. The only time we resume for public works now is when crown land is involved. My understanding is that the process for

a resumption for public works is different from that for a resumption for other purposes. Obviously public works must continue. If we could not build roads or the other things that are required for public work, it would be extraordinary. We can do that with freehold land. It is a different process for public works. It is a complex one and I cannot remember all the detail. It is not the same, other than resuming for a public work. One thing that went through was the ability to resume within a town for the purpose of extending the town.

Clause put and passed.

Clauses 24 to 78 put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and returned to the Assembly with amendments.

PRISONS AMENDMENT BILL 1998

Second Reading

Resumed from 15 September.

HON LJILJANNA RAVLICH (East Metropolitan) [8.14 pm]: I am not the lead speaker for the Opposition on this Bill; however, as Hon John Halden has some pressing business to attend to, I will speak before him. I have made no secret of the fact that I am opposed to privatisation generally; however, I am particularly opposed to the privatisation of the state prison system. To me, this Bill signals a very bad way for this Government to move in respect of the future of the State's prison system. This is a Bill to amend the Prisons Act of 1981 and to allow for prison services to be provided under contracts, and for related matters, and to amend various Acts as a consequence.

It is no secret that the Corrections Corporation of Australia - CCA as it is more commonly known - has been identified as the preferred respondent to design, construct, finance, operate and maintain a new medium-security prison to be built at Wooroloo South. Not only will it build the prison, it will also enter into contractual arrangements with the chief executive officer, representing the State Government, for the operation of the new prison.

I am particularly concerned because I do not think it will stop there. This is not a one-off. My view is that, in having gone down this path, the Government is likely to continue to do so and subsequently privatise other prisons as the demand for them emerges. I have some general concerns about privatisation, but when it comes to the whole question of what we do with our prisoners, my view is that if the State takes away the rights of individuals who have committed crimes, it has the legal responsibility to ensure that a duty of care is provided to those prisoners in terms of their day-to-day activities within the prison system. I am not at all convinced that the State can abrogate its responsibility through subcontracting arrangements to the private sector, nor am I convinced that the private sector will necessarily have the same objectives in mind. There is great scope for -

Hon Derrick Tomlinson interjected.

Hon LJILJANNA RAVLICH: That may be so; however, there is ample evidence to suggest that what happens in practice, as opposed to what is written in legislation in terms of contractual obligations, can be varied. That is the experience of private prisons in America. I think it is fine to argue that all the checks and balances are in this legislation, but what we find is happening on the ground may be very different. I have taken a keen interest in prisons for some time. I find some of the information I have come across about what has happened in the privatisation of prisons in other jurisdictions to be horrifying.

The Government has claimed that it is not ideologically tied to the concept of privatised prison services, and nor is it trying simply to reduce costs. I have not heard an explanation of why the Government is really heading down this path. Nothing has been provided in this place to demonstrate that prisoners will be any better off as a result of this new arrangement. I am concerned about the lack of detail on the Government's motivation for pursuing this proposal. If it is not about reducing costs, what is it about? The Government is trying to sell us some furrphies. The Government has admitted that the existing prison system is causing pressures. It has not been able to keep the crime rate down. The Attorney outlined in the second reading speech the following -

The core of the Bill is the extension of the statutory powers of the Chief Executive Officer of the Ministry of Justice to enter into service delivery arrangements with the private sector.

The Attorney certainly admits that a significant increase has occurred in the prison population since the beginning of the decade. He continued -

Several factors have contributed to this, including an increase in the State's population, increasing rates of crime, various government initiatives in response to community concerns about crime, increased use of imprisonment as a penalty, and increased sentence lengths.

I do not dispute any of those points, which are rather obvious. Building a new prison would have added substantial pressure to the Government's budget, which is already in deficit to the tune of \$648m. It is deceitful to say no cost pressures are driving this Bill as cost pressures are involved. The Government has worked out that if the private sector picks up the tab for building the new prison, and if it put out other contracts whereby companies like Corrections Corporation of Australia will run the prisons, substantial cost saving will be accrued for government. Irrespective of the Government's claim that this proposal is not about reducing costs, all the information I have seen indicates that cost reduction is a key driver for this Bill, and for the Government's decision to put in place a system of privatised prisons.

I have said on a number of occasions that the Australian Labor Party holds the view that government services should be contracted out only if and when it is in the public interest to do so. That is a key underlying belief. Nothing in this Bill or the Government's proposal to contract out the building and operations of the new prison indicates that it is in the public interest. I have heard nothing so far in this place, on the number of occasions that this question has been discussed, to indicate that this proposal is in the public interest. I will be very interested to hear the Attorney's explanation for this Bill. It is not driven by economics, according to the Attorney. I have heard nothing to convince me that having a private prison in Western Australia is in the public interest, and I go so far as to say that it represents a threat to the public interest.

The minister also stated in the second reading speech the following -

Developments overseas and in Australia in recent years demonstrate that private sector participation in the design, construction, financing and management of prisons can stimulate innovation, flexibility, and better, more cost-effective service outcomes.

Nothing I have heard indicates that to be the case. No information has been tabled in this place to support that claim. In fact, we have seen no costings on the Government's initiative. I refer now to correspondence from Hon Peter Foss, the Minister for Justice, which was sent to all members of the Opposition. This letter, dated 26 February 1999, related to the selection of Corrections Corporation of Australia as the preferred respondent for the new Wooroloo South Prison. The letter advised opposition members about the stage the initiative had reached, and explained why the Government had chosen to have a private contractor construct a private prison. The correspondence read -

The introduction of a mixed prison system is a fundamental change and has, naturally, attracted considerable attention from interested sections of the community, including Members of Parliament.

For this reason, the Government has undertaken a program of complete disclosure . . .

If ever there was a case of an incomplete disclosure, this is it. Irrespective of the number of times we have asked for detailed information on this initiative, we have not seen any. The minister stated that he believes that the disclosure program is the first of its kind in the world. The letter further read -

The program began last year when I tabled the Request for Proposal, which defined the requirements for the new prison.

I now propose, with the enthusiastic agreement of CCA, to be similarly open with that company's successful proposal. This letter is an invitation for you to personally read the proposal prior to the completion of the contract negotiations currently under way.

The only material which will not be immediately available are the financials. There are two reasons for this: final figures are subject to negotiations and until agreement is reached there is the possibility that we may have to negotiate with the second preferred tenderer and it would not be in the State's interests to disclose the figures. It is proposed, however, that the financials would be disclosed on successful conclusion of the contract negotiations. This is expected to be in the second half of March.

That information has not been made available. I wonder whether the contract negotiations are concluded. Given that the time frame was completion in March of this year, I suspect that the contract negotiations are concluded. Nevertheless, we have had no disclosure of figures. Parliament and the Western Australian taxpayers are none the wiser about what the Government is doing in its commercial arrangements with CCA.

I think I speak for most Western Australians when I say we are simply sick and tired of being kept in the dark. On some occasions we cannot even get tender documents. This Government made a big song and dance at the opening of the new Department of Contract and Management Services web site, where we were told every tender document could be found. If one enters the site, one might be able to pick up select copies of tenders to which the Government does not mind giving access. However, when it comes to anything which the Western Australian community might be remotely interested in, such as this sort of information, it is purely and simply not there. I say to the minister that if there is nothing to hide, if this is in the public interest and not about saving money, and if it is about what is good for this State, I am simply amazed at the level of secrecy that surrounds the Government contracting out arrangements. I think I speak for most Western Australians when I make that point. Numerous privatisations and hundreds and hundreds of contracts have been entered into by this Government. None of that detail is there. I shake my head because for a Government which prides itself on its supposed openness and accountability, this has been nothing short of disgraceful. At the end of the day, the minute one asks for information, no information is made available.

I return to the second reading speech. I hope that my colleague Hon John Halden will pick this up. The Government made a clear commitment to making the financial data available at the conclusion of the contract negotiations, which were to have been concluded in March. No-one in this place has seen any of that financial data. I am hoping that the minister will do the right thing in this case and I am hoping that Hon John Halden will also press the point, because it is beholden on the

Government to provide those financial data if it has any belief at all that it is open and accountable. If the Government pursues the path it has thus far and does not provide those financial data, that speaks for itself.

The second reading speech highlights a number of reasons that there is a case for private sector prisons, which include the preparation of prisoners for release. The Government obviously takes the view that the private sector can do this better. I do not know what attempts have been made in-house throughout the State's prison system to focus on that area, but I have seen no evidence that would suggest that if the government sector had the opportunity to focus on the preparation of prisoners for release, and if adequate funding were provided, it could not perform this function as well as, if not better than, the private sector. One of the cases for private sector prisons is that they have performed better than publicly operated prisons in the areas of the preparation of prisoners for release and relations between staff and prisoners. This has yet to be seen, but then all of these points have yet to be seen. I do not know how one can make claims that if the system is operated by the private sector, it will be better for staff morale than if it is operated by the public sector. I do not know on what basis these arguments are founded. The minister is of the view that the care of potentially suicidal prisoners will be better dealt with by the private sector than the public sector. The claim is also made that there will be more flexible visiting hours and procedures, more out of cell hours and better control over authorised prisoner movements within prisons.

If one looks at these claims at face value one would probably say they are not a bad set of positive indicators for the private sector. However, it is fair to say that if adequate resources had been pumped into the state prison system, and if the focus of the programs of the state prison system was such that these were key indicators or measures of performance, I am convinced that the state prisons and the people who work in them would have achieved very good outcomes. At the end of the day, if we deny resources to the state prison sector in order to focus on these outcomes, we will always run the risk of not achieving those outcomes. I do not support the case for private prisons as many contrary arguments have been presented by the minister in his second reading speech. I will go through some of those arguments in my limited time.

One of the key assertions that I hear time and again, the validity of which I am convinced, is that contracting out may put profit motives ahead of public interest, ahead of inmate interest and ahead of the purposes of imprisonment. As opposition spokesperson for public sector management, I have carried out a great deal of work on privatisation and contracting out and I can tell members that the private sector is very much motivated by profit. If, at the end of the day, a contract is not profitable, a contractor will not perform it; it is as simple as that. To make profit from prisons and prisoners is an outrage and an absolute disgrace, yet that is exactly what this Government is doing. If the minister tells members that Corrections Corporation of Australia is in fact in this business purely and simply because it has an affinity or a liking for prisoners, I have news for members and it is all bad. We know exactly why CCA is in this arrangement: At the end of the day it will make a profit, and the greater the cuts it can make to the provision of services, the greater will be that profit; it is simple. Do members for a moment think that CCA will cut back on its profits so that it can provide a top-notch, quality service for prisoners in preparing them for release or in the provision of care for potential suicides? I do not. This Government is taking us into uncharted waters and it does so with no basis. If the minister said to me, "We have made these decisions because we have carried out an analysis and all our reports show that this will be the best thing since sliced bread, not only for the prisoners but also for the community"; if he could demonstrate that it will be a cost-effective option, not like other contracts that have gone astray and lost money; and, if he tabled the financial information, I might be one of the first members to support him. However, the bottom line is that has not occurred before. Now the Government is playing exactly the same trick and saying, "Trust us, it will be good for everyone". I am sick and tired of trusting the Government. If I wanted to highlight something for the public arena, the easiest way to do that would be to find a contracting arrangement that this Government has entered into. Invariably, problems arise with these contracts; for example, they go over budget. Cases in point are the two education contracts that went over budget by \$20m - the human resource information system and the personnel 2000 system. Twenty million dollars could have been spent on education in Western Australian schools and where is it? It is in botched up computing contracts.

