



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
SECOND SESSION  
1999

LEGISLATIVE COUNCIL

Thursday, 22 April 1999

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**THE PRESIDENT** (Hon George Cash) took the Chair at 11.00 am, and read prayers.

**ANIMAL WELFARE**

*Leave to present Petition*

**HON NORM KELLY** (East Metropolitan) [11.01 am]: I seek leave to present a petition which, I have been advised by the Clerk, does not conform to the Standing Orders owing to the fact that the form contains a small reproduction of a photograph.

Leave granted.

*Petition*

Hon Norm Kelly presented the following petition bearing the signatures of 73 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned petitioners strongly urge all members to oppose any exemptions in new animal welfare legislation that would prevent an animal from expressing behavioural needs. We are particularly concerned at the inclusion in the new Animal Welfare Act of exemptions and/or provisions in codes of practice which would allow for intensive farming practices, which by their nature prevent animals from expressing behavioural needs. Such practices include the intensive confinement of animals such as the caging of hens and the tethering and confinement of sows, and the accompanying practices which can require the mutilation of animals because of the frustration and emotional and physical suffering caused by these farming methods.

Your petitioners therefore respectfully request that the Legislative Council does not include provisions or exemptions in the new Animal Welfare Act which would prevent an animal from expressing behavioural needs.

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

[See paper No 973.]

The PRESIDENT: I indicate to members that brochures have been prepared by the department of the Legislative Council and are available from the bills and papers office which set out the form and general procedure for the drafting and presentation of petitions. If any member knows of a constituent or any other person who is preparing a petition, it might be convenient to ensure that they receive a copy of the brochure so the petition can be presented in the required form.

**STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

*Inquiry into Management of Western Rock Lobster Fishery - Amendment to Motion*

Resumed from 21 April on the following motion -

That the Standing Committee on Ecologically Sustainable Development inquire into the management and sustainability of the western rock lobster fishery having regard to-

- (1) The accountability of the Department of Fisheries and its rapid rate of expansion.
- (2) The potential conflict of interest of the department in being a regulator and having involvement in projects and marketing.
- (3) A proportional redirection of better interests development funding to the Western Australian Rock Lobster Fishers Federation to enable it to better represent the interests of lobster fishers.
- (4) The ability of Western Australian fishers to store, feed and sell their product anywhere within Australia.
- (5) The establishment of a seafood exchange in Fremantle.

And that the ESD Committee report its findings and recommendations to the House on or before 2 June 1999.

to which the following amendment was moved -

To delete the words "Ecologically Sustainable Development" and substitute "Public Administration".

**HON DERRICK TOMLINSON** (East Metropolitan) [11.06 am]: Before I return to the theme I was developing yesterday, I observe on the Notice Paper that the amendment moved by Hon Simon O'Brien refers to deleting those words and substituting other words in line 1 of the motion. The second last line of the original motion contains a reference to the "ESD Committee". I assume "ESD Committee" is an acronym for the Ecologically Sustainable Development Committee; therefore, any amendment of line 1 would embrace the last line. I seek your guidance, Mr President.

The PRESIDENT: Yesterday I answered Hon Derrick Tomlinson by saying yes, because he had fully explained the procedures that were necessary. If I heard Hon Derrick Tomlinson correctly, the answer again is: Yes, that will be the Clerk's alteration, the House having indicated very clearly its intention to make the change.

Hon DERRICK TOMLINSON: I thank you, Mr President, for that clarification. It would be unfortunate if, were this amendment carried, we had to debate another amendment.

Yesterday I was responding to and supporting the amendment moved by Hon Simon O'Brien by referring to the Standing Orders of the Legislative Council, particularly schedule 1. I pointed out that, under clause 3(a) in schedule 1 relating to the Standing Committee on Ecologically Sustainable Development, it could be construed from the first words that the ESD Committee, as it is known, would be an appropriate body to consider the matters raised by Hon Jim Scott in his original motion. The second part of clause 3(a), however, is instructive. It states that the ESD Committee shall inquire into and report to the House on "any matter . . . concerning or relating to the planning for or management, use or development of natural resources and the environment . . .". The second part reads -

. . . having particular regard to demographic, economic, ecological, technological and lifestyle and settlement factors and concerns;

In other words, it asks that the committee to consider the ecological implications of matters referred to it. Ecological matters encompass a dynamic system in which each of the parts is interdependent. A change in one part will cause a consequential change in all other parts. Therefore, to consider the ecology we cannot consider economic factors separate from demographic, technological or lifestyle factors. Each of those is part of the dynamic system and each is interrelated. That is the very nature of ecology.

In his motion Hon Jim Scott refers to the accountability of the Department of Fisheries - a management issue; the potential conflict of interest in the department being a regulator and having involvement in projects and marketing - a public administration management issue; a proportional redirection of better interests development funding to the Western Australian Rock Lobster Fishers Federation to enable it to better represent the interests of lobster fishers - a public administration management issue; the ability of Western Australian fishers to store, feed and sell their product anywhere within Australia - a management issue; and the establishment of a seafood exchange in Fremantle - a management issue. Each of the five terms of reference detailed by Hon Jim Scott refers to either an element of public administration or an aspect of management of the fisheries industry. None of them refers to demographic factors or ecological factors in the sense that I think is intended here of the physical environment. None of them refers to technological or lifestyle and settlement factors. They are focussed solely on public administration and management issues. On those terms alone it would be inappropriate for the Standing Committee on Ecologically Sustainable Development, which is directed to consider matters with a particular focus, to consider these matters identified in Hon Jim Scott's motion. They are public management issues; therefore the appropriate committee is the Standing Committee on Public Administration.

I say in passing that I have a concern about a trend in motions referring matters to standing committees and select committees in this place. Rather than presenting a motion to consider an issue which is discrete and manageable and can be investigated and reported on in reasonable time, there is a tendency for motions to become all-embracing. Hon Jim Scott's motion covers several aspects of the management of the fishery in Western Australia and then adds the ability of Western Australian fishers to store, feed and sell their product anywhere within Australia. That in itself would be an appropriate matter for a committee to consider. It is an enormous issue to consider. However, in the context of the other four terms, it becomes unmanageable. Item (5) seeks the establishment of a seafood exchange in Fremantle. When members present motions for consideration by the House they should bear in mind that the committees comprise members who have many competing demands on their time. The Legislative Council committee office is adequately, but not lucratively, resourced. Generally, a full-time advisory research officer is attached to a committee and while some committees have a discrete clerk, some share a clerk. To ask a committee to undertake broad-ranging terms of references in a short time becomes an impossible task for the committee. It is not that any of the matters that Hon Jim Scott has proposed is unworthy of consideration. Each is worthy of consideration. Members must make no mistake about that. I am not opposing the notion that a committee, preferably the Public Administration Committee, should examine these matters. However, the task must be manageable. Unfortunately, the terms of reference in Hon Jim Scott's motion are unwieldy. However, that is an aside.

Hon J.A. Scott: I did move the motion in August last year.

Hon DERRICK TOMLINSON: It does not matter that it has taken from August last year for the House to debate it. No doubt the committee will report within six months or whatever will be the final reporting date. The fact that the motion has taken so long to debate indicates the breadth of issues to be considered, and quite properly the House has contemplated the breadth of the issues. Once the committee is established it will examine the minutia of each issue. Each is a task in itself.

Hon J.A. Scott interjected.

Hon DERRICK TOMLINSON: I will refrain from responding to Hon Jim Scott because I think he is trying to force me to take longer than I intended and there is nothing I want to do to impede the early resolution of this matter!

Hon Bob Thomas: You are still being a comedian, but with a straight face!

Hon DERRICK TOMLINSON: Nonetheless, Hon Bob Thomas has caused me to break my concentration. Not only did Hon Jim Scott in his lengthy speech refer to matters that are properly within the domain of public administration - possibly one of the reasons we took such a long time to debate it is that he raised so many issues in his introduction and each is worthy of a response - but also each of the matters he raised is about public administration. For example in *Hansard* of 10 March 1999 at page 6213 Hon James Scott's opening comment is -

There are significant concerns in the fishing community in this State, particularly in the western rock lobster fishery, that the industry is not managed on a co-management basis, which is what it desires.

I am not sure what "it" is. I assume that is what industry desires. The opening sentence of the debate focuses on the management issue. Hon Jim Scott says further -

The concerns about the management of this fishery go back a long way. For many years members on both sides of this House have brought concerns to this place and asked for an investigation.

He then quoted at length from an article in *The West Australian* of 10 September 1996. Yesterday I received a facsimile from a person who obviously has a penchant for making contributions to -

The PRESIDENT: Order! As I know Hon Derrick Tomlinson is aware, his comments are to be directed at the reasons the committee investigating the proposed terms of reference should be the Public Administration Committee rather than the ESD Committee. I have listened closely and it seems that every time I should bring him back into line he mentions public administration, which tends to stop me. I remind Hon Derrick Tomlinson that he should not be going through the second reading speech unless it is directly related to the words "public administration".

Hon DERRICK TOMLINSON: I was trying to demonstrate that even in his introductory speech on this debate Hon James Scott referred constantly to public administration matters. He did not argue about the ecological sustainability of the rock lobster industry. His argument and the complaints he represented were about public administration or the management by public officers of various aspects of the rock lobster fishing industry. Therefore, in presenting my arguments, all I am trying to do is to demonstrate that Hon James Scott himself presented an eloquent and convincing argument not that these matters should be referred to the Ecologically Sustainable Development Committee but, rather, that citizens of Western Australia have concerns that should be addressed by a committee of this Parliament. The appropriate committee is the Public Administration Committee.

In pursuing the argument that Hon James Scott presented I was making reference to his reference to an article in *The West Australian* of 10 September. I pointed out that yesterday I received a fax from Geraldton Finance, and given the nature of the letter that was an appropriate source. That fax contained an article in *The West Australian* of 9 September 1996 that referred to the then Opposition Leader in the Legislative Council, Hon John Halden, who said that government MLCs were also concerned about the department's operations. They had approached him and would use their numbers to force an inquiry. One of the members referred to is Hon Bruce Donaldson.

However, the tenor of the argument is public administration. When citizens of this State have concerns about how an aspect of the State is managed, it is appropriate that a committee of this place, whether it be a standing committee or a select committee, respond to those complaints by giving them honest and earnest consideration and reporting on them without fear or favour. That is the appropriate course of action.

Hon James Scott has presented matters - whether or not they are valid is irrelevant at this stage - that are genuine concerns of citizens of Western Australia about the management of the rock lobster industry. They focus upon agencies of the State and their involvement in the management of that industry. Therefore, it behoves members of this place to respond to those concerns. However, our responsibility extends to making an assessment as to which is the appropriate committee.

Hon Simon O'Brien has simply moved that instead of referring it to an inappropriate committee - the Ecologically Sustainable Development Committee - we should refer it to an appropriate committee - the Public Administration Committee. I commend Hon Simon O'Brien for his perspicacity in recognising that and moving an amendment. Hon James Scott himself has argued for an examination of the administration of the rock lobster industry, and I support his call. However, we should refer the matter to the appropriate committee of this House, which is the Standing Committee on Public Administration. I commend Hon Simon O'Brien's amendment to the House.

#### *As to Adjournment*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [11.23 am]: I move -

That the debate be adjourned until the next sitting of the House.

The PRESIDENT: The question is that the motion be agreed to. All those in favour say yes; against say no. The Noes have it.

#### *Point of Order*

Hon DERRICK TOMLINSON: I heard a single voice.

Hon Tom Stephens: There were three.

Hon DERRICK TOMLINSON: I do not know whether members who are not in their places have a right to have their voice heard. I understand the standing orders preclude that.

The PRESIDENT: I do not doubt that Hon Derrick Tomlinson heard a single voice. However, I am the one to judge whether there was more than one. I assure the member that, apart from Hon Tom Stephens' rather loud call, Hon Bob Thomas also said something, which I believe was "No." That has given me at least two voices, and that is all that is required according to the standing orders. The bells will be rung.

A division was taken with the following result -

## Ayes (14)

Hon M.J. Criddle  
Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans

Hon Peter Foss  
Hon Ray Halligan  
Hon Murray Montgomery  
Hon N.F. Moore

Hon M.D. Nixon  
Hon Simon O'Brien  
Hon B.M. Scott

Hon Greg Smith  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

## Noes (15)

Hon J.A. Cowdell  
Hon E.R.J. Dermer  
Hon N.D. Griffiths  
Hon John Halden

Hon Tom Helm  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon Ljiljana Ravlich  
Hon J.A. Scott  
Hon Christine Sharp  
Hon Tom Stephens

Hon Ken Travers  
Hon Giz Watson  
Hon Bob Thomas (*Teller*)

## Pairs

Hon Barry House  
Hon W.N. Stretch

Hon Kim Chance  
Hon Cheryl Davenport

Question thus negatived.

*Debate Resumed*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [11.27 am]: I guess I have been here long enough to know that nothing will ever surprise me. For the past couple of weeks members have been asking me whether we can make a decision on the rock lobster motion because they are tired of talking about it. We had an opportunity to adjourn it and talk about something else, and they have refused. What a joke they are!

Several members interjected.

The PRESIDENT: Order! We are dealing with an amendment to a motion moved by Hon Jim Scott. I understand that the Leader of the House is making some introductory comments, but I do not need everyone else to help him make them.

*Point of Order*

Hon TOM STEPHENS: I hope that the Leader of the House is aware of the standing order - if he is not, Mr President, perhaps you will draw his attention to it - that he should not reflect on a decision of the House.

The PRESIDENT: That is a valid point of view and I am sure the Leader of the House knows that standing order and will observe it.

*Debate Resumed*

Hon N.F. MOORE: I always accept the decision of the House and I have no choice but to do that. I am simply reflecting on the state of mind of members opposite, who have persistently and consistently told me that they are tired of hearing about rock lobsters. This was a chance for those members to talk about something else, namely, the problem with the wine tax. This is a situation in which two members have put motions on the Notice Paper to talk about -

*Point of Order*

Hon TOM STEPHENS: There is currently before the House a motion to amend the original motion. It provides the Leader of the Government with a confined opportunity to contribute to this debate. I understand that if the Leader of the Government has previously spoken on this motion, he is confined. If I am mistaken and he happens to be the only person on that side of the House who has not filibustered on this motion, I am surprised.

The PRESIDENT: The Leader of the Opposition knows that was not a point of order. A very strong argument could be made that he was trying to tell me how to do my job.

Hon Tom Stephens: Never.

The PRESIDENT: When he gets this job he can do it whichever way he wants to do it. I am the one who decides whether the standing orders are being observed. If members will cease interjecting, the Leader of the House will be able to get on with debating the amendment to the motion before the Chair.

*Debate Resumed*

Hon N.F. MOORE: As I have not spoken on this motion until now, I believe I am entitled to speak about broader issues surrounding the whole motion rather than simply the specifics of the amendment. I was about to say before being interrupted for the second time by the Leader of the Opposition that some members are anxious to talk about the wine industry because they see it as being more important at the moment than an inquiry into the rock lobster industry. I was giving the House an opportunity to -

Hon Tom Helm: Let us vote on it.

Hon N.F. MOORE: Some members want to speak on it. We sat here and listened to the Leader of the Opposition speak for eight hours one night giving his point of view; members on this side sat and put up with that. On this occasion, a number of members take a very serious interest in the rock lobster industry, but Hon Tom Stephens does not. However, because of

what is currently happening in the Federal Parliament, two members at least, one from the government side and one from the Greens (WA), have put motions on the Notice Paper with respect to the wine industry. There is a sense of urgency about that, more urgent than talking about the rock lobster industry.

*Point of Order*

Hon TOM STEPHENS: I am not as familiar with the standing orders as you are, Mr President, but I understand that one of our standing orders, which you would be aware of, relates to foreshadowing debate on a motion that is on the Notice Paper. I defer to your obligations and responsibilities - I do not aspire to the Chair - but can something be done to encourage the Leader of the Government to get back to the job?

The PRESIDENT: I can only assume that it is Thursday and some special reason must exist for members carrying on the way they are. If the Leader of the Opposition wants this job so badly, I will give him some private lessons later on the standing orders and he will be able to sit in this Chair and do the job. However, there is a standing order about the anticipation of debate. The Leader of the House was not anticipating the debate. He was purely indicating to the House that there seems to be some motion somewhere on the wine industry and that the Federal Government apparently has some interest in the subject. We can have points of order until 12 o'clock which means we will effectively waste 30 minutes. It seems to me that is not a wise way of handling the motion before us which clearly some members want to bring to a conclusion. If members will think before they jump and raise points of order or interject, perhaps the Leader of the House can get on with the amendment. The Leader of the House seems to have made his introductory comments and he is now at liberty to speak on the motion as a whole, which includes the amendment.

*Debate Resumed*

Hon N.F. MOORE: I was getting to the stage of my comments when I was about to indicate to the House that while an inquiry into the rock lobster industry may be important to some members, I do not think an inquiry is needed into the rock lobster industry at all. I was seeking to make the point in the context of today, when a more important issue is on the political scene than an inquiry into the rock lobster industry. I have been seeking to give members who have expressed an interest in the wine tax an opportunity to make their point of view known and for this House to make its point of view known while the Senate is currently debating the new tax package. It is a pity that members on the other side could not bring themselves to facilitate that opportunity. This House will now not have that occasion to look at an issue which, in the context of the current federal political scene, is more important than an inquiry into the rock lobster industry.

The motion on the Notice Paper about an inquiry into the rock lobster industry was promoted by Hon Jim Scott and the Greens (WA) party. If the Greens party had its way, an inquiry would be conducted into every industry in Western Australia, and it would close down half of them. We have seen its track record so far. Thank the good Lord and all those who decide how people vote that it is not in government, because people would be leaving the country in droves. It is bad enough that the Greens have a couple of votes in this House which can make the difference from time to time. One can only hope and pray that the Labor Party will stand up for the industries of Western Australia against these minor parties who seek to destroy them. Hon Jim Scott is not here to promote more fishing, logging, mining, motor cars or manufacturing; he is here with his colleagues to ensure that nobody does anything - that is why the Greens are here.

Hon Christine Sharp interjected.

Hon N.F. MOORE: It had an opportunity about five minutes ago to join with this side of the House in a unanimous expression of a point of view about the Western Australian wine industry and it gave it away. Hon Christine Sharp had an opportunity a minute ago to vote for the adjournment of this debate, which she has had enough of I am told, and join the rest of the House. I do not know where the Labor Party stands on the Western Australian wine industry, but I know where the Greens say it does.

Hon Tom Stephens: You know.

Hon N.F. MOORE: I do not because I have not yet heard from the Leader of the Opposition.

The PRESIDENT: Order! I have been reasonably fair, perhaps too fair. If members continue to interject, I will take the action that I am afforded under the standing orders. This debate is turning into a farce. We are wasting time. From what members have said, I thought they wanted to get on with the job. The job of the Leader of the House is to discuss the proposed direction to the Standing Committee on Public Administration - not the wine industry.

Hon N.F. MOORE: With respect, I understood that I have the capacity to talk about the motion in general because I have not spoken before. I was explaining why the Greens party is wanting an inquiry into the rock lobster industry. I was making the point that it would probably want to close it down, as it wants to close down everything else. While I was making those remarks, Hon Christine Sharp suggested that her party supports the wine industry. That is how that interchange came about. I was simply saying to her that she had a chance to discuss the wine industry today if she wished.

The facts of the matter are simple. We have a motion from Hon Jim Scott that we should inquire into the sustainability - have we got rid of that word or was that another amendment? - of the Western Australian rock lobster industry with a view to looking at the accountability of Fisheries WA and its rapid rate of expansion. When I look at words like "rapid rate of expansion" in the Greens (WA) motion, I must start thinking about their intentions, which are usually a rapid rate of reduction. Again, I am a little surprised at the member's comment because the member wants to control everything. A government agency is given the responsibility of controlling this industry. It has done a very good job for a very long time. We have an industry which is going very well and would be going exceptionally well if it were not for the price of lobster at present. The people in the industry are doing very well indeed, thank you very much.

Here we have the Greens in their usual style coming to the Parliament and saying that if somebody is doing anything right, he must be doing something wrong; if somebody is making a quid, he must be doing something wrong; if somebody has a job, we must look at why that is the case. For example, if people work in the logging industry, we must establish why they are doing it. If people work in the lobster industry and they are doing okay, we must hold an inquiry into that. I guess that we will shortly have an inquiry into the mining and petroleum industries, because the Greens reckon that somebody is making money out of mining and petroleum. This is the whole attitude of the Greens. I appeal to the Labor Party to stand up for the working people of Western Australia.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: The Labor Party should stand up for the people who have jobs and for those who would like to get jobs. All Hon Ljiljanna Ravlich does is stand up for the 20 per cent of workers who belong to the union movement. She rabbits on here day after day about the 20 per cent who belong to the unions. Let her stand up for the people who do not have jobs and who want to get jobs, and let her stop coming to this Parliament with these motions, which are similar to the Bill we debated last night, which have the intent to make it harder for people to get jobs.

The Greens have moved this motion about the Western Australian rock lobster industry, which is a very successful industry in Western Australia. They suggest that we conduct an inquiry into it. All the Greens do is put fear and loathing into the minds of the poor people who work in the industry about what they will come up with and what they will do to them. If I were in an industry and the Greens came to this Parliament with a motion to inquire into that industry, I would have a heart attack. People can bet their bottom dollar on the recommendations that the Greens will come up with.

Why is the inquiry to be carried out by the Standing Committee on Ecologically Sustainable Development? The Greens have a lot of influence on that committee; indeed, they might even have the numbers when the Labor Party joins with them. Therefore, that committee can produce a report recommending that we close down the rock lobster industry or halve the catch and indicating that people cannot do certain things. I would be horrified if I were in the rock lobster industry and I thought that the Standing Committee on Ecologically Sustainable Development was after me because I would know at the very beginning that it was not on my side. The Greens are not about giving an industry a chance to grow, expand or be sustainable; they are all about stopping people doing things other than grow wine and sit under trees in the south west. That is a wonderful idea. I would love to sit under a tree in the south west, contemplating the meaning of life and drinking a Leeuwin Estate chardonnay. There is only one problem; that is, I would starve to death in about a week, although I am not sure for how long wine can sustain a person! The Greens trot in here with this idyllic view of the world. It is all about making sure there is no economic growth.

I refer to Tasmania as a very simple example of where the Greens have got hold of the political agenda. Fortunately, they have been shaken off a bit because the Labor Party woke up to them. However, there is negative economic growth in Tasmania. Why is that? It is because people who want to start industries in Tasmania are told they cannot do so because it is a "green" place. Dr Bob Brown and all the mates of the Greens have frightened every industry away from Tasmania and it now has negative growth. States like Western Australia with some successful industry are paying through the Commonwealth Grants Commission to fund Tasmania as well as when the Federal Government caves in to Senator Brian Harradine with the bribes that he seeks to trot out. That is the sort of future this party foresees for Western Australia. It suggests that we go down the Tasmanian path and close down the rock lobster, mining and petroleum industries, and then see if our economy has a future.

Hon Greg Smith interjected.

Hon N.F. MOORE: They are probably living here now. Tasmania has a net reduction in population because its economy does not have enough room for everybody to sit under trees drinking chardonnay. It does not work like that. People in the rock lobster industry must be frightened that the Greens are after them. They must be even more frightened that the motion refers to the Standing Committee on Ecologically Sustainable Development.

