

Hon Ken Travers; Hon Jim Scott; Hon Murray Criddle; Hon Helen Hodgson; Hon Murray Nixon; Chairman;  
Hon Max Evans; Hon Max Evans; Hon Derrick Tomlinson

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## COMMITTEE REPORTS - CONSIDERATION

### *Committee*

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

*Standing Committee on Constitutional Affairs - Petition requesting the Suspension of the Joint Venture Tender  
Process and Community Consultation with respect to the Leighton Marshalling Yards  
Redevelopment - Fifty-fourth Report*

Resumed from 10 August on the following motion moved by Hon M.D. Nixon -

That the report be noted.

Hon KEN TRAVERS: Debate on this report commenced last week. I am pleased to see the Minister for Transport, as he was away on urgent parliamentary business at that time. It will be instructive to get some clarification of what is happening with the Leighton Shores proposal, particularly on issues pertaining to part 9 of the report. I am particularly keen for the Minister for Transport to respond to the question whether the Leighton marshalling yards site will be sold prior to the final design being approved. The community is anxious about that point. It is unfortunate that the committee was not able to get a simple answer to that simple question. I hope that during this debate the minister will advise whether the Leighton marshalling yards site will be sold prior to final design approval.

Hon J.A. SCOTT: I agree with Hon Ken Travers that this question must be answered. Conjecture has been made in the print media about a possible link between the Leighton marshalling yards and the acceptance of the contract to build the convention centre in Perth. One journalist suggested that a deal may have been done and a contract signed to give the contractor a deal on the convention centre. That needs to be cleared up in this Chamber, and community concerns need to be allayed by the Government's denying that link. The minister could do that by confirming that no contract over Leighton exists or has ever existed. That would immediately put a lid on that conjecture. The Government will not want that hanging over its head, and I hope the minister can clear up this matter.

Hon M.J. CRIDDLE: Members know that I have answered the question about contracts a dozen times. I have said a number of times that the proponent has a preferred tender status.

Hon Ken Travers: Does that give you an obligation to sell it?

Hon M.J. CRIDDLE: The planning process is in place. We will wait on the outcome of that process.

Hon Ken Travers: Is there a document setting out the preferred tender status?

Hon M.J. CRIDDLE: A preferred tender status arrangement is in place at present, and we are entering into the planning process.

Hon Ken Travers: You have an obligation to sell it.

Hon M.J. CRIDDLE: I did not say that. We are going into a planning process. Hon Ken Travers knows the process is in place. Various groups have had input into that process. When we know the results of that process we can continue on. We have no obligation to do anything. We have given a preferred tender status.

Hon HELEN HODGSON: I have not spoken on this issue yet so my comments will be broad ranging, but I will be eager to hear the outcome of discussions between the minister and Hon Ken Travers.

I thank the committee for the report. This is another instance that shows the value of the petition process. People often bring their concerns to this place by way of petition. This gives the community an opportunity to see that their concerns are reviewed and examined to some extent. I am not sure they always get the outcome they desire from this process, but at least they can see a process is in place to deal with the issues. I congratulate the Leighton Action Coalition for the work it has done to bring this matter to the attention of this place and to raise some of the issues expressed in the community. My first contact with the group was at least a year ago. I have been kept informed of what is going on in the area. It is another case in which the community feels it has not been properly consulted.

Recently, a number of issues have arisen when government departments have had responsibility for selling an asset. In this case it is the sale of the Leighton marshalling yards by the Department of Transport; in other cases it has been the Education Department or Police Department. It seems that at times particular departments do not follow an optimum process to involve the community and to make sure the community has a say in what is going on with that proposal. It makes me wonder whether it would be more appropriate to adopt a whole-of-government approach that involves people with expertise in planning issues and also to develop a process so that

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the community can properly and adequately have input on the issue. Perhaps a unit along those lines could be developed so we do not have instances in which people are reinventing the wheel in the form of suitable consultative processes and we do not end up continually having problems in which the community says it has been presented with a fait accompli and it has had no say in it and it wants a say.

Hon Derrick Tomlinson: The urban development authority might provide that.