Hon Derrick Tomlinson: How are your Commonwealth Bank or Qantas shares performing?

Hon LJILJANNA RAVLICH: I do not have any. If the minister were prepared to disclose all the financial and supporting information, I would listen to him. I might even say that just maybe the Government has a bright idea for a change. However, quite frankly, it gives me no confidence. I have no confidence that the Government has got it right. It does not provide any information; yet time and again members opposite expect me to believe them. They are barking up the wrong tree.

If there were nothing in it for Corrections Corporation of Australia it would not be interested in the contract. CCA builds prisons because it knows it can fill them because conservative Governments like this are not really interested in prevention or in reducing the crime rate. They are interested in building more prisons and handing them over to the private sector as its responsibility. I am not so sure that is the way to go.

Hon Peter Foss: Surprise, surprise.

Hon LJILJANNA RAVLICH: The minister may be surprised, but until I receive alternative information, this is the view I will take. I firmly believe that the quality of service to prisoners will be reduced due to the private contractor cutting corners.

Hon Barry House interjected.

Hon LJILJANNA RAVLICH: This is not in the interests of the public because if the quality of service and security is reduced because profits are maximised, the people in my electorate, the electorate of Hon Barry House, and the victims of crime will be at risk when prisoners escape because of insufficient security.

Hon Peter Foss: That is outrageous. You are using scare tactics.

Hon LJILJANNA RAVLICH: The minister says that is outrageous. He knows that is the truth.

Hon Ray Halligan: Where is your evidence that is the truth?

Hon LJILJANNA RAVLICH: Where is the evidence from the Government that it is not true?

The PRESIDENT: Order! I was listening intently to what was being said, but everyone wanted to interject. We should have one member at a time.

Hon LJILJANNA RAVLICH: There is no question that the security of the public may be jeopardised as a result of inadequate staffing or training levels and there is nothing to suggest anything to the contrary. There is always a risk. However, the point I am making is that the risk is higher when profit motives are greater. If the primary motive of a private operator is to maximise profits, security is one of the areas in which quality may be reduced which will result in a risk to public safety. Likewise, there are also risks in terms of security internally within the prisons if staffing levels are reduced.

That brings me to my next point; that is, the issue of liability. I will be interested to hear the minister's explanation for this hypothetical case: In the event that a prisoner escapes from a privately owned and operated prison, runs off to Midland and bashes somebody senseless, at the end of the day, who is liable for that? If the victim of the bashing wants retribution and wants to take out a civil action, against whom will that person take out the civil action? Does the victim take it out against the State, which has delegated the authority to the private contractor? Does the victim instead sue the private contractor because the private contractor should never have allowed it to happen? In the interests of Western Australia, how does the Government intend to resolve the question of liability?

Hon Barry House: Presumably, that will all be covered in the contract.

Hon LJILJANNA RAVLICH: Presumably it might, but we will not see the contract. One of the great features of this Government is that no-one sees the contract.

Hon Peter Foss: Have you read the request for proposal?

Hon LJILJANNA RAVLICH: The government member has just stated that this will all be in the contract.

Hon Peter Foss: Have you read the RFP?

Hon LJILJANNA RAVLICH: The minister should not try to dissuade me. He knows the point I am making. Hon Barry House has made a very good point. The member has stated that this information will be in the contract. However, the minister and I know that I do not have a hope in hell of seeing a contract, let alone touching a contract. I would not even know what a government contract looks like because, in spite of all my amazing efforts - if anyone can ferret out information, I can - I cannot get my hands on a government contract.

Hon Ray Halligan: Did you get your preselection?

Hon LJILJANNA RAVLICH: Must I put up with someone who is so ignorant as Hon Ray Halligan? What my preselection has to do with prisons, I have no idea. If the member is suggesting that there is some connection, he is drawing a very long bow indeed. I am not convinced that the Government has addressed this whole question of liability and whether the Government, having entered into these contractual arrangements, can abrogate any responsibility for liability in the event that things go wrong. We have not been given an adequate explanation in regard to that, as we have not been given an adequate explanation in regard to so many things. In the event that the Government cannot escape liability, the Government must carry the liability as a result of a potentially inefficient operator. The more inefficient the Corrections Corporation of Australia is in terms of its operations and the more mistakes it makes in terms of management because it wants to drive up its profits, the more the Government is exposed to liability. Has any consideration been given to those sorts of issues? I have not heard the minister provide any explanation, nor did he mention it in his second reading speech. It seems as though no-one has even thought of this and I cannot believe the Government would have gone so far. The Government has signed the contract and, at the end of the day, we do not know who will be liable.

There is also the question of accountability and the fact that contracting out reduces accountability, because the private operator will not be subject to the same sorts of government controls as government operators. The Government has locked into this legislation reference to minimum standards. Proposed section 15D states -

- (1) The chief executive office must establish minimum standards applicable to the provision of prison services under a contract -

We do not know what the contract is -

- and the chief executive officer may, from time to time, amend the minimum standards.

Once again, we do not know what the minimum standards are. Does the Government currently have minimum standards for the provision of prison services within the public prison system, because I certainly have not heard that there is a benchmark for standards for the Government. If there is not, I am interested to know what the minimum standards will be for the private contractor. In the event that I have missed something and there are minimum standards for the provision of prison services within the state system, will the minimum standards for the private operator be on a par with, or higher than, those for the government system?

Hon Barry House: You will probably find that the public sector, for the first time in its existence, will establish a few minimum standards and criteria as a result. That will be a good thing.

Hon LJILJANNA RAVLICH: Okay. Therefore, Corrections Corporation of Australia will determine the minimum standards for our public prison system. I am just amazed, because I have read enough about CCA to know that the standards under which it operates are very questionable. I will not have time to go into the operations of CCA - a multinational corporate entity, as I understand - and its work in other jurisdictions. Goodness knows how the Government ever awarded a contract to CCA, given the plethora of information which exists about its performance in other jurisdictions. However, I will leave that matter there, because my learned colleague Hon John Halden will no doubt explore that issue in greater detail, and I am sure that he has come across much of the same information I have.

In conclusion, the Australian Labor Party does not believe that the contracting out of the building of a private prison, and the work associated with the day-to-day operations of a prison through a contracting out process, is in the interests of the Western Australian public. The Labor Party has not seen evidence of benefits as a result of the Government's privatisation and contracting out agenda. To the contrary, the privatisation and contracting out agenda of the Court Government comes at an enormous cost to Western Australia. That cost will not be borne for one, two or three years; it will be borne by successive generations of Western Australians. This Government should be ashamed of the financial obligations of long-term contracting arrangements to which successive generations of Western Australians will be tied. Many of these arrangements may have cost-plus elements within them. Unfortunately, we have never seen the contract, so we do not know what is in it. However, I feel confident that it will be a long-term contract and that there will be significant variations in it. Any variations in the contract, similar to those in most government contracts thus far, will no doubt be to the benefit of the contractor and at the expense of the Western Australian public.

This Government's privatisation and contracting out agenda for the prisons has been shrouded in secrecy. I gain no confidence from the interjections by the minister, because although he may act smart and think he is smart, sometimes he can be a bit too smart.

Hon Peter Foss: Are you trying to get me to interrupt?

Hon LJILJANNA RAVLICH: If the minister were an honorable man - I am sure he is - he would not want to maintain this secrecy. I will challenge, invite, coerce or do whatever it takes to get the minister to be more open not only with me but with Western Australians in general. The bottom line is that I do not have any great expectations, because I will only be disappointed.

Hon Peter Foss: You have not read what I have tabled. You have been carefully avoiding listening to me. Have you read it?

Hon LJILJANNA RAVLICH: What the minister tables is of the least relevance. Of greater relevance would be background information and research that has been done and of greatest relevance is the contract.

Hon Peter Foss: You have not read the RFP.

Hon LJILJANNA RAVLICH: If the minister expects me to believe that all of the information I seek on behalf of Western Australians is contained in the tender document - the request for proposal - he has rocks in his head.

Hon Peter Foss: You have not read it, have you?

Hon LJILJANNA RAVLICH: I have read many proposals. The RFP is not even a tender; it is probably an earlier draft of the tender proposal. The minister is an absolute disgrace if he is telling Western Australians that all of the information they need to know about this arrangement is contained in a request for proposal. He must be kidding. What a disgrace.

Hon Peter Foss: You cannot disguise the fact that you have not read it and you are embarrassed about it, which is why you will not say yes or no.

Hon LJILJANNA RAVLICH: That is an insult to my intelligence. If the minister thinks that a contract and a request for proposal are one and the same, he might have to go back to school.

I have serious problems with this legislation. It is not in the interests of the Western Australian public. I am concerned about the Government's contracting-out agenda. This is another obvious case in point where the Government, in particular the minister, cannot be trusted in contracting-out arrangements.

HON JOHN HALDEN (South Metropolitan) [8.58 pm]: I appreciated the opportunity to do some other parliamentary business while my colleague Hon Ljiljanna Ravlich started this debate for the Opposition. I was a member of the Government in this place for four years during which time it did not have the numbers. We made great, passionate speeches about why we should have the numbers, but we never won.

Hon Peter Foss: You still do not.

Hon JOHN HALDEN: That is very good, minister. The passion with which the minister has addressed the issue of private prisons - despite the fact that we could have had the numbers and do not have the numbers - should not be diminished, because it has been his folly to convince two members on this side of the House to support the Bill.

Hon Peter Foss interjected.

Hon JOHN HALDEN: No, I say publicly that it will be the folly of the minister. I hope that by the time of the next election

we will see what the minister has achieved. The minister has achieved many things. The minister has come into this place and told us how he would reform the health system. Has he done so well, or has it been those who took over from him subsequently? The minister's record in the Health Department was abysmal.

Hon Peter Foss: My record in the health department was very good.

Hon JOHN HALDEN: We then go to the environmental department -

Hon Peter Foss: That was very good too. Are you speaking on the Bill?

Hon JOHN HALDEN: The minister said that was very good. We know that, and have not the minister's predecessors suffered from his incompetence!

Hon Peter Foss: On the contrary. It is not very relevant to the Bill.

Hon JOHN HALDEN: On the contrary, says his arrogance, the minister. We shall believe, and we shall be delivered into the path of government. The minister will cost members opposite government, and they all know it, because he is a rambunctious fool who believes nothing more than -

Point of Order

Hon PETER FOSS: Come on! Mr President, I have sat here while there has been a personal attack on me, and we have not heard a word on the Bill yet. I think the insult in the last word that Hon John Halden used was entirely unparliamentary.

Hon John Halden: Rambunctious? You are so sensitive!

Hon PETER FOSS: It was the word after that.

Hon John Halden: Fool? Sorry!