We have heard some very good arguments from Hon Simon O'Brien and Hon Derrick Tomlinson as to why this matter should not go to the Standing Committee on Ecologically Sustainable Development. If there is to be such an inquiry, it should be carried out by the Standing Committee on Public Administration. I do not think we need to have an inquiry, but if the numbers pan out in its favour - obviously we lose from time to time and more often than we should on the merits of the argument - we will have an inquiry into the rock lobster industry. It will frighten the hell out of people in the industry. Let us frighten them a little less and use the Standing Committee on Public Administration, which we hope has some Labor Party influence. We can hope that, for the first time in their lives, the Labor Party members will stand up for people who are in productive enterprise. That would be a very good sign from the Labor Party if it intends to go along with this motion, which I presume it does. It might support the amendment.

Hon Greg Smith interjected.

Hon N.F. MOORE: Geologists are beginning to become an extinct group of people. They had a big meeting the other day. Imagine if the Greens came in here and said that the Standing Committee on Ecologically Sustainable Development wanted to look at the mining industry. People would pass out because they would know that their "friends" in the Labor Party had also let them down.

Hon Tom Stephens: You have always been on about reds under the bed, then blacks under the bed and now it is greens under the bed. You are constantly putting up bogeymen.

The PRESIDENT: Order!

Hon N.F. MOORE: Hon Tom Stephens in his usual perceptive way has made his comments. I ask him to look at the Tasmanian economy and tell me that the "greenness" of that State has not had a very significant impact on its economy. If he does not think that native title is having a significant effect on the economy of Western Australia, he should get off his backside, get out into the goldfields and have a good look or go to the meetings of the unemployed geologists and ask them whether black politics, if that is what he wishes to call it, is having an effect on their livelihoods. It is a fact. Whether he thinks it is reds, blacks or greens under the bed, it makes no difference to me. The facts of the matter are out there for him to go and look at. I recommend very strongly that instead of wandering to Exmouth and Onslow and causing trouble where there is none to be had, he go to Kalgoorlie with his leader, Dr Gallop, and ask people what the Labor Party policies are doing to the mining industry. At the same time he might call into Geraldton and ask what the Labor Party is doing to the rock lobster industry. It clearly has the same concerns as I have.

We have a situation in which the Greens have put up a motion to look at the rock lobster industry. Clearly the industry does not need to be investigated by this Parliament. It is a successful industry; it is going very well indeed. The problem at the moment is obviously outside the realms of the State Government; it has to do with the price that the industry is getting for its product overseas. No parliamentary inquiry headed by the Greens will change the price of lobster on the world markets.

Hon J.A. Scott: I have some data that says differently.

Hon N.F. MOORE: Hon Jim Scott says he can do it. Is it through centralised selling, or will the Greens (WA) make it compulsory for the Japanese to have crayfish for breakfast? If Hon Jim Scott can give me a way to increase the world price for lobster I will be delighted to hear it, as will the industry. While Hon Jim Scott is at it, he can tell me how I can increase the price of gold and perhaps a few other products, because we have problems there as well.

The PRESIDENT: Order! If the Leader of the House addressed the Chair we would not get incessant interjections. I am not able to hear the interjections, which puts me at a disadvantage. Worse than that, it puts at a disadvantage those who are reporting the proceedings. It would be helpful if the Leader of the House directed his comments to the Chair.

Hon N.F. MOORE: I do not feel in any way disadvantaged by not hearing some of the interjections, but that is a view about what is being said. I am saying to the House in as strong words as I can that this industry does not need a parliamentary inquiry, because it is going well. Its problems relate essentially to the present price of the product. Other than that, most people say that it is the best managed fishery in the world, and Fisheries WA has an enviable record within Australia and internationally for the way in which it manages our fisheries. We do not do industries any favours by holding parliamentary inquiries. Worse than that, Greens members have put forward a motion saying that the Ecologically Sustainable Development Committee, which they control, should be the body to look at the industry. That is totally inappropriate: Firstly, for the effect it will have on industry; secondly, it is not the committee that should conduct the inquiry.

Hon J.A. Scott: It shows how little the Leader of the House understands what the industry is based on - living creatures.

Hon N.F. MOORE: Hon Jim Scott has had a go; we have listened to what he had to say. We all know that the industry is based on living creatures. There are also living creatures who hop onto boats and go out to get the lobsters. Hon Jim Scott should sometimes think about their livelihood.

Hon J.A. Scott: They are the ones who want the inquiry.

Hon N.F. MOORE: No, they are not. Hon Jim Scott represents a minority point of view. The Greens (WA) party has three members out of 34 and they represent 3 per cent of the vote. The Greens should remember that, so they have some idea of where the majority of Australians reside on these issues. I do not support the motion in its totality, because it is unnecessary, just as I will oppose any attempt by anybody to investigate any other industry for nefarious reasons. I particularly do not support having the inquiry undertaken by the Standing Committee on Ecologically Sustainable Development, because that will frighten the industry even more.

Also, as Hon Derrick Tomlinson pointed out, the Standing Committee on Public Administration is a far more appropriate committee to look at the administration of a government agency. The first requirement is to look at Fisheries WA. I have to ask the rhetorical question: Why has the Public Administration Committee, on its own motion, not investigated the fisheries department? It is capable of doing that. I often wonder why members bring these motions into the House. Most of the time they do not have to, because they can do it with a motion in their own committee. Opposition members control most of the committees, so all they have to do is to get Hon Christine Sharp to move this motion in the Ecologically Sustainable Development Committee - that is, provided it is within the committee's terms of reference. If it is not within the terms of reference the committee should not be involved anyway.

Members opposite want to take up the time of the House on these motions to try to score a political point. That is the only reason. When the Government responds the Opposition says we are filibustering. We will respond at length to ensure the Opposition, the Parliament and the industry understand where the Government stands on this matter. The Government will move amendments, such as that which has been moved by Hon Simon O'Brien, that the issue not go to the ESD Committee because that is a message fundamental to what the people in the industry are concerned about. It is an appropriate amendment. I simply ask rhetorically why the Public Administration Committee has not on its own motion investigated Fisheries WA. It can do that any time it likes. I would not support that, but that could save the House a lot of time.

I support the amendment on the basis that it is better than the motion. However, I will oppose the motion vigorously in the event the House must vote on that.



**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [11.55 am]: The Labor Opposition opposes the amendment and calls on the House to deal with the amendment and the motion forthwith. We want these issues considered by a committee of the House.

Several members interjected.

Hon TOM STEPHENS: The Labor Opposition has the balance of power on the Standing Committee on Ecologically Sustainable Development and will exercise that power.

The PRESIDENT: Order! The Leader of the Opposition will come to order. I will not allow this debate to develop into a screaming match. Hon Simon O'Brien and Hon Ray Halligan will not interject. I have given members a fair bit of latitude this morning - clearly too much latitude. As there are only five minutes to go I cannot go back on what I have done today. However, I can guarantee members that when this motion comes on again the same latitude will not be shown. We have wasted considerable time this morning and that is not in the interests of this Parliament. The Leader of the Opposition does not have to yell. He is closest to me; I can hear him.

Hon TOM STEPHENS: I insist that the House bring this matter to resolution, so that in turn we can move on to deal with the issues that people in this Chamber would like to deal with. We know what the Government is on about; it is filibustering to produce a result where these people in the public gallery will not -

The PRESIDENT: Order! There is no need for the Leader of the Opposition to raise his voice, because I can hear him. It is also, as the Leader of the Opposition knows, a breach of the standing orders to indicate the presence of people in the gallery.

Hon TOM STEPHENS: I will not allude to the presence of people in the gallery again. However, we all need to know that the aim of the filibuster is to prevent the consideration of a number of issues, in particular the dairy industry issue.

Last night in the Legislative Assembly the Labor Opposition was successful in having carried a motion on the wine industry, about which the Government is protesting we do not have any concerns. That motion was moved by the Leader of the Opposition, Dr Geoff Gallop, and puts on record Labor's position on the wine industry. We have said to the government leader -

The PRESIDENT: Order! The Leader of the Opposition does not need to raise his voice. He is speaking to the Chair and I can hear him. Could we all take a deep breath and get on with the debate. The conduct of the Chamber is decided by members. The decorum is absolutely disgraceful.

Hon TOM STEPHENS: I beg the House to bring this matter to resolution.

**HON B.M. SCOTT** (South Metropolitan) [11.58 am]: I would like to speak to the amendment in my capacity as Deputy Chairman of the Standing Committee on Public Administration to place on record and clarify the issues that have been raised here this morning. Members of this Chamber would be fully aware that the Public Administration Committee was in the past known as the government agencies committee. If there is to be an inquiry, it is appropriate and proper that the Public Administration Committee look into this issue.

Other members have detailed the motion and the amendment. The motion relates to the accountability of Fisheries WA and its rapid rate of expansion and the potential conflict of interest in the department being a regulator and having involvement in projects, marketing and so on. For the interest of the House I have a list of the matters on which the Public Administration Committee has deliberated and reported to the House since 1997.

Debate adjourned, pursuant to standing orders.

## **CASUARINA PRISON, SMITH REPORT**

### *Statement by Minister for Justice*

**HON PETER FOSS** (East Metropolitan - Minister for Justice) [12.00 pm]: I wish to inform the House of the report of the inquiry into the incident at Casuarina Prison on 25 December 1998. The terms of reference for the committee of inquiry were to assess the causes of the riot; the adequacy of the response by the Ministry of Justice; and how such an incident could be prevented in the future. I commend Mr Les Smith, the former State Electoral Commissioner, on producing a thorough and candid report that addresses a wide range of issues relating to Casuarina Prison and general prison administration in the Ministry of Justice. His independent expertise and that of his committee have resulted in a range of valuable recommendations that will add further momentum to the reforms already taking place within the ministry.

As members will recall, the riot took place on Christmas Day 1998 after a prisoner stole prescription drugs from a locked cabinet in an unlocked room in the prison and passed on the drugs to other prisoners who consumed them. When staff attempted to detain ringleaders a group of prisoners responded violently. About 100 prisoners were involved in the incident and more than 30 were later treated for drug overdoses. A total of 27 prison staff were injured during the riot, in which prisoners damaged prison property, mainly windows and doors, causing about \$250 000 worth of damage. The incident, which started about 4.15 pm, developed into a riot which took place from 6.00 to 7.15 pm.

The report confirms that there was never any threat to the external security of the prison. Escape and subsequent risk to the community was never a possibility. The report also confirms that there was no warning of trouble on that day.

I can speak on behalf of everyone in the community in saying that the staff on duty on Christmas Day acted with great courage to contain the riot and are to be commended on their bravery at great risk to themselves. This morning I spoke to the officers at Casuarina Prison. As I did on Boxing Day and on occasions since, I commended them on their bravery and devotion to duty. I advised them that the Smith report had confirmed that they had acted appropriately both during the riot and subsequently. I had the opportunity to speak with some of the staff who were injured on Christmas Day, many of whom have still not returned to work, and to share with them their feelings on that day. Some of them gave themselves up as dead when trapped inside control rooms which they had thought were secure but which were being breached by a riotous mob of prisoners threatening to kill them.

Such a riot affects the participants on either side quite differently. For the rioters it was a cathartic experience after which they could return to their cells and sleep at night; for many prison officers it was a trauma that they will never forget. It is not just a matter of adding up the physical injuries on either side and noting that the prison officers suffered more and greater injuries. There was a totally different dimension to the experience that prison officers underwent and we owe them our thanks. They and their families were deeply hurt by the unfounded allegations made on behalf of the State's worst criminals who had just shown themselves to be lacking even the slightest remorse for their actions and who were reported as if they were worthy and credible citizens. For some time I have been considering bravery and service awards for prison officers similar to those for police officers. I am sure that when those awards are announced there will be many at Casuarina who will have earned them.

On behalf of the Government I accept in principle the report's recommendations. Many of the recommendations support reforms that were already under way before the incident. For instance, the director general initiated a wide-ranging change in management process, the prison improvement program, within the ministry's Offender Management Division. Following several months of development, implementation started in September last year for the progressive improvement of 15 major operational areas. This is a continuously updated program. However, such fundamental change takes time. As the Smith report notes, the reform process will take up to five years to be fully implemented.

The Smith report identifies structural inadequacies in Casuarina Prison and various aspects of the Ministry of Justice and the administration of Casuarina Prison that need to be improved. These areas come under the broad categories of leadership; accountability and responsibility; lack of planning - leading to overcrowded prisons; drug problems; and local issues with the prison.

**Leadership:** As noted by the Royal Commission into the City of Wanneroo and referred to by the Smith report, within certain areas of the Ministry of Justice there has been a history of instability of management and personality problems. These problems have been addressed by the appointment of new senior management. The appointment of Alan Piper as Acting Director General and Athol Jamieson as Acting Executive Director Offender Management in 1998 and the subsequent appointment as Director General of Alan Piper in February 1999, after nearly a year acting in the position, have led to clearer direction and leadership. Earlier this year, permanent appointments were made to the two most senior positions in Offender Management and Prison Services, which are responsible for prisons in this State. The new management is driving the process of change and will create a stronger operational focus.

**Accountability and responsibility:** The report highlights the need for greater accountability and responsibility within the Offender Management Division of the ministry. The new permanent senior management team is accepting responsibility for the direction and decisions made under its leadership. The Offender Management Division and the ministry itself are certainly becoming more accountable. As a recent example, full and open disclosure has been provided on the establishment of Wooroloo South Prison, and I have tabled an unprecedented number of reports on the various operations of the Ministry of Justice to Parliament and the public.

In the current financial year, the ministry has moved to establish a Regulator of Prisons to increase its accountability. A Ministry of Justice Advisory Council has been appointed and the Offender Management Division is proceeding with the creation of an Offender Management Client Council.

After reviewing the ministry's strategic plans, the inquiry committee has expressed confidence in the future direction of the ministry and the Offender Management Division -

The Inquiry team is satisfied that the Ministry's planned changes to practices and procedures outlined in the various business and strategic plans and other initiatives in train, are a positive step towards enhancing responsiveness and accountability to the Attorney General, the State Parliament and the community.

**Lack of planning - prison overcrowding:** Due to the leadership problems referred to earlier the ministry was unable to give clear answers on the short, medium and long-term accommodation requirements for prisons. The current administration has cast considerable doubt on the validity of the entire process. One former director general actually advised my predecessor that no new prisons would be needed for the foreseeable future. Despite constant requests for an overall plan the ministry was unable to agree upon a solution. However, after Alan Piper and the Acting Executive Director of the Offender Management Division took up their positions in 1998, the issues were quickly resolved. In particular, Alan Piper's experience both in project and change management has been invaluable in pushing ahead with the much-needed reform of the prison service and urgent plans for increasing prison accommodation. It is perhaps fortunate that, when the ministry did deliver a plan, it was under the auspices of a person with considerable experience in planning and construction - experience beyond what would normally be expected of a CEO.

Additional prison accommodation approvals made in the past year include -

Prison	Details	Completion
Wooroloo Prison Farm	14 bed male minimum security	September 1998
Riverbank Prison	50 bed male medium security	November 1998
Nyandi Prison	22 bed female minimum security	December 1998
Greenough Regional Prison	36 bed male minimum security	February 1999
Karnet Prison Farm	48 bed male minimum security	May 1999
Canning Vale Prison	72 bed male maximum security	June 1999
Canning Vale Prison	128 bed male maximum security	December 1999
Wooroloo South Prison	750 bed male medium security	August 2000

That means that in the past 12 months we have provided accommodation for an extra 122 beds, with another 48 coming into use next month, and 200 more coming on line by the end of the year. That is an additional 370 beds, plus the new 750-bed prison at Wooroloo South - all of which were planned last year. When we consider that all predictions were for an extra 100 prisoners per year, this should have been quite adequate to meet demand. However, the actual increase has been some five times that amount.

Prison overcrowding is a problem in all States and around the world. Imprisonment rates around the nation have suddenly risen unpredictably and well beyond crime rates, in part because the community expects firmer action to be taken against offenders and also as the effects of social dislocation have been increasingly evident in our society. Sentencing policies in all States have become tougher and have created the downstream effect of more prisoners and more pressure on accommodation capacity. For instance, the Queensland prison population more than doubled from 2 000 to 4 700 between 1993 and 1998.

Overcrowding brings with it a range of associated problems such as hindering release planning for prisoners; impairing programs for the reintegration of prisoners into the community upon release; diverting resources from treatment and programs; and reducing employment training opportunities in prison industries.

Under the present trend of rising rates of imprisonment it is inevitable that the prison system will occupy an increasing proportion of the state budget. As a community we will need to decide on the allocation of limited resources - to balance the needs of other government services against the needs of offenders - and to consider whether offenders could be managed in alternative ways.

Many within the community resent any money being spent on prisoners. Obviously, we have a responsibility to prisoners to accommodate them appropriately, but the judgment as to what is appropriate must take into account the other demands upon the taxpayer's dollar. Government will necessarily give greater priority to matters such as education and health than to prisoner comfort. Expenditure in those areas can help to avoid factors that increase the likelihood of criminal behaviour. If there were unlimited moneys we could probably carry out all recommendations to the highest degree and with the greatest urgency. I do not see unlimited moneys being made available to the prisons. Besides that, new prisons take time to build.

Drug problems: The Smith report commented that drugs were central to the Casuarina riot. The apparent immediate cause was a prisoner stealing prescription drugs from a locked cabinet in an unlocked room. The Casuarina Prison authorities had initiated a crackdown on drugs smuggled into the prison and it is likely the prisoner's action was the result of a shortage of drugs in the prison. Various steps have since been taken to improve the storage and procedures for handling drugs at Casuarina and other prisons.

The inquiry report criticises an apparent large increase in the rate of prescription drugs prescribed in the prison in the two years to 30 June 1998. The usage rates have been referred to one of the State's leading medical pharmacological experts, Professor Alasdair Millar, Clinical Professor in Pharmacology and Medicine at the University of Western Australia. He advises that the usage figures in the report indicate that drug usage in the prison system is not a cause for concern.

Nevertheless, the rate of drugs prescribed did rise in the two-year period, which was most likely due to a range of reasons, some of which are outside the control of the ministry. These reasons may include the growing drug use among the general population and the changing attitude of prisoners, noted in the inquiry report. This is supported by figures on prescription drugs supplied by the commonwealth Department of Health, which showed an increase of up to 60 per cent nationally over the same period for some of the common drugs prescribed in Casuarina Prison.

Prescription drugs are prescribed by the independent general practitioners who are under contract to treat individual prisoners according to their assessed needs. The ministry has not sought to direct these practitioners on their prescribing policies. Increased numbers of deaths in custody in recent years and inflammatory accusations by pressure groups may have influenced medical staff to be more prepared to prescribe drugs to help prisoners cope with anxiety. Some prisoners have exploited this by threatening self-harm or suicide, so tranquillising drugs - benzodiazepines - may have been prescribed more readily. The report noted that many prisoners see medical staff for the sole purpose of getting drugs. Because of concern with the findings of the report on this aspect and in view of the specialist nature of the area, the Ministry of Justice has decided to commission an expert to review it.

To combat the growing drug problem within prisons, the Ministry of Justice has in place a comprehensive, integrated drug management strategy. The aim is to reduce the supply and demand for drugs and the associated problems they cause. The strategy, which was adopted in early 1998, has been developed after extensive consultation with internal and external stakeholders, a review of international best practice literature and monitoring of drug policies in other States. The strategy, which is intended to be implemented over three to four years, encompasses three broad areas - deterrence and detection, medical management and non-medical treatment. Changes to policies and procedures at Casuarina and other prisons have already begun in accordance with the strategy.

Local issues in Casuarina Prison: Since the riot, the ministry has committed more than \$1m to construct fencing around five units at Casuarina Prison and to improve the security of the control rooms in the units. This work will allow prison management to contain prisoners in specific areas of the prison and prevent them from swarming to other units, as happened in the riot. It should also allow officers to go to the aid of others if a disturbance occurs; whereas in the riot many officers were caught in isolated islands. Tenders have also been called for more fencing and exercise yards for high-security prisoners at a cost of about \$750 000.

The issue of prisoner mix was raised by the inquiry. Unfortunately, Casuarina Prison has been used to accommodate remand and induction prisoners in addition to sentenced prisoners almost since the prison opened in 1991, which is not its design purpose. This has created problems of a volatile mix of prisoners - short and long term, young and old, Caucasian and Aboriginal - which in part contributed to the riot. The ministry had recognised this problem and in March 1998 I announced the commissioning of a major new project at Canning Vale Prison to create a remand, receipt and assessment facility. Almost all remand prisoners at Casuarina Prison will be transferred there from July, which will dramatically improve the prisoner mix.

The Smith report raised other issues such as staff training, sufficient riot control equipment and emergency procedures, which are being addressed. For instance, in the past four months hundreds of hours of staff training have been held across the prison system to enhance self-defence skills, prisoner restraint techniques and communication skills. At present various ways are being examined to offset overcrowded conditions by increasing the availability of prisoner training programs through multiple use of facilities.

In response to some prisoner complaints about being roughly handled during the incident, the committee of inquiry concluded that the large number of prisoner drug overdoses and injuries were dealt with promptly and efficiently. It said that the inquiry team considered that the level of force used against prisoners was appropriate in the dire circumstances.

Police have charged 18 prisoners with 47 charges under the Criminal Code and will charge a further 25 prisoners under the Prisons Act. More charges are due to be laid against other prisoners. I am sure the public of Western Australia will fully support the ministry's intention to recognise the brave efforts of the staff who quelled the riot by making suitable awards to them.

In conclusion, the Smith report has performed a valuable service in examining the causes of the Casuarina riot and recommending solutions to improve the ministry's operations. The ministry has accepted criticism in the report and is integrating the recommendations of its operations.

I seek leave to table the report of the inquiry into the incident at Casuarina Prison on 25 December 1998 and a series of slides describing the course of the riot, the physical changes that are to take place at Casuarina and the changes that are to take place at Canning Vale Prison as part of its amalgamation plan.

Leave granted. [See papers Nos 974 and 975.]

## PETROLEUM SAFETY BILL

### *Committee*

The Chairman of Committees (Hon J. A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

### **Clauses 1 and 2 put and passed.**

### **Clause 3: Definitions -**

Hon N.F. MOORE: I move -

Page 2, line 15 - To delete the word "**offshore**" and substitute "**adjacent**".

Page 3, line 25 - To delete the word "offshore" and substitute "adjacent".

This amendment resulted from parliamentary counsel's re-examining the Bill in the context of a number of amendments and concluding that it is a more consistent term to use in the context of other legislation, particularly the Petroleum (Submerged Lands) Act. We are taking the opportunity here of recommending to the Chamber that parliamentary counsel's view prevail.

### **Amendments put and passed.**

Hon N.F. MOORE: I move -

Page 4, line 25 - To insert after "1967" the following -

including the provisions of the *Petroleum Act 1936* that, under Division 6 of Part III of the *Petroleum Act 1967*, have effect in relation to the Barrow Island lease and to any renewal thereof;

This amendment is to ensure that Barrow Island is included within the auspices of this legislation. Parliamentary counsel had some doubt about the original wording.

### **Amendment put and passed.**

Hon N.F. MOORE: I move -

Page 5, line 3 - To delete the word "offshore" and substitute "adjacent".

### **Amendment put and passed.**

Hon N.F. MOORE: I move -

Page 7, line 16 - To delete the words "coastal waters" and substitute "adjacent area".

I move this amendment for the same reasons.

**Amendment put and passed.**

Hon J.A. SCOTT: Does the definition of "operator" allow the delegation of those roles and responsibilities at remote and offshore sites?

Hon N.F. MOORE: I have some difficulty understanding the import of the question. Perhaps the member can rephrase it.