Hon HELEN HODGSON: Without going specifically into the processes adopted in the Leighton situation, in general they have not been adequate and this is similar to the situation with many other departmental asset sales. A whole-of-government expertise needs to be developed in this area and shared, rather than departments reinventing the wheel every time.

Some of the specific concerns of the Leighton Action Coalition need to be addressed properly in the process currently being adopted. In particular, I agree that a proper coastal management study needs to be carried out so that whatever is developed on that site and whatever the end use - whether that be public open space or partial residential or commercial development - people can be assured that proper studies have been conducted to ensure no further damage occurs to the fragile coastal environment. This would encompass such things as providing appropriate setbacks from the water and access to the beach area.

I remind members that in some ways some of these issues were canvassed more than a decade ago when the high-rise development was proposed at Scarborough. Some proposals limiting high-rise developments were subsequently agreed to, because people in Perth do not want the same type of development as that on the Gold Coast which prevents the general community from enjoying the facility because shadows are thrown across the beach at certain times of the day. That is a general expectation of the community, and that is why proper coastal studies must be carried out and proper mechanisms put in place to ensure issues such as the extent of development, the height of buildings and the setback from the coast are monitored and dealt with.

Hon M.J. Criddle: Do you agree with the current processes?

Hon HELEN HODGSON: They are certainly an improvement.

Hon M.J. Criddle: It goes into the same process.

Hon HELEN HODGSON: Unfortunately, the minister was obtaining further notes when I said previously that we need to adopt a whole-of-government approach instead of these issues being handled on a department by department basis. These issues arise from one area to another, and the expertise in the community consultation process does not seem to be pooled. These issues arise again and again when departments, such as the Education Department or the Police Department, sell assets.

Hon M.J. Criddle: Perhaps you should take that up with the Minister for Planning.

Hon HELEN HODGSON: We should review the way in which these matters are handled, and there should be a whole-of-government approach. This matter has a long way to go before resolution is reached. I trust the minister has now obtained advice to clarify the issues raised by Hon Ken Travers. I am concerned when I read comments in the committee report which indicate that, despite numerous requests concerning the sale of that land, the Minister for Transport has not answered the committee's specific question. That statement is in paragraph 10.3 of the report. That concerns me because it reflects poorly on the processes. It does not help to breed confidence.

Hon Ken Travers: Not on the committee.

Hon HELEN HODGSON: No, not on the committee, but on the processes the committee is able to use to extract that information. I thank the committee; it has done the best it can. It has made repeated requests and I hope the matter can now be cleared up.

Hon M.J. CRIDDLE: I said the process is on hold until such time as we receive all the information. I cannot be more specific than that.

Hon Ken Travers: Does it mean the land will not be sold until that is completed?

Hon M.J. CRIDDLE: Exactly. That is what I said.

Hon Ken Travers: No, it is not.

Hon M.J. CRIDDLE: I have said there is a preferred tenderer process, and the Government has everything on hold until it receives the planning report. I have said that a dozen times. I answered the question, which Hon Jim Scott asked.

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Hon KEN TRAVERS: I thank the minister for finally giving an answer to the question; that is, the land will not be sold until the regional planning guidelines, undertaken by the Minister for Planning, have been finalised. I take it that there will be no sale of the land until that happens.

Hon M.J. Criddle: There is no obligation with regard to the sale; the Government has a preferred tenderer.

Hon KEN TRAVERS: That raises another important issue about the preferred tenderer status. I would like to clarify this issue further. If the regional planning guidelines say there must be a 100-metre setback -

Hon M.J. Criddle: No. I have answered the question the member wanted answered.

Hon KEN TRAVERS: This still goes to the question.

Hon M.J. Criddle: No, it does not.

Hon KEN TRAVERS: The committee made three attempts to get an answer to that question through the normal processes, and it has taken until this morning for the minister to respond. He still did not clarify it, so I have a right to fish a bit further to find out exactly what the minister is telling this House. It is important to clarify that. The committee could not go further for the reason I outlined earlier. The issue of the sale is important but, before the committee and I, as a member of that committee, can take the matter further, more clarification is needed from the minister on the Government's obligations on the sale of the land. These matters relate to proper planning processes. Should the guidelines stipulate that there should be a 100-metre setback from the coastal strip, would the Government have any obligation to the joint venturers if the area of land available to them was reduced? I am interested in the minister's answer to that question. It is extraordinary. The minister seems to think it is a simple answer, so why did he not provide it to the committee three months ago when that same simple question was first asked?