The PRESIDENT: Order! I am inclined to agree that we have not heard much about the Bill, but one of the reasons that people get diverted is that others interject and the speaker then decides to follow up on that interjection. If Hon John Halden speaks to me and sticks to the substance of the Bill, I am sure we will get on. Minister, do not interject, and do not lead people in other directions. With regard to whether the words "a rambunctious fool" are unparliamentary, again I just indicate that I need to judge words in the context in which they are said, having regard to the general conduct and tone of the House at a given time. It seemed to me that the last few minutes of Hon John Halden's comments and the minister's comments were directed at each other on a strictly personal basis and had nothing to do with the Bill, so I cannot say that the words that were just uttered are unparliamentary when members encourage others to make statements by way of interjection. Let us get on with the Bill.

Debate Resumed

Hon JOHN HALDEN: I am happy to do that, Mr President, on the basis that you suggest, but I put it to you - and I will address you, Mr President -

The PRESIDENT: Order! The fact that the current Minister for Justice was the Minister for Health and was the Minister for the Environment I do not find particularly relevant to this Bill.

Hon JOHN HALDEN: Nor do I, and it probably shows the good judgment of the Government that it removed him from those portfolios. The point I am trying to make is that this minister has come into this Chamber over the past seven years and guaranteed that his proposals and policy development will be of enormous benefit to the State and we will all see the benefits of his new way of going forward. My point is that this is just another example. The minister for good news, good ideas and new developments is now coming in here with another one. At the end of the day, if we look back over the history, we need to question the enormous commitment that the minister has made to his own personal views about his portfolio, because he has very much put those views to us -

Point of Order

Hon PETER FOSS: Mr President, I would like Hon John Halden to speak about the Bill. I am sitting here, and I do not want to interject and I did not interject until a straight out personal attack was made on me, but I have to listen to what Hon John Halden has to say about the Bill, and so far he has not said a word about the Bill. I would like him to get on with the Bill, and I will listen to him quietly if he talks about the Bill.

The PRESIDENT: I also want the Bill to be discussed. However, I also must allow a member to paint a picture, in the same way as I sometimes must allow ministers to paint a picture. As I understand it at the moment, Hon John Halden is attempting to relate to some historic events. Clearly, they do not relate specifically to the Bill, but they relate to general administrative practice or procedure. Whether or not the minister, I or the House likes it, Hon John Halden is putting his view of past events and how they might be translated into future events. If I am correct, Hon John Halden has made his point and no doubt he will now move on.

Debate Resumed

Hon JOHN HALDEN: I do not intend in any way to distress you, Mr President. It clearly distresses the minister that I may have wandered into past history and talked about incompetence. I do not wish to dwell on it. As you suggested, Mr President, the point is well made.

Hon Peter Foss: You are out of order.

Hon JOHN HALDEN: The minister should go away. He should be quiet and not interject. It is unparliamentary. He knows that. If he does not like history, he should be quiet.

Hon Peter Foss: If you do not address me, you will not get an interjection.

Hon JOHN HALDEN: Just be quiet. If the minister does not like the historical record, which is one of incompetence and total maladministration, he should be quiet.

Hon Peter Foss: Yours is not too good either.

The PRESIDENT: Order!

Hon JOHN HALDEN: We can get to debate on this Bill, which was the reason for the point of order, as soon as the minister is quiet.

Hon Peter Foss: I will be quiet -

The PRESIDENT: Order! That is one of the problems I have with the minister. Every time someone speaks, he wants to interject, then stand up, take a point of order and seek the protection of the Chair, when he and the speaker want to have a personal dispute with each other.

Point of Order

Hon PETER FOSS: I apologise, Mr President. I am happy to sit here as long as I am not being attacked. If Hon John Halden attacks me, I believe I have the right to interject. If Hon John Halden addresses me, I will address him. I am happy for him to address you, Mr President, and the Bill.

The PRESIDENT: The minister does not have the right to interject just because someone attacks him; that is not in the standing orders. I have asked Hon John Halden to address the Bill. If you two gentlemen have some personal animosity, work it out for yourselves at some other stage. I am only interested in what is in the Bill at this stage.

Debate Resumed

Hon JOHN HALDEN: I have no animosity towards the minister. I am astounded by his reaction to what I have said. Clearly, if I continue down this sensitive path, we shall never get to the substance of this Bill.

The Government has made this proposal, knowing full well that at the conclusion certain opposition parties will lose. People must question why the opposition parties object so violently to the Government's proposal. There is no doubt that the Australian Labor Party has a philosophical objection to what the Government is doing but, in some respects, that could be overcome if the ALP were confident that the successful tenderer - a multinational company - had an impeccable record of service delivery. That is not the case. CCA is probably one of the most shoddy international companies over a significant period. This company has been the subject of significant inquiry. Why would members on this side not make an assault on the Attorney General and Minister for Justice about this decision? It was a very confidential decision made without any reference to the facts, except what we know of the company's international reputation. It is a reputation to which the minister and the Government will tie themselves. In a strictly political sense, I am delighted that they intend to do that. I know the minister will say that it is only 50 per cent owned by Corrections Corporation of America and that does not have the same board of directors. Of course, we all accept that.

However, Corrections Corporation of America has a distinguished record in the field of criminology. Its founder, a former Republican, saw the opportunity to make profit out of human misery. He is able to sustain a position in which human misery meets the capitalist manifesto in its crudest form. This is what we might object to: The maximisation of profit out of human misery. They are strong words. Of course, I am sure that you, Mr President, will want me to justify in a rudimentary way why I suggest that CCA is a company of questionable reputation. Its operations in the United States have been under investigation on an array of fronts, and the Attorney knows that.

Clearly the most diabolical example of what it has done in the field of penology is in the operation of its prison at Youngstown in Ohio. Such a disgrace was its administration that the US Attorney General, Janet Reno, had to commission an inquiry. This is the company that the minister - Mr Sensitive - suggests should run part of our penal system. The inquiry established by the US Attorney General found that in the first months of operation there had been some major security breakdowns in the Youngstown prison. The perimeter security of the prison was breached by a major escape of six inmates, and there were two homicides. During the first 10 months of operation, a number of dangerous weapons, primarily homemade knives, were found among the inmates, including those in the controlled high-security unit. Bless our souls, in Western Australia the company has been asked to manage only a medium-security prison. Clearly it is not capable of running a maximum-security prison.

The report goes on to say that a number of staff were assaulted. Members should not let that worry them; we are in capable hands - the minister and CCA are doing well. The report further states that 17 inmates were stabbed and for lengthy periods the institution was not able to function normally. That sounds like the Casuarina Prison under the management of our very competent Minister for Justice. The Youngstown prison was forced to operate on full or partial lockdown to prevent further incidents. That is nothing new in the history of Western Australian prisons. CCA and the minister will be able to run our prison system totally locked down. I am sure we are reassured by that fact! The minister is sensitive. Of course he is. Of course he does not want me to talk about his record or anything else. He knows the history of this company as well as the

rest of us do. I have said in this place before that he should go to the Internet where he will find web sites dedicated to the extent of the abuses and incompetence of this company. Who should run the new facility? Who should the sensitive, dear minister get to run our first private prison? It is no other than Corrections Corporation of Australia. Why? Hon Peter Jones - I think he is honourable - wrote in an internal document between him and the minister that we need to give court and custodial and prison functions to the one company and we could get a good deal. It is funny that that is exactly what happened and is what we are debating now and were debating last night. A government deal was struck so these three functions could be given to one company - I am sure accidentally. I am sure the tendering process was totally open and reasonable and Hon Peter Jones looked into his crystal ball and advised the Government, and at the end of the day the tendering process came out exactly as he predicted.

Let us go back to CCA, the preferred tenderer of the minister and this Government. Those opposite are going to an election, so this company had better not make a mistake, as it did in the United States, the United Kingdom and the eastern States. If it does, it will not be for the wont of my not warning those opposite. They have 12 months before the next election. If it makes a mistake and behaves as incompetently as it has in the past, I am sure I will take the opportunity to remind those opposite.

I go back to the Janet Reno report. She goes on to say -

There were also a number of major security lapses identified in the Report. Some of those were:

- . 10 months after opening and with over 200 prisoners who needed to be kept separated, no written policy existed to manage this critical function. The less formal procedures in use were not understood by staff, as there had been inadequate training;
- . procedures for the movement of high security inmates in the segregation units were inadequate, and even then they were not followed. The supervisor who was supposed to be in the unit supervising the inmates was absent;
- . there was inconsistency in the use and application of restraints, again reflecting inadequate training and supervision of mostly new and inexperienced staff;
- . searches of cells and of inmates for weapons was almost non-existent in the high security unit, allowing inmates to feel confident about possessing weapons. Prior to March 1998, the last previously logged search conducted in the unit was 12th November, 1997 - 4 months previously.

Following the homicide of one prisoner, it was found that there had been:

- . a failure of proper supervision;
- . an inadequate plan of external observation; and
- . inadequate attention to duty by staff at the institution.

The report highlighted some escapes from operational facilities in other States in the United States under the management of CCA. Let us not concentrate just on those in Ohio. Let us look at the minister's pet multinational organisation having anything to do with prisoner management in the broadest terms. The report continues -

October 12, 1998 - four high security stay inmates at the CCA facility in Clifton, Tennessee escaped through a hole in the fence of the recreation yard.

October 1996 - at the CCA facility in Florence, Arizona, another similar escape occurred in which 6 Alaskan state inmates escaped undetected through the perimeter fence during a recreation period.

1996 - an escape of five inmates through the perimeter fence at CCA's facility at Elroy, Arizona.

September 3, 1998 - a Tennessee state prisoner serving a lengthy sentence for aggravated escape from CCA's prison in Hardeman County Tennessee, reportedly through a controlled area rear entrance hidden in a vehicle removing refuse; and

1995 - at the CCA Elroy facility, an inmate escaped through the front entrance by walking out with a group of visitors.

What a reputation! Your Government, Mr President, must be pleased and confident that CCA can do everything required of it! It has a record of doing everything right! Surely, we must feel imbued with confidence that our first private system will operate successfully. It will surely be a glowing example of private enterprise being able to do everything. I further quote -

The Report concluded that several of these escapes, including those at Youngstown, might have been prevented had CCA implemented company-wide reviews along with preventive measures based on weaknesses found in earlier escapes or if it had in place effective internal controls and security audit processes.

The private prison in Youngstown had problems from its inception, there were several difficulties and delays in contract negotiations and the ultimate result of the hurried process was a contract with a number of flaws. Some of the primary deficiencies were:

certain key performance requirements were weak;

the final cost to the District was considerably higher than the early CCA proposal, with no corresponding increase in services;

there is no sufficient provision to penalise the contractor with liquidated damages or to resolve issues of noncompliance or unacceptable performance; and

there were no provisions for a staffing pattern which included seasoned supervisors or an adequate start-up period to deliberately phase in the inmate population.

I know that these matters have been considered by the Ministry of Justice in Western Australia, which has required certain measures of CCA. These problems which occurred in America are not as likely to happen here. Why did the ministry require this of CCA? I suggest that it was because it knew of CCA's record and incompetence in this area. The Attorney laughs.

Hon Peter Foss: No. I can't win.