Hon J.A. SCOTT: I do not have the Petroleum (Submerged Lands) Act in front of me. The operator has responsibility for these sites. Given this definition, which is linked to the Petroleum (Submerged Lands) Act, will the legislation allow the operator to delegate these responsibilities on those sites?

Hon N.F. MOORE: No.

**Clause, as amended, put and passed.**

**Clauses 4 to 7 put and passed.**

**Clause 8: Application of this Act (including regulations made under this Act) -**

Hon N.F. MOORE: I move -

Page 10, line 17 - To delete the words "coastal waters" and substitute "adjacent area".

Page 10, line 18 - To delete the word "offshore" and substitute "adjacent".

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clause 9 put and passed.**

**Clause 10: Power to exempt -**

Hon J.A. SCOTT: For what purpose does the minister want to exempt people from the provisions of this legislation?

Hon N.F. MOORE: There might be some situations in which it is not practicable to apply the requirements of this legislation; for example, to an unmanned facility. The minister can exempt that site. Any such move will be published in the *Gazette*, so there is no question of its being kept secret, and it can be disallowed by the Legislative Council.

**Clause put and passed.**

**Clause 11 put and passed.**

**Clause 12: Title holders for petroleum sites within the State or in State coastal waters to appoint operator etc. -**

Hon N.F. MOORE: I move -

Page 12, line 4 - To delete the word "offshore" and substitute "adjacent".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 13 and 14 put and passed.**

**Clause 15: Duties of employers -**

Hon HELEN HODGSON: I move -

Page 14, after line 28 - To insert the following new paragraph -

- (e) take appropriate action on a report from an employee or a safety and health representative on any matter described in section 17(2)(d);

I understand that there may not be support for this amendment, but I move it so that some discussion is on the record.

Under the requirements of the legislation, employees must report to their employers if they encounter a safety hazard. Certain duties are placed on the employers, but there is no requirement for them to respond to such a report. The intention of this amendment is to ensure that action is taken when a report is received. If the minister believes that is unnecessary, it would strengthen the way the minister believes the legislation should be administered if that were addressed in this debate. I would like on the record the reasons the minister believes the provisions are strong enough without this requirement.

Hon MARK NEVILL: The amendment spells out in detail what would occur anyway under that clause. It is covered by the general duty of care, because if a report is made, an employer is required to act on it. It is probably also covered under the safety case regime where a report is made about a problem and one is required to look at methods of addressing it. I do

not object to the amendment but I doubt whether it is necessary. I will support it if Hon Helen Hodgson proceeds with it, depending on the minister's response and Hon Helen Hodgson's view of that response.

Hon N.F. MOORE: I thank Hon Mark Nevill for saying exactly what I intended to say except the last bit. Hon Mark Nevill clearly stated why the amendment is not necessary. The Government believes the matters raised are adequately covered under the duty of care obligations addressed in clause 15(1)(a) to (f). Paragraph (e) specifically requires an employer to cooperate with the safety and health representatives of the site and any other persons working at the site regarding safety and health. In reading this Bill it is important to acknowledge that it is part of the safety case regime and that it is designed to create a set of circumstances in which safety becomes an inherent part of the operation rather than simply a response to a range of administrative and regulatory requirements. It is not necessary to include this amendment; the issue has been well and truly covered in the Bill under the duty of care requirements of the employer.

Hon HELEN HODGSON: Having heard all of that, I still think the inclusion of the amendment as a specific requirement strengthens the Bill. The point of paragraphs (a) to (d) is they spell out some of the particular obligations. This is another example of a particular obligation which should be spelled out. We are looking at the general duty of care and saying that these issues are a part of that duty. If we impose one obligation on employees, with a fine attached for non-compliance in not reporting a hazard, it is only fair that the employees be assured that the matter will be redressed.

Hon MARK NEVILL: The amendment refers to matters described in clause 17(2)(d), which is clearly aimed at employees if they fail to report forthwith to their employer a particular injury or situation at the site. Is there not already an obligation on an employee to report any injury, hazard or harm which occurs?

Hon N.F. MOORE: Clause 17 deals with duties of employees and clearly places an obligation on employees to report these matters.

Hon HELEN HODGSON: As I understand it, that is an obligation for an employee to report to his employer, but there is no corresponding obligation for the employer to act on that report. That is what I am endeavouring to insert with this provision.

Hon N.F. MOORE: I will not slash my wrists over this but I want to emphasise that we are talking about a new way of providing for safety within an industry. It is not based on regulations or "them and us" but on the safety case regime, which was created as a result of the Alpha Piper problem in the North Sea. It is a totally new approach to safety, one which is all about "us and us" and people accepting that we have a mutual, collective obligation for safety. The intention is to minimise the number of regulatory circumstances and put in place a safety case which is applicable to everybody on a site. Hon Helen Hodgson can include this amendment if she wishes but we would be returning to the old regulatory regime, which was not successful. One gets safety only when one changes culture. The culture of safety must permeate the whole of the working community - employers and employees. They must work together and accept their obligation to each other to ensure they have a safe workplace. Hon Helen Hodgson's "them and us" approach is what we are trying to break down. She says they will not or might not do it, and perhaps they will not, but regulating things has not worked in the past. The cooperative approach of the safety case regime must be promoted in the future. I will not die in a ditch over this amendment but it is unnecessary because the issue is covered by clauses 15 and 17.

Hon J.A. SCOTT: On the contrary this is very necessary. We have seen examples in the past of companies which have been informed by employees of dangerous situations and have taken no action. One employee went right through his company and it was not until he went to Federal Parliament that a report appeared at the Department of Minerals and Energy about a very serious incident. The argument about needing to change the culture means every person working in the industry must be part of a culture which recognises the need to look ahead to ensure that dangerous situations do not arise, and that if they do, changes are made or action is taken to ensure they do not recur. Non-reporting by people who have made errors in the past means that that culture will never permeate right through the system. Employees will believe that if they report something upstairs and are too vociferous, they will get the boot and nothing will be done. A system is needed which requires the employer to report these incidents. If that is not in place, we will never have a culture throughout the system. Everybody must be part of the system and be treated equally on this matter.

Hon HELEN HODGSON: I agree that it must be "us and us" and I know that is the point of the safety case regime. However, to change the culture and develop the "us and us" regime one must have clear lines of communications and the confidence of everybody in the system. In moving from one system to the other, people must know that safety nets are in place to ensure that things are operating properly. If employees who report a safety hazard are not sure that it will be dealt with, a mistrust will develop and the "them and us" situation will develop or be perpetuated. This amendment reinforces the need for everybody to work together.

Hon RAY HALLIGAN: The matters referred to by both Hon Helen Hodgson and Hon Jim Scott are covered in this clause. The seven subclauses (a) to (g) outline the duties of the employers. They state generally but clearly that the employer must provide and maintain a working environment at the site in which, as far as practical, the employee is not exposed to hazards. The clause clearly identifies that the employee must not be exposed to hazards and the like. This amendment duplicates what is already contained in the clause and is totally unnecessary.

Hon J.A. SCOTT: The way in which hazards will be reduced across industry is if hazards and potential hazards are exposed to the wider industry, and a reporting system is needed to enable that to happen. That is how people learn not to create dangerous situations. Some dangerous situations may not have occurred before, but because of certain circumstances new hazards arise. If a system is put in place in which there is no requirement for the operator to report on these matters, data is not built up and an industry-wide knowledge of the possible hazards is not gained. People should not be penalised for

reporting hazards; they should be penalised for not reporting them. The reporting of hazards is the way in which a culture will be built whereby people will be on the lookout for potentially dangerous situations in industry. This amendment is extremely important.

Hon MARK NEVILL: The more I read this clause, the more confused I become. We are not talking about an operator; we are talking about an employee.

Hon J.A. Scott: I am talking about it going all the way up the line.

Hon MARK NEVILL: That is not what this amendment is dealing with.

Hon J.A. Scott: However, we are talking about developing a culture.

Hon MARK NEVILL: That is fair enough. However, we are considering whether the amendment achieves its purpose. No-one would argue with the general proposition the member is putting. This amendment refers to taking action on a report from an employee or a safety and health representative when an employee has failed to report. That means that someone else has to alert the employer that a hazard or an injury has occurred. In the first place, the employee may not consider that to be a hazard. Therefore, the duty then shifts to the employee who considers that it is a hazard. In the second case, if a person fails to report an injury, there is a penalty of up to \$20 000 for an employee, which is fairly significant. Does the member understand that we are not dealing with a written report here?

Hon J.A. Scott: Yes.

Hon MARK NEVILL: It can be a verbal report, and appropriate action can be taken. There may not be any paper trail under this amendment. Therefore, it falls back on to the duty of care and the safety case requirements. I wonder whether the amendment achieves what the member wants and whether it is necessary.

Hon HELEN HODGSON: This is becoming tortuous. The link between clause 17(2)(d) and this provision is being overplayed. The only connection between the amendment I have moved and that clause is a definitional one. Matters that are described in there are matters that an employee would be reporting, and when he has made a report the employer must act on it. We are not saying if an offence has been committed that attracts the operation of clause 17(2)(d) the employer must act. It is simply a definitional link, because that was the best way of describing the sorts of incidents that must be reported to the employer. When the employee makes such a report, the employer must act on it.

Hon N.F. MOORE: There is some confusion when one reads this, and it is not as clear as the member makes it out to be. As Hon Mark Nevill said, clause 17(2)(d) relates to the failure to report. However, Hon Helen Hodgson is suggesting that the things the employees fail to report are the things about which the employer should take appropriate action. I know that the member is suggesting that it concerns the issues raised in clause 17(2)(d)(i) or (ii) rather than paragraph (d) in its entirety. Paragraph (d) refers to two matters: Failing to report and then the things about which there has been a failure to report. Therefore, a degree of uncertainty is being introduced into the meaning of this. A number of members have come to that conclusion. The member can look at me as if to say that we are less capable of understanding than most. However, it is not totally clear. If the member were to stipulate clause 17(2)(d)(i) or (ii), that might make it clearer.

I return to the overall question here, which Hon Ray Halligan made clear. Hon Jim Scott has made it clear that he does not understand what the safety case regime is all about. We are trying desperately to get away from the old regulatory system of safety whereby the employers and the employees are required to do certain things or incur extraordinary penalties. We are trying to get away from the idea that employees are fodder for employers. Hon Jim Scott, with his political views of the world, seems to think that every employer could not care less about the safety and wellbeing of his employees and that the only way to ensure that employers look after their employees' welfare is to make these rules and regulations. That used to be the situation. There is a general view around industry, whether it be mining, petroleum or manufacturing, that a different approach must be taken, and the different approach is the "us and us" approach, which I referred to earlier, in which everybody has an obligation to work collectively with each other to make sure certain things happen.

It is fundamental to the safety case regime that there be a reporting process. People simply have to bring out into the open situations that have occurred so that they all learn from what went wrong. The obligation is on all players - employers, employees, everybody - to make sure that when something happens, everybody understands what it was about and what caused it, and collectively they work to make sure it does not happen again. However, the member has a view that somehow or other employers will hide things or try to cover up. That might have happened in the past; many employees might have done the wrong thing in the past. We are trying to get away from that "them and us" approach.

Hon E.R.J. Dermer: Are they suddenly all benevolent?

Hon N.F. MOORE: If members think we should stick with the regulatory system, they should say so and vote against the Bill. This Bill is taking us down a new path of safety in the petroleum industry. There was a time in this industry's history when people came to the realisation that the old processes that the Opposition is supporting were not appropriate. If one considers what came out of the *Piper Alpha* disaster in the North Sea, one will see safety case regime processes of safety. That is what this Bill is about; it is about putting that in place. All these rules and regulations can be put into the Bill. It will just take us back to the old system. However, there is a fundamental requirement that there be a reporting process under the safety case regime. This is overkill and unnecessary.

Hon HELEN HODGSON: If members are concerned about the definitional issue, I will seek leave to amend that to "section 17(2)(d)(i) or (ii)".

**Amendment, by leave, altered.**

The CHAIRMAN: Will Hon Helen Hodgson read out the altered amendment so all members are clear?

Hon HELEN HODGSON: The amendment now reads -

Page 14, after line 28 - To insert the following new subparagraph -

- (e) take appropriate action on a report from an employee or a safety and health representative on any matter described in section 17(2)(d)(i) or (ii);

Hon N.F. MOORE: Can you give me a hand, Mr Chairman? I am thinking on the run, which is a problem created by amendments being altered in the Chamber without an opportunity for proper consideration. The member has attempted to draw our attention to a reporting requirement by adding subparagraphs (i) and (ii) to the requirement of 17(2)(d). She has outlined two situations. She suggests that those situations should be the subject of reports. However, that still does not remove the words "fails to report forthwith to the employee's employer". How does one remove that reference? It is not feasible to have clause 17(2)(d)(i) and (ii) in this form, as it must relate to subclause (2)(d). The addition we agreed to by leave will not achieve the member's purposes, I regret to say.

Hon HELEN HODGSON: The original amendment reads -

take appropriate action on a report from an employee or a safety and health representative on any matter described in section 17(2)(d);

It refers to a description of a set of circumstances. The circumstances outlined in 17(2)(d) (i) and (ii) involve a site which an employee has reason to believe could constitute a hazard to a person and the employee cannot correct; or involve an injury or harm to the health of the person which arises in the course of the employee's work and of which the employee is aware. The reporting requirement is not part of the description of the set of circumstances. We say that if an employer receives a report of a matter in those two subparagraphs, the employer has an obligation to take action on that report.

Hon N.F. MOORE: I hoped that you might assist me there, Mr Chairman. However, clause 17(2)(d) is about failing to report. The member states that under her amendment the employer must take appropriate action on a report from an employee or safety or health representative on any matter described in 17(2)(d)(i) or (ii). Nevertheless, subparagraphs (i) and (ii) refer to the failure of an employee to report. How can an employer act on a failure to report? I realise what the member is trying to achieve. She states that the employer must report back on matters raised under subparagraphs (i) or (ii). The member is taking it from the wrong place. Maybe she needs to insert into the amendment in subparagraphs (i) and (ii) "any matter relating to those two issues". The amendment does not make sense. It refers to an employer taking appropriate action on a report when there is no report. Clause 17(2)(d) is about failure to report. How does one take appropriate action on a report one has not received?

The CHAIRMAN: That is the matter for the Chamber to consider.

**Amendment, as altered, put and negatived.**

**Clause put and passed.**

**Clause 16: Duties of persons who engage others under contract -**

Hon N.F. MOORE: I move -

Page 16, after line 8 - To insert the following new subclause -

- (3) Nothing in this section prevents a person who is referred to in this section as a contractor from being regarded as a principal when determining who is employed or engaged by that person for the purposes of subsection (1)(c).

The purpose of this amendment is to ensure that all employers at all levels are subject to a duty of care without limitation; that is, they cannot subcontract the duty of care when subcontracting work. A prime contractor in the petroleum industry will retain the duty of care, and cannot have someone else take over that responsibility.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 17 put and passed.**

**Clause 18: Duties of self-employed persons and employers -**

Hon HELEN HODGSON: I move -

Page 18, after line 6 - To insert the following new subclause -

- (2) A self-employed person who works at a petroleum site must report to the operator of the site -
  - (a) a situation at the site that the self-employed person has reason to believe could constitute a hazard to a person and the self-employed person cannot personally correct; or
  - (b) an injury to, or harm to the health of, a person that arises in the course of, or in



connection with, the self-employed person's work and of which the self-employed person is aware.

Penalty: \$20 000.

I discussed this amendment in some detail in my contribution to the second reading debate. There seemed to be a gap in the reporting requirements in the Bill. Requirements apply to employees, operators and employers but a gap is evident regarding self-employed people; that is, those who do not fall into any of the earlier-mentioned categories. In that context, the amendment is similar to the issue dealt with in clause 16. It tidies up the obligations to ensure that a blanket requirement applies without gaps, regardless of the arrangements of employment entered into.

Hon N.F. MOORE: The Government supports the amendment.

Hon MARK NEVILL: The Labor Party supports this good amendment which covers a gap in the Bill.

**Amendment put passed.**

**Clause, as amended, put and passed.**

**Clauses 19 to 24 put and passed.**

**Clause 25: Powers of inspectors -**

Hon N.F. MOORE: I move -

Page 23, line 8 - To insert after the word "document" the words ", and seize a document".

This wording is added to give the capacity to seize a document for use as evidence. It improves the powers of the inspectors under this clause.

**Amendment put and passed.**

Hon N.F. MOORE: I move -

Page 25, after line 19 - To insert the following new subclause -

(6) If a document is seized under subsection (1)(g), then as soon as practicable -

(a) a receipt is to be issued; and

(b) either the original document is to be returned or a copy of the document is to be given,

to the person from whom the document was seized.

This proposed new subclause relates to the seizures of documents.

**Amendment put and passed.**

Hon HELEN HODGSON: I move -

Page 25, line 20 - To insert after the word "site" the following -

and permit any of the persons mentioned in paragraph (a) or (b) to be present during that inspection and examination

The clause in question relates to the inspection of a site by an inspector. The intention of the amendment is to ensure that when an incident occurs at a site, a safety and health representative has a right to be present when the inspector is seeking information and examining the site.

*Sitting suspended from 1.00 to 2.00 pm*

Hon N.F. MOORE: The Government does not support this amendment, which seeks to include a requirement that a safety and health representative be at the site during a site inspection by the inspector. To a certain extent the capacity of the inspector to carry out an independent and objective assessment of a site may well be hindered by other people being present. The Government wants inspectors to be able to carry out their activities in a totally objective and independent way, and they must be given the capacity to investigate a site and to make judgments about particular safety issues. The Government is concerned about the proposal that a safety and health representative should have the right to look over the shoulder of the inspector. That person would have the capacity to be on site when an investigation was taking place, even though the person carrying out the investigation might not want them there. The safety and health representative or the person entitled to be present may even have been involved in the incident that has given rise to the inspection, and that would be an outrageous situation. An inspector can invite a person to be present, and probably will in most circumstances. However, it is unnecessary to make it a right, and it could hinder the processes the inspector will go through to ascertain the reasons for a safety issue.

Hon HELEN HODGSON: Having heard the minister's objections to the proposed amendment, I accept that circumstances could arise in which an inspector might feel that the presence of the safety and health representative would hinder his independence. I will not proceed with the amendment at this stage, and will seek leave to withdraw it. I foreshadow, however, that I will move an amendment to clause 44 which may achieve a similar outcome without hindering the inspector's independence.

**Amendment, by leave, withdrawn.**

**Clause, as amended, put and passed.**

**Clauses 26 to 28 put and passed.**

**Clause 29: Provision of means of travel for inspection etc. -**

Hon N.F. MOORE: I move -

Page 29, after line 4 - To insert the following new subclause -

(3) A person who is the operator of a petroleum site must provide an inspector and a person accompanying the inspector under section 25(3) with accommodation at the site for the duration of the inspector's duties at the site if commercial accommodation is not available.

Penalty: \$5 000.

Obviously, if a problem arises on a drilling rig or platform out to sea and an inspector needs to spend more than one day on site, if the operator did not provide accommodation the person would be required to leave. If no commercial accommodation is available, an operator must ensure that accommodation is available for the inspector and any person accompanying the inspector under clause 25(3).

Hon MARK NEVILL: The Opposition supports the amendment, but perhaps a more appropriate penalty would be that the operator must provide return travel for the inspector. If the operator must hire a helicopter to take the inspector onshore for overnight accommodation and return him the next day, the cost would be more than \$5 000 in most cases.

Hon N.F. MOORE: I do not know how serious the member is, but I am not sure that it would be possible to include as a penalty provision the price of a helicopter trip!

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 30 to 38 put and passed.**

**Clause 39: Application -**

Hon N.F. MOORE: I move -

Page 35, line 11 - To delete the word "offshore" and substitute "adjacent".

This is similar to the previous amendment passed to replace "offshore" with "adjacent".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 40 to 43 put and passed.**

**Clause 44: Functions of safety and health representatives -**

Hon HELEN HODGSON: I move -

Page 38, line 14 - To insert after the word "operator;" the following -

or

(iii) when an accident has occurred at the site.

Essentially, clause 44 deals with the functions of safety and health representatives. Subclause (1)(a) gives the safety and health representative the function to inspect the site at times that are agreed with the operator or, if the representative has not inspected the site in the preceding 30 days, at any time upon giving reasonable notice to the operator. This amendment will ensure that, when an accident has occurred, the safety and health representative has the right to look at the accident site. It is not as strong a right to accompany the inspector, but it means that the representative will have the right to look at the site, the circumstances of the accident and the way in which the site has been left after the accident. It is part of the safety case regime; that is, everyone is involved. It is important for the safety and health representative to be informed fully on an incident that occurs and this is one way of ensuring that that occurs.

Hon N.F. MOORE: The Government does not support this amendment. I acknowledge that it does not mean that a health and safety representative will be looking over the shoulder of the inspector; however, it gives the health and safety representative a right to attend the site whenever an accident occurs. An accident can range from a person hitting his thumb with a hammer to a fatality. Should we be making provision for a health and safety representative to have the right to attend any accident? Under clause 44(1)(a), we have given the safety and health representatives a right to inspect the site by agreement with the operator or, if the representative has not inspected the petroleum site within the preceding 30 days, upon giving reasonable notice to the operator. As part of the safety case regime, the intention is that we have a cooperative approach rather than saying, "These are your rights and you must ensure that I can do this." It is intended to create a situation in which a mutually agreed process is put in place. It concerns me that we are simply giving the safety and health

representative a right to visit any site after any accident. That is unnecessary and is, in a sense, against the spirit of the safety case regime.

Hon MARK NEVILL: Clause 44(1)(b) states that, in the interests of health and safety, the function of the health and safety representative is to inspect the site and participate in an investigation in relation to an accident or a dangerous occurrence. That suggests that the health and safety representative should participate with the inspector, unless the inspector does not want the manager or the health and safety representative to participate or the inspector wants to be left to his own devices. It seems to cover that situation to some degree. Perhaps, to lessen the scope of what can be deemed an accident, which can range from spilling hot water to a serious injury, Hon Helen Hodgson could consider inserting the words "causing injury" after "accident". The paragraph would then read "when an accident causing injury has occurred at the site". I will support the amendment, but the member may want to adopt my suggestion.

Hon N.F. MOORE: I am surprised that Hon Mark Nevill, who made a good argument against this amendment, will support it. He clearly pointed out that in clause 44(1)(b), a safety and health representative can attend when an investigation is taking place in relation to an accident, a dangerous occurrence or a risk of imminent and serious injury. When a problem is investigated, the representative can attend. The amendment states that when an accident has occurred, regardless of the magnitude of the accident, that person can have access to the site. That is unnecessary and goes over the top. If "severe accident" or "accident causing injury" were included, it would make more sense; however, a person spilling hot water or banging his thumb with a hammer does not. It gives the representative an opportunity to visit a site because a person has banged his finger. It is unnecessary and over the top.

Amendment put and a division taken with the following result -

Ayes (15)

Hon J.A. Cowdell  
Hon E.R.J. Dermer  
Hon N.D. Griffiths  
Hon John Halden

Hon Tom Helm  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon Ljiljana Ravlich  
Hon J.A. Scott  
Hon Christine Sharp  
Hon Tom Stephens

Hon Ken Travers  
Hon Giz Watson  
Hon Bob Thomas (*Teller*)

Noes (14)

Hon M.J. Criddle  
Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans

Hon Peter Foss  
Hon Ray Halligan  
Hon Murray Montgomery  
Hon N.F. Moore

Hon M.D. Nixon  
Hon Simon O'Brien  
Hon B.M. Scott

Hon Greg Smith  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

Pairs

Hon Kim Chance  
Hon Cheryl Davenport

Hon Barry House  
Hon W.N. Stretch

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**Clauses 45 to 52 put and passed.**

**Clause 53: Regulations regarding time off work for safety and health representatives -**

Hon HELEN HODGSON: I move -

Page 50, after line 13 - To insert the following new subclause -

(3) The regulations may provide for a safety and health representative's employer to pay the fees payable in respect of the representative's attendance at a training course in safety and health approved by the State Petroleum Director.