Hon M.J. Criddle: Perhaps you cannot understand a simple answer.

Hon KEN TRAVERS: I can understand simple answers, and I can also understand items that go to the deliberations of the committee which prevent me repeating them in this place. It is fair to say that the committee report makes the situation clear in paragraph 10.3, which Hon Helen Hodgson outlined. Not only I could not understand the simple answer; the whole committee, including two members from the minister's side of the House, could not understand it. It is important that the minister indicate the implications for the Government's obligations to the joint venturers, in relation to any planning decision that might reduce the area of land available for development. The people of Western Australia, and the members of this Parliament, have a right to know the answer to that question.

Hon M.D. NIXON: The committee goes to a great deal of trouble when it writes conclusions, answers and recommendations, to say exactly what it means. I was disappointed when I read reports in the media, which saw fit to alter the words in the two-line recommendation. The words were altered to mean what someone wanted them to mean rather than what they meant. Alice in Wonderland had the same trouble!

This report makes it clear that, according to the answers received, this development will take place under appropriate guidelines. Hon Helen Hodgson is concerned that the public will not have access to the beach, buildings will be erected on the sand and so on. According to the report and the conclusions, beyond any doubt, that is no longer a difficulty.

Recommendation 10.3 states -

Despite numerous requests . . . the Minister for Transport has not answered the Committee's specific question concerning this issue.

It was not meant as a criticism; it was a statement of fact. Many members of the media have asked me why I thought that was the case. I told them that I did not know and that perhaps it was because the minister could not answer the question at that stage. However, it should not be interpreted as a criticism, but purely as a statement of fact.

My understanding of what the minister has said today is that although a preferred tender process is in operation, no decision will be made until the planning decisions have reached a conclusion. If that means what I understand it means, the final recommendation has been met. The committee did not put a time line on the recommendation that the Minister for Transport advise the committee whether or not the Leighton marshalling yards site would be sold prior to the final design proposal being approved. I gather that the minister is satisfied with that at this point. That is the way I interpreted it.

Question put and passed.

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*Standing Committee on Constitutional Affairs - Petition Opposing the Closure of the Swimming Pool in Yanchep National Park - Fifty-fifth Report*

Hon M.D. NIXON: I move -

That the report be noted.

Again, this report was subject to media comment and, once again, the media thought fit to change the recommendations. This report took quite a long time, and I do not apologise for that. Although Hon Ken Travers originally tabled it in October 1997, there were good reasons it took almost three years to bring down the final report. The concern is about the closure and the preservation of the swimming pool in Yanchep National Park. The petitioners expressed the belief that the swimming pool is important, first, to the heritage of the national park; secondly, the community at Yanchep and Two Rocks; and, thirdly, until recently, the local children's access to swimming lessons. The principal petitioner, Mr Stan Daley, and others met with the committee at the national park for an on-site view of the facility. I was told that it was the first public swimming pool built in Western Australia and was of great value in that it was used as the training pool for the 1936 Australian Olympic team. Interestingly, it is only half the length of the traditional 50-metre Olympic pool, so the honour of having the first Olympic pool should still go to Kalgoorlie. In those less enlightened days, the pool was fed with fresh spring water. That was probably all that was considered necessary to keep it clean. If it were rebuilt to those standards today, I doubt whether it would meet current health standards.

Hon Ken Travers: Apart from the fact that the water table has dropped in the area.

Hon M.D. NIXON: As Hon Ken Travers said, the same quantity of water is no longer available in the area, and that in itself created a problem. Over the years, as is the case with swimming pools, cracks developed and the chlorinated water was supplied through an old and outdated chlorinating plant and was leaking into the subsoil. It had the potential to damage the nearby lake, for which the Yanchep National Park is famous, so the pool had to be closed. There is no doubt about that. Many of the schools in the coastal communities used it for swimming lessons. I understand that they came from coastal villages in the agricultural region, such as Guilderton, for swimming lessons. Mr Daley was concerned about two things: First, that the heritage value of the pool be retained and, secondly, that there was a need for a centre in which swimming classes could be conducted. Those issues must be looked at from both points of view.