Hon JOHN HALDEN: No. We know that the minister cannot win. I do not want to go back to previous discussions in which we took points of order about the Attorney's sensitivity. The Attorney has chosen to go down a path, as he has on previous occasions, which means he cannot win. His colleagues will make an assessment of the Attorney, not us. The population of Western Australia may make an assessment when the Premier calls an election. I hope that it happens before the prison is built, for the Attorney's sake at least.

I will continue to refer to the comments in this report about Corrections Corporation of Australia, because the successful tenderer is quite crucial to the issue we are debating. The report concluded -

CCA was confident that its new very strongly built facility would compensate for the inexperience of staff and the difficult nature of inmates. However, the facility was not prepared or adequately organised for opening. Policies in a number of areas were non-existent or inadequate and a number of supervisory staff had little or no experience in prison operations. There was not an orderly plan of operation in place and many important processes were unorganised.

I know from my briefings with the department that many of those issues have been resolved. Why they have been resolved? It is because everyone knows the incompetence of this organisation. Even Molly-the-monk would not let it loose under the terms and conditions that had operated in the United States. He would have to make sure that those sorts of follies of administrative and organisational processes could not happen here.

Of course, this is not merely an isolated incident. There is the example from Texas where CCA operated a detention facility for illegal immigrants. Interestingly, the facility was not a particularly profitable operation, so to increase its profitability, CCA imported prisoners from other jurisdictions in the United States and took them to the immigration detention centre. What happened with the inevitable rise in the capability for criminality by importing into the detention centre experienced, high security risk prisoners, was, of course, that they escaped. This was all brought about because CCA wanted to maximise its profits, as any private enterprise company would with a legitimate business operation. The only difficulty in this low-security institution, run for detaining illegal immigrants, basically Mexicans, was that it had high-security prisoners. Lo and behold, they escaped! In the process of escaping, they assaulted people, stole a car and committed other offences. There was just one problem: CCA, being a profit-driven organisation, failed to consider that the prisoners had not escaped unlawfully, because the reality was they were not in legal custody. What was to be the response of the state police system? Medium to high-security prisoners, who had not escaped legal custody, were on the loose. CCA had broken every law in the book to maximise its profits. The only offences the prisoners had committed, fortunately for CCA, were the stealing of the motor vehicle and the associated assaults along the way, which is when the State could intervene. It could not intervene for unlawful escape because there was none.

However, the minister will lead us down this path of dealing with this very competent multinational corporation which is the epitome of a well-organised people organisation. In fact, CCA is renowned for its desire to abuse jurisdictions, to abuse political process and to bribe and corrupt; all of that is documented in the United States of America. These are not outrageous accusations; the minister knows it. There is an example of a former Republican member of the US Senate who became a consultant for CCA on compulsory retirement after serving two terms. He successfully lobbied his former colleagues to establish a CCA facility in the jurisdiction of his State. The difficulty was that CCA failed to pay him his appropriate commission. He then sued CCA in a very interesting trial in which he outlined that the prison had in fact been an organisational centre for drug running. Oh, good! We can have that too in this State. This is what we are inheriting into the culture of CCA private prisons.

These are not just accusations; they can be read on the Internet. The minister should read them. He can read the record of this company line by line. In spite of that, we will entrust the first private prison in this State to a 50 per cent-owned subsidiary of this organisation. Corrections Corporation of America has no bounds to its ethical impropriety. That is not an inflammatory statement that cannot be substantiated; it is on the public record. I said at the outset - my remarks offended the minister - that these people have made an art form of maximising profit from human misery.

The company has had an enormous growth phase. It has been able to increase its initial capital investment from, I think, \$40m to something like \$12b or \$14b worth of assets - these are the latest figures, which are two or three years old - on the basis of some of the most outrageous custodial and penological practices ever known. In certain instances third world

countries would not tolerate these abuses. I am sure the minister will tell us how appropriate it is that we should use this company. God only knows why; but he will because he has entered into an arrangement with Corrections Corporation of Australia, which is the preferred tenderer.

Corrections Corporation of America is not the only evil empire running private prisons. Many other private prison owners exhibit the same behaviours. I intend to reveal those for the benefit of the minister because he said that private prisons would bring a cultural change to prison management in Western Australia. I suggest that there may well be a cultural change. However, it will not be at a humanitarian level or a prison administration efficiency level; it will be purely at a financial level because that is what it is all about. This is why, as Hon Peter Jones said, and as I speculate, the court custodial and prisoner transport area has been amalgamated with the prison administration area. It is about nothing more than cost minimisation.

It is unfortunate that the minister should seek to take Western Australians down this path. He has used some wonderful analogies which I hope to be able to discuss as I develop my speech. The minister has bragged about the success of private prisons in the United Kingdom and how Labour Governments there have not changed the system. We know why the system cannot be changed. It is the same reason we will be unable to change this system: A contract was signed and to break it would prompt the contractors to sue remorselessly. The Attorney is smiling arrogantly in his chair as he opens his eyes at this moment because he knows I am right. He will bind us for years to whatever this change means because he is blindly ideological.

Hon Peter Foss interjected.

Hon JOHN HALDEN: The minister is the fool entering into this contract, not me.

Hon Peter Foss: You are wrong.

Hon JOHN HALDEN: I am always wrong because the minister is so smart!

Hon Peter Foss: Because you make the statement, you don't check the facts.

Hon Tom Helm: How long will the contract be?

Hon Peter Foss: You should check what happened in England and check what was said recently by the minister.

Hon JOHN HALDEN: I intend to challenge the minister. He has said that once too often in this place. We will get to that point because I am sick to death of Hon Peter Foss saying what the minister has said. He knows as well as I do that when the Labour Government in the United Kingdom came to power, it was bound by these contracts. The minister has told us in this place about how the independent inspector was so supportive of private prisons. There is an element of truth to that. However, he failed to tell us, as he indubitably would, what are the real issues. He has presented to us a scenario of solution. However, the independent inspector in the United Kingdom is not worried, realistically, about whether the prison system is public or private. He is worried about two factors, which the minister quite deliberately ignores because he thinks we on this side of the House and the members of the public are stupid enough not to know. The independent inspector in the United Kingdom said that two problems face the system, neither of which is whether it is a public or private system. Two factors are crippling the United Kingdom's system: The first is that there are not enough financial resources to adequately address the system in the United Kingdom, and the second is that the prison population is going through the roof. The problem is not whether it is public or private; it is whether the Government of the day wishes to play the games that the minister has played in terms of being tough on crime and forgetting about the results of that. He has been a past master at it. He has played the card of politics so well. The minister has allowed himself to be a hero for six months until the consequences of his nonsense caught up with him, and they caught up with him as, of course, the incarceration rate rose. Has the minister addressed the requirements of additional funding for our prison system on a fundamental per capita basis? No. What has happened to the programs for prisoner assistance? Although the minister refuses to give any specific answers to that in this place or to anybody else, we know that they have been cut. We know the cuts have resulted in people remaining in prison as they cannot achieve parole because the minister does not have the programs in place. Does the minister want me to go through the names of the prisoners' partners, spouses, friends and mothers who have complained to me about that? The minister knows the realities. This is all mirrors and tricks. This is all a sideshow to try to deflect attention from the real issue. I understand working in a bureaucracy. If there is a problem, a new era or a new design is created. We will go from being centralised to being decentralised, then we will be regionalised and then we will be back to centralised. The minister has just added another equation to it - we will be privatised. Benefit? That is on the minister's head. Benefit is a matter that the minister must substantiate.

I will give an example of an independent authority which looked at a privatised prison system. In 1999 the Victorian Auditor General came down with a report on the Victorian prison system. It talked about mismanagement and negligence. The report came down with further findings. Members should bear in mind that there are Corrections Corporation of Australia prisons in Victoria. I am sure that the driving motto is that we must have CCA prisons because they are so cheap. The report said that there was a lack of compelling proof that private prisons are achieving the financial savings promised by the Government. It went on to say that there was a lack of independence of the office of the corrections commissioner; inadequate performance standards for private prison operators; a failure of the Kennett Government to hold private prison operators accountable for failure to meet contractual obligations and performance standards; a failure of the Government to terminate its contract with the operators of Port Phillip prison, despite a ministerial task force finding that the operators of the prison were not and are not able to deliver to a satisfactory standard a range of contracted correctional activities; and a failure of Port Phillip prison to segregate remanded and sentenced prisoners.

Hon Peter Foss: That is not a CCA prison.

Hon JOHN HALDEN: I know it is not. It is a private prison.

Hon Peter Foss: I thought I would make it clear.

Hon JOHN HALDEN: The minister does not need to. I am able to do that myself. It is a private prison, the system advocated by the minister. It does not matter whether it is CCA. CCA's reputation internationally and in this country is worthless. Private prisons have the same sorts of problems. The minister has told us that he will improve the culture, whatever the problems in our state system may be, which I well understand, by having them contestable - I will deal with contestability later in this speech - with this sort of sloppy nonsense. If ideology did not drive the minister so blindly, he would open his eyes, but he cannot.

Let me continue, because it is edifying in terms of this debate. The report further said that there was a failure of Port Phillip prison to segregate remanded and sentenced prisoners in accordance with the standard guidelines for corrections in Australia and that there were high escape rates in minimum security prisons attributable to inadequate classification processes. Of course that was the case, because those facilities would have been full to the brim to ensure value for money from the contracts.

It is interesting that the Government of the day and the minister have said to me many times - and I know how incompetent and simple I am - that it is all about a new culture, and I am expected to blindly believe that we will have a new culture where killing, raping, escaping, burning, not adhering to contracts and not being accountable to anybody, as is the experience in other States, are the norm. Hallelujah! We will have a new culture. Is the culture in the Western Australian prison system like that, minister? The minister is quiet. The sensitive soul will not interject now. Mr President, I understand that would be a breach of the standing orders and I would never encourage the minister to do that.

The PRESIDENT: Order! One of my problems is that the member is encouraging members to interject and I make it clear that they cannot because of the standing orders. If Hon John Halden addresses me and does not worry about anyone else I will be very pleased.

Hon JOHN HALDEN: I was taking a liberty, Mr President, and I apologise. I will endeavour not to do so in future.

The minister would not want to go down the path of providing an explanation.

Hon Peter Foss: I did interject and you just said that I did not.

Hon JOHN HALDEN: What was it that the minister thought?

Hon Peter Foss: I am not sure what your question was.

Hon JOHN HALDEN: The system that is run by the private sector has examples of murders, escapes, rapes, assaults, not adhering to the contract or to performance indicators, and corruption at every level. That is the system that the minister will impose upon us as the new culture. That is the culture of Corrections Corporation of Australia. I want the minister to answer this question because it is important: Is our prison culture better or worse than the culture in CCA prisons?

Hon Peter Foss: We are certainly not better than Borallon. The Borallon Correction Centre is considerably better than us. Hon John Halden should have a look at Borallon.

Hon JOHN HALDEN: I was invited there by CCA, but to have accepted would have caused significant ideological and political problems. I do not blame CCA for that, but I could not be placed in that invidious position.

Hon Peter Foss: I will send the member. Does the member have any problem with my sending him there?