This amendment will provide a mechanism to ensure that the employer covers the cost of a training course, particularly for employees who are on remote sites. It is reasonable to ensure that safety representatives who attend accredited courses are not personally out of pocket, within the bounds of reason, where they genuinely attend such a course for the purpose of complying with their obligations under the Act.

Hon N.F. MOORE: The Government is prepared to support this amendment, although to gain an understanding and knowledge of safety issues is not simply the responsibility of the employer. The employer normally must pay, but it should not be implied that it is solely the employer's responsibility to ensure that employees attend training courses. In this day and age of an "us and us" situation, employees have some obligation to ensure that they are trained, perhaps even at their own expense.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 54 to 61 put and passed.**

**Clause 62: Inspector may be notified if issue unresolved -**

Hon N.F. MOORE: I move -

Page 60, line 21 - To delete the words "a safety inspector" and substitute "the State Petroleum Director".

The purpose of this amendment is to deal with the issue raised by Hon Helen Hodgson on a previous amendment. Subclause (1) states that if attempts to resolve an issue are unsuccessful and there is a risk of a problem, a person as specified in paragraphs (a) to (e) may notify the State Petroleum Director of the unresolved issue. I foreshadow that the next amendment that I will move will be that the State Petroleum Director may then direct a safety inspector to undertake certain activities. This is a better way of handling the issue raised by Hon Helen Hodgson.

Hon HELEN HODGSON: The minister's amendment deals with the issue that I have raised in amendment No F62. Therefore, I will support the minister's amendment rather than move my own. It is important to ensure that the person who is sent to inspect a particular incident has the necessary skills, qualifications and experience that are relevant to that incident, particularly when we are talking about an area that is as technical as the petroleum industry. I accept, however, that it is very difficult to define what are those requisite skills and qualifications. Therefore, it is appropriate to say that the State Petroleum Director should be in a position to determine what is relevant to a particular incident and direct the appropriate person to undertake the inspection. That will also ensure that the ultimate responsibility for undertaking that task moves upwards to the director rather than to an inspector who happens to be in an area at a particular time, or to whoever has been delegated under this Bill.

Hon MARK NEVILL: When the State Petroleum Director is not available, is his position occupied by another person in an acting capacity?

Hon N.F. MOORE: I understand that it is delegated to the next person in line.

**Amendment put and passed.**

Hon N.F. MOORE: I move -

Page 61, line 1 - To delete the words "A safety inspector,".

Page 61, line 2 - To delete the word "must" and substitute the following words -

the State Petroleum Director, where appropriate to do so, is to direct a safety inspector to

The intention of these amendments is that the State Petroleum Director be advised. He will then appoint, where appropriate, a safety director with specialised knowledge in a particular situation to attend the scene of the unresolved issue.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clauses 63 to 67 put and passed.**

**Clause 68: Application -**

Hon N.F. MOORE: I move -

Page 65, line 21 - To delete the word "offshore" and substitute "adjacent".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 69: Reporting accidents and diseases -**

Hon HELEN HODGSON: I move -

Page 66, line 12 - To insert after the letter "(b)" the number "(i)".

Clause 69(2)(b) requires that if the injured person so requests, the accident will be reported to the secretary or the local representative of a trade union of which the person is a member. There is another issue: There is no requirement that the unions should be notified in the event of a fatality. There is an important function in notifying the union of a fatality. If the fatality concerns a member of the union, support systems are implemented to assist the family and to ensure that they receive a level of support. It is also important to ensure that the union is aware that the fatality has occurred as part of the overall role it plays in workplace safety. It is appropriate that the union be notified in the case of a fatality as well as in the case of an accident.

Hon MARK NEVILL: The Opposition will be supporting the amendment of Hon Helen Hodgson. I have concerns about the requirement to notify a trade union of which the deceased person was a member because, unfortunately, on many sites in Western Australia these days workers who are members of unions do not always disclose that fact as in some cases it may prejudice their employment. It may not therefore be known whether that person is a member of the union because that person may wish that information to be kept confidential. I have circulated a further amendment to this clause to add in clause 69, page 66, line 15 after "the member" the words "or the Trades and Labor Council of Western Australia". I suggest to the Chamber that in many cases it will not be known whether a person is a member of the union. After a fatality it will therefore be cleaner and easier to notify the Trades and Labor Council as that information is usually disseminated quickly.

It is important that the next of kin be notified before the person's name is announced in the media. I support the amendment and foreshadow that additional amendment.

Hon N.F. MOORE: I agree with most of the comments made by Hon Mark Nevill. It is inappropriate for this amendment to succeed. I am happy to accept Hon Mark Nevill's amendment if that is the only amendment to this clause. Hon Helen Hodgson proposes that in the event of a fatality the union should be informed. It may be that the operator does not know to which union the person belongs unless he keeps a register of union members working on his site. Hon Mark Nevill made it clear that some people do not want that information to be known on a particular site. Obviously, the next of kin should be advised before anyone else and any requirement in this Bill that we must advise the union might suggest that that is as important as advising the next of kin. It may also be the deceased person's view that nobody needs to know that he or she was a member of the union or that any union needs to be advised, particularly in respect of their membership. If an employee wants his or her union to be notified but does not want anybody else to be notified, perhaps the health and safety representative should be made aware of that requirement.

The Government is concerned that if Hon Helen Hodgson's amendment were to proceed it would become mandatory for membership or otherwise of unions to be known by the operator in order for the operator to fulfil his requirements under this amended clause. That is not necessarily in the best interests of employees because, as I said, they may not want anyone to know that they are a member of a union. Hon Mark Nevill is suggesting that subclause (2) should read -

- (b) if the injured person so requests, report the accident in accordance with the regulations to the secretary or local representative of a trade union of which the person is a member, or the Trades and Labor Council of Western Australia;

Hon Mark Nevill: It is contingent upon Hon Helen Hodgson's amendment being passed and it is only in the case of death.

Hon N.F. MOORE: Hon Mark Nevill accepts her amendment provided his is added to it?

Hon Mark Nevill: Yes.

Hon N.F. MOORE: I again ask why the TLC needs to be advised of a death. The person might not be a member of a union and might be totally and absolutely opposed to unionism. What has the union being advised of this to do with the price of fish? Let us be serious. Why does the union or the TLC have any more right under legislation to be advised of a fatality than anybody else? Hon Mark Nevill wants to insert in the Bill that the union has a pre-emptive right to know about a fatality. Most people find out about fatalities quickly, but why put it in legislation that they must be advised? Why not insert "next of kin"? Why not insert "the Roman Catholic church" if they happen to be a member? Why not state that a whole range of other people who might also be interested in a fatality also have that right? There is no reason for the union movement or the TLC, more than anybody else, to have a special right to be advised of these things. I therefore oppose the amendment. I could agree with Hon Mark Nevill's amendment provided it did not relate to Hon Helen Hodgson's amendment.

Hon MARK NEVILL: The Mines Regulation Act had a provision that when a fatality occurred on a minesite the Australian Workers Union was notified. That provision was in that Act for at least 50 or 60 years to my knowledge and was never a problem. The minister may have a different philosophical view about the role of unions in safety. The role of unions in safety has been incredibly important in past years and has ensured that those bodies are aware of the nature of fatalities so that they can be better equipped to disseminate that information through their sources. This is not an onerous requirement. There should be, if needed, a provision in the regulations to prevent the disclosure of the deceased worker's name until the next of kin are notified, but such disclosure is unlikely to occur anyway. However, I accept that the minister has a different philosophical view about it. It is a sensible way to address the issue.

Hon HELEN HODGSON: I welcome the support of Hon Mark Nevill and I take on board the aspect of not requiring employees to notify their employer that they are members of a union, and the impact of that, when a fatality occurs. The foreshadowed amendment by Hon Mark Nevill gets around that very neatly by ensuring that the TLC must be advised.

I would like to make two points. First, it is my understanding that currently when there is a fatality in the mining or petroleum industries the TLC is advised of the fatality under an administrative practice. I see no reason why that should not be maintained under the legislation that we are now debating. Secondly, the role that unions play in safety should not be underestimated. That is acknowledged by a number of the advisory committees and boards that have been set up where the TLC has a place in the safety considerations in the industry; for example, the Mines Occupational Safety and Health Advisory Board.

I think it is important that they have access to information to do that, and the information about fatalities is an important part of that. I recognise the concerns about next of kin being notified first. I must say that by notifying the peak body a result is likely to be reached whereby a protocol is in place to ensure that information is not released prematurely, or at least that the victim of the accident is not named. Those breaches are more likely to happen if no method of controlling exists by saying that the notification is going to the TLC or the union involved. I thank Hon Mark Nevill for his support of the amendment. When he moves his, I will accept it.

Hon N.F. MOORE: Let me explain to the Committee what is being done here. Clause 69 relates to reporting accidents and diseases. Clause 69(2) states -

- If a person dies or suffers serious injury in, or as a result of, an accident at a petroleum site, the operator of the site must, as soon as is practicable after the accident occurs -

- (a) report the accident in accordance with the regulations to a safety inspector;
- (b) if the injured person so requests, report the accident in accordance with the regulations to the secretary or local representative of a trade union of which the person is a member.

That means that if a death or injury occurs, it must be reported to the safety inspector. If the injured person so requests, the person's trade union must be informed. If a person is injured, he has some capacity to say yes or no about who should be advised. We are accepting that an injured person has rights about who is told about his injury because he requests it. Hon Helen Hodgson's amendment would make clause 69(1)(b) read as follows -

- (i) if the injured person so requests, advise the secretary of the local trade union.

If a person is alive, he has some freedom about who is to be informed, but in the event of a death, the union must be told, or the TLC if we go on Hon Mark Nevill's course. If a person is a fatality, all his rights go with him. The penalty on the operator who does not provide this information is \$5 000. I put a hypothetical case, and I rely on Hon Mark Nevill's information with respect to this: A person such as Hon Tom Helm is working on North Rankin A platform. He is the only unionist on board the platform. He does not want anybody to know because he might find himself overboard during the middle of the night, so nobody knows what union he belongs to. He belongs to a union, but the operator does not know that. Hon Tom Helm regrettably is killed in an accident on board that vessel. The operator is subject to a penalty of \$5 000 if he does not tell the metal workers union, but he does not know that Hon Tom Helm was a member of the union.

Hon Mark Nevill: Up to \$5 000.

Hon N.F. MOORE: I think it is more than that; that is for an individual. A corporation's fine could be five times that amount. We have already accepted, if we look at the amendments that are being moved, that if a person is alive, he has a choice about who knows, but if he is dead, there is no choice. The union must be notified, or the TLC if we accept Hon Mark Nevill's amendment.

Hon Mark Nevill interjected.

Hon N.F. MOORE: I am sure he is right, but why are we saying that if a person is alive, he can make a choice? Why does Hon Mark Nevill not do exactly as he wants to and say that if any injury occurs at any time, the union must be told? It does not matter whether he is a member of the union. I will not stand here all day and argue about it, but it is a strange amendment and is in a sense convoluted because it gives a different message for different sets of circumstances and it also puts some operators in a difficult position if they do not know a person is a member of a union. I guess the excuse "I did not know" is a defence, but why put it in there in the first place?

Hon MARK NEVILL: I want to get a clear picture of the minister's view. If subclause (2) is left as it is - that is, if an injured worker requests that the accident be reported to a union representative - is the minister saying he is opposed to its being put into a separate subclause? Would he be opposed to a death being reported to the secretary of a trade union or to the TLC?

Hon N.F. MOORE: I would look sensibly at going down the path of leaving clause 69(2)(b) as it is and inserting a new clause which states "where death has occurred as a result of an accident that the TLC be advised" even though I do not think it has any right to be advised. I guess that will happen anyway, so I do not have too many problems with that.

Hon J.A. SCOTT: I can understand the minister finding this amendment strange, but I think this Bill and case management is about trying to project to the industry what are the causes and reasons behind accidents. When we look at this amendment we must remember that bodies such as the TLC are very much tied up in workplace safety. I have seen a number of its workplace safety campaigns on chemicals in the workplace. It is also tied up with workers compensation by being on the various boards and committees and so on. It is very much linked to safety in the workplace and looking after its membership. This means that in the case of a death, it is able to help the families of the people who have been killed and ensure that things go smoothly for them. I agree that the amendment is a bit strange in the way that it is to be put into the Bill, but I think overall it would be good for people to be able to look at the reasons behind accidents. The TLC is involved in the education of its members about safety in the workplace. I do not think this amendment will cause any problem for anybody.

I do not agree with the minister's argument about people on an offshore vessel not being in a union. I have worked on one and I cannot remember any people who worked on rigs not being in a union.

Hon N.F. MOORE: Legislating on the run does not help, but I have a bit of a problem with Hon Helen Hodgson's proposed amendment to clause 69(2)(b), whereby if people are injured they have some choice in the matter, but if they are not they have no choice. The amendment refers to advising a union when it may be that a person is not a member of a union or is a member but does not want anybody to know about it. I do not have a problem with the Trades and Labor Council being advised of fatalities. Perhaps we might leave clause 69(2)(b) as it is, and put in a new paragraph (c) which would read to this effect -

Where death has occurred as a result of an accident, report the fatality in accordance with the regulations to the State Secretary of the Trades and Labor Council.

That would mean that if there was a death on a petroleum site as a result of an accident, not natural causes of course, regulations would provide for the State Secretary of the TLC to be advised. That would take away the situation of an injured person being able to request something and a dead person having no rights over what happens.

Hon MARK NEVILL: I made my previous comments with the incorrect view that the clause related to any accident, whereas subclause (2) relates to a serious injury which results in a person being disabled from working in his ordinary

occupation for two weeks or more. That does not necessarily mean that he has two weeks off on sick pay but means that he cannot carry out the duties that he normally would carry out. It would restrict dramatically the number of notifications that would result. One would have to notify the union or Trades and Labor Council only where there was a serious injury or fatality.

Hon TOM HELM: The minister's suggestion is quite practical because, as he says, one would have a problem in determining, if a person was a member of a union, which union was the appropriate one. This Government has shown that it is quite willing to involve the Trades and Labor Council in investigations and accident prevention. Its record on investigations and inquiries into accidents has well demonstrated that it has used the officers of the TLC. The minister has demonstrated that he is prepared to continue down that line.

The CHAIRMAN: If the proposed amendment is to proceed, Hon Helen Hodgson will have to seek leave to withdraw her amendment.

Hon HELEN HODGSON: Thank you for that advice, Mr Chairman. Having heard the argument and worked through it to this point, it is clear that most people would feel more comfortable with clearly defining that the Trades and Labor Council be notified in the case of a death. The form of words that the minister has put together are appropriate, so I will support the minister's foreshadowed amendment and withdraw my amendment.

**Amendment, by leave, withdrawn.**

Hon N.F. MOORE: I move -

Page 66, after line 15 - To insert the following paragraph -

- (c) where death has occurred as a result of an accident, report the fatality in accordance with the regulations to the State Secretary of the Trades and Labor Council.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 70 to 73 put and passed.**

**Clause 74: Interpretation -**

Hon N.F. MOORE: I move -

Page 71, line 4 - To delete the words "coastal waters" and substitute "adjacent area".

Page 71, line 4 - To delete the word "offshore" and substitute "adjacent".

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clauses 75 to 82 put and passed.**

**Clause 83: Time limit for prosecutions -**

Hon N.F. MOORE: I move -

Page 77, lines 8 to 12 - To delete the lines and substitute the following -

- 83.** Proceedings for an offence against this Act may be commenced at any time within 3 years after the offence was committed.

Hon Helen Hodgson indicated that she wished to amend clause 83(1) to change from 12 months to three years the period which relates to proceedings for an offence. She was then going to leave clause 83(2) at two years. The Government is prepared to delete the whole of clause 83 and replace it with a clause which says that "proceedings for an offence under this Act may be commenced at any time within 3 years after the offence was committed". I understand the Mines Safety and Inspection Act provides for one year but the WorkSafe legislation states three years. We are prepared to accept that three years is a more appropriate time, although I must say there should be an obligation on everybody involved in the whole question of offences under the Act to proceed as quickly as possible to bring prosecutions before the courts. Having people hanging around for three years is not acceptable unless there is a very good reason. Having been Minister for Mines for a while, I must say that many of the processes that relate particularly to fatalities take such a very long time that many months are required to instigate prosecutions. By giving up the three years, it covers most of the contingencies. One can only hope that if we agree to this, regardless of having three years instead of one year, every endeavour will be made to proceed with prosecutions as quickly as possible.

Hon MARK NEVILL: I was alarmed when I saw this amendment for similar reasons to those the minister has mentioned. If someone is involved in a fatality for which he may have some responsibility, it is a tremendous personal strain if he has to wait for three years to find out whether a charge will be laid. In particular, investigations of industrial fatalities require a coroner's inquiry, which can take 12 to 18 months. There should be some way of speeding up that process. We had a similar situation when two American soldiers were held on remand for 14 months on a sexual penetration charge, although in the end they were acquitted. In most developed societies if charges are not brought to court within six months, the alleged offender will walk free, which makes people hurry up that process. In addition to what the minister said there should be

some obligation on the Department of Minerals and Energy to advise people at the earliest possible time that it does not intend, on the information before it, to proceed with any prosecution so that their concerns can be assuaged.

Hon J.A. SCOTT: There is also an alternative argument. As the Act currently stands, proceedings must be commenced within 12 months of the offence being committed. Members will be aware that the *Griffin Venture* incident was not reported until a year later. The amendment will give rise to people not wanting to report incidents. I would have been happy with one year if that was one year after the offence was reported, but not after it was committed. I would prefer "reported" to "committed".

Hon HELEN HODGSON: I will support the minister's amendment in this case. I was originally briefed on the Bill in September or October last year. At that stage I asked the minister's staff why the period was only one year because, in the case of a fatality, by the time the coronial processes were finalised, one year was not very long. I was told that they would check it out, but they thought it related to the Occupational Safety and Health Act. It did. However, in December 1998 we amended that Act to say "three years". In view of the concern that the incidents that occur in this industry are often fairly significant and may require some level of investigation before proceedings are started, it is appropriate to change this to three years as well. I expect that at some stage the Mining Act will also be amended to bring that into line. I support the minister's amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 84 to 89 put and passed.**

**Clause 90: Regulations -**

Hon N.F. MOORE: I move -

Page 82, line 13 - To delete the words "coastal waters" and substitute "adjacent area".

Page 82, line 14 To delete the word "offshore" and substitute "adjacent".

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clauses 91 to 93 put and passed.**

**Schedules 1 and 2 put and passed**

**Title put and passed.**

**Bill reported, with amendments.**

## PLANNING LEGISLATION AMENDMENT BILL

### *Committee*

Resumed from 20 April. The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Progress was reported after clause 5 had been negatived.

**Clause 6: Section 18B inserted -**

Hon J.A. COWDELL: Clause 6 is an enforcement procedure with particular applicability to clause 5, which has been defeated. As I stated with respect to clause 5, and it is as applicable with respect to clause 6, it is one of the two clauses that give effect to the Government's stated intention in the second reading speech; of giving a right of appeal to the Town Planning Appeal Tribunal against a decision of a local government authority not to initiate an amendment to its town planning scheme or against any conditions or requirements that a local government seeks to impose upon such a decision. The Australian Labor Party opposes the appeal right on the basis that it becomes a procedure for overriding local sentiment, and in order to do that it would have to be proved that local option was in fact local abuse. I am sure the Government has not established that to be the case, and the Committee has found that way by defeating clause 5. Therefore, the Australian Labor Party will also oppose the enabling clause, clause 6.

Hon PETER FOSS: Clause 6, along with clauses 11(a) and 12, must necessarily go as a result of the Committee's decision on clause 5 - I see that the Clerk does not necessarily agree with that, but there is no point in moving an amendment with clause 5 having gone. Although I oppose the clause for the reasons previously stated, I will not vote against it.

**Clause put and negatived.**

**Clauses 7 to 10 put and passed.**

**Clause 11: Section 37 amended -**

Hon J.A. COWDELL: I seek your guidance, Mr Chairman, with respect to clauses 11(a) and 12. Consequent upon the failure of clauses 5 and 6, could those clauses be deleted without the need to amend or oppose?



The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Yes. Hon J.A. Cowdell has asked for some guidance. I have answered yes, but, as a result of answering yes, I will seek guidance on the procedure to be followed.

Hon Peter Foss: It is only clause 11(a).

The DEPUTY CHAIRMAN: The consequence of Hon John Cowdell's question is that there should be a move to delete from clause 11 on page 11, lines 19 to 24, and then seek to defeat clause 12. Hon John Cowdell knows how to do that.

Hon J.A. COWDELL: I move -

Page 11, lines 19 to 24 - To delete the lines.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 12: Section 39 amended -**

Hon J.A. COWDELL: I oppose clause 12 for the previously stated reasons.

**Clause put and negatived.**

**Clauses 13 to 16 put and passed.**

**Clause 17: Parts IIA, IIB, IIC and IID inserted -**

Hon NORM KELLY: I have a question in regard to the insertion of a new part IIC regarding regional planning control areas. In part, proposed section 37A(2) states -

(2) Nothing in this Part affects . . .

(b) the continuation and completion of the development of any land in a regional planning control area, including the erection, construction, alteration or carrying out, as the case requires, of any building, excavation or other works on that land, which development was lawfully being carried out,

immediately before the declaration of the regional planning control area.

What is regarded as the continuation and completion of the development of land? For example - I hope it is a good example - on a multistage subdivision development it could be argued that a developer may have completed a couple of stages of the development without actually physically commencing later stages, but the development of those later stages is an integral part of the development of the land. At what stage would further development be deemed to have commenced?

The DEPUTY CHAIRMAN: Hon Norm Kelly has addressed his question to the Chair. I could answer it, but in this instance I will defer to the Attorney General.

Hon PETER FOSS: It all depends on what development the approval was for. If the developer had in its mind a three-stage development and obtained approval for only one, the fact of what is in its mind does not permit it to use it as a way of continuing. If, on the other hand, it has approval for a large development and it has started stage one, it is likely that that would be a substantial commencement of the development as a whole. Obviously, it also allows the continuation of non-conforming use rates.

Hon NORM KELLY: I appreciate the point about approval of the development. Would it also be deemed to have commenced if an application for approval had actually been lodged, or is there a requirement for approval before it is deemed to have commenced?

Hon PETER FOSS: If all that one has done is apply, one has not received approval. In fact one would need to have a substantial commencement as well.

**Clause put and passed.**

**Clauses 18 and 19 put and passed.**

**Postponed clause 2: Commencement -**

Hon J.A. COWDELL: As this clause was postponed at the behest of the minister we can only defer to the minister in this regard.

Hon PETER FOSS: I took up the suggestion of Hon Norm Kelly, which seemed to be brilliant, and as it transpired it was a sensible suggestion.

Hon NORM KELLY: In the light of the deletion of clause 5 it is appropriate to delete part of clause 2 because there is no longer any requirement to include the plural dates for proclamation. I move -

Page 2, line 7 - To delete the words "is, or days as are respectively,"

**Amendment put and passed.**

**Postponed clause, as amended, put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

Leave granted to proceed forthwith through remaining stages.

*Report*

Report of Committee adopted.