In the meantime, the City of Wanneroo was subdivided, so there was a period during which there was no conventional local government structure. That is one of the reasons it took the committee three years to compile the report. It was necessary to wait until we could speak to a properly elected authority to see where it stood on the issue. At this stage, official members of the local community have not made a decision about where an aquatic centre should be built. There were suggestions that a centre be built close to one of the local high schools. As I understand it, the community, as such, has not yet made a definite decision.

Having discussed the matter, the committee reached two conclusions: First, the site has great heritage value, because Yanchep National Park has always been a great tourist spot. Unfortunately, because of the recent closure of the caves, which was one of the natural attractions, and perhaps because there are other competing tourist attractions, the number of people visiting the park is not as high as it used to be. Nevertheless, it is a significant tourist site and a very important local amenity. It is important that the pool and Gloucester Lodge, which has always been associated with the pool until recently, be preserved. That does not mean that the pool must be preserved in such a manner that people can swim in it. Obviously, if we were to consider that, we would be talking about spending a huge amount of money, because the pool would need to be rebuilt, a modern chlorinating plant would need to be installed, etc. In the first instance, the committee had no hesitation in recommending that the pool be preserved as a heritage site, because it is heritage listed, and that a plan be implemented to properly preserve the site.

Secondly, the provision of a swimming facility is a little more difficult. Obviously, to a large extent, it is up to the local community to consider the most appropriate place for such a facility. The second recommendation of the committee states -

That the Minister for the Environment convene a meeting with the City of Wanneroo to explore the options for developing a local swimming pool which could include the restoration of this site.

In other words, because the Department of Conservation and Land Management has a responsibility to preserve the area, at least as a heritage site, it will need to spend some money. If the community also supports the project, it may be possible to have a win-win situation in which the pool is rebuilt so that it provides not only a visual site but also a swimming site. That is something that the minister and the local authority must work out between themselves. The best option would be to arrange a joint venture to achieve both objectives.

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Hon KEN TRAVERS: We should have acknowledged that the previous report was the fiftieth report tabled by the chairman. Although this is the fifty-fifth report of the Standing Committee on Constitutional Affairs, it is the fifty-first report tabled by the chairman. That is not a bad innings by anyone's standard.

Hon B.M. Scott: We worked very hard on that for three years.

Hon KEN TRAVERS: More recently, they started to work hard again. Something about our being on committees makes them work well and hard. In fairness, I am sure that the committee always works well.

Hon M.D. Nixon: Hon Barbara Scott was so busy that she was unable to attend the celebratory lunch.

Hon Ken Travers: That is right.

Hon B.M. Scott: It was another committee commitment.

Hon Ken TRAVERS: I am sure that if we had held it in Fremantle, she might have been there. No, I should move on.

Hon B.M. Scott interjected.

Hon Derrick Tomlinson: That was totally unfair.

Hon KEN TRAVERS: I am sure Hansard will record that I had a jocular face at the time and was not intending -

Hon Derrick Tomlinson: Let Hansard record that he has a jocular face.

The CHAIRMAN: Hansard may not record the demeanour of Hon Derrick Tomlinson in his interjection.

Hon KEN TRAVERS: I was the tabling member of this petition. I became a member of the committee only towards the end of the process. However, I was fortunate, as the tabling member, to have attended the site visit to the Yanchep swimming pool in March 1998.

The chairman has clearly given a good summary of the report about the significance of the pool to the local community. At the time that the petition was circulated and collected in and around the Yanchep region by Mr Daley and his friends - I gave him some assistance in that matter - I was amazed at the sheer support not only within the Yanchep community but also across Western Australia from people who had fond memories of Yanchep National Park and the swimming pool. I certainly have fond memories of that place. The committee does not look into the number of signatures; it does not matter whether it has one or 10 000 signatures, all petitions are treated with the same merit as to the value of the argument. As the member who tabled the petition, I was amazed that over 1 000 people had signed it. To the best of my knowledge, the petition was circulated in the Yanchep-Two Rocks areas for only a couple of weeks. Parliament can take note that it was an issue that had amazingly strong public support.