Hon JOHN HALDEN: No.

Since there was a relatively extended period of silence, I have taken some liberties.

We have talked about a new culture. I more than anyone in this Chamber understand the culture of our prison system. Some people wanted me to have a different experience of it than my employment there some 20 years ago. Fortunately, that did not happen, but I do understand the culture. Historically, it has a management problem. However, one does not resolve a management problem by trying to impose upon it a regime that has more, if not equal, management problems. The minister fails to acknowledge that penal systems are culturally similar. We might be able to pay one sort of prison officer less than another, depending on who their employer is, but we cannot address the culture unless we have the will to do it. The culture underlies everything.

Hon Peter Foss: That is one of the reasons we started work camps.

Hon JOHN HALDEN: That is relevant. It proves my point and I will get to it.

Not only the CCA system but a public system will have an underlying culture. The culture will be difficult to manage. As the minister said in his report about his trip to North America and England, a lot of contracting out is about contracting out responsibility. Those are the minister's words, not mine. That is exactly what the minister is attempting to do here. He wants to be able to answer parliamentary questions with the words, "That is the responsibility of CCA."

Hon Peter Foss: That is not how this Bill is framed.

Hon JOHN HALDEN: I know how the minister and his successors will deal with the hard times of parliamentary questions. When things go wrong, it will be somebody else's fault. There is no better exponent of "it is somebody else's fault" than the minister. It is either the department -

Hon Peter Foss: You are doing pretty good.

Hon JOHN HALDEN: I am trying hard, but I am just a humble backbencher, not a minister of the Crown.

Hon N.F. Moore: I would not use "humble" as a description!

Hon JOHN HALDEN: I am humble. I am enjoying my role on the back bench these days.

Hon Peter Foss: What about the rumour that you will be the secretary of the party? Is there any truth in that?

Hon JOHN HALDEN: I hope for the minister's sake there is not, because I can tell him that he will rue the day! Let us get back to the substance of the Bill, because I am sure the President is not being entertained by this nonsense. I understand that others may want to entertain themselves, and I have for a brief moment entertained myself with speculation, but let us get back to the issue. This issue is about culture. Culture will not be changed by administrative tinkering. That takes me back to the point that I made about centralised, decentralised and regionalised facilities, and we can now add privatised facilities. Prisons are prisons, and the only way we will change culture is by addressing what prisons are. To address the procedures, the training, the qualifications or the minimum standards -

Hon Peter Foss: What about the design?

Hon JOHN HALDEN: The minister has missed it again! We change the culture of a prison by designing it differently! No we do not. We just change the profitability. We just change the cost factor so that it is cheaper to run. It does not mean that prisoners do not beat up prison officers, or that prison officers do not beat up prisoners. It just means that they are cheaper to run.

Hon Peter Foss: Do you think the design of Casuarina Prison has any impact on the behaviour of people as opposed to the design of Auckland Prison?

Hon JOHN HALDEN: Yes it does.

Hon Ken Travers: The Port Arthur experiment all over again!

Hon JOHN HALDEN: Hon Ken Travers is so right. There is no better example than Port Arthur of how penal design can influence behaviour. Sure, if we want to design a prison to send people insane, we design it on that basis. It is clear from our penal history that if we want people to behave reasonably, we should take away the fences and take away to the maximum degree all of the artificial constraints that deprive people of liberty and call them minimum security prisons. That is what it is like at Karnet and Wooroloo.

Hon Ken Travers: Then you call it a walkout and not an escape!

Hon JOHN HALDEN: Then we define any sort of reality as something else, but the minister is good at that! This is all absolute nonsense. The issue of prison culture will not be redefined by whether it is a private or a public prison. It will be redefined by policies about how many people we imprison and about the resources we provide to those prisons. All of this is absolute arrant political nonsense to deflect attention from the real issue.

Hon Peter Foss: Do not be so harsh on yourself.

Hon JOHN HALDEN: I am harsh on the minister because he is responsible for this. He has been the greatest advocate of justice and legal nonsense ever since he became Attorney General, and even before that. He adopted every populist line imaginable to suit his political ends.

Debate adjourned, pursuant to standing orders.

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

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [10.01 pm]: I move -

That the Bill be now read a second time.

The intent of this legislation is to clarify the application of section 32(8) of the Workers' Compensation and Rehabilitation Amendment Act 1999. That section was based on the Pearson review recommendation that if injured workers were in the system at the date of assent, they should be able to elect in accordance with the new provisions. Section 32(8) was intended to provide that if weekly payments commenced before the assent day, all workers wishing to elect to claim common law must make an election no later than six months from the date of commencement of weekly payments, or three months from the date of assent, whichever is later. The clear intent was that the three-month period applies to workers who have been on compensation for longer than six months.

Doubt has been expressed as to whether the wording in the legislation has this effect. On a clear understanding of what the Government had intended, which the Opposition supported, this amendment clarifies the Government's intent and will be effective as from the assent day, which was 5 October 1999. I commend the Bill to the House.

Debate adjourned, on motion by Hon N.D. Griffiths.

TRANS-TASMAN MUTUAL RECOGNITION (WESTERN AUSTRALIA) BILL 1999

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.03 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to implement the Trans-Tasman Mutual Recognition Arrangement in Western Australia. All Australian heads of government and the New Zealand Prime Minister signed the Trans-Tasman Mutual Recognition Arrangement in 1996. The arrangement extends the mutual recognition principle to New Zealand.

The trans-Tasman arrangement builds on the 1992 Australian Mutual Recognition Agreement between the Commonwealth and States and Territories. That agreement removed regulatory barriers to the movement of goods and service providers between Australian jurisdictions. It is widely accepted that the agreement has provided significant economic benefits, such as wider choice for consumers; reduced compliance costs for business; increased movement of service providers; and freedom for service providers to practise in jurisdictions in which they are not registered.

The objective of the Trans-Tasman Mutual Recognition Arrangement is to remove regulatory barriers to the movement of goods and services between Australian jurisdictions and New Zealand. Subject to certain exemptions, goods sold in accordance with regulations in New Zealand can be sold in Australia, or vice versa. Also, any person registered to practise in New Zealand can seek automatic registration in an equivalent occupation in Australia, or vice versa, without having to satisfy further admission or practice requirements.

Permanent exemptions apply for goods such as firearms, fireworks, indecent materials and gaming machines, and special exemptions apply for goods which involve risk to health and safety and the environment - for example, industrial chemicals and hazardous substances.

The Western Australian Bill adopts the commonwealth Trans-Tasman Mutual Recognition Act 1997, pursuant to section 51(37) of the Commonwealth Constitution, rather than referring powers to the Commonwealth. The Bill will adopt the Commonwealth Act only as it stands at the time the Western Australian legislation receives the royal assent. Any amendments to the commonwealth Act will also have to be considered by the State Parliament for the amendments to apply in Western Australia.

A review of the Western Australian legislation will take place after the Act has been in operation for five years. The Trans-Tasman Mutual Recognition Arrangement also includes a provision for a general review of the arrangement by 2003 or in conjunction with the second review of the Australian Mutual Recognition Agreement, whichever comes first.

I commend the Bill to the House. For the information of members, I table an explanatory memorandum for the Bill.

[See paper No 301.]

Debate adjourned, on motion by Hon N.D. Griffiths.

House adjourned at 10.06 pm

Questions and answers are as supplied to Hansard.

246. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Planning:

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

- (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Ministry for Planning

- Office of the Minister for Planning (Appeals)

- Subiaco Redevelopment Authority

- East Perth Redevelopment Authority

- East Perth Redevelopment Authority.
- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – Please refer to the answer given in response to question on notice 52.
- (b) 1997/98 1 1998/99 Nil
- (c) 1997/98 2 1998/99 1
- (2) All internal.
- (3)-(4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, STAFF RECRUITMENT

247. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Heritage:

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

- (1) How many staff were recruited to each department or agency in the Minister's portfolio in each of the following categories in 1997/98 and 1998/99 -
 - (a) Chief Executive Officers;
 - (b) Senior Executive Service; and
 - (c) Level 1-8?
- (2) Of those staff how many were recruited internally and how many were recruited by, or with the aid of, external recruitment agencies?
- (3) What are the names of the external agencies that were utilised?
- (4) What was the cost of using external recruitment agencies in 1997/98 and 1998/99?

Hon PETER FOSS replied:

- (1) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – Please refer to the answer given in response to question on notice 52.
 (b) 1997/98 Nil 1998/99 Nil
 (c) 1997/98 2 1998/99 1
- (2) (a) Recruitment of Chief Executive Officers is managed by Public Sector Management – Please refer to the answer given in response to question on notice 52.
 (b) Not applicable.
 (c) All internal.
- (3)-(4) Not applicable.

KEN HURST PARK, LEEMING

353. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

- (1) Is the Minister for the Environment aware that Ken Hurst Park in Leeming is a Bushplan site and that it contains rare flora and fauna?
- (2) Is the Minister aware that the City of Melville is attempting to have Ken Hurst Park rezoned for the purpose of ensuring that it can be used as a cemetery?
- (3) Is the Minister aware that more than two-thirds of this Bushplan site may be cleared in order to create this cemetery?
- (4) Has the Environmental Protection Authority assessed this rezoning proposal which affects this important Bushplan site?
- (5) If not, why not?
- (6) As Ken Hurst Park contains important flora and fauna will the Government acquire Ken Hurst Park and rezone it as an A-Class nature reserve for the conservation of flora and fauna?
- (7) If not, why not?

Hon PETER FOSS replied:

- (1) Yes.
- (2) No. At the request of the City of Melville the Western Australian Planning Commission included a proposal to rezone the subject land to Private Recreation in the Metropolitan Region Scheme. That proposed amendment is currently being processed. In addition, the proposed new City of Melville Community Planning Scheme No. 5 depicts the subject land as Development Precinct. Under the provisions of the proposed Scheme all land uses are prohibited except 'conservation/recreation' which is a permitted use and 'education establishment' which is permitted at the discretion of the City.
- (3)-(4) No.
- (5) The most recent advice from the Environmental Protection Authority regarding this site indicates that the proposed rezoning did not require assessment.
- (6) No.
- (7) The subject land has not been identified in Perth's Bushplan as a priority acquisition by the State for conservation. The Government has yet to receive and consider the recommendations for the final Perth's Bushplan.

WESTRAIL, SALE OF THE "FISH PONDS", ALBANY

445. Hon BOB THOMAS to the Attorney General representing the Minister for Heritage:

- (1) Is the Minister for Heritage aware of the historic reserve in Albany known as the "fish ponds"?
- (2) Does the site have any heritage significance or importance?
- (3) If so, please specify?
- (4) Is the Minister aware that Westrail plans to sell the reserve for private development?
- (5) Does the Minister have any concerns about the proposed sale of this historic site?
- (6) Will the Minister give a commitment that a heritage survey of the site will be undertaken and the results made publicly available before the proposed sale of the site proceeds any further?
- (7) If not, why not?