*Third Reading*

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

**LEGISLATIVE ASSEMBLY SELECT COMMITTEE INTO CRIME PREVENTION**

*Assembly's Message*

Message from the Assembly received and read acquainting the Council that it had agreed to the following resolution -

That the Select Committee on Crime Prevention have power to confer with the Legislative Council Standing Committee on Estimates and Financial Operations regarding the alternatives to prison as a means of punishment.

and accordingly requested the Council to give the Standing Committee on Estimates and Financial Operations power to confer with the Select Committee on Crime Prevention regarding the alternatives to prison as a means of punishment.

*Committee*

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Hon N.F. MOORE: I move -

That the Legislative Council gives the Standing Committee on Estimates and Financial Operations power to confer with the Legislative Assembly Select Committee on Crime Prevention regarding the alternatives to prison as a means of punishment.

I understand that the committee formed by the Legislative Council feels there will be some benefit if the two committees confer because they are dealing with similar issues. It is necessary for this House to give its approval.

Hon TOM STEPHENS: The motion moved by the Leader of the Government has the support of the Opposition.

*Report*

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

**CORONERS AMENDMENT BILL 1999**

*Introduction and First Reading*

Bill introduced and, on motion by Hon Peter Foss (Attorney General), read a first time.

*Second Reading*

**HON PETER FOSS** (East Metropolitan - Attorney General) [3.28 pm]: I move -

That the Bill be now read a second time.

I am pleased to now present to this House the Coroners Amendment Bill 1999.

The provisions contained within the Coroners Act 1996 have been successful in addressing a range of issues that were of concern under the earlier legislation. However, the practical operation of the legislation has led to the identification of some provisions which require amendment. The Bill addresses these provisions and also provides for a Deputy State Coroner.

The Coroners Court presently comprises two full-time judicial officers located in Perth, being the State Coroner and the Perth City Coroner. In country areas local magistrates perform the day-to-day coronial work with assistance and direction provided by the State Coroner. With the proclamation of the new Coroners Act 1996 and the appointment of the State Coroner, the coronial system has become a coordinated statewide system under the supervision and guidance of the State Coroner. Inquest hearings are becoming more frequent and complex. This has resulted in almost all inquest hearings, whether arising in Perth or in the country, being conducted by the State or Perth City Coroner.

As a result of the increasing demands on the State Coroner it is appropriate that the position of Perth City Coroner, a position established in the context of the Coroners Act 1920, be abolished and replaced with the position of Deputy State Coroner. This Bill provides for a Deputy State Coroner who will assist the State Coroner with coronial work throughout the State.

Where the State Coroner is absent from duty or that office is vacant, the Deputy State Coroner is to act in the office of State Coroner so as to ensure that the functions of the State Coroner continue to be performed. The person appointed as the Deputy State Coroner would be a person who already holds the appointment as a stipendiary magistrate and is thereby a coroner, and would be appointed by the Attorney General, following consultation between the State Coroner and Chief

Stipendiary Magistrate. Due to the importance of this position to the Coroners Court, the Bill provides that the Deputy State Coroner is to be appointed by the Attorney General on the recommendation of the State Coroner.

As the legislation will provide for the Deputy State Coroner to act as the State Coroner during the absence of that officer, or during a vacancy in that position, the present provisions which provide for the appointment of an Acting State Coroner are not required and are to be deleted. In order to provide for the absence of the Deputy State Coroner, the Bill provides for an Acting Deputy State Coroner who would also be appointed by the Attorney General on the recommendation of the State Coroner.

Also contained in the Bill are a number of provisions which extend the time limits for applications to the Supreme Court in relation to various decisions of a coroner. The applications are in respect of a decision by a coroner to refuse a request by any person that a post mortem examination be performed on a body; a decision by a coroner to direct that a post mortem examination be held in spite of a request by the senior next of kin that no such direction be given; and an order by the State Coroner that a body be exhumed contrary to a request by the senior next of kin that a body not be exhumed. These provisions are contained in sections 36, 37 and 38 of the Act.

In each case the current legislation provides for a time limit of two days for making the application. This time limit has been found to be unduly restrictive particularly where family members live in remote country locations. The Bill provides that time in which an application can be made be extended to two clear working days. By virtue of the Interpretation Act the two days will not include the day when notice of the Coroner's decision was received or the day when the application is filed in the Supreme Court.

In addition, the Bill provides for the Supreme Court to grant an extension of time in exceptional circumstances. The original provisions were based on the Victorian legislation and the time limits do not appear to have caused major problems in that State. In Western Australia, however, the size of the State and the remoteness of some country areas have presented problems not experienced in Victoria in making applications within the time requirements. The Bill recognises these difficulties while still allowing for a final decision to be reached in a timely manner because of problems such as possible deterioration of the bodies concerned and family wishes to make definite funeral arrangements.

The Bill also provides that if the senior next of kin has requested that a post mortem examination not be performed, the senior next of kin can withdraw that request and the Coroner may then direct that a post mortem examination be performed. In the vast majority of cases since the commencement of the 1996 Act, where the senior next of kin has objected to a post mortem examination, the senior next of kin has later wished to withdraw the objection. In some cases the change has followed receipt of the Coroner's reasons and in others there have been concerns expressed as to not otherwise knowing the cause of death. In these cases the senior next of kin often wishes to have the post mortem examination conducted without delay so that an early funeral can be held. In many cases cultural or religious beliefs require the family to make arrangements for the funeral as quickly as possible. In these circumstances, particularly with the period of time for an application to the Supreme Court being extended, the Coroner should be specifically empowered to order that a post mortem be conducted immediately on receipt of clear advice from the senior next of kin that the objection has been withdrawn.

Section 36 of the Coroners Act deals with applications by persons who are seeking that post mortem examinations be performed and provides for a power to apply to the Supreme Court if a Coroner refuses such an application. The Bill increases the powers of the Supreme Court in dealing with such an application so that if a body has already been buried, the Supreme Court can order that it be exhumed so that a post mortem examination can be conducted.

The Bill also provides for amendments to section 29 so that where an application is made for a post mortem examination pursuant to section 36, a certificate permitting burial, cremation or other disposal of the body must not be issued until the application has been disposed of or the time for making an application to the Supreme Court has expired. It also covers the situation in which an application has been made for an extension of time to the Court. The Bill also removes from section 29 the reference to section 24 and substitutes references to section 36 to correct a drafting error in the 1996 Act.

The coalition Government's commitment to improve the coronial system, as a result of community concerns, gave rise to the Coroners Act 1996. The Coroners Amendment Bill 1999 is in line with the objective of this commitment. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## SITTINGS OF THE HOUSE

*Thursday, 22 April*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [3.35 pm]: I seek your indulgence, Mr President. On perusing the Notice Paper I discovered yesterday that the Energy Coordination Amendment Bill was given to the Clerk's office only yesterday afternoon. Because the amendments are more voluminous than the Bill itself, it crossed my mind that it would be unfair to members to seek to begin debate on that Bill today. I have indicated to members that we will proceed with that debate the week after next.

That means we have now reached the stage at which we have no further business to be conducted other than question time. I suggest that we adjourn now for afternoon tea and have question time at 4.00 pm. Perhaps in the meantime Hon John Halden might like to introduce and make his second reading speech on the Prisons Amendment Bill that he mentioned yesterday. I suggest that, once the member has completed his second reading speech, we adjourn for afternoon tea and resume at 4.00 pm for question time, after which I will move that the House adjourn.

**PRISONS AMENDMENT BILL (No 2) 1999***Introduction and First Reading*

Bill introduced, on motion by Hon John Halden, and read a first time.

*Second Reading*

**HON JOHN HALDEN** (South Metropolitan) [3.36 pm]: I move -

That the Bill be now read a second time.

Sections 67(1) and 68(1) of the Prisons Act 1981 make provision for prisoners to write and receive letters under confidential cover from the minister, the chief executive officer, the Parliamentary Commissioner for Administrative Investigations, and the Commonwealth Ombudsman. This Bill seeks to amend section 67(1) of this Act to include "subsection (e) a member of either House or the State on Commonwealth Parliaments".

Whilst I am not challenging the right of the prison's department or individual prisons to censor the general mail of prisoners, I feel that a prisoner has a right to send and receive uncensored mail from a member of Parliament whether it be the member for the area they resided in prior to their imprisonment; the member for the area in which the prison is located; or a member with responsibility to a particular portfolio for which the prisoner has concerns.

The relationship between members of Parliament and their constituents is unique and often the member is the last resort for resolution of a problem. A prisoner should have the same right as an ordinary citizen to confidential access to their members of Parliament. Members of Parliament are no more or less responsible for the consequences of their actions than the minister. Both are ultimately members of Parliament subject to the same obligations to the public.

If a prisoner has a grievance with a prison officer or with the prison system, there is no guarantee of confidentiality or prompt action if a prisoner writes to either the minister or the chief executive officer. Prisoners are not likely to make complaints about their treatment to the representatives of the organisation which controls their living environment.

Frequently, prisoners' grievances are related to matters they would prefer to keep confidential from prison officers, particularly when it could increase their vulnerability within the prison system if the information is revealed. These circumstances could include personal problems relating to a prisoner's family or personal life inside or outside the prison. A prisoner cannot be assured of confidentiality if mail addressed to a member of Parliament is scrutinised by a prison officer.

The huge workload of the Parliamentary Commissioner for Administrative Investigations and the Commonwealth Ombudsman means that complaints from prisoners can take a long time to process. As part of the investigative process, a prisoner's complaint must be referred to the minister or chief executive officer. This can negate the confidentiality of the complaint, particularly if the complaint relates to the internal situation within a prison.

Members of Parliament have the facilities to deal quickly with the prisoner's complaint and can maintain the confidentiality of the prisoner while they investigate the situation without necessarily referring the matter to the minister or the chief executive officer unless the prisoner wishes. In many situations, a prisoner is seeking a quick solution to the problem - not weeks of investigation. If necessary, a member of Parliament can resolve the situation via parliamentary debate without breaching the confidentiality of the prisoner.

One of the reasons given for the censoring of prisoners' mail is to prevent attempts to smuggle contraband and illegal material out of prisons or to promote escape attempts by prisoners. I would not expect any member of Parliament to become involved in this type of conduct. Members of Parliament are responsible people with statutory obligations to those who elected them - namely their constituents.

From time to time, every member of Parliament receives threatening correspondence. Usually it is thrown away. Any mail considered to be a serious threat is referred to the police for investigation. Confidential mail from a prisoner which was of a threatening nature could be dealt with in the same manner.

As a public officer, a member of Parliament is permitted under the Act to have access to visit confidentially with a prisoner. This confidential access should be extended to include correspondence between the prisoner and a member of Parliament of either the State or Commonwealth Parliament. I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

**SCHOOL EDUCATION BILL***Assembly's Message*

Message from the Assembly received and read notifying that it had agreed to certain amendments made by the Council, had disagreed to other amendments, and had disagreed to other amendments and substituted new amendments.

*Sitting suspended from 3.45 to 4.00 pm*

**ADJOURNMENT OF THE HOUSE***Special*

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

That the House at its rising adjourn until 2.00 pm on Tuesday, 4 May.

*Ordinary*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.38 pm]: I move -

That the House do now adjourn.

*Attorney General - Adjournment Debate*

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [4.38 pm]: During question time yet again the Attorney General, Minister for Justice, and Minister for the Arts has displayed what a public administration shambles his portfolios are in. It is time this minister was brought to book. Time and again in this House we have endeavoured to have him accept responsibility for the mismanagement of his portfolios. His responses today display to all the community of Western Australia the disregard in which he holds the public.

Hon Peter Foss: Just you.

Hon TOM STEPHENS: Before the public of Western Australia is the Smith report containing important findings against the minister insofar as his department has failed to live up to its responsibilities for the administration of the justice system. This minister deflects the questions, the complaints and these serious concerns. What was his reply to the press conference today? He said that he will institute a system of baubles as rewards for the prison officers when what they want is his resignation as the Minister for Justice, just as the arts community wants his resignation as the Minister for the Arts. They want nothing short of that. When that is on paper -

Several members interjected.

The PRESIDENT: Order! The Leader of the House and the Leader of the Opposition will cease speaking while I ask members not to interject. I cannot hear the leader because his own members and others are drowning him out. I certainly do not want him to start yelling because there is no need.

Hon TOM STEPHENS: During this adjournment debate perhaps the Minister for Justice will take the opportunity to indicate whether he will ensure that the Ministry of Justice gives sufficient attention to the risk assessment of prisoners. If not, is that the reason current escapes and walkouts from Western Australian prisons are 100 per cent above the level predicted in this year's budget? Perhaps he will tell the House whether on 3 April 1998 the Ministry of Justice -

The PRESIDENT: The Leader of the Opposition should talk to the Chair. He has eight minutes left to make his contribution. He should take it easy. If he needs an extra half a minute, I will give it to him. He should slow down.

Several members interjected.

The PRESIDENT: I know what is going on: The leader wants to read out questions, but he should do it so that everyone can understand.

Several members interjected.

The PRESIDENT: I will handle that. I want the leader to slow down so that I can understand what is going on.

Hon TOM STEPHENS: On 3 April 1998, the Ministry of Justice was assessed by WorkSafe WA as failing to provide a safe working environment in regard to the use of force against violent prisoners. Many of the failings were attributed to lack of training. Have all the matters assessed by WorkSafe WA been addressed by the Ministry of Justice? Why, at the time of the riot on Christmas Day at Casuarina Prison, did the staff have no firearms? They had a number of chemical sprays and a variety of chemical equipment, but a number of staff had no protective equipment. When was the minister first advised that there was increased stress between officers and prisoners at Casuarina and that the conditions at the prison were dysfunctional? Were these problems as a result of overcrowding? What steps did the ministry or the minister take to rectify this situation?

The Minister for Justice said in today's ministerial statement -

When we consider that all predictions were for an extra 100 prisoners per year, this should have been quite adequate to meet demand. However, the actual increase has been some five times that amount.

Who provided the minister with this advice and did he question its veracity? The minister said in his ministerial statement today entitled "Smith report into incident at Casuarina Prison" that the ministry has moved to establish a regulator of prisons to increase accountability. How will that occur when the regulator he proposes to establish will be employed by the Ministry of Justice, will be accountable to the CEO of the ministry and will have no independent budget, statutory role or requirements?

All of these questions deserve answers. More importantly, the answers to these questions deserve the minister's resignation. That is what this House knows and it is what the people of Western Australia know. It is important for the minister to know that we are putting him on notice that he should give sufficient attention to risk assessment of prisoners. If he cannot respond appropriately to these issues, it is time he took the only possible step, which is to resign.

This minister is the "Minister for Calamities". He was responsible for calamities such as the Madagascar egg, the Durack papers, the failed relationship with the judiciary and the Legal Aid Commission -

The PRESIDENT: Order! The Leader of the Opposition will slow down and take a deep breath. What he has going now is a little discourse between himself and the Minister for Justice. His job is to speak to the Chair, and he will do that. I will then call the Minister for Justice, if he seeks the call, to answer some of the issues the leader has raised.

Hon TOM STEPHENS: I want to encourage the Minister for Justice not to jump too quickly, because a couple of other members on this side of the House have some issues on which they would like his response. If he gives us a few moments, we will put those concerns on the record. He will have the opportunity that he sought during question time to reply to a number of issues.

Hon Peter Foss interjected.

The PRESIDENT: The Minister for Justice will cease interjecting. This is becoming like a kindergarten. It really does not say much. I am pleased that the gallery is not packed, because if members of the public saw the way two senior members of this House are carrying on they would question the relevance of Parliament.

Hon TOM STEPHENS: These are serious concerns and that is why I put them before this House with some animation and volume. I want this Attorney General, Minister for Justice and Minister for the Arts to register in his cranium that these issues call for one outcome only; that is, his resignation.

*Ministry of Justice - Adjournment Debate*

**HON JOHN HALDEN** (South Metropolitan) [4.47 pm]: I was most surprised to listen to the Minister for Justice. His comments today suggest that there has been no damning report of the Ministry of Justice; they suggest that it has all been fixed. In answer to the second question today from the Leader of the Opposition, the minister said that he did not agree that mistrust had built up between superintendents and prisoners. That is in total contradiction to the Smith report. He then said the whole matter had been resolved because two senior appointments have been made. Woopy-do! After nearly three years as the minister, all but two of the senior officers of this department are acting in their positions. He has fixed two of the problems!

He is trying vainly to gloss over this issue. The report on this ministry and on the actions of this minister and the Government is an absolute condemnation of any form of administration. Let us consider the level of the criticism. It was suggested to me today that the only thing that this report had not criticised was the brand of toilet paper used in the ministry. From food upwards, there has been criticism of this department. There is criticism that there is no sound reporting relationship between Cabinet, the minister and the executive of the ministry. There is criticism that there are no clear lines of responsibility in the prisons department. Can members imagine what it is like when that is the case? That is what we are witnessing now. It is a garbled mess. For more than two years this minister has been responsible for this situation.

The report does not stop there. It refers to the necessity for training - a small budget item. After two and a half years, this minister is criticised because he and the Government have not provided suitable training to prison officers. He is criticised because of the lack of prison inspections, benchmarking and monitoring. It is also stated that prison officer/prisoner relationships should be improved. So the list goes on.

At the end of the day I am left to respond to the person who made the comment to me today that it is true that the only thing not criticised was the brand of toilet paper used by the ministry. Apart from that, this ministry is a disgrace, and that has been the case for at least the past six years, and perhaps longer.

The minister says he was given a hard job when he took over this ministry. Well, if Hon Cheryl Edwardes did not do the job properly, I welcome his criticism. The Les Smith report clearly states that she did not do the job properly, and nor has this minister. We all inherit things from someone else in regard to ministerial responsibilities.

The challenge before the minister is either to maintain or to improve the quality of the service, but not to allow it to drop to this level. Once it drops to this level, and once somebody appointed by the ministry says that this is the level of dysfunction of a government department, one should not simply, as this minister does, lop off the heads of the CEOs. When the minister wants to lop more heads, I suggest he take the knife, go to a mirror and look at his own throat because it has reached that point. He should stop trying to find scapegoats for what clearly is the most damning report about public administration in a department in this State for probably the past two decades. There is no scapegoat. In his own words of last year, he is responsible. He has in this place on numerous occasions enunciated to us what ministerial standards mean; he has defined them and has lectured about them. He has driven us to the point of despair, but at the first significant test of whether his leadership will meet those same criteria with which he has bored us to the point of tedium, he squibs because he says he wants more time, it is too difficult, there is not enough money, and there is not enough of this or that. Every minister faces those problems, but not every minister has a report as damning as this one. Other ministers have at least the good grace to acknowledge that some problems have occurred and rectification needs to take place. It is not all rosy at the bottom of the garden as he might have suggested to us during question time today.

Hon Peter Foss: I did not say that.

Hon JOHN HALDEN: The minister was asked about the problems and as I refer back to the second question I find he said that he did not agree that any mistrust had been built up.

Hon Peter Foss: You do not listen.

Hon JOHN HALDEN: I must say to the minister very clearly -

The PRESIDENT: Order! I will give the Minister for Justice the opportunity to reply. I am trying to allow Hon John Halden to speak without interjection so that in due course, the minister can speak without interjection.

Hon JOHN HALDEN: The Minister for Justice provides expansive answers, and then tries to choose little bits to justify his existence. However, today he clearly said he did not agree that the mistrust had built up.

Hon Peter Foss: I did not say that.

The PRESIDENT: Order!

Hon JOHN HALDEN: Is that not the case now? When was it not the case? It definitely was in January and February when Les Smith wrote the report. Does the minister mean that it has been fixed in two months? He has waved the magic wand again! It is a bit like ministerial accountability; we will define it one day and redefine it the next day when it suits us. We will talk about mistrust one day and redefine it the next. The days of his weaving, dodging and lecturing us about the high ground of every issue known are over. The reality of today is that he has been condemned as incompetent; there no doubt about it. There is also no doubt that his predecessors have probably also been shown to be incompetent, but at the end of the day the situation is that -

Hon N.F. Moore interjected.

The PRESIDENT: Order! Leader of the House.

Hon JOHN HALDEN: The situation is that -

Hon E.R.J. Dermer: Hon Peter Foss is the Attorney General.

Hon JOHN HALDEN: Exactly. The situation is -

Several members interjected.

The PRESIDENT: Order! Leader of the House and Hon Ed Dermer, allow Hon John Halden to continue his remarks.

Hon JOHN HALDEN: At the end of the day the situation is that this department has lacked funding. The minister, the ministry and the Cabinet have known full well of the problems that would arise. They were warned about them by virtue of their own commission's report. At the end of the day, they sat back and did nothing. What confidence are people of this State expected to have when a report such as this comes down and just two minutes ago the minister denied the content of the report and said, "That is not the situation today"? It is only two months on; unbelievable! This problem has existed for a long time. The Government has had the opportunity to fix it for six years. It has had previous Ministers for Justice and now the present minister. Clearly and objectively out of the mouth of a person appointed by the ministry with a great reputation in the public sector, he is condemned as a failure in every one of those areas. The minister cannot run away from this, he cannot hide, the facts are there. He cannot possibly say that Les Smith gave him, the department or the Cabinet any form of ringing endorsement. In fact, he slates the lot of them as incompetent. The minister cannot blame a culture. He has the responsibility to change that culture. He cannot blame it on the fact that he wants a private prison because he must manage the prisons; they are his responsibility. They are public prisons, publicly funded, and he has failed, continues to fail and continues to look for scapegoats. He stands condemned by this very report.

**HON PETER FOSS** (East Metropolitan - Minister for Justice) [4.56 pm]: It is an indication of how much of a game the Opposition thinks this is when it seeks to ask many questions during question time for which it obviously does not expect to receive answers. It also surprising that the Leader of the Opposition compares the riot to the Madagascan egg. I believe that the riot was a very serious and dangerous occasion, similar to the Fremantle riot. I am not sure whether at that time Hon Tom Stephens was demanding the resignation of Hon Joe Berinson. I do not know whether he demanded the resignation of Hon Joe Berinson when he supervised the construction of a prison, which not only became one of the most expensive prisons in Australia, especially in terms of per capita expenditure, but which has also continued to be one of the most expensive prisons to run because of its design. I do not blame him, but I certainly do not accept responsibility for the fact that serious defects existed in the design of that prison, and had they not existed, this incident may not have occurred. I am not saying that they were the cause of the incident, but had it been properly constructed, the incident would have been able to be contained and may not have happened. These things do not happen because of one cause, they happen because of a number of causes and many of those causes are incapable of having the magic wand waved over them. The most important thing is that the Opposition seems to flash between expecting me to wave a magic wand which changes things overnight, and recognising the fact that things cannot be changed overnight.

Hon E.R.J. Dermer interjected.

Hon PETER FOSS: Will the member let me finish? He gets his 20 minutes and I would like at least my 10 minutes. The member was obviously not listening this morning when I said that the additional prison accommodation approvals in the last year alone have resulted in an additional 370 beds this year. When did the Labor Party when in government ever manage to put together that many beds in one year? It built Casuarina, but how long did that take and how much did it cost? Yet, we were able to produce the same capacity as Casuarina in one year and the Opposition complained about it. I would like to see what the Labor Government would have done had it been presented with over 500 extra prisoners in 11 months. Why is it that the Opposition seems to think that the Government has the capacity to deal with unexpected increases in numbers when no other State in Australia has? It is quoting that report and saying we should have paid attention to it; we did. We took some comfort from that report which predicted the same increase per year as we had internally, so I suppose I am expected to work out which parts of that report are appropriate and which parts are not. The trick is that if I follow the ones that in hindsight turn out to be wrong, I am in trouble. Members of the Opposition have the luxury of going through and picking out those parts that suit their argument, but they should go back and have a look at the predicted increases. I would also like them to look at what was stated in the Smith report regarding the things that have been put in place by the department. If they read it, they would learn that we have implemented a drug program, a prison improvement plan, a crisis management plan; all of these things were put in prior to the riot.