The recommendations of the committee go to the heart of the fact that the heritage value of the swimming pool must be protected and that in the Yanchep- Two Rocks area and surrounding communities, there is clearly a need for a local swimming pool. It was my hope originally that those two issues could be resolved by restoring the swimming pool at the Yanchep National Park. Unfortunately, some politics was played on this issue early in the piece to try to shift CALM's responsibilities to the local government. I do not intend that comment to reflect upon the findings of the committee. The provision of a local swimming pool to the Yanchep community is a joint responsibility of those two bodies; however, historically CALM has fulfilled that responsibility. The early part of the debate about the Yanchep swimming pool was surrounded by the attempts of the Minister for the Environment to offload greater elements of that responsibility to the local council. At the time, an unrealistic expectation was raised among members of the community that they would get a local swimming pool at their high school. It is now clear that those expectations will not be fulfilled in the foreseeable future and that is a great shame.

Yanchep has a lagoon of which I have fond memories. I remember swimming in the lagoon as a child around the cray boats, which in those days were able to shelter at the lagoon before the Two Rocks marina was built. Unfortunately, if members visit that area now, they will find that the lagoon has all but silted up. That is a separate issue that is being dealt with by the local community but is not being picked up quickly enough by the Government to find out what is causing it and how the silting can be reversed. Apparently a groynes was built by Alan Bond in the 1970s when he built Club Capricorn that apparently leads to it. The point about addressing the issue of the Yanchep lagoon is that the days when kids could have their swimming lessons in the Yanchep lagoon because it was a nice sheltered water are over. Once the sea breeze arrives and the waters break over the reef around what is left of the lagoon, a nasty rip comes over the top of the reef and shoots out of the narrow channel that is available for it. Obviously, it makes it extremely difficult for young children to learn to swim. That is why the swimming pool at the national park was the place at which the kids in the local and surrounding communities were able to swim.

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It is unfortunate for those local communities that they now no longer have a swimming pool in which they can learn to swim. It is an exceedingly long trip from Yanchep to the Craigie swimming pool, which is mentioned in the report. I add that there is now a pool in Joondalup that is slightly closer than the Craigie pool, which will take some of the distance off the trip; however, it is still a large haul and can be disruptive for a school to take kids out of class to travel over that distance. It is not like the opportunity I had at Mt Lawley High School to walk to the Inglewood swimming pool. That option is not available to the Yanchep District High School.

That secondary problem would not have been as important if the old lagoon was in as good a shape as it was when I used to enjoy it as a kid. The swimming pool at the national park became more important. I hope that we are able to find some resolution to this problem. The protection of the heritage value is crucial. The best possible solution would be to protect both the heritage value and provide the local swimming pool in the national park. I hope that the Minister for the Environment takes up that recommendation. I have put my views to the City of Wanneroo but I am not sure that it is very enthusiastic, as it is now suggesting that the price of repairing the pool is over \$2m. I find that somewhat hard to believe because originally CALM suggested - and it is contained in the report - that it would cost around \$170 000, with a qualification. Even with a qualification, I find it hard to see how it can increase from \$170 000 to \$2m, which is the advice I have received. I thought a brand new swimming pool of 33.3 metres in length could be built for that amount of money. I hope those issues will be addressed.

I pass on my best wishes to the principal petitioner, Mr Stan Daley, who has pursued this issue for some time and will continue to pursue it as he is a fine custodian of heritage in the area.

HON MAX EVANS: I thought I would help the council save \$2m instead of repairing the pool. I have given Araluen, which is being opened tomorrow afternoon, all of its water lilies. The pool must be filled up with good fresh water; if it leaks out of the bottom it does not matter, it will save the council having to repair the pool. I will give them a lot more water lilies if need be. Do not put mud on the bottom, otherwise it will look like Queens Gardens, and the water lilies will have to be pulled out later with grappling irons. Use big pots to put in the water lilies and add goldfish.

My pool has far greater heritage value than does that pool, strangely enough. I did not to want to use it for swimming any more, but not because it had a leak. The movie *Nickel Queen* was filmed there. It was the full-length film in Western Australia that showed a girl jumping topless into the pool, therefore it has great heritage value.

Hon Derrick Tomlinson: The pool in your backyard?

Hon MAX EVANS: Yes. *Nickel Queen* was filmed there.