Hon PETER FOSS replied:

- (1) Yes. There is a Parks and Recreation Reserve – Albany Reserve 11251 – which contains the fish ponds.
- (2)-(3) There is yet to be an assessment of the cultural heritage significance of the place under the Government Heritage Property Disposal Process, as it has yet to be determined whether the land is to be sold. The Heritage Council of Western Australia has requested that an assessment be undertaken if the site is to be sold.
- (4) It is understood that Westrail has tested the market for the site through expressions of interest.
- (5) No. If disposal proceeds then the Government Heritage Property Disposal Process will be used for the site. This requires an assessment of the cultural heritage significance of the place prior to disposal. If the place is determined to have cultural heritage significance then consideration will be given to entry in the State Register of Heritage Places and the development of a conservation plan for its future management.
- (6) If the place is to be sold then an assessment will be undertaken as described above. This assessment is a public document once the place is entered in the Register. A conservation plan and heritage agreement for the place may be a necessary part of the disposal and will be available for examination.
- (7) Not applicable.

GOVERNMENT CONTRACTS, AUSTRALIAN PROPERTY CONSULTANTS AND ROSS HUGHES & CO

483. Hon TOM STEPHENS to the Attorney General representing the Minister for Heritage:

- (1) Have any departments or agencies under the Minister for Heritage's portfolio awarded any contracts to -
 - (a) Australian Property Consultants; and
 - (b) Ross Hughes and Company,
 since January 1, 1999?
- (2) If yes, can the Minister state -
 - (a) the name of the contractor;
 - (b) the project the contract was awarded for;
 - (c) the date the contract was awarded;
 - (d) the value of the contract;
 - (e) whether the contract went to tender; and
 - (f) if the contract did not go to tender, why not?

Hon PETER FOSS replied:

- (1) (a)-(b) No.
- (2) (a)-(f) Not applicable.

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

527. Hon TOM STEPHENS to the Attorney General representing the Minister for Heritage:

Can the Minister for Heritage provide the following details of land sales in -

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

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

- (i) name and location of the land sold;
- (ii) date sold;
- (iii) nature of sale and name of buyer;
- (iv) the names of any non-Government agents involved in the sale;

- (v) proceeds received from the sale;
- (vi) associated revenue from the sale, such as stamp duty; and
- (vii) any associated costs incurred in the sale process?

Hon PETER FOSS replied:

- (a)-(b) None.
- (i)-(vii) Not applicable.

LAND CLEARING, TREE PLANTATIONS

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

- (1) How do landowners obtain permission to clear remnant native vegetation on their property in order to plant that land under blue gum or other tree plantations?
- (2) How many applications of this nature were approved in the past five years?
- (3) What role do other agencies play in the approval process?

Hon M.J. CRIDDLE replied:

- (1) Owners of land which is outside of Country Areas Water Supply Act gazetted catchments, are required under regulation 4 of the Soil and Land Conservation Act, to notify the Commission of Soil and Land Conservation of their intention to clear land at least 90 days before the intended clearing commences. The regulation applies regardless of intended land use and the Commissioner must be satisfied that the conditions of the Soil and Land Conservation Act are met. Land clearing proposals to permit the establishment of blue gum or other tree plantations are assessed against criteria and guidelines published in the Memorandum of Understanding for the protection of native vegetation on private land.
- (2) Since September 1994, the Commission of Soil and Land Conservation issued 20 letters of no objection to land clearing to enable the establishment of plantations.
- (3) Under the Memorandum of Understanding for the protection of native vegetation on private land, which came into effect in 1997, other agencies provide the Commissioner of Soil and Land Conservation with advice about land degradation or other environmental impacts or administer clearing controls in accordance with other relevant legislation.

GOVERNMENT CONTRACTS, CHAMBER OF COMMERCE AND INDUSTRY

593. Hon KEN TRAVERS to the Attorney General representing the Minister for Planning:

- (1) Have any of the Government agencies for which the Minister for Planning is responsible had contracts with, or made payments to, the Chamber of Commerce and Industry in each of the following years -
 - (a) 1996/97;
 - (b) 1997/98; and
 - (c) 1998/99?
- (2) If yes, what was the nature of each of the contracts and what was/were the payments made?

Hon PETER FOSS replied:

- (1) No.
- (2) Not applicable.

SUBIACO REDEVELOPMENT, HOUSING MIX

602. Hon TOM STEPHENS to the Attorney General representing the Minister for Planning:

I refer to the Subiaco redevelopment and ask -

- (1) What public housing will be included in the redevelopment?
- (2) What steps have been taken to ensure that a range of affordable housing is included in this redevelopment?
- (3) Has the Government's proposal for a mix of public and other affordable housing received approval from the local council and local community?

Hon PETER FOSS replied:

- (1)-(3) The Minister for Housing has offered \$1.8m to the City of Subiaco to be made available for affordable housing and housing for people with special needs, subject to the City of Subiaco providing the land.

CROWN LAND, RETURNS FROM SALES

694. Hon CHRISTINE SHARP to the Minister for Finance representing the Minister for Lands:

- (1) In the past five years, what is the total number of blocks and/or land titles of crown land that have been sold?

- (2) For the above years what is the total area in hectares of these blocks and/or titles that have been sold?
- (3) For the above years what is the total value of the financial return from the selling of all of these blocks and/or titles?
- (4) Can the Minister for Lands provide -
 - (a) a list of all the departments through which the above sale transactions have taken place;
 - (b) the number of properties disposed of by each of those departments; and
 - (c) the total monetary value to each department from these land sales?

Hon MAX EVANS replied:

LandCorp

(1)-(3) None.

(4) Not applicable.

It would be possible for LandCorp to extract information on the sale of land. This information would require the allocation of significant resources and take a considerable time. This would require other priority work to be set aside. However, if the member could provide more specific detail on the areas of interest, this information can be provided.

Department of Land Administration

- (1) 2,755.
- (2) 206,818 hectares.
- (3) \$124,383,000.
- (4) Data provided is for the financial years 1996-97, 1997-98, 1998-99 extracted from computer records. Extensive research of manual records of previous accounting systems would be required to provide data for the 1994-95 and 1995-96 financial years.
 - (a) Agriculture WA, CALM, CAMS, Disability Services, Education WA, Family and Children's Services, Health Department, Heritage, Transport, Police and Westrail.
 - (b) For the period 1996-97, 1997-98, 1998-99 financial years the number of properties disposed by each respective Department are:

Agriculture WA	2
CALM	2
CAMS	1
Disability Services	9
Education WA	26
Family & Children's Services	7
Health Department	24
Heritage	2
Police	10
Transport	2
Westrail	55
 - (b) For the period 1996-97, 1997-98 and 1998-99 monetary value of sales to each department was:

Agriculture WA	\$1,105,000
CALM	\$5,005,000
CAMS	\$4,005,000
Disability Services	\$6,706,000
Family & Children's Services	\$2,077,000
Health	\$2,218,000
Heritage	\$ 410,000
Police	\$5,340,000
Transport	\$ 105,000
Westrail	\$5,083,000

SOUTH METROPOLITAN COLLEGE OF TAFE, OVERSPENDING ALLEGATION

711. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:
I refer to the allegations of significant overspending at the South Metropolitan College of TAFE and I ask -

- (1) Apart from the Auditor General has any other independent examination been conducted in respect of this allegation?
- (2) If so, who conducted the examination?
- (3) What were the findings of any examination which has been undertaken?
- (4) What action has the Minister for Employment and Training taken to prevent future similar occurrences?

Hon N.F. MOORE replied:

- (1) On 22 December 1998 in correspondence to the Chief Executive of the Department of Training, the Minister for Employment and Training requested the Department to undertake an independent examination of the financial management of South Metropolitan College.
- (2) An immediate tender was issued with a number of accounting firms contacted and advised of the tender requirements. Two tenders were subsequently received with the lowest quote, submitted by Stanton Partners, being awarded the contract.
- (3) The report submitted by Stanton Partners identified poor accounting and monitoring as a major factor contributing to the cashflow difficulties, particularly in relation to the College's finance section significantly overstating revenue projections for 1998. The report also indicated that in consideration of the College's geographic spread and the subsequent potential impact on costs, the Department of Training and Employment should review annual funding arrangements of the non-teaching activities for the College.

Other issues noted in the report were:

- the impact of the termination of the Navy Contract in March 1998; and
 - one-off payment made by the College to suppliers.
- (4) Since the above issues were identified at South Metropolitan College in December 1998, the College has prepared a Strategic Business Plan which clearly identifies its future path. It provides a blue print for the College's operations into the future, and provides for the complete reshaping of the College's administration and administrative procedures. This has already commenced. The Plan also identifies those areas of business which could be refocussed to enable the College to deliver a high level of service in an effective and efficient manner. The Department of Training and Employment working with the College has undertaken and completed a review of the funding of the non-teaching activities and minor funding adjustments have been mutually agreed. The Minister for Employment and Training has requested that the Department of Training and Employment continue, in the short term, to liaise with South Metropolitan College and monitor its financial operations.

COLLEGES OF TAFE GOVERNING COUNCILS, APPOINTMENT OF MEMBERS

712. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

With respect to the appointment of members to TAFE College Governing Councils, will the Minister for Employment and Training table -

- (a) the selection criteria; and
- (b) the names of the members on the selection panel?

Hon N.F. MOORE replied:

- (a) The selection criteria, as stated in the advertisement published in The Western Australian on Saturday 31 July 1999, are as follows:

Applicants should have experience and expertise in vocational education and training, industry or community affairs, and an ability to contribute to the strategic direction of the college.
- (b) Members of Governing Councils are appointed by the Minister in accord with Section 39 of the Vocational Education and Training Act 1996. There is no requirement for selection panels.

ALBANY PRIMARY SCHOOL

763. Hon BOB THOMAS to the Minister for Finance representing the Minister for Lands:

- (1) What is the purpose for which the Albany Primary School is reserved?
- (2) What is the process which must be followed in order to change the use of the reserve from the existing use to another such as a commercial use which allows an adjacent shopping centre to lease a part of school grounds for use as a temporary car park?

Hon MAX EVANS replied:

- (1) Albany Primary School "Reserve 34020" is set aside for the purpose of "School Site". The reserve is unmanaged meaning that it is not vested with any agency.
- (2) It is not necessary to change the reserve purpose in order to allow an adjacent shopping centre to utilise part of the school grounds as a temporary car park. A car park is considered to be both compatible and ancillary to the purpose of a school site. Section 48 of the Land Administration Act provides two options that allows the Minister to grant a licence or a lease over an unmanaged reserve for a purpose that is different but compatible or ancillary to that reserve purpose. If the intended use is for a temporary period, that is less than 12 months, the option of granting a licence should be considered. A licence is an agreement used for short term arrangements. In a situation such as this a set of conditions would be determined and a fee applied for the intended use and term. A sketch of the subject area would suffice for this document. If a longer term arrangement is required, say for more than 12

months, then a lease would be the preferred option. In order to grant a lease the car park would have to be surveyed and a lease agreement prepared and registered. This process is somewhat more involved than the issue of a licence and as a consequence is more costly and time consuming from an administrative perspective. Prior to granting either a licence or a lease, approval and input from all relevant stakeholders including the City of Albany and the Ministry of Education is required.