Each of those responses will take time to bring into effect. Smith in his report said that he believes it will take five years. If those responses are in place, one must give credit at least to the fact that the Ministry of Justice identified the problems and is addressing them. We cannot simply click our fingers and change people or put in new prison accommodation - it takes time. What is remarkable is what has been achieved in the period of time we have had. Once we became aware of the massive and unexpected increase in the number of prisoners in Western Australia, similar to that in other parts of Australia, we put in place a massive response program with accommodation of 370 beds this year and another 750 beds, expandable to 1 200 beds, next year.

Hon Ken Travers: When do you think it will all be right?

The PRESIDENT: Order! Hon Ken Travers will get his opportunity to speak in a moment, if he asks for it and no-one else wants to speak.

Hon PETER FOSS: When will it all be right? When will the entire area of government all be right? When will it ever be that we have perfect government? I would be extremely surprised if we were ever to have perfect government. I can tell members that these programs will address each of the matters referred to in the Smith report. Each of the matters has a plan already worked out. They were being implemented before the riot occurred. That riot could have been avoided if a number of small events had happened. One would have been if the defect in the design of Casuarina had not occurred. I am not saying that was the cause of it, but we were unfortunate. Had that design fault not occurred, we might have got through that period and, I believe, many of the measures that we had put in place would in due course have had effect.

I hope that Hon Ken Travers shows his commitment to solving this. As I have told him before, one of the important measures we need to introduce is to start a private prison in this State. He need not take my word for it but the word of Administrations around Australia and the word of Rt Hon Tony Blair and Rt Hon Jack Straw. They went into government in the United Kingdom with a policy that they would take back from private ownership the administration of all prisons in the United Kingdom. Not only have they not done that but they have committed themselves to building more private prisons. Why? It is because they believe, as I do and as many other people who have any knowledge of this do, that there is only one way out. One can make the necessary changes in the culture of an organisation which in many ways has ideas which have been carried forward from generation to generation for not merely decades but for hundreds of years. One needs a major cultural change which only comes about when one puts in place a competitive process in which these people must compare what they do with what other people alongside them do in a different system.

Hon Ken Travers should genuinely wish to see the problem solved as opposed to standing up and making wonderful and highly rhetorical statements, because this problem has been handed on from Administration to Administration. During the Labor Administration most of these problems were there and most were still there when we came to office. However, the one time when I have seen something happen which gives promise is the plan for an absolute generational change, which is one of the plans that has been put in place since Alan Piper has been director general. The last part of that plan was a private prison in Western Australia. It is not the solution but one of them. The Smith report says that. These are not simple problems and they do not happen for simple reasons. They occur for a large number of reasons, most of which are cultural and longstanding. If Hon Ken Travers has an interest - I hope he has, because one of these days it may happen that he will be in government - and if he wants to make sure that these things are changed once and for all, this is the opportunity to do it.

The plans currently in place for the very first time offer a real possibility that we will make the sorts of changes that need to take place. If Hon Ken Travers speaks to people who have been involved in the prison service over the years, he will find that nothing is new. The endeavour to get rid of those problems is not new. The old enmities have been around for ages. The attitudes have been around for ages. Changing people does not happen by waving a wand or by cutting a person's head off. Things may change by putting a good person at the top. I believe that Alan Piper is a good person. He has been moving with remarkable rapidity. I firmly believe that the timetable we have for this prison, starting when he did, will be faster than any timetable we could have achieved under previous administrations had we started a year before. That is how great I think is his capacity for keeping things moving. As it happens, events may have overtaken us, but I am quite optimistic. I take credit for both the bad and the good. At the moment I believe things are particularly good.

*Hon Clive Griffiths, Agent General in London - Adjournment Debate*

**HON N.D. GRIFFITHS** (East Metropolitan) [5.07 pm]: I wish to draw to the attention of the House a matter which causes me concern and which should cause the State of Western Australia concern because it goes to the heart of our constitutional government. It is not on. A member of Parliament is disqualified from being a member of Parliament if he holds an office of profit under the Crown, yet a couple of years ago a member of this House was the subject of decisions by the Executive which undermine the principles behind that very proposition. The reason of course is that a member of Parliament would be seen to be beholden to the Executive in an unacceptable way. It undermines our democratic system. I note that the Attorney General has been the subject of two speeches by two opposition members so far during the adjournment debate. He was a party to what took place; in fact, he attended the meetings of the Executive Council when these events took place. Questions need to be answered. They have not yet been answered. It is my duty to pose them. I look forward to someone in government answering the questions shortly. If someone does, there will be a question mark over whether government in this State is being carried on at a level which people would consider to be proper. I have my doubts and I am very concerned as to what has taken place.

The Executive Council met on 21 May 1996. Mr President, my comments should not be interpreted in any way to be critical of your predecessor, Hon Clive Griffiths. At that time, Hon Clive Griffiths was the President of the Legislative Council; in fact, he was elected at an election which took place on 6 February 1993 and his term was due to end on 21 May 1997.



On 21 May 1996, one year before his term was due to expire, the Executive Council decided, under section (1) of the Agent General Act, to appoint Hon Clive Griffiths to be Agent General in London, not immediately, the next day or the next week, but to be Agent General prospectively, for a period -

Hon N.F. Moore: Give us the date of his appointment.

Hon N.D. GRIFFITHS: Certainly. It was from 1 January 1997 to 31 December 1998. Here we have a Government appointing a member of Parliament to a position which pays what many people in the community would consider to be a significant salary, to a position to take effect some months down the track. In the meantime that person remained a member of Parliament and the appointment was hanging over his head. I query whether that is appropriate behaviour on the part of the Government.

Hon N.F. Moore: Why is it not?

Hon N.D. GRIFFITHS: I am interested in these events and the explanations that will be given. If the Leader of the House can justify these events by reason of precedents, I will be interested to hear them. I may not necessarily agree with his justifications. However, I want to know why he considers it appropriate behaviour.

A meeting of the Executive Council was held on 24 December 1996. The Attorney General was present. The meeting was advised and decided to "cancel the commission" issued to Hon Clive Griffiths in relation to that appointment. Why was the decision made to cancel that appointment on 24 December 1996? It is incumbent on the Government to provide an explanation for that.

Hon N.F. Moore: A press release was put out on that.

Hon N.D. GRIFFITHS: I am not interested in the press reports. I want to know the reasons. On same day, the Executive Council - the Government - sought to put into effect a decision to appoint Hon Clive Griffiths, whose term as a member of Parliament was due to end on 21 May 1997, Agent General to London for the period 2 June 1997 to 1 June 1999. That is another prospective appointment. Prospective appointments of this nature are inappropriate. Frankly, I think they are improper.

Hon N.F. Moore: Why?

Hon N.D. GRIFFITHS: A member of Parliament is appointed to a position prospectively. That position carries with it a sum of money. The reality is that under our law - if members opposite care to read the law - if the member of Parliament were appointed to that position when he was a member of Parliament he would be disqualified from being a member of Parliament. The Government gets around the law by saying it will give the job to the MP down the track. It is one thing to say it will give it to the person down the track; however, it is another thing to go through the formalities and say, "You have it." That is not on. That makes the so-called Metherell affair appear rather small.

I have been invited by the Leader of the House to refer to media reports. I know there were and are difficulties within the Liberal Party with preselections.

Hon N.F. Moore: It was about filling vacancies.

Hon N.D. GRIFFITHS: One always knows when the Leader of the House is upset because he interjects without smiling. Although he tries to smile occasionally, he does not succeed. There were problems in the Liberal Party with preselections in the South Metropolitan Region involving Hon Clive Griffiths and two members who now sit in this place - it is always a pleasure to see them. There were difficulties with the preselection for the Legislative Assembly seat of Alfred Cove, involving a member who sits in this House currently, and the current member for Alfred Cove. I do not know whether that was the reason. We should be told the reasons. However, whatever the reasons, I do not think it is a proper practice. This Government should come clean. The sooner it comes clean the less damage it will incur over this affair, because it will not go away.

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [5.15 pm]: I will quickly respond to the comments made by Hon Nick Griffiths. He has a copy of Executive Council minutes which state that an appointment to the position of Agent General to London made on 21 May 1996 will take effect on 1 January 1997. The member says, "Why are you appointing prospectively?" I ask how one can appoint somebody retrospectively. One does not usually appoint someone to a position and the appointment is made that very moment; the appointment takes effect when the person takes up the position. If the member appoints someone to take up a job tomorrow, that is prospectively appointing someone.

Hon N.D. Griffiths: The Leader of the House is being trite.

Hon N.F. MOORE: I am not, because one day is no different from six months. The fact is that Hon Clive Griffiths did not take up the position of Agent General to London because his appointment was cancelled prior to 1 January 1997. Hon Nick Griffiths knows that. A judge has made a decision about that.

Several members interjected.

The PRESIDENT: Order! I am interested, as are other members, in this issue. It is a matter that has a bearing on this House, but we have limited time. Because I am now interrupting the Leader of the House I will see that he is not disadvantaged. Hon Nick Griffiths was heard in relative silence. Because of the time constraint I ask that the Leader of the House be given that opportunity.

Hon N.F. MOORE: I am not a lawyer and I have to read things the way I see them. The Agent General Act provides for suspending and removing from office an Agent General. The judge has said that did not happen. However, as a layperson, I argue that Hon Clive Griffiths was not the Agent General until 1 January 1997. Therefore, he could not be removed or suspended from office because he had not taken up that office. The Government took the advice of Crown Law and said that if he was not going to take up the position and the appointment had been made for Executive Council to take effect on 1 January 1997, Executive Council should cancel that appointment. That was the decision of Executive Council on 24 December 1996.

Hon N.D. Griffiths: Why were the decisions made?

Hon N.F. MOORE: It is a wonder Hon Nick Griffiths does not understand this. When the decision was made a press release was put out on the occasion of the cancellation of his appointment to explain the reasons. Hon Nick Griffiths knows as well as I do that there was significant doubt at the time about whether Hon Clive Griffiths' replacement would be from the Liberal Party. Members opposite have argued consistently that if a member of Parliament resigns or has to vacate his seat, he or she should be replaced by a person of the same party. That is the law. There was significant doubt at that time about whether a vacancy could be filled at that time from our party. That is one of the reasons Hon Clive Griffiths did not proceed with the appointment on 1 January 1997. This issue is before the courts. A judge has made a decision. I cannot understand his decision, but in due course I suspect it will be explained to us.

Question put and passed.

*House adjourned at 5.18 pm*

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### QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

#### OMEX SITE, BELLEVUE

897. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

- (1) Is the Minister for the Environment aware of the delay in the release of the CER for the Remediation of the Omex Site?
- (2) If not, why not?
- (3) If yes, would the Minister explain?
- (4) Is the Minister aware that the release of the CER for the Remediation of the Omex Site set for January 9, 1999 will coincide with the Subdivision Approval Process set for the redevelopment of the site by the WA Planning Commission on January 8, 1999?
- (5) If not, why not?
- (6) If yes, will the Minister assist the Bellevue community in respect of dealing with the two public submissions process which will occur simultaneously and during the Xmas holiday period?
- (7) If yes, would the Minister provide details?
- (8) If not, why not?

Hon MAX EVANS replied:

- (1)-(3) The CER was scheduled for release in September 1998. However, the release was delayed in order to ensure a high standard of environmental review.
- (4)-(5) I am aware that the CER was released for public review on 9 January 1999. This decision was made in close consultation with the community representatives at the Independent Consultative Committee (ICC) meeting on 7 December 1998. I am also aware that LandCorp, on behalf of the WAPC, planned to lodge an application with the Shire of Swan for subdivision approval of this site on 8 January 1999. This application has since been delayed so additional information could be obtained to assist in the decision making process before being referred to WAPC and then the Shire of Swan. You would also be aware that any application for subdivision is assessed by the local council, who have the discretion to seek public comment during this period.
- (6)-(7) The DEP has already given detailed undertakings to the ICC of assistance during the public review of the CER to ensure the community can effectively participate in the process. This included an extension of time for consultation from 4 to 7 weeks, as agreed by the community representatives at the last ICC meeting.
- (8) Not applicable.

#### HOMICIDES, FIREARMS

971. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

How many homicides involving firearms have there been in Western Australia in each financial year since July 1, 1980?

Hon PETER FOSS replied:

The Offence Information System (OIS), which came in operation on 1 July 1991, is the statistical database employed by the Western Australia Police Service to record all statistical data regarding crime in Western Australia. The quality of data prior to July 1991 is unreliable and can only be obtained through a manual search of archived offence records. Accordingly, statistics have been provided from 1 July 1991 only.

Number of homicides involving a firearm are:

1991/92	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98
3	4	5	5	3	0	2

#### ARMED ROBBERIES, FIREARMS

973. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

How many armed robberies involving firearms have there been in Western Australia in each financial year since July 1, 1980?

Hon PETER FOSS replied:

The Offence Information System (OIS), which came in operation on 1 July 1991, is the statistical database employed by the Western Australia Police Service to record all statistical data regarding crime in Western Australia. The quality of data prior to July 1991 is unreliable and can only be obtained through a manual search of archived offence records. Accordingly, statistics have been provided from 1 July 1991 only.

The number of robberies involving a firearm are:

1991/92	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98
115	157	179	258	201	210	260

#### POLICE OFFICERS, FIREARMS PURCHASE

975. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

- (1) How many police officers are known to have been involved in the purchase of firearms to sell to the Western Australia Police Service during the Gun Buy-Back Scheme?
- (2) What disciplinary action was taken against each of those police officers?

Hon PETER FOSS replied:

- (1) No police officers are known to have been involved in the purchase of firearms to sell to the Western Australia Police Service during the gun Buy-Back Scheme. However investigations into the purchasing of firearms by two officers not related to the National Gun Buy-Back Scheme are continuing.
- (2) Not applicable.

#### FIREARMS, PROHIBITED

976. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

- (1) How many already prohibited firearms were handed in during the Gun Buy-Back Scheme in Western Australia?
- (2) What amount of money was paid for these already prohibited firearms?

Hon PETER FOSS replied:

I am advised that prior to the Port Arthur incident and the resolutions arising from the Special Australasian Police Ministers' Council of May 10, 1996 there were no firearms which were specifically prohibited in Western Australia.

The total figures for the Buy Back Scheme are as follows:

- (1) 51,507 firearms
- (2) \$18,695,205.00

#### FIREARMS, INFORMATION RECORDED ON HANDING IN

977. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

Prior to the Port Arthur murders, what information was recorded when a person handed in a firearm to police?

Hon PETER FOSS replied:

The person surrendering the firearm authorised its destruction on a P94 Destruction Authority form.

A Property Tracing System (PTS) receipt was created which contained the following information:

The particulars of the officer creating the receipt;  
Date and place where the firearm was seized/surrendered;  
Name and address of the person surrendering the firearm (including firearm licence details);  
Details of the owner of the firearm (in instances where a firearm was surrendered by a person other than the owner);  
Description of firearm and/or ammunition;  
Reason for surrendering the firearm.

A copy of the receipt was then given to the person. Firearms Branch was then notified of the surrender and records were updated, accordingly. The firearm was then destroyed.

#### FIREARMS, INFORMATION RECORDED ON HANDING IN

978. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

What information was recorded when a person handed in a firearm to police during the Gun Buy-Back Scheme?

Hon PETER FOSS replied:

The Property Tracing System (PTS) created a receipt specifically for the Buy Back Scheme, known as the Buy Back

Ballistics Receipt. As well as the usual information (outlined in Question 977) the Buy Back Ballistics Receipt also contained the following information:

The date the firearm was surrendered to Police (usually at a Police Station);  
 The date the firearm was transferred from the Police Station to Police Ballistics;  
 The date the firearm was destroyed by Ballistics;

Once the firearm was destroyed, Firearms branch was notified of the destruction and the person's licence details were amended on police indices.

Furthermore, Police Finance was notified of the destruction and a cheque was prepared to compensate the person for surrendering the firearm. Details of the payment were recorded on police indices.

#### GOVERNMENT CONTRACT, ROTTNEST ISLAND HOLIDAY HOME UPGRADE

1048. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Rottnest Island Authority contract awarded to PDC & C Wilson Pty Ltd for Rottnest Island Holiday Home Upgrade valued at \$1 071 999 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

#### GOVERNMENT CONTRACT, 441 MURRAY STREET, PERTH

1049. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Department of Transport contract awarded to Dawn Express Partitioning Pty Ltd for 441 Murray Street, Perth fit out valued at \$1 329 487 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.

- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, EAST MANJIMUP PRIMARY SCHOOL

1050. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Best Construction Pty Ltd for East Manjimup Primary School alterations and additions valued at \$1 038 500 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, ESPERANCE RESIDENTIAL COLLEGE

1051. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Merym Constructions for Esperance Residential College alterations and additions valued at \$1 241 000 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

## GOVERNMENT CONTRACT, HOLLYWOOD SENIOR HIGH SCHOOL

1053. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Homestyle Pty Ltd for Hollywood Senior High School alterations and additions valued at \$1 794 000 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

## GOVERNMENT CONTRACT, WA MUSEUM

1054. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Western Australia Museum contract awarded to Geo A Esslemont & Son for Western Australian Museum - Hackett Hall Building valued at \$5 925 000 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

## GOVERNMENT CONTRACT, CLARKSON COMMUNITY HIGH SCHOOL

1071. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Education Department contract awarded to Geo A Esslemont & Son for Clarkson Community High School stage 2 valued at \$5 267 863 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACT, CANNING VALE PRISON AND C.W. CAMPBELL REMAND CENTRE

1072. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to question on notice 1482 dated April 28, 1998, in relation to the Ministry of Justice contract awarded to Cooper & Oxley Builders Pty Ltd for Canning Vale Prison and CW Campbell Remand Centre security upgrade valued at \$2 741 500 -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister for Works table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Risk monitoring is applied through normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, CLEANING SERVICES

1091. Hon TOM HELM to the Minister for Finance representing the Minister for Works:

- (1) How many complaints has CAMS received about the contracting process for cleaning services since the Ombudsman's report dated July 17, 1996?
- (2) Have any further complaints been lodged with the Ombudsman?
- (3) If yes -
  - (a) what was the outcome of such complaints; and
  - (b) how have such complaints been resolved?



- (4) Is the Minister for Works satisfied that CAMS staff understand the role of the Ombudsman?
- (5) Are CAMS staff, particularly those in the Contract Risk Management Branch, briefed on the role of the Ombudsman?
- (6) What instructions have been given to CAMS employees, and what procedures have been established, to ensure they comply with the Western Australian Public Sector Code of Ethics?
- (7) Have there been any further complaints as to CAMS staff behaviour?
- (8) What action has been taken to address the Arbitrator's report, where it referred to "a startling incidence" between the commencement of a volume of complaints raised relating to the performance of Joy and Maxwell and the time Joy and Maxwell alleged CAMS officers, Mirtsopolous and White, had requested and been denied \$5 000?
- (9) Did CAMS, or the Minister's office, carry out any investigation of the allegations raised by Joy and Maxwell subsequent to this report?
- (10) Did Mirtsopolous and White receive any instructions as to appropriate behaviour standards in response to the Arbitrator's finding that they did not co-operate with Joy?
- (11) What positions do Mirtsopolous and White now hold in CAMS and have any further complaints been raised against them?
- (12) Have there been any further complaints of the breaches referred to in the report, re implied terms not to interfere with or hinder the manner of performance of the contract or implied term to co-operate?
- (13) What steps have CAMS taken to ensure that there are no further breaches of these implied terms?

Hon MAX EVANS replied:

I am advised that:

- (1) None.
- (2) No.
- (3) Not applicable.
- (4)-(5) Yes.
- (6) All employees were briefed on the Western Australian Public Sector Code of Ethics through directorate briefings and were provided with copies of this Code. CAMS has also produced its own Code of Conduct within the public sector Code of Ethics framework and employees attended half day workshops to ensure understanding and compliance.
- (7) No.
- (8)-(9) All issues raised during the conciliation process had been addressed prior to the final Arbitrator's Report.
- (10) When the Arbitrator's report was received, White had been transferred to another Agency. Mirtsopoulos was made aware of the findings in the report.
- (11) Mirtsopoulos is a Level 4 Liaison Officer, Country Services Branch of the Contracting and Tendering Directorate within CAMS. White transferred to another agency on 7 November 1996.
- (12) No.
- (13) CAMS maintains a continuous improvement to its contracts process.

#### GOVERNMENT CONTRACTS, DEMOLITION PROJECTS

1137. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 734 in relation to the two 1995 Contract and Management Services contracts for demolition projects, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of these projects.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is applied through normal contract processes.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, DEMOLITION PROJECTS

1138. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 734 in relation to the seven 1996 Contract and Management Services contracts for demolition projects, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of these projects.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is applied through normal contract processes.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, DEMOLITION PROJECTS

1139. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 734 in relation to the four Contract and Management Services demolition contracts in 1997, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of these projects.
- (2)-(3) Not applicable.

- (4) Yes. Risk monitoring is applied through normal contract processes.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, GOSNELLS POLICE STATION

1141. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 709 asked in the Legislative Assembly in relation to the Contract and Management Services contract with the firm Southdown Construction Co Pty Ltd for construction of the Gosnells Police Station, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, EAST BUSSELTON PRIMARY SCHOOL

1142. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 747 asked in the Legislative Assembly in relation to the Contract and Management Services contract with the firm Perkins Bros Builders worth approximately \$3.9 m for construction of the new East Busselton Primary School, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.

- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

GOVERNMENT CONTRACTS, GAS LIQUID PETROLEUM

1153. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question without notice 1121 in relation to the Contract and Management Services contract worth approximately \$3m per annum for 60 month period for provision of gas liquid petroleum in bulk and in cylinders, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No. The CAMS *Risk Management Policy* was not operational when the contract for the provision of gas liquid petroleum in bulk and in cylinders was awarded. However, risk management is being applied to the contract management.
- (2) The current risk rating is 'moderate'.
- (3) Not applicable.
- (4) Risk monitoring is being applied to the contract management.
- (5) Yes. As requested on specific issues.
- (6) Yes. The performance of this contract is being evaluated through formal monitoring and reporting under the terms and conditions of this common use contract.
- (7) Yes. As requested on specific issues.

GOVERNMENT CONTRACTS, KALBARRI HEALTH CENTRE

1157. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

Further to the answer given to question on notice 479 asked in the Legislative Assembly in relation to the Contract and Management Services contract with the firm Jaxon Construction worth approximately \$3m for construction of the Kalbarri multipurpose health centre, can the Minister for Works advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of these projects.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is applied through normal contract processes.
- (5) Not applicable.

- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

## GOVERNMENT CONTRACTS, FUJITSU

1170. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Services:

Further to the answer given to question on notice 1871 of 1996 asked in the Legislative Assembly in relation to the Services Department's contract with the firm Fujitsu to run the public sector payroll, can the Minister for Services advise -

- (1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?
- (2) What was the risk rating of this project?
- (3) Will the Minister table the Risk Management Plan for the Contract Development Phase of this contract?
- (4) Was any risk monitoring carried out?
- (5) If so will the Minister table the outcomes?
- (6) Was the performance of this contract evaluated?
- (7) Will the Minister table the evaluation?