Several members interjected.

Hon MAX EVANS: I was not living there then. It is common sense - the pool at Yanchep is not too deep. Mine was about seven feet deep and planks had to be built two or three feet below the surface for the lilies to grow like the lilies at Araluen. I have one big blue lily that flowered for six or seven months and had eight flowers every day on the one plant. It starts to put some character into the place. The pool needs to be closer to the population. That will save \$2m by not refurbishing the swimming pool. It would look even better than a swimming pool because it would be hard to keep it clean with all the gum trees in the area.

Hon KEN TRAVERS: The only thing the former Minister for Finance has not addressed is that it was used in 1932 for training for the Olympics, as the chairman mentioned, particularly for divers. I wonder whether we could train frogs to jump off the diving boards, or put plants up there, because obviously we cannot have the topless women diving off the diving boards. If the former Minister for Finance, who will soon be known by a symbol - such as Prince - can come up with any positive suggestions on how we could retain the heritage value of the diving boards, I would be interested to hear from him in the future.

Hon Max Evans: I will put my mind to it.

Question put and passed.

*Joint Standing Committee on the Anti-Corruption Commission - The Investigative Power and Operational  
Accountability of the Anti-Corruption Commission - Report*

Hon DERRICK TOMLINSON: I move -

That the report be noted.

I sincerely hope that the former Minister for Finance can come up with some proposals on how we might plant water lilies in the Anti-Corruption Commission and thereby save the State \$11m.

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The eleventh report of the Joint Standing Committee on the Anti-Corruption Commission contains three principal recommendations: First, to remove from sections 37 and 38 of its Act the preliminary inquiry powers and the punitive subsections which impose a penalty of \$8 000, or alternatively two years' imprisonment, upon persons who fail to comply with a request from the Anti-Corruption Commission for information or documents. The second recommendation is to extend the Anti-Corruption Commission's powers in a formal investigation in part IV of the Act to allow the commission to require any person to provide information, documents or other things to the commission, and to impose a penalty of \$8 000 or two years' imprisonment upon any person who fails to do so. By way of an aside, the committee has recommended that that formal investigation part IV power be granted for a period of two years only, after which time the power will lapse if a future Parliament does not see fit to extend the power or amend the Act in some other way.

The third amendment recommended in the eleventh report is for the establishment of a parliamentary commissioner with the power to audit the operations of the Anti-Corruption Commission and to respond to complaints or grievances of persons who feel that they have been treated unfairly or unjustly by the Anti-Corruption Commission in its investigations.

It is necessary to point out that there is a misconception that the Anti-Corruption Commission is a very powerful organisation. In some respects it is; in other respects it sees itself as having very limited powers of investigation. I am sure the Chamber understands the structure of the Anti-Corruption Commission Act, but it is necessary to put on the public record during this debate how the Anti-Corruption Commission Act works and how in fact during a formal investigation the Anti-Corruption Commission has quite restricted powers of investigation.

The Anti-Corruption Commission responds to allegations of corruption in the public sector, including the Police Service. The allegations of corruption may be voluntary allegations; in other words, those given by any member of the public who suspects or has reasonable belief that there is improper conduct, illegal conduct or corruption being performed - if that is the word - by a public officer. I was hoping the Chairman might give me the right word.

The CHAIRMAN: Was the member looking for the word "perpetrated"?

Hon DERRICK TOMLINSON: That is the very word. I knew you, Mr Chairman, would lead me down the correct path.

The CHAIRMAN: That is a difficult task.

Hon Max Evans: That is unfair. I would ask the Chairman to withdraw that remark.

Hon DERRICK TOMLINSON: No. He and I have travelled the same paths together. The other source of allegations received by the Anti-Corruption Commission is officials in the public sector who are obliged under the terms of the Act to report to the commission any instances in which they have reasonable suspicion that improper conduct, illegal conduct or corruption is being perpetrated by a public officer.

When an allegation is received, the commission is obliged to assess that allegation and to make a decision about what further action should be taken. Under its predecessor, the Official Corruption Commission, the agency had no power to investigate a complaint. It had the obligation to assess and then to make a decision on whether further action was necessary and which agency was the appropriate agency for that further action. Nevertheless, it had no power to investigate. It could evaluate but not investigate.