QUESTIONS WITHOUT NOTICE

WELLINGTON DAM, LAND VALUATION ADVISE

446. Hon TOM STEPHENS to the Minister representing the Minister for the Environment:

I refer to the negotiations which preceded the purchase of the Wellington Dam land from Worsley Timber, and to the comment by Mr Walter Johnson from Worsley Timber that he had advice from the Department of Conservation and Land Management to Western Power that supported his valuation. I refer to the file note from J. Gill, Managing Director of the Water Corporation.

- (1) Who authorised the release to Mr Johnson of CALM's advice to Western Power?
- (2) What was the basis for releasing such information?
- (3) Can any private concern have access to CALM's advice of this nature?

Hon MAX EVANS replied:

- (1) CALM has not been able to identify, in the time available, the purported communication between CALM and Western Power concerning the value of Mr Johnson's land. The release of this unidentified information cannot therefore be confirmed. A further search for the communication in question will be conducted. The Leader of the Opposition might be able to help us check the fingerprints!
- (2) It is not known what basis there would be for releasing such information until the circumstances can be established.
- (3) Private concerns can have access to CALM's advice only through the proper processes.

BIDYADANGA COMMUNITY, ROYAL FLYING DOCTOR SERVICES

447. Hon TOM STEPHENS to the minister representing the Minister for Aboriginal Affairs:

I refer to the death of a boy from the Bidyadanga community last October due to a snake bite, and the inability of the Royal Flying Doctor Service to take the boy to Derby Regional Hospital because the airstrip was in poor condition and had no suitable night-landing lighting.

- (1) Given that this tragedy occurred a year ago, what funds have been allocated to this community -
 - (a) to purchase equipment to establish night-landing capacity for emergency RFD services; and
 - (b) to restore the airstrip to working condition?
- (2) Has the work been completed, and, if not, when is it expected to be completed?
- (3) If no funds have already been allocated, when will they be allocated and what has been the delay in doing so?
- (4) Do any other communities have similar problems, and, if so, which ones and what steps have been taken to rectify the situation?

Hon M.J. CRIDDLE replied:

- (1)-(4) The State Government does not have responsibility for the upgrade or maintenance of airports; that is the responsibility of the airport owner. However, the Department of Transport has a regional airports development scheme, but the Bidyadanga community has not applied for funding under that scheme.

BUS CONTRACT

448. Hon N.D. GRIFFITHS to the Minister for Transport:

I refer to the contract for new buses which were introduced in January 1999.

- (1) Who are the parties to the contract?
- (2) When was it signed?
- (3) On what date did its operation commence?
- (4) On what date is it due to terminate?
- (5) What is the estimated value of the contract in Australian dollars for each year of its duration?

- (6) In what currency is the contract written?
- (7) From what date was foreign exchange hedging provided?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) The State Supply Commission of Western Australia, DaimlerChrysler Australia/Pacific Pty Ltd, Volgren Australia Pty Ltd, Evobus GMBH.
- (2) 20 July 1999.
- (3) The first bus was delivered in January 1999.
- (4) June 2010.
- (5) In 1998-99, \$5.61m; in 1999-2000, \$44.55m; in 2000-01, \$39.6m; in 2001-02, \$27.39m; in 2002-03, \$25.4m; in 2003-04, \$21.45m; in 2004-05, \$21.45m; in 2005-06, \$21.45m; in 2006-07, \$21.45m; in 2007-08, \$21.45m; and in 2008-09, \$21.45m.
- (6) The contract is written in Australian dollars. However, payment of the imported content of the chassis is in Deutschemarks.
- (7) January 1999.

FREMANTLE CITY COUNCIL, ROAD ISSUES MEETING

449. Hon J.A. SCOTT to the Minister for Transport:

- (1) Did the minister meet with members of the Fremantle City Council on Wednesday, 16 June to discuss the following road issues - suitable port access roads; the benefits or otherwise of using South Street as a main link into Fremantle; and the relevant economic, social and environmental benefits of the Stock Road and the Fremantle eastern bypass?
- (2) At the meeting, did the minister direct Main Roads WA, represented by Paul Trichilo, to work more cooperatively with the Fremantle City Council to examine and resolve the issues mentioned in (1)?
- (3) If no to (2), what direction did the minister give to Main Roads?
- (4) If yes to (2), why has Main Roads not yet followed the minister's direction?

Hon M.J. CRIDDLE replied:

- (1) I met with the mayor and other representatives of the City of Fremantle on 16 June 1999 to discuss the findings of a comparative assessment of the Fremantle eastern bypass and the Stock Road routes. The Acting Commissioner of Main Roads, Mr Greg Martin, and the manager of road network planning, Mr Paul Trichilo, were also present at this meeting. The comparative assessment of the two routes was carried out by Main Roads in response to an earlier request from the City of Fremantle. During the course of this meeting, port access roads were discussed, along with relevant economic, social and environmental benefits of Stock Road and the Fremantle eastern bypass.
- (2)-(4) It was agreed at the meeting that further discussions would be held between Main Roads and the City of Fremantle to establish a suitable framework for further examination of the issues relating to the two routes which are still of concern to the council. I am advised that the officer-level discussion were initiated by Main Roads to address the issue. However, the City of Fremantle expressed preference for a "top down" management approach. In response to this request, arrangements are being made for a meeting between the Acting Commissioner of Main Roads and the Chief Executive Officer of the City of Fremantle to progress this matter.

EDUCATION DEPARTMENT, PROMOTION COMPLAINTS

450. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

- (1) How many complaints did the Education Department receive following the 1998 round of promotions alleging irregularities in the selection and promotions process?
- (2) How many of these complaints were investigated internally?
- (3) How many of these complaints were resolved internally?
- (4) How many of the resolved complaints were upheld, dismissed or resolved by compromise with the complainant?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Fifteen complaints were received regarding 1998 promotions.
- (2) All were investigated internally.
- (3) Seven were resolved internally.

- (4) Of the eight complaints not internally resolved, and therefore referred to an independent reviewer, only one case was found to be a breach of the standard.

MARIJUANA, POLICE AERIAL SURVEILLANCE

451. Hon B.K. DONALDSON to the Attorney General representing the Minister for Police:

- (1) Does the Government undertake any aerial surveys in the south west region in an attempt to identify any large scale crops of marijuana being grown in state forest areas?
- (2) If not, what efforts are made to prevent and deter people from using the state forest to hide illegal plantations?

Hon PETER FOSS replied:

- (1) The Police Service air support unit conducts regular searches of the south west forest area in an attempt to locate illegal drug crops. Fixed-wing aircraft spend a week locating suspicious areas, which are then recorded on a global positioning system. The Police Service helicopter and officers, with assistance from the local police, return to the area and locate and pull the crops. The next operation - Operation Tall Timbers - is planned for December. Therefore, get crop in early, I would imagine! Although the primary role of Custom's Coastwatch is to investigate illegal activity over the ocean, when flying over land or near the coast it also looks for any marijuana crops and reports any sightings to police.
- (2) Other initiatives employed to deter this type of activity include partnerships with the Department of Conservation and Land Management, Fisheries and water board officers reporting suspicious sightings or movement of vehicles, encouragement of the local community to report such activities and publishing successful operations when intelligence leads to the location of large crops.

SOUTH COAST PILCHARD QUOTA SETTING WORKING GROUP

452. Hon KIM CHANCE to the minister representing the Minister for Fisheries:

- (1) Has a group titled the South Coast Pilchard Quota Setting Working Group, or similarly titled group, been established?
- (2) What is the function of this group?
- (3) Will recommendations made by this group potentially have effective application throughout the entire south coast pilchard fishery, that is zones 1 to 4 inclusive?
- (4) What representation does this group have from zones 1 to 4?
- (5) Has Fisheries WA adopted the management principles as outlined in the review of the fishery which was carried out by Dr K.L. Cochrane of the United Nations Food and Agricultural Organisation which endorses the need to manage the fishery according to the established and distinctly separate zones?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(3) The South Coast Pilchard Quota Setting Working Group was established in January 1999 to provide advice to the Purse Seine Management Advisory Committee on quota setting options for the 1999-2000 season. This working group had a specific task and, having provided its advice to the Purse Seine Management Advisory Committee, has been disbanded.
- (4) The composition of the working group included industry members who collectively have interests in all zones of the south coast purse seine managed fishery.
- (5) Dr Cochrane concluded that the management strategy for the south coast purse seine managed fishery administered by Fisheries WA is the most appropriate given the behaviour of pilchards, the primary target species.

RM AUSTRALASIA PTY LTD CONTRACT, PERFORMANCE REVIEW

453. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

I refer to the performance review of the contract between the Education Department and RM Australasia Pty Ltd which will be conducted at the end of term 4, 1999.

In the event that the performance review finds that the software provided through this contract inadequately supports teachers in the preparation of student outcome statement assessments, what provisions exist in this contract to remedy such inadequacy?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

The pilot will be conducted over a phased process. The review of the pilot will commence in term 4, 1999. Should the pilot review indicate that the contractor, RM Australasia Pty Ltd, has not met its obligations according to the functional specifications, the department may consider applying the relevant clauses in the contract. The contract is based on the

standard government information and technology contract which contains clauses that protect the customer, the Education Department, and the contractor, and which detail the contractor's obligations, a dispute resolution procedure and the liability agreement.

GASCOYNE RIVER BRIDGE, DESIGN CONTRACT

454. Hon TOM HELM to the Minister for Transport:

- (1) When was the design contract awarded for the reconstruction of the Gascoyne River bridge at North West Coastal Highway?
- (2) Who was awarded the contract?
- (3) Has the design been completed. If so, on what date?
- (4) What was the original cost of the contract?
- (5) Have there been any variations to the design contract. If so, what is their value?
- (6) What are the anticipated commencement and completion dates of the construction contract for the bridge?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) A contract for design and preparation of construction contract documentation for several projects, including the Gascoyne River bridge, was awarded on 10 March 1998. The other projects are to reconstruct and widen the North West Coastal Highway, the Gascoyne River bridge to Blowholes Road; upgrade various sections on Useless Loop Road; and make provision for other small projects including six overtaking lanes on the North West Coastal Highway between Kalbarri turnoff and Overlander Roadhouse. This contract was also used to provide project management services for repair works following tropical cyclone Vance.
- (2) Bruechle Gilchrist and Evans Pty Ltd.
- (3) The design of the new Gascoyne River bridge has not yet been completed. The preliminary design has been completed and detailed design is pending local community consultation relating to retention of the existing bridge for heritage value and as a pedestrian facility.
- (4) Original contract sum \$328 419.
- (5) Yes, totalling \$77 612.
- (6) Construction is currently programmed in the 2003-04 financial year.

PAEDOPHILES, PARTICIPATION IN CHILDREN'S PROGRAMS

455. Hon TOM STEPHENS to the Minister for the Arts:

I refer to the minister's claim yesterday that his department had a policy which required a declaration to be completed by people participating in events involving children, and ask -

- (1) Do societies and organisations that apply for funding have to identify the individuals that will be involved in programs when those programs involve both children and adults?
- (2) Did the minister or his department fund the Storytelling Guild of Australia (WA) to enable participation of a self-confessed paedophile in a program involving children in the schools and libraries of Western Australia?
- (3) What steps is the minister taking to ensure that people who fall into that category do not gain access to funds and state government support that would enable them to enter the schools and libraries of Western Australia for storytelling programs involving children?
- (4) Can the minister assure the House that this individual has not gained access to the Alexander Library and will not, for the purpose of the storytelling program, gain access to other public libraries for the purpose of involvement in programs shown to children?

Hon PETER FOSS replied:

- (1)-(4) The particular society the Leader of the Opposition is talking about applied for funding under an adult program, not under one of our children's programs. It applied for funds for adults to attend an adult conference in the eastern States conducted by the Storytelling Guild of Australia. Societies and organisations applying for funds identify who will attend these programs. However, if it is an adult program we do not ask them to identify whether or not the individuals are paedophiles because the funding for adult programs is not intended to be used for any program involving children.

The answer to the second question is no, we did not. I notice that Mr Ripper in the other place made this extraordinary allegation today. We have not funded the Storytelling Guild to go into schools or libraries. The only funding we provided to that organisation was for attendance at conferences. The Leader of the Opposition should know that public libraries are run by local governments. If he wants something to be done in respect of public

libraries, he should deal with the people who run them; that is, local government. I understand that the Minister for Education in another place outlined the measures in place to prevent the involvement of paedophiles in schools. One of the things we must ensure is that even people who have not been identified as paedophiles do not in any way molest children. I understand that one of the requirements of schools is that when anybody is involved with children there is always a teacher present and the presence of that teacher guarantees that there will not be any untoward behaviour, whether or not that person is identified as a paedophile.

Some very incorrect statements have been made about what we have done. As far as the children are concerned, we require the making of a statement. We did that on the advice of both the police and Family and Children's Services. If members are interested in this, they should read an answer given in the other place by the Minister for Family and Children's Services about how she intends to deal with the problem of paedophiles. There is no doubt that there is a problem. This person with whom we are dealing happens to have more than one name, had previously been identified as a paedophile under the other name and had, unfortunately, even gained employment with the Government in 1984 and obviously could get through that system.

We have introduced this system, which has been recommended to us by Family and Children's Services and this must be dealt with in more than just the Arts portfolio. Our capacity to investigate people is very limited. The difficulty with paedophiles is that they are manipulative and concealing people. Obviously, it must be coordinated through the police, and even they have difficulty in catching and convicting paedophiles. It is not an easy area with which to deal. As far as we are concerned, we do not send paedophiles, nor have we ever sent paedophiles, into schools or libraries. We have not funded the Storytelling Guild of Australia (WA) for that purpose. The Storytelling Guild was funded to attend a national conference relating to storytelling. Children may have been present at that conference, but it was not a conference of children. Obviously, children are present at all sorts of arts events, including the theatre and so forth. However, just because a theatre may have children in it, we do not check out every actor. In fact, that would be a bit difficult. We have measures in place, but as far as the public libraries run by local government authorities are concerned, that is not within my area. It is a matter the Opposition will have to take up with the local government people.

We have the same rule in areas such as the Alexander Library, the Western Australian Art Gallery and the Western Australian Museum. Whenever children are involved, we always make sure that two people are present so that there is no possibility of interference with children. That is one of the rules that is always applied. Children are not allowed to be on their own with any of our staff. We insist on a second person being present. I discussed it with the chief executive officers of each of those organisations today, and they made it clear to me that any programs they conduct has that safety precaution. We constantly emphasise with teachers who bring kids into any of our institutions that that precaution is essential and that they must make sure they stay with their children at all times to ensure their safety.

DRILL CORE LIBRARY, KALGOORLIE

456. **Hon GREG SMITH to the Minister for Mines:**

- (1) Can the minister outline progress to date on the drill core library?
- (2) When is it expected to be opened?
- (3) What impact will it have?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Tenders for the equipment and construction of the facility in Kalgoorlie have been called and received and are currently being evaluated. Construction is scheduled to commence in November 1999.
- (2) In the third quarter of 2000, following a stocking and commissioning period by the Department of Minerals and Energy.
- (3) It will allow for the systematic collection and curation of, and provision for industry to view, a representative suite of mineral drill core and other samples, thus preventing future destruction of such material. In addition, it will provide an operational base for the geological survey in the eastern goldfields. These functions will stimulate exploration and provide considerable assistance to industry in the discovery of new mines.

CARER CADETS, CARING FOR THE AGED AND PEOPLE WITH DISABILITIES

457. **Hon CHERYL DAVENPORT to the minister representing the Minister for Youth:**

- (1) Can the minister confirm that the coalition, in its 1996 Youth policy, promised to introduce a pilot project to investigate the potential of carers cadets to introduce young people to caring for the aged and people with disabilities in the community. The aim was for 13 to 18 year old teenagers to learn caring skills.
- (2) Was the pilot project conducted?
- (3) If so, when and how was the project conducted?
- (4) How many young people were involved in the project?
- (5) What steps were taken to evaluate the aims of the project?

(6) If the pilot project was not conducted, for what reasons was the project not undertaken?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(6) In response to this commitment, the Government, through its very successful Cadet WA program introduced Red Cross cadets in December 1998. The Red Cross cadets empower young Western Australians to take responsibility and actively initiate and participate in community service through visits to retirement villages and hospitals and helping the elderly in the community. The Red Cross cadets also foster young people through structured leadership, teamwork and community-based skill training that leads to future employment opportunities. The objectives of the Red Cross cadet program are to develop self acceptance and respect for one's self physically, intellectually and socially through leadership and teamwork skills; to develop a concern for the wellbeing of others and a commitment to exploring and promoting the common values and morals which underpin active citizenship, including individual rights, tolerance of others and participation; to support and strengthen the links between schools and the community throughout the State through the promotion of the activities of Red Cross cadets; to promote and project a positive image of youth; and to develop an alternative channel of future employment opportunities that complements the existing formal education and training program.

The first school to undertake this program was Armadale Christian College. This unit is one of the success stories of the program with over 120 young people having enrolled in the unit. At the recent Cadet Challenge 1999, the unit won the "Links with Seniors" award sponsored by the Office of Seniors Interests which recognised the unit's role in caring for and supporting elderly people at retirement villages and hospitals and helping the elderly in the community. A recent evaluation of the Cadets WA program, undertaken by an independent consultant, found that the program overall was of considerable merit and benefit to Western Australia and its people.

Point of Order

Hon LJILJANNA RAVLICH: The minister has three pages in answer to a fairly simple question. That means some of us will be denied an opportunity to ask a question.

The PRESIDENT: The member is right; some members will be denied a question today. However, I have noticed over recent weeks that many questions now comprise many parts. It is not a case of whether the question was simple. I am not in a position to argue whether the answer is correct. That is not my job. The minister is not even required to give an answer if he does not wish to give an answer. The question has been asked and the minister is entitled to answer it. I can only share the questions around as best I can. If members ask short, sharp questions - that is, concise questions - as is stated in the standing orders, I expect they would receive concise answers.

Questions Without Notice Resumed

Hon MAX EVANS: The inference seemed to be that the coalition Government had not carried out its policy on these cadets.

I will return to the Red Cross cadets. The evaluation also found that the Red Cross cadets were taking an active role in the community. In responses from school principals participating in the program, more than 40 per cent indicated that a focus on the community is a major aspect of the Cadets WA program. Cadet activities included taking an active role in the community such as assisting elderly persons, door knocks and collecting for charitable organisations. It is anticipated that up to 200 people will join the Red Cross cadets during the current financial year. The Office of Youth Affairs is assisting the Red Cross with the further development of its program, and it is expected to become a significant component of the Cadets WA program.

EDUCATION DEPARTMENT, PROMOTION COMPLAINTS

458. Hon NORM KELLY to the minister representing the Minister for Public Sector Management:

- (1) How many complaints did the Commissioner for Public Sector Standards receive following the 1998 round of promotions within the Education Department alleging irregularities in the selection and promotions process?
- (2) How many of these complaints were investigated?
- (3) How many of these complaints were resolved?
- (4) How many of the resolved complaints were either upheld, dismissed or resolved by compromise between the complainant and the Education Department?

Hon MAX EVANS replied:

(1)-(4) I thank the member for some notice of this question. All complaints made to the Education Department of breaches of the human resource standards are required to be dealt with initially by the department. Each such claim is made known to the Public Sector Standards Commissioner, and he is later informed of the outcome of the claim.

BOCS TICKETING AND MARKETING SERVICES

459. Hon TOM STEPHENS to the Minister for the Arts:

I refer to the proposed sell-off of BOCS Ticketing and Marketing Services that is currently out for tender. What steps has the Government taken, in particular the Minister for the Arts, to protect the interests of Western Australian theatre and the

current employees of BOCS to ensure that the sale of the company does not result in a monopoly that does not guarantee the protection of theatre organisations in this State that are so desperately in need of community and government support?

Hon PETER FOSS replied:

As the Leader of the Opposition would be aware, one of the recommendations of the McCarrey report was that BOCS be sold off. I did not proceed to sell it off in 1993 because I was concerned that the only possible purchaser was RED Tickets and that would result in yet another monopoly in Western Australia. The situation has changed significantly since then. A survey carried out on behalf of the ministry showed two important factors: There were a large number of possible buyers, and with the change in computer software there were a large number of alternative ticketing methods. BOCS would cease to have the monopolistic capacity it had before, as an ordinary person could set up his or her own ticketing organisation and did not have to join an organisation such as BOCS. Some people have started their own ticketing systems.

I decided to sell BOCS for three reasons: Firstly, the monopoly situation no longer existed. Secondly, because of the possibility of new entrants into the area there was a strong chance that if the State did not sell BOCS now, other systems would start up anyway and the Government would not get any value for BOCS because it would not be able to compete with these new entrants and put up the sort of capital that potential new entrants into the area were likely put in. The Government would not be able to compete with a commercial organisation. Thirdly, there appeared to be some possible buyers with interests which might mesh into BOCS and give them an incentive to promote Western Australian theatre.

Each of these factors indicate that we should sell BOCS. First, if we get good money for BOCS, that will go back into the ministry. Second, if we do not do it now, we will have an expensive organisation on our hands which has lost value and therefore we will lose the opportunity for that value. Third, we believe there are potential buyers who could further develop Western Australian theatre in a way that we would not have the commercial links to do so. We believe that some of the buyers for BOCS will have strong commercial interests in promoting Western Australian theatre. For all of those reasons, and the original recommendation from the McCarrey report that we should sell it, it is now an appropriate time to sell. If we do not sell BOCS now, Western Australia will not gain a financial benefit and will be left with a very expensive organisation and no value for it whatever.

The PRESIDENT: As a matter of interest, and because I heard some mumbling, that I am sure was not directed at the Chair, from members who did not get a chance to ask a question today, I advise that 15 questions were asked: Two by the Australian Democrats, two by the Greens (WA), two by the Liberal Party and nine by the Australian Labor Party, of which the Leader of the Opposition was given four. Members will be aware it is the custom and practice of Westminster-style Parliaments to afford the Leader of the Opposition priority, and I maintain that practice. I point that out so that members understand who got what, because members all know who did not get what.