Hon MAX EVANS replied:

I am advised that:

- (1) No, as formal risk management as a policy was not in place at the commencement of this project.
- (2)-(3) Not applicable.
- (4) Yes. Risk monitoring is being applied to the normal contract process.
- (5) Not applicable.
- (6) Ongoing monitoring of the contract is applied through contract administration and site inspections.
- (7) Yes, as requested relating to specific issues.

## GOVERNMENT CONTRACTS, WHOLE-OF-GOVERNMENT

1173. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Works:

- (1) How many whole-of-Government contracts have been awarded by the Department of Contract and Management Services?
- (2) For each contract, can the Minister for Works state -
  - (a) the contract number;
  - (b) the services the contract was awarded for;
  - (c) the name of the contractor/s;
  - (d) the date the contract was awarded and expires, and any extensions to the contract; and
  - (e) the approximate annual value of the contract?

Hon MAX EVANS replied:

- (1) 40
- (2) (a)-(e) [See paper No 976.]

## MINISTRY OF JUSTICE, QUEENSLAND PRISON VISITS

1175. Hon JOHN HALDEN to the Minister for Justice:

- (1) How many staff from the Ministry of Justice have already visited CCA's prisons in Queensland and/or Victoria?
- (2) Who paid for their -
  - (a) airfares;
  - (b) accommodation; and
  - (c) salary,
 whilst away?
- (3) How many staff from the Ministry of Justice have been invited to visit CCA facilities anywhere in Australia?
- (4) Who is proposing to pay for their -
  - (a) airfares;
  - (b) accommodation; and
  - (c) salary,
 whilst away?

- (5) Have any staff visited or been invited to visit CCA facilities overseas?
- (6) If yes, how many and who is proposing to pay for their -
  - (a) airfares;
  - (b) accommodation; and
  - (c) salary,
 whilst away?

Hon PETER FOSS replied:

As no time period was specified in the Question, I advise the following for the period covering the last 12 months.

- (1) 4.
- (2) (a)-(c)  
Ministry of Justice with the exception of 1 officer who was on Annual leave during his visit and therefore paid for his own airfares and accommodation.
- (3) None
- (4) Not applicable
- (5) None
- (6) Not applicable.

#### PRISONERS, SECTION 43

1176. Hon JOHN HALDEN to the Minister for Justice:

- (1) How many prisoners have been held under section 43 of the *Prisons Act* since before January 2, 1999?
- (2) How many of these prisoners have been charged under other sections of the *Prisons Act* and/or any other Act?
- (3) How many have been held for more than 30 days?

Hon PETER FOSS replied:

The following answers relate to the 61 prisoners who were being held under section 43 of the *Prisons Act* on 9 March 1999 (see answer to Question Without Notice No 879).

- (1) None. In 1999, the first placement of prisoners under section 43 of the *Prisons Act* took effect on 5 January 1999.
- (2) 30.
- (3) 57.

#### MINISTRY OF JUSTICE, OFFENDER MANAGEMENT DIVISION

1200. Hon JOHN HALDEN to the Minister for Justice:

With regard to the Offender Management Division -

- (1) Is Western Australia's Offender Management Division more expensive than comparable divisions in other jurisdictions?
- (2) Does it deliver the best programs and best service?
- (3) If not, when did the Minister have this drawn to his attention, and by whom?

Hon PETER FOSS replied:

- (1) The 1999 "Report on Government Services" (pps 553 and 554) indicates that WA's cost of community corrections is the second highest (behind the ACT) in Australia. In relation to prison costs WA was ranked behind the ACT but with a group of 6 other states all with quite similar costs. In 1998, as part of the benchmarking process for the Wooroloo South prison, Stanton and Partners (Chartered Accountants) were commissioned by the Ministry of Justice to report on full accrual costs of prisons across Australia. Their conclusion was that WA prisons compared unfavourably with other states in relation to; - daily direct cash costs per prisoner, daily total cash costs per prisoner, ratio of offenders per FTE, and, salary costs per FTE.
- (2) The Corrective Services Chapter of the "Report on Government services" (p 529) details various comparisons between jurisdictions.
- (3) Not applicable

#### PRISONS, PROJECTED POPULATION

1204. Hon JOHN HALDEN to the Minister for Justice:

What is the projected prisoner population for Western Australia for the years -

- (a) 2000;
- (b) 2001;
- (c) 2002;
- (d) 2003;
- (e) 2004; and
- (f) 2005?

Hon PETER FOSS replied:

- (a) 2715 to 2986
  - (b) 2771 to 3042
  - (c) 2849 to 3130 \*)
  - (d) 2927 to 3218 \*)
  - (e) 3005 to 3306 \*)
  - (f) 3085 to 3393
- ) Interpolated

#### MINISTRY OF JUSTICE, OFFENDER MANAGEMENT PHILOSOPHY

1205. Hon JOHN HALDEN to the Minister for Justice:

What is the current philosophy for offender management in the Ministry of Justice?

Hon PETER FOSS replied:

The Offender Management Division operates under the following philosophy:

- Contribute to crime reduction
- Operate in an integrated justice system that supports through care
- Divert high risk people from committing crimes
- Offenders serve their sentences in a safe, productive and humane environment and resume their life in the community as law abiding citizens
- Sensitivity to the differences between offenders.

This philosophy is pursued through four strategies:

- Custody and containment
- Care and well being
- Rehabilitation and reintegration
- Reparation

#### PRISONS REVIEW REPORT

1206. Hon JOHN HALDEN to the Minister for Justice:

- (1) Will the Minister table Appendix 1 "Review of the Prisons Act Final Report and Discussion Paper Background and Philosophy"?
- (2) If so, when?
- (3) What stakeholders did the Minister consult with in regard to this report?

Hon PETER FOSS replied:

- (1) Yes, both the "Review of the Prisons Act (1981) Final Report, April 1998" and the attachment "Discussion Paper 1. Background and Philosophy, 30 October 1997".
- (2) As soon as is practicable.
- (3) This is set out in Section 1.2 of the Report - Overview of the review process.

#### PRISONS, WOOROLOO SOUTH

1207. Hon JOHN HALDEN to the Minister for Justice:

In regard to the use of force and instruments of restraints at the proposed new private prison at Wooroloo, what are the contractual arrangements, if any, pertaining to this and do these arrangements conform with the *Prisons Act* and meet United Nations Standard Minimum Rules for the Treatment of Prisoners?

Hon PETER FOSS replied:

There is no contract in existence at this time. The intention is that the contractor will be empowered to use force and instruments of restraint only in accordance with the Prisons Act 1981, relevant Director General's Rules and the Standard Guidelines for Corrections in Australia 1996.

#### PRISONS, WOOROLOO SOUTH

1208. Hon JOHN HALDEN to the Minister for Justice:

Under what circumstances will prison officers at the proposed new private prison at Wooroloo South be provided with loaded weapons?

Hon PETER FOSS replied:

S.15J of the Prisons Amendment Bill 1998 precludes a contract worker from being authorised to perform a function under S.47 of the Prisons Act 1981 which provides for the use of firearms.

#### PRISONS, COST COMPARISONS

1209. Hon JOHN HALDEN to the Minister for Justice:

- (1) Is it possible for comparisons between interstate jurisdictions to be made about the cost of running prisons?
- (2) If no, what are the impediments to doing this?
- (3) If yes, has a report been done as to the relevant cost of Western Australian prisons compared to the other States and will the Minister table that report?

Hon PETER FOSS replied:

- (1) Yes, but with a limited degree of confidence.
- (2) Not applicable.
- (3) Yes. In 1998 Stanton and Partners, Chartered Accountants, were commissioned to compare costs of WA prisons to some other States. The Stanton Report was commissioned for internal management purposes. It does not purport to be a detailed cost analysis of the various jurisdictions, and on that basis I see no reason to table it. The other comparative information, which suffers the same problems as encountered by Stanton Partners, is the Report on Government Services and it is readily available to the Hon Member.

#### PRISONS, WOOROLOO SOUTH

1210. Hon JOHN HALDEN to the Minister for Justice:

- (1) Does the contract for the new private prison at South Wooroloo contain terms and conditions of employment for prison officers?
- (2) If so, will the Minister table all such details?
- (3) If the contract does not contain such information, is the Minister aware of the annual salary prison officers will be paid at the proposed private prison?
- (4) What are those salaries?

Hon PETER FOSS replied:

- (1) There is no contract in existence at this time.
- (2)-(4) Not applicable.

#### PRISONS, WOOROLOO SOUTH

1211. Hon JOHN HALDEN to the Minister for Justice:

Is there any time line as to when the capacity of the proposed prison at Wooroloo will be expanded from 750?

Hon PETER FOSS replied:

No, not at this stage.

#### PRISONERS ON HOME DETENTION

1217. Hon MURIEL PATTERSON to the Minister for Justice:

- (1) Can the Minister inform the House of the number of prisoners that went on home detention in -
  - (a) 1997; and
  - (b) 1998?
- (2) Is it likely that these numbers will change substantially in 1998/99?

Hon PETER FOSS replied:

- (1)
  - (a) 201 prisoners were released to home detention in 1996-97.
  - (b) 216 prisoners were released to home detention in 1997-98.
- (2) It is expected that in 1998/99 the number will exceed 300.

#### BUNBURY REGIONAL PRISON, OFFICERS' LEAVE

1238. Hon BOB THOMAS to the Minister for Justice:

In reference to an article in the *South Western Times*, page 5, March 11, 1998 regarding a prison officer's sick leave, how many staff hours have been lost at the Bunbury Regional Prison due to stress and sick leave during 1997/98?



Hon PETER FOSS replied:

There have been no stress-related workers compensation claims lodged by staff at Bunbury Regional Prison since the inception of the Ministry of Justice in July 1993.

Staff at Bunbury Regional Prison used 7652 hours of sick leave in 1997/98.

#### TOURISM COMMISSION, AGREEMENT WITH STATE SUPPLY COMMISSION

1246. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Services:

- (1) Does the West Australian Tourism Commission have an agreement with the State Supply Commission under which they would gain approval from SSC prior to the staging of "unique package type events"?
- (2) If yes, are they meeting that agreement by seeking approval from the SSC for contracts associated with these events?
- (3) If not, why not?

Hon MAX EVANS replied:

I am advised that:

- (1) No.
- (2) Not applicable.
- (3) The West Australian Tourism Commission operates under the auspices of the policy framework of the State Supply Commission for the purchase of goods and services. Currently the WATC has a partial exemption level of \$50,000 and is required to refer any purchases over this level to the Commission, together with any other policy exemptions.

#### CITIZENSHIP COUNCIL

1287. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

- (1) Who are the members of the Minister's Citizenship Council?
- (2) If this body has not been fully established, who are the members of the Minister's Citizenship Advisory Working Party?
- (3) When will the Advisory Working Party complete its work and the Citizenship Council, promised by the Minister for Citizenship and Multicultural Interests during the 1996 election campaign; be established?
- (4) What are the terms of reference for the Minister's proposed Citizenship Council?

Hon MAX EVANS replied:

I am advised that:

- (1)-(4) The Minister's Citizenship and Multicultural Advisory Council is in the process of being established. As soon as it has been appointed the Minister will provide the Hon. Member with the names of the council members and the terms of reference.

#### GOVERNMENT DEPARTMENTS AND AGENCIES, MULTICULTURAL AND LANGUAGE SERVICES POLICY

1288. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

- (1) Which Government departments and agencies have consulted the Office of Citizenship and Multicultural Interests when developing -
  - (a) Multicultural Policy; and
  - (b) Languages Services Policy?
- (2) When did these consultations take place, and in what form were they made?

Hon MAX EVANS replied:

I am advised that:

- (1) (a)-(b) The Office of Citizenship and Multicultural Interests provides advice and assistance to public sector agencies on the Multicultural Policy and the Language Services Policy on an as request basis. The Office consulted a range of agencies in the development of both policies. It has and will continue to assist agencies in the implementation of these policies.
- (2) Advice and assistance has been provided via telephone conversations, meetings, presentations, workshops and seminars. In addition, the Office provides printed guidelines and strategies to assist agencies implement the policies.

MIGRANTS, REGIONAL AREAS

1290. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

What initiatives, which would encourage permanent migration and settlement in regional areas of Western Australia by new arrivals and business migrants, has the Office of Citizenship and Multicultural Interests undertaken with other Government departments or agencies in -

- (a) establishing Government services for Cultural and Linguistic Diverse Background migrants and new arrivals;
- (b) economic planning to meet the needs of for Cultural and Linguistic Diverse Background migrants; and
- (c) policy development?

Hon MAX EVANS replied:

I am advised that:

- (a) Settlement services for new arrivals are the responsibility of the Federal Government. The Office of Citizenship and Multicultural Interests co-chairs and participates on the Western Australian State Settlement Planning Committee. The Office also co-ordinates the State's participation of this Committee, which is responsible for producing the State Settlement Plan that identifies agency policies and programs in migrant services, existing access and equity measures and new initiatives for each twelve month period.
- (b) None.
- (c) The Office of Citizenship and Multicultural Interests participated in a Commonwealth/State/Territory Working Group on Regional Migration, which developed a number of initiatives in this area. The Office has further developed one of these initiatives - the skill matching database - by encouraging the Regional Development Commissions to install and operate the database in their own offices. The Health Department of Western Australia obtained a copy of the database in late February to assist it in obtaining qualified staff for regional Western Australia.

GOVERNMENT DEPARTMENTS AND AGENCIES, EVALUATION OF LANGUAGE SERVICES POLICY

1300. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Labour Relations:

- (1) Have all Government departments and agencies under the Minister for Labour Relations' control taken steps to evaluate its Language Services Policy?
- (2) How was the evaluation conducted?
- (3) Who conducted the evaluation?
- (4) What changes have been made as a result of the above activities?
- (5) Will the Minister table the respective Language Services Policy?
- (6) If not, why not?

Hon PETER FOSS replied:

I am advised that:

- (1) The then Office of Multicultural Interests conducted an evaluation of the Language Services Policy to determine the effectiveness of its implementation by public sector agencies in the provision of access to interpreting services for their customers.
- (2) The evaluation comprised four methodologies - surveys; case studies; focus group sessions and consultations.
- (3) The evaluation was conducted by the then Office of Multicultural Interests.
- (4)-(5) The report and recommendations are currently being considered by the Minister for Citizenship and Multicultural Interests.
- (6) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, EVALUATION OF LANGUAGE SERVICES POLICY

1304. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Youth:

- (1) Have all Government departments and agencies under the Minister for Youth's control taken steps to evaluate its Language Services Policy?
- (2) How was the evaluation conducted?
- (3) Who conducted the evaluation?
- (4) What changes have been made as a result of the above activities?

(5) Will the Minister table the respective Language Services Policy?

(6) If not, why not?

Hon MAX EVANS replied:

I am advised that:

- (1) The then Office of Multicultural Interests conducted an evaluation of the Language Services Policy to determine the effectiveness of its implementation by public sector agencies in the provision of access to interpreting services for their customers.
- (2) The evaluation comprised four methodologies - surveys; case studies; focus group sessions and consultations.
- (3) The evaluation was conducted by the then Office of Multicultural Interests.
- (4)-(5) The report and recommendations are currently being considered by the Minister for Citizenship and Multicultural Interests.
- (6) Not applicable.

#### GOVERNMENT CONTRACTS, REIMBURSEMENT OF UNSUCCESSFUL CONTRACTORS

1328. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for the Environment:

For all Government departments and agencies under the Minister for the Environment's control -

- (1) How many contracts have reimbursed unsuccessful contractors in -
  - (a) 1995/96;
  - (b) 1996/97;
  - (c) 1997/98; and
  - (d) since July 1, 1998?
- (2) For each contract which reimbursed unsuccessful contractors, can the Minister state -
  - (a) the contract number;
  - (b) the date the contract was awarded;
  - (c) the project the contract was awarded for;
  - (d) the successful tenderer;
  - (e) the unsuccessful tenderer/s;
  - (f) the original cost of the contract;
  - (g) the actual final cost of the contract;
  - (h) the amounts paid to unsuccessful tenderer/s; and
  - (i) the names of the unsuccessful tenderer/s?

Hon MAX EVANS replied:

WorkSafe Western Australia:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Kings Park and Botanic Garden

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Department of Conservation and Land Management:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Department of the Registrar, Western Australian Industrial Relations Commission:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Department of Environmental Protection:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Commissioner of Workplace Agreements:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Perth Zoo:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

Department of Productivity and Labour Relations:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

WorkCover WA:

- (1) Nil.
- (2) Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission policy 1.3 A Quotations and Public Tenders.

CONSULTANTS' REPORTS, TABLING

1368. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

I refer to the Report on Consultants for the six months ending June 30, 1998 and ask -

- (1) Will the Minister for Lands table the Report on the "Transfer of the Aboriginal Lands Trust from the Aboriginal Affairs Department (AAD) to Department of Land Administration (DOLA)" prepared by Mr Rodney Chapman during the period March to April 1998?
- (2) If not, why not?

Hon MAX EVANS replied:

- (1) Yes. [See paper No 977.]
- (2) Not applicable.

CONSULTANTS' REPORTS, TABLING

1369. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

I refer to the Report on Consultants for the six months ending June 30, 1998 and ask -

- (1) Will the Minister for Lands table the "Preparation of Aboriginal Heritage Report" prepared by McDonald Hale & Associates Pty Ltd during May 1998?
- (2) If not, why not?

Hon MAX EVANS replied:

- (1) No.
- (2) McDonald Hales and Associates were commissioned by the Department of Land Administration during this period to undertake an archaeological and ethnographic survey over two land parcels, proposed for development at Leeman Townsite. The report was commissioned as part of future native title negotiations concerning the development of these two lots, consequently I am not prepared to release it for public information until these negotiations have been concluded.

MARINE RESERVES SYSTEM, PROGRESS

1399. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

With regards to the policy objective of the Government to establish a comprehensive and representative marine reserves system for Western Australia based on the Marine Parks and Reserves Working Group Report -

- (1) What progress has been made in achieving this policy objective?
- (2) Will the Minister for the Environment report on the progress of the establishment of those marine parks and reserves that have already been identified by CALM and the Minister for reservation?
- (3) Will the Minister report on the progress of reservation of those further areas identified in the report of the Marine Parks and Reserves Working Group?

- (4) Is this progress on the establishment of a comprehensive and representative marine reserve system for WA on target in CALM's and the Government's program?
- (5) What is the budget allocation for the establishment of a comprehensive and representative marine reserve system?
- (6) At the current level of funding, how long will it take to establish a comprehensive and representative marine reserves system?

Hon MAX EVANS replied:

- (1) Significant progress has been made in relation to the proposed Jurien Bay marine reserve. It is anticipated that an indicative management plan will be developed and presented to the advisory committee by mid August 1999, and that following consideration by the Marine Parks and Reserves Authority a notice of intent to reserve is likely to be issued in early 2000.
- (2) Initial consultations with government departments, industry and local community groups have taken place in relation to the Montebello/Barrow Islands and Dampier Archipelago marine reserve proposals. The establishment of advisory committees is now being addressed. The biological and socio-economic resource assessments required for the formal planning process are well advanced. For the Geographe Bay/ Capes/Hardy Inlet marine reserve proposal, a marine habitat mapping exercise and a biological survey have been undertaken in January and February 1999. A human usage survey of the area is currently being undertaken. These studies will form the basis of the biological and socio-economic resource assessments required for the formal planning process scheduled to commence in early 2000.
- (3) The Marine Parks and Reserves Authority conducted a workshop in October 1998 as part of a consultative process to prioritise the areas recommended in the Marine Parks and Reserves Selection Working Group report for consideration as marine reserves under the CALM Act. This process when complete will establish the marine reserve priorities following Jurien Bay, the Dampier Archipelago, the Montebello/Barrow Islands and the Geographe Bay/Capes/Hardy Inlet region.
- (4) Yes.
- (5) CALM's Marine Conservation Branch has a budget allocation of about \$760,000. Over the past three years the Branch has received external funding from the Commonwealth in the order of \$250,000 per year. A major role of the Branch is to co-ordinate the establishment of a statewide system of marine conservation reserves and, as such, a significant percentage of the above total is directed to this program. In addition CALM staff in the Midwest Region allocate significant time to the Jurien Bay proposal, and staff in other coastal Regions are also involved.
- (6) No time frame has been set, however, it is likely to take perhaps twenty years or more. The time it will take is not dependent only on the level of funding. Important factors also include acceptance and understanding of marine reserves by stakeholder and user groups, and the pre-reservation requirements of the CALM Act which are designed to provide certainty to stakeholders but in turn necessitate extensive consultation and planning.

#### CITY OF NEDLANDS, NON-COMPLIANCE WITH PLANNING LEGISLATION

1459. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Local Government:

In relation to the reluctance of the City of Nedlands to accept a direction by the Minister for Planning to forward Town Planning Amendments without modification in May 1996 -

- (1) When did the Minister for Local Government first become aware of this non-compliance?
- (2) Did the Minister for Planning contact the Minister and express his concern about the behaviour of the Council?
- (3) If yes, did the Minister for Planning urge him to use whatever powers were available to him to ensure the Council complied with the planning legislation?
- (4) If yes, did the Minister accept this advice?
- (5) If he did accept advice, what action did he take?
- (6) If the Minister did not accept the Minister for Planning's advice, why not?

Hon M.J. CRIDDLE replied:

- (1)-(6) The Minister for Local Government was aware of the dispute between the Minister for Planning and the City of Nedlands. There were no powers under the *Local Government Act 1960* (prior to 1 July 1996) or the *Local Government Act 1995* (post 1 July 1996) which allow the Minister for Local Government to direct a Council to comply with such a direction.

#### QUESTIONS WITHOUT NOTICE

#### MINISTRY OF JUSTICE, ADULT OFFENDER MANAGEMENT SYSTEM

**1095. Hon TOM STEPHENS to the Minister for Justice:**

Does the minister recall the cabinet research paper that was commissioned from Australian Correctional Services, which reported nearly two and a half years ago in November 1996 that the Ministry of Justice adult corrections organisation had

exhibited signs of dysfunction for a considerable period? It then went on to list the symptoms and dysfunctions, including internal factional conflicts, facilities that failed to meet minimum legal standards under Australian law, overcrowded accommodation, and failure to make significant progress in the adoption of recommendations of the Royal Commission into Aboriginal Deaths in Custody. The report continues that they are all recognised precursors to potential, destructive, riot conditions. It states that the adult offender management system is exhibiting a significant number of symptoms, recognised as precursors of the ultimate breakdown conditions in prisons - riot, which was the report's emphasis.

- (1) What did the minister do as minister in the intervening period in the lead-up to the riots at Christmas?
- (2) Does he accept that these concerns until now have either been ignored or dealt with inappropriately by Cabinet, by him and by his Ministry of Justice.

Several members interjected.

The PRESIDENT: When members are ready, I will call the Minister for Justice.

**Hon PETER FOSS replied:**

- (1)-(2) That question is not exactly concise. My answer to a question of that length cannot be concise. Probably what I should do, Mr President, is to commence, and when you feel I have taken up enough time of the House, you should call upon me to stop. I certainly cannot deal with that sort of question in a concise manner and do it justice. I will certainly attempt to do my best.

I do recall that part of the document. One of the first things that came from my department on receiving that document was the suggestion that I should wait for the department's report because it could report to me what its view was on that report. As to the question of riot, the department considered it to be hyperbole. I do not know that I accepted its recommendation that it was hyperbole by somebody wishing to sell us a private prison, but that was certainly the suggestion the department made. I am aware of the division that had been evident within the Ministry of Justice; in fact, it started under the previous Government, even prior to the appointment of Mr Grant, with the factional elements that were there. Mr Grant certainly tried to do something about those factional elements. However, the royal commission showed that in fact he aggravated those problems rather than improved them. That probably continued to be the case when he became the Director General of the Ministry of Justice under the former Attorney General.