In 1994, as a consequence of two select committees in another place, the Official Corruption Commission Act was amended to give the power to the Official Corruption Commission to conduct a preliminary investigation. Such investigation allowed the Official Corruption Commission to require any person to provide a statement of information or to provide a document or other thing to the commission. That was the limit of the powers of the Official Corruption Commission.

When the Act was amended in 1997 to create the Anti-Corruption Commission, the 1994 amendment was retained as the preliminary inquiry power of the Anti-Corruption Commission. Therefore, when a complaint is received, if after preliminary evaluation a decision is taken to make some preliminary inquiries, the commission under the Act as it is now structured can require any person - namely, a public officer or any other person - to provide information or to provide documentary or other evidence to the commission under penalty of an \$8 000 fine or two years' imprisonment for failure to comply with the request. That remains in the Act. Having received the advice of its officers on the nature of the offence, the Anti-Corruption Commission must then decide whether further action is necessary and which agency should conduct that further action.

Hon J.A. Scott: Are the two years' jail and the \$8 000 fine separate penalties?

Hon DERRICK TOMLINSON: They are alternative maximum penalties, as is the convention in Western Australian law. The commission may refer a complaint to an appropriate agency, such as the internal affairs unit

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of the Police Service. If the complaint is about an officer in a state or local government authority, the Anti-Corruption Commission might refer it to the public sector investigations unit of the Police Service, the Public Sector Standards Commission or the appropriate agency for further action. Further action is undefined. It might mean further investigation, discipline or counselling. The second opportunity available to the Anti-Corruption Commission is that it may determine that it should investigate the matter itself. The policy of the Anti-Corruption Commission, as enunciated in its annual reports, is that it will investigate those complaints or matters that involve senior public officers, including politicians, or that are of serious import. The third avenue available to the Anti-Corruption Commission is to establish a special investigation, which invokes the powers of a royal commission. The inquisitorial powers available to the Anti-Corruption Commission in a special investigation might be called draconian by some. The power of the Anti-Corruption Commission exists in the appointment of a special investigator. It has appointed just three special investigators, even though it has received an average of 60 allegations or complaints a month since its inception. The commission enters into appointment of a special investigator with considerable caution.

The eleventh report focuses on part IV of the Anti-Corruption Commission Act. Section 44 applies if the Anti-Corruption Commission decides that it should investigate a matter. A public officer may be requested under section 44 to provide to the commission a statement of information or documents. Failure to do so incurs a penalty of \$8 000 or two years' imprisonment. However, that compulsion applies only to a public officer. The committee recognised that not only public officers might be involved in the corrupt, improper or illegal conduct of a public officer but also other persons may be directly involved or might be able to provide information or documents to an ACC investigation. The Anti-Corruption Commission is limited to requiring statements of information or documents from only those persons who are public officers. The commission made a recommendation to the Premier in 1997 that those powers be changed to enable it to require information from other persons. The Joint Standing Committee on the Anti-Corruption Commission evaluated that request and, in its fifth report, argued against the extension of its section 44 powers.

In this report, the committee recommends the direct opposite; it recommends the extension of those powers. It does this largely as a result of the evidence given in the public hearing in this place by the Chairman of the Anti-Corruption Commission that a serious problem exists within a section of the Police Service and that extended powers are needed if those serious problems are to be properly investigated. It is fair that I tell the Chamber that the committee did not easily arrive at this recommendation. It took a great deal of deliberation and discussion before consensus could be reached as the committee was changing its position of two years previous. Some members of the committee hold the very strong opinion that the ACC should not have those powers, which would clearly deny citizens some of the conventional liberties of the justice process: The right to remain silent; the right not to incriminate oneself; the right to confront one's accuser; and the right to have legal representation when under interrogation. Those civil liberties would be denied if the Anti-Corruption Commission's powers were extended. The committee recognises that and addresses it in the eleventh report.

To ensure that there is not an erosion of civil liberties, in spite of the intrusive nature of the recommended change to section 44 of the Act, the committee has said that those powers should be extended only if a parliamentary inspector is appointed.

Debate adjourned, pursuant to standing orders.

*Sitting suspended from 1.00 to 2.00 pm*