DECLARED PLACES (MENTALLY IMPAIRED ACCUSED) BILL 2013

Third Reading

Resumed from an earlier stage of the sitting.

MR D.J. KELLY (Bassendean) [2.42 pm]: I resume my contribution to the third reading debate. Although we on this side of the house have made clear that we support in principle this legislation, one of the key aspects of the Declared Places (Mentally Impaired Accused) Bill 2013 we are unhappy about is the way that the government went about consulting with local communities on the location of the first declared place. Members will be aware that prior to the election the government was going to place one in Herne Hill and one in Kenwick. After some community disquiet, the government quickly folded and the minister announced that there would be more consultation next time and that the government would reconsider its position. But what in fact happened was that a very short time after the election the government announced two declared places—one next to Lockridge Senior High School, and one very close to Lockridge Primary School. There had been no consultation whatsoever with the local community on those locations. I suppose it is just coincidence that we were debating the Minister for Child Protection's incompetent handling of the child protection portfolio this morning, but what the same minister did in announcing the declared places that will be established if this bill is passed by the Parliament is another example of how, in the disability services area, this minister has been completely incompetent.

For the declared places envisaged under this bill to operate successfully, there needs to be a degree of community acceptance. It is always difficult for a public facility, much less a medium-security custodial facility, to be located in a residential area, so anything that approaches that has to be done sensitively. But this government did completely the opposite. Our view is that the Minister for Disability Services, having withdrawn the sites in Kenwick and Herne Hill, deliberately withheld where the centres would be located until after the election. In my view that was a deliberate act of the minister, and she stands condemned for it. Given those circumstances, it is hardly surprising that the community raised concerns. In a reasonably short period we managed to extract from the minister the list of criteria she said she used. Those criteria clearly include a requirement that the centres not be close to schools or in residential areas, but of the two locations announced by the minister, one is right next door to Lockridge Senior High School and one is about 400 metres down the road from Lockridge Primary School. The criteria also stated that the centres should not be in residential areas; both sites are in residential areas. The community was very distrusting and very angry. Everything this government has done on this issue since then has only further exacerbated the community's view that the government really does not care about its opinions, and that the government has just been intent on ramming this through.

During the second reading debate I raised a number of questions with the parliamentary secretary on that, and I anticipated some defence of the government's actions from her, but there has been absolutely nothing. She did not go back to look at the issue, the time line or the way the government approached this issue, or attempt to say that the locations of the first two declared places were arrived at by some proper process and that the sites chosen meet the criteria. There was absolutely none of that. My view is that that just demonstrates that the view we on this side of the house have—that is, the government dealt with this issue purely on the basis of what suited its political objectives, rather than good public policy or what was in the best interests of people with disabilities—is absolutely correct. No-one from the government, be it the parliamentary secretary or anyone else, got up during the second reading debate or consideration in detail and said anything by way of defence. The government was absolutely silent on this issue, which demonstrates it knows the proposition we put is absolutely right. The great shame of that is that the government says it cares about people with disabilities, but what it has done has made it more difficult for communities to be prepared to host a declared place or other facility in the future, and there should be others. I earlier referred to the annual report of the Mentally Impaired Accused Review Board that specifically states that this legislation will enable there to be declared places for people with intellectual impairments or a cognitive disability. MIARB looks after a whole cohort of people who suffer from mental illness, and its view is that there is a need for declared places so that we can properly accommodate people with mental illnesses. The Mentally Impaired Accused Review Board is saying that there needs to be more of these declared places. The tragedy of the way in which the government has handled this process through the Declared Places (Mentally Impaired Accused) Bill 2013 is that at some time in the future, if the government ever decides that it is going to establish a declared place for people with a mental illness, any community that is asked to host that facility will be rightly suspicious of the government's motives. As I said, it is coincidental that on the same day we heard about how badly the minister is handling her responsibilities in the area of child protection, we are also dealing with another mess created by this minister.

There are a couple of other aspects of this bill that I want to address, and one of them is the provisions under part 9. Part 9 specifically provides that a declared place may be privatised; that is, the government may enter into a contract to allow a private company to operate a declared place. When I questioned the parliamentary secretary on this issue, her answer was as hard to believe as it was unsatisfactory. The parliamentary secretary attempted to mount the proposition that somehow, by including in this bill specific provisions to allow declared places to be privatised, the government was protecting them against privatisation. She tried to say that because there is a specific provision in the bill that sets minimum standards if privatisation is to take place, it somehow will protect against the service being privatised. Frankly, I do not believe that for one minute. This government has the view that almost anything in the public sector sphere can, and probably should, be privatised. The government is privatising wherever it can, regardless of the consequences to the public purse or to the quality of services. We have seen the fiasco at Fiona Stanley Hospital, where the government entered into a, I think, $4.3 billion contract with Serco to run crucial services at that hospital. We have seen the absolute disaster that that contract has created. The Minister for Health was hell-bent on getting that contract signed so that the government could satisfy its ideological ego and be able to say that it had privatised some more government work, but ultimately it is the taxpayers of Western Australia who are paying the price—before the patients have even started coming through the doors of that facility.

We have also seen the problems created by this government's decision to privatise the new Midland Public Hospital. The government got itself into a position in which, in my view, it did not want to consider awarding the contract to Ramsay Health Care, which was the other substantial bidder in the running for that hospital. It did not want to do that because then Ramsay would have had too much of a market share in Western Australia, so the government was left with only St John of God as a potential operator. The problem is that St John of God is not willing to provide all the services that were expected to be provided at Midland, so the government has contracted a religious organisation to run the hospital, and it is having to make alternative arrangements to provide a range of services that would otherwise have been provided at the Midland Public Hospital. It is my understanding that the government has said it is going to build a separate clinic at one end of the car park to provide those services, at what cost, we do not yet know, and the government has not fully disclosed that information.

This government has a predisposition to privatising public services wherever it can; I have just provided two examples, but there are many more. For this bill to include a specific provision to facilitate another future privatisation is simply consistent with what this government does. When people in the community saw this clause in the bill they said, rather sarcastically, "That's fantastic. Not only are we going to get a custodial facility across the road from our house and down the road from our school, it's also likely that the government is going to privatise it", and everyone knows that the company currently operating in Western Australia that would love to operate such a service is Serco. Serco does not have a particularly good reputation with the public of Western Australia, especially vis-a-vis —

Ms L.L. Baker: Or in the world.

Mr D.J. KELLY: Or, as the member for Maylands suggests, in the world, and she is quite right. There are currently all sorts of investigations into Serco underway in the UK in respect of overcharging and potential criminal fraud, but we all know that that does not matter to this government; it is still willing to enter into contracts with Serco. If this bill passes with part 9 intact and the government puts out to tender the contract to run a declared place, Serco will be only too happy to put in a bid. It simply does not make sense to me for the parliamentary secretary to try to mount the argument that part 9 of the bill will protect declared places against privatisation, when it does the absolute opposite. People become pretty cynical about politicians who stand up and say one thing when the facts clearly point to another. I say to the parliamentary secretary that part 9 of the bill is clearly there simply so that at some point in the future, a future conservative government can privatise this service.

Privatising services in the disability services area is also consistent with what the government is doing with services currently run by the Disability Services Commission. As we speak, the government is privatising accommodation services run by DSC. The Disability Services Commission currently provides accommodation across Western Australia for people with disabilities, and many of those residents have been living in those homes for years, if not decades. Many of those residents have not known anything other than living in accommodation provided by DSC, yet the government is going ahead and privatising that accommodation against the wishes of the residents and the families of those residents. Along with many other members in this house, I have been approached by residents' families on this issue, and they are absolutely in a state of high anxiety about the government's privatisation agenda within DSC.

The government is already privatising accommodation services run by DSC, and here it is establishing a new accommodation service to be run by DSC under legislation that will specifically allow for that service to be

privatised, yet the parliamentary secretary has said in this house that the government has no intention of privatising it. Again, members of the public become very cynical and distrustful of politicians who say one thing when the facts clearly stack up and point in another direction. If the government has any credibility on this issue, it would take out part 9 of the bill. In fact, I suggested that if the government is really not supportive of these declared places being privately operated, it could put a provision in the bill that prohibited a government from privatising the service, and then any future government would have to come back to this Parliament and make a case to amend the bill. But, of course, the government is not doing that. I fully believe that at some stage in the future, a conservative government will pick up this bill and privatise these declared places, and that will be a great shame.

Part 9 of the bill includes what the government calls "minimum matters to be included in contracts". Those minimum matters do not include any protections for workers employed in those centres who would lose their jobs with the government as a result of any decision to privatise. The government could put a provision in the legislation so that if the services are privatised, the new contractor will have to at least pay comparable rates and provide comparable conditions to staff to transfer across. None of that applies in this legislation. It leads the government open to the criticism that is commonly made that its belief in privatisation of public services is at least partly motivated by its desire to lower wages and conditions. The government is bound to pay wages under industrial instruments that are negotiated with the public sector unions. It sees them as being excessive and it sees privatisation as a way of allowing a private operator to come in and pay lower rates. That is what the government has done in many areas. The way this bill is structured makes it clear to me that it wants to leave that option open. It is a real kick in the guts to those staff who currently provide services to DSC and to staff who may be employed to operate these centres in the future. Working in these centres is not easy; it is not for the faint-hearted. The government somehow has the view that the people who do this work are paid excessively. That is one of the reasons it is extremely difficult to get workers who are willing to work long term in the disability services sector. In my former role with United Voice, I constantly came in contact with staff in the disability services sector who would say, "I love this work. I love working with the residents and the clients. Even though it is hard work, I love doing it but I simply cannot continue to do this work on the rates of pay that I receive." In a state such as Western Australia, the rates of pay that are paid in the disability services sector make it difficult to buy a house and feed a family. Many very good people leave this industry because of the low rates of pay. The government has resisted every attempt that has been made to improve those rates of pay. It has structured part 9 of this bill so that it can put another avenue into the legislation to reduce workers' remuneration in this industry.