My first move to deal with it was to make sure that Mr Grant was no longer director general. Most people have said that removing Mr Grant was a very positive move, because he was the creator of what was an almost Byzantine attitude in the Ministry of Justice as a whole. I appointed as acting director, Dr Mike McCall. He was very good at improving a lot of those differences, but he was not able to heal them because I think they had become aggravated to some extent because of what I call the Northern Ireland effect. Next, attempts were made to remove some of those people but that was unsuccessful due to the provisions in the public sector legislation. We cannot just sack people to solve problems in the public sector. We had to try to work with them. We appointed Mr Byron, whom we hoped would be effective in dealing with the problem. Mr Byron was not effective in dealing with it. He took the view that the Ministry of Justice required some time to recover. That became very frustrating to me. I could do very little in putting pressure on Mr Byron to perform. Again, as members will know, the Public Sector Management Act does not allow me to deal directly with any member of the Ministry of Justice. In fact, I was accused by people of having done so, although that was subsequently found not to have been the case.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Do not delay the minister.

Hon PETER FOSS: The past 15 months have been very remarkable in the achievements that have been made.

Hon John Halden: Riots, fire, overcrowding in Casuarina - very successful!

Hon PETER FOSS: Let me just deal with those. One of the things we have managed to do is to increase prison accommodation to the end of this year by 327 beds.

Several members interjected.

The SPEAKER: Order! I have a number of members who want to ask questions. The minister set his case out in the beginning; that is, that it was a long question which required a long answer. The minister is attempting to make his answer as concise as possible. Members will please not interject and make it any longer.

Hon PETER FOSS: The internal and external predictions were for 100 prisoners a year. The report the Leader of the Opposition quoted said that there would be a 100-prisoner-a-year increase. We have catered for 500 prisoners this year, which is five times what was predicted. If that document is to be taken as having any credibility, it should be given credibility for the number of increased prisoners it predicted. We have managed to cater for three times the amount of increase that it predicted. I believe that in a very short period of time we have also managed to put ourselves in a position of having a prison of 750 beds at Wooroloo South, which will come on stream in the middle of next year. That is a quite remarkable time for producing such an extraordinarily large facility.

Hon John Halden: It will still be overcrowded by 700 prisoners.

Hon PETER FOSS: We can go to 1 200 prisoners. It all depends on what the increases will be. All around Australia there

have been unpredicted increases in prisoner numbers. In New South Wales there has been a major increase, as there has been in Victoria. The biggest increase has been in Queensland; its overcrowding is far greater than anything we have.

The Smith report says that it will take five years for all these matters to come through. In March last year we started a continuous improvement plan for prisons. It identified most of the things that came out in the Smith report as being things that were being worked on at the time of the riot, such as the Canning Vale amalgamation project. It will provide a considerable number of extra beds and also remove all of the remand prisoners from Casuarina to Canning Vale. That has been identified by the department and is in place as being carried out. Casuarina was originally used by the Labor Government for the purpose for which it is currently being used.

The PRESIDENT: I understand the minister needs time to reply, but I must ask him in the interests of other members to draw his answer to a close.

Hon PETER FOSS: A proper examination takes a longer time than we have in question time. One could probably treat the question as being to a large extent rhetorical. The Leader of the Opposition obviously did not expect to have a full answer and so was making a rhetorical point. The answer is that if one gives a fair appraisal of it, one will find that the Ministry of Justice is tackling these problems and has been tackling these problems. I think it is doing a very good job indeed.

#### PRISON OFFICIALS, MISTRUST

##### 1096. Hon TOM STEPHENS to the Minister for Justice:

- (1) Will the minister confirm that mistrust has built up between superintendents at prisons and head office and that this mistrust has led to hostility between superintendents and head office?
- (2) When was budgetary control of prisons taken away from superintendents?
- (3) Have superintendents expressed to the minister that they have little capacity for planning and coping with the increasing musters in their institutions?
- (4) If yes, what has the minister done to alleviate this situation?

##### Hon PETER FOSS replied:

- (1)-(4) I do not believe that those situations are correctly stated as at present. As I mentioned earlier, I was out at the prison today.

Hon John Halden: You disagree with Les Smith?

Hon PETER FOSS: I am saying that I do not believe that is the situation now. It certainly was the situation previously. The point to understand is that a number of things have happened over time which have led to different situations. The difference now is that the ministry has programs in place which are making changes. I was at the prison today. We have two new senior management appointments - the executive director of offender management and director of prison services. Those appointments will make an enormous difference to the situation in the prisons. I talked to the superintendents today and they appear to be extremely pleased with what is occurring.

#### CENTRAL PARK TOWER, SALE

##### 1097. Hon N.D. GRIFFITHS to the Minister for Finance:

With respect to the Auditor General's report on the proposed sale of the Central Park Tower by the Government Employees Superannuation Board -

- (1) Did the minister note that AMP's interest in developing a proposal was recognised by the board in a letter dated 2 July 1998?
- (2) Did the minister note that AMP advised the board on 10 August 1998 that it was preparing a product for consideration?
- (3) Did the minister note that over 12 and 13 August 1998 the board invited four other groups to submit proposals for sale by the end of August - a time frame of fewer than three weeks?
- (4) Did the minister note the invitations were by telephone call followed by a facsimile deficient in information?
- (5) Did the minister accept these events as an appropriate method of dealing with an asset valued at \$272m?

##### Hon MAX EVANS replied:

- (1)-(5) I do not intend to answer any part of that question which quotes one letter after another because I do not have those letters in front of me. If Hon Nick Griffiths provides me with copies of those letters I will try to answer. I will quote from the Auditor General's report which was dredged up yesterday by Dr Gallop, Leader of the Opposition, in the other place. I am surprised he raised the matter. Central Park cost the Government \$550m, and it is valued at only \$272m. A former Labor Government purchased that building to cover up the Bond, Connell and Anderson deals on that site. Western Australia lost all of that money.

The Government Employees Superannuation Board has three representatives from unions, and they approved the sale to AMP. A board was appointed by this Government to make those decisions.

The conclusions in the Auditor General's report include -

The Board has long recognised the prudence of reducing the exposure of the Fund to property while at the same time diversifying its property holdings. The proposed sale arrangement would have enabled the Board to achieve this objective.

At present the Central Park Tower represents 22 per cent of the total assets of GESB. If we calculated the percentage on the original purchase price of \$550m it would represent 50 per cent of total assets. That was the disgraceful situation that was created by a previous Labor Government.

The Auditor General commended the board for trying to downsize its assets at Karri Valley and West Perth. The report states -

The method of sale as chosen by the Board is used in the private sector market.

Maybe we should follow the private sector; maybe they know a lot more about getting rid of buildings than we do. The Auditor General states that this method is rarely used in the public sector but it is practised in the private sector. The Auditor General states that a more openly competitive sale process would provide a greater assurance regarding the adequacy of the price. That may be the case. I saw the Auditor General today, and he cannot guarantee that doing it in that way would ensure a better price. He admits we might have received a lesser price.

The Auditor General also states -

The Board has not obtained the Treasurer's approval for that part of the proposed sale transaction involving investment in the Unit Trust.

The report continues -

The Treasurer has issued the Board with investment guidelines in accordance with Section 13(3) of the Act, authorising:

investment in equities including units in a listed or unlisted trust.

The board intended to go into that type of arrangement. The guidelines in the report continue -

the purchase or lease of land and property in Australia or a purchase of an interest in land and lease of property in Australia.

That also covers what the board was doing. To continue -

The guidelines also permit the Board to invest in 'other asset classes' provided "the investment is approved by the Treasurer on the basis of suitability in an overall portfolio context".

Several members interjected.

The PRESIDENT: Order! It is clear that only three people will be able to ask questions this afternoon with all the interjections.

Hon MAXEVANS: Treasury officials agreed with what the board was doing. The contentious point is "other asset classes". I do not agree with the Auditor General; I think it is clear. I suggested to the Auditor General two days ago that I could obtain another six legal opinions which will differ from the Crown Law advice based on the guidelines of the Treasurer to the board. What the board was doing was not a major problem.

The report also states -

The proposed sale arrangement included investment by the Fund in a property unit trust. Such an investment would be an investment in 'other asset classes' . . .

I do not agree with that, but that is the opinion of the Auditor General. It is his opinion, as against someone else's opinion, and it does not discredit the whole transaction

The final conclusion of the Auditor General reads -

Transparency and public confidence would have been enhanced by:

appointment of a replacement independent expert to assist in the evaluation of proposals rather than relying solely on internal expertise.

That point is taken. To continue -

clearly placing AMP at arms length from the GESB.

appointment of a probity auditor to oversee the process and provide assurance as to its integrity.

Probity auditors are a growth industry all over the world.

The reason the board did not go ahead with the deal related to the proposed changes under the Ralf committee with respect to tax on unit and property trusts. The board did not want to pay company tax of 36 per cent.



It was not my position to interfere. We had a board well placed to make that decision. I take on board a couple of points from the Auditor General, but that is not why the deal did not go ahead. If the member would give me those letters we can discuss them at a later date.

#### TRAVEL SMART PROGRAM

**1098. Hon J.A. SCOTT to the Minister for Transport:**

- (1) What funding has been allocated to the Department of Transport's Travel Smart program for the next two financial years?
- (2) Did stage 1 of the pilot program show that Perth people are keen, willing and able to change their travel behaviour?
- (3) What cost savings to the State Government were identified in the program?
- (4) Does page 2 of the Travel Smart stage 1 report identify that United Kingdom, European and North American cities have realised that it is not financially, environmentally or socially feasible for cities to build their way out of traffic congestion?
- (5) If yes, will the minister ensure that money is reallocated from the wasteful Transform WA highway building program into the Travel Smart program, the building of cycleways and the development of a more effective public transport system?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) The department has an ongoing allocation of \$350 000, including salaries, for the Travel Smart programs. Funding contributions for specific projects are also made by local government authorities and other state agencies.
- (2) Thirty-six per cent of the people who participated in the pilot project in the City of South Perth were willing to change their travel behaviour. The after-travel survey measured behaviour change with there being a 10 per cent reduction in car-as-driver trips, a 91 per cent increase in cycling trips, a 22 per cent increase in walking trips and a 21 per cent increase in public transport trips. An evaluation survey undertaken 12 months after the project showed that these changes were sustained, with a further increase in walking trips and a commensurate reduction in car-as-driver trips.
- (3) The cost savings were in external costs, such as vehicle emissions and health savings from increased physical activity due to more cycling and walking. The additional fare revenue was obtained from increase in use of public transport systems.
- (4) Yes.
- (5) The Transform WA program includes improvements for public transport such as the Kwinana Freeway busway. That will lead to an increase in public transport patronage. Cycling improvements are included in the Perth Bicycle Plan stage 1 and the Perth Access Plan that is funded in part from the Transform WA package.

#### SEX INDUSTRY STREET WORKERS

**1099. Hon NORM KELLY to the Attorney General representing the Minister for Police:**

- (1) Will the minister confirm that there has been recent policy or agreement for the vice squad to allow sex industry street workers to operate in the Stirling Street area between certain hours?
- (2) Will the minister table the details of this agreement?
- (3) Is this policy or agreement still in effect?
- (4) If not, what is the current vice squad policy towards the control or regulation of sex industry street workers?
- (5) How many prosecutions have been made this year under sections 59 or 76G(1)(b) of the Police Act.
- (6) Given the inadequacies of section 76G(1)(b) of the Police Act for charging male clients why has no attempt been made to amend the Police Act accordingly?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) There has never been a formal policy to allow street prostitutes to operate in Stirling Street, Perth. In January 1999, because of pressure to move street prostitutes away from the Palmerston Street-Hyde Park residential areas an initiative was created by Perth metropolitan region to move them to Stirling Street pending the introduction of controlling legislation.
- (2) See (1).
- (3) Yes. The informal agreement is still in effect.
- (4) Not applicable.

- (5) There have been two arrests made this year by Vice Investigations under section 59 of the Police Act. No information is available at this time concerning arrests made by other sections of the Police Service.
- (6) Members of Vice Investigations are part of a working group which is currently assisting in drafting legislation which will contain provisions relating to the charging of male clients of prostitutes. Moreover, the Police Act is also presently under review. It is anticipated that offences under that Act would be repealed and substituted with specific offences under the Prostitution Control Bill.

**MARITIME PINE PROJECT**

**1100. Hon MURIEL PATTERSON to the minister representing the Minister for the Environment:**

The Department of Conservation and Land Management has indicated that it is extending its maritime pine project to the Esperance region.

- (1) What level of funding has been allocated to this project?
- (2) Will participation by farmers be voluntary or compulsory?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) The Department of Conservation and Land Management has allocated a budget of \$6.740m for the maritime pine project. Approximately 5 000 hectares of new plantations will be established in 1998-99, including a nominal quantity of 500 ha in the Esperance area. The actual amount to be spent in Esperance will depend on the level of interest of landowners in the district.
- (2) Farmers are being invited to participate in the maritime pine project on a voluntary basis.

**MINISTRY OF JUSTICE, MANAGEMENT PROBLEMS**

**1101. Hon KEN TRAVERS to the Minister for Justice:**

- (1) Does the minister recall comments in August 1996 in the interim report of the Royal Commission into the City of Wanneroo about the management styles and practices in the Ministry of Justice? The report highlighted that among its senior officers there is a pervading climate of low morale, a lack of loyalty to the minister and to the ministry, that the nature and extent of the management problems in the Ministry of Justice disclosed in the course of the investigation were shocking and that the situation clearly requires robust attention.
- (2) Following that report and today's Smith report, will the minister advise what steps he is taking to rectify the situation?

**Hon PETER FOSS replied:**

- (1)-(2) I almost feel that I should refer the member to an earlier question. Probably the first thing I did was to make sure that David Grant was removed as Director General of the ministry. One of the aspects that clearly came out of that report -

Hon Ken Travers: He knew too much about the City of Wanneroo?

Hon PETER FOSS: No. It clearly came out that he was a gossipmonger and that he was going around collecting -

Hon N.D. Griffiths: That is a disgraceful thing to say about a public servant.

The PRESIDENT: Order! Hon Nick Griffiths might have asked his question, but many opposition members are still to ask theirs. Members should show some courtesy to those who have not asked questions and give them a chance.

Hon PETER FOSS: I am not saying that. If Hon Nick Griffiths wants to know what he was doing, he should read the report of the Royal Commission into the City of Wanneroo. He was using the internal investigations unit to collect supposed evidence about his minister - that is the extent of the disloyalty to the minister - which evidence turned out to be no evidence whatsoever because it was from a person of absolutely no credibility. He was collecting and using that evidence contrary to his position. I am not saying that. Hon Nick Griffiths should read the report.

Hon Mark Nevill: That was in the interim report, not in the final report.

Hon PETER FOSS: So?

Hon Mark Nevill: I am just saying that he must have had a change of heart.

Hon PETER FOSS: I do not think there was any change of heart whatsoever. The important thing was what had happened. One of the most important, robust actions I took immediately was to remove him. The interesting aspect was that I came under considerable criticism at the time for having done so. One of the problems we have in this world is that if we take some robust action everybody criticises us. The difficulty is explaining to the public the reasons for so doing.

Hon John Halden: One reason for robust action is to remove the heads of CEOs.

Hon PETER FOSS: Again I draw attention to another problem: If we could remove a few more heads, which we are

prevented from doing under the Public Sector Management Act, we might actually be able to do a little more. About the only power we have is to remove the head of a chief executive officer.

Several members interjected.

Hon PETER FOSS: I can remove only one head, which is a problem. Robust action was taken to deal with other areas of the department. Again bureaucratic processes made it rather difficult to do such a thing in a robust manner, but some important action was taken. We can fairly describe the Ministry of Justice at that time as Byzantine and we can fairly describe the relationship between many people as having the ingrained dislike that we see between Serbs and the ethnic Albanians in Kosovo. That is the type of payback situation that existed. It has improved enormously. One thing that has happened is that many old enmities have been buried.

It is a difficult situation because we never know what is inside a person's head, but we see far greater cooperation between those people than was previously the case. That has particularly been the case since Alan Piper was appointed as, first, acting director general and since as director general. He has moved speedily to redress all the matters that had been floundering for some time under the previous administration. In fact if we consider all the matters that have been addressed by the ministry in the past 15 months - the Smith report says this - we will find that they are all the things that needed to be done to address the problems. The Smith report also says that it will be five years before these measures are fully put into effect. I happen to believe that the process will be sped up if we have a private prison. Experience throughout Australia and elsewhere - I refer to Rt Hon Tony Blair's view on private prisons in the United Kingdom - is that if we bring in -

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: It is difficult to speak -

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! We are going off at a tangent. The minister appears to be answering an interjection from Hon Ljiljanna Ravlich. I assume that that is her question gone.

Hon PETER FOSS: It must be.

The PRESIDENT: I ask the minister to conclude. Several members who have not interjected are entitled to ask questions. I am not blaming the minister but I raise that point. I put it to members that they are asking the questions. If they ask questions that require such long responses I will consider the way in which they ask questions. That is entirely at members' discretion.

Hon PETER FOSS: I recognise that most questions are asked for rhetorical purposes. Members know that I have an answer and that it will take some time to give it. They are trying to pose their questions so that there is inadequate time to provide the answers. The situation has been addressed in many ways. I refer to that earlier question and perhaps to some other statements that have been made in the House. I assure members that not only has robust action been taken but also it is still being taken. Although it started under a Labor Administration and things were certainly mucked up in that period, we are getting it under control.

#### NUCLEAR WASTE FACILITY, MEETINGS WITH PANGAEA RESOURCES

##### **1102. Hon GIZ WATSON to the Leader of the House representing the Minister for Commerce and Trade:**

With reference to the meeting between the Minister for Commerce and Trade and Pangea Resources Pty Ltd on 14 November 1999 -

- (1) Why did the minister answer no to part (3) of question without notice No 895 on 10 March 1999?
- (2) Will the minister now answer part (3) of question without notice No 859 more fully?
- (3) In what capacity was Mark Textor in attendance at that meeting?
- (4) Has Mark Textor ever worked or consulted for the Western Australian Government?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1)-(2) The meeting was requested by telephone, and telephone records are not kept.
- (3) The minister suggests that Hon Giz Watson asks Mr Textor.
- (4) Mr Textor has not worked for or carried out any consultancy work for the Department of Commerce and Trade or any agency for which the minister is responsible. The member will need to address the question to other ministers as the Minister for Commerce and Trade is not in a position to speak for the Western Australian Government.

#### PRISONS, PRE-RELEASE PROGRAMS

##### **1103. Hon HELEN HODGSON to the Minister for Justice:**

- (1) How many pre-release programs have been conducted at the following institutions in the past three months:
  - (a) Casuarina Prison;

- (b) Bandyup Women's Prison;
- (c) Canning Vale Prison;
- (d) Karnet Prison Farm;
- (e) Wooroloo Prison Farm?

(2) What organisation is conducting these programs?

(3) What was the total cost of providing them?

**Hon PETER FOSS replied:**

In view of the timeframe required to address all three parts of this question, I request that the question be placed on notice.

#### MINISTERIAL RESPONSIBILITY

#### 1104. Hon TOM STEPHENS to the Minister for Justice:

This is not a rhetorical question. Does the minister recall that on 18 March 1998 he said that one of the important things about ministerial responsibility is that ministers are responsible for what their departments do. He said that irrespective of whether ministers know about it, they must have the capacity to know; the department is the minister; and the concept that the minister in whose name everything is done and is responsible for everything should know what is happening in the department is quite contrary to the constitutional idea of accountability.

Following the tabling in this House today of the damning report of Mr Smith, why will the minister not live up to his own allegedly high standards of ministerial accountability, accept responsibility for his department and take the honourable course and resign?

Several opposition members: Hear, hear!

**Hon PETER FOSS replied:**

Mr President -

The PRESIDENT: Order! As I said before, until I give the call the cameras are not switched. I want everybody to settle down; they have done their clapping or hooraying or whatever.

Hon PETER FOSS: It is plainly another rhetorical question mainly to allow the Leader of the Opposition to make a speech which otherwise would not be available to him. I do not remember the date, but those are certainly my sentiments. As a minister, I am entitled to take both the good and the bad. One of the important things is that I inherited a difficult position. That was -

Hon John Halden: I am sure Cheryl will be appreciative of that.

Hon PETER FOSS: The Minister for the Environment inherited a difficult position when she was Minister for Justice.

Several members interjected.

Hon PETER FOSS: If members opposite read the Smith report they may like to note that one of the problems was that the design of Casuarina Prison was defective. I do not take responsibility for that.

The PRESIDENT: Order! The minister can stop for a moment because I must sort out five other people who want to interject on him. I cannot hear what the minister is saying because too many interjections are flying across in front of him. If members are not interested they should allow me at least to hear the answer.

Hon PETER FOSS: I do not take responsibility for the design defects in Casuarina Prison. That was a design defect of the prison which was built under a Labor Administration. I do not take responsibility for the fact that when the portfolio passed from the previous Government to the coalition it had been a difficult area for a long time. The so-called purple circle was not invented under our administration; it existed.

Hon John Halden: How long do you need to fix it? You have had six years. I have not heard such drivel.

Hon PETER FOSS: There was no way that we could have known about the design defect unless we had taken to it with an axe. It is not new ministers' responsibility to assume Labor ministers are so incompetent that they must attack everything with an axe. The Smith report identified that there were longstanding problems within the prison service. Ministers under Labor had tried to fix them by recruiting Mr David Grant. As we know from the Royal Commission into Wanneroo, rather than his fixing the problem - I give him credit for trying - as a result of the way he went about doing it, he aggravated the situation. That was the situation I inherited. As I mentioned earlier, it was not an easy situation. I do not for one moment think I can walk in with a wand and the next day remove old enmities and dysfunction. However, I took one important immediate step. I removed David Grant. I am sure there is hardly a person in this Parliament who would disagree that that was a fairly good start.

I appointed Dr McColl who I believe has a tremendous amount of ability to heal those rifts. They are not easy to deal with. To this day I believe they lie submerged, although they are not as active as they were. The next problem is that the previous Government had a recommendation to build a new prison but deferred it.

Hon John Halden: You had the same recommendation put to you and did nothing.

Hon PETER FOSS: The next recommendation to Hon Cheryl Edwardes was that there was no need for a prison in the foreseeable future.

Hon John Halden: That was the same recommendation -

The PRESIDENT: Order! Hon John Halden will come to order. I have Hon John Halden's name as the next person to be called. I do not know whether he is getting his question in by interjection or whether he has another question. The minister should draw his answer to a close.

Hon PETER FOSS: I have not adequately answered it. I can assure the House that I have an adequate answer for everything.

Hon John Halden: It is drivell but we know he has an answer.

Hon PETER FOSS: In view of the remarks from Hon John Halden I should answer him. He points out that the person who gave a recommendation to the Labor minister was the same person who gave it to Hon Cheryl Edwardes. As far as I can tell, he seems to be taking the view that it is okay for Labor ministers to take that recommendation but it is not okay for Liberal ministers to take it.

Hon John Halden interjected.

Hon PETER FOSS: I would like to answer the question. I have the assurance from the Leader of the Opposition that his was not a rhetorical question; therefore I am trying to answer it. If it were merely a rhetorical question I could say no. Perhaps the better way of answering the questions is to say that the Leader of the Opposition was having us on when he suggested it was not a rhetorical question. I should therefore treat it as such and suggest that he look into the facts before making statements like that.

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