I raised some concerns during consideration in detail about the rights of the residents and the advocacy services that are provided for in the bill. I believe that residents need a very robust set of rights to ensure that the mistakes that have been made in the past and in other facilities are not repeated in declared places. We need an extremely transparent process whereby residents and their families have a degree of control over their circumstances and the development plans that are put in place for them. I am also concerned that a robust set of residents' rights apply when behaviour management regimes—I think that is the term—are put in place for residents. We need a very robust set of residents' rights in all those cases.

While those matters are dealt with in the bill, the parliamentary secretary needs to go back and look at some of the issues that I raised during consideration in detail. I think she could make some improvements. One of them related to those behaviour management regimes. There is a requirement in the bill that they be reviewed every six months. The bill is currently ambiguous about who would do that review and whether the resident could participate. I think I asked whether the resident could be advised of who was doing it, when it was going to be done and how to participate. I think the parliamentary secretary's answer was yes, yes and yes. I am comforted by that, but it is not reflected in the bill. I think the government has an opportunity to improve the bill in that area.

Finally, I want to go back to the people and the community that I represent. Some absolutely fantastic people in that community have come forward to contribute to the debate on this bill. I do not think the government has listened to them and shown them the respect that they deserve. The government has an opportunity to attempt in some way to remedy some of the damage that it has done. I ask that it consider that and reconsider how it has dealt with my community on this issue.

MS L.L. BAKER (Maylands) [3.07 pm]: This has been a journey. If I wanted a good case study on how to really stuff up a project and stuff up consultation on an incredibly important project, I reckon I could start from square one with this one and map the journey, starting with the incredible stuff-ups around the declared places, the naming of the sites and the retraction by the government. Subsequent to saying, "These are the three places", just out from an election, the government decided that it was probably in a bit too much hot water. The parliamentary secretary probably has a different version from me but that is what I saw. The government decided

it was all too hot so it changed its mind and withdrew from some of the hotspots in its own electorates that might be impacted and just stuck to the member for Bassendean's electorate because he was likely to suffer the most from this issue. It was a dreadful journey and lack of process.

At times when I have spoken to the sector—it has been a while since I have spoken directly to anyone from the sector about the Declared Places (Mentally Impaired Accused) Bill 2013 debate—and was briefed fully by very concerned members in the sector about this strategy and their commitment to see it delivered, it was always about the support for the people who need it. It should always have been a painless passage to get these places identified and up and running in a much quicker time frame or the most expedient time frame that we could manage. As a result of the mismanagement of the process to identify these sites, the community is cranky—no-one can say that it is not. It has been a long journey for the member for Bassendean to work with his community to get to this level of acceptance. It has taken a long time for the Disability Services Commission to make up for the process inadequacies that were very clear as this project struggled to be developed and progressed. I understand that at all times the sector has been incredibly supportive of the outcome we are seeking, which is to find a safe place to house mentally impaired accused. That is offered by the notion of declared places.

I will also go through the comments by Chief Justice Wayne Martin in October 2013 in which he said —

> … people in society with a mental illness who should be diverted to treatment were instead being committed to prisons, …
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> Speaking at the WA Rural and Remote Health Conference in Northam last month, Martin said "some people were detained indefinitely because their mental illness or disability made them incapable of the behaviour a structured, disciplined society demanded," ... "There are real limits on what the criminal justice system can and should do in relation to people who are mentally unwell or intellectually disabled."

As we all know, the Chief Justice is not only a great social advocate and an incredible intellect in our community with amazing experience , but also well respected and incredibly supportive of the need for these centres. Thank goodness we are close to getting the first one built. It has been a fairly painful journey, and it did not need to be. If the government had started off with integrity in naming these sites and if it had kept to its original terms of reference in identifying them, we would have ended up with a process that the community was not just engaged with, but had participated in, and there would have been less fear and loathing. I want to talk about why people were so frightened and concerned.

Point of Order

Ms A.R. MITCHELL: Can I clarify that the member is speaking on the third reading of the bill and should not be bringing in things perhaps from the second reading. For clarification, I believe we may be wandering off the third reading.

The ACTING SPEAKER (Mr I.M. Britza): I am giving the member for Maylands latitude, but I think she needs to do that as much as she can.

Ms L.L. BAKER: Thank you very much, Mr Acting Speaker.

Mr S.K. L'ESTRANGE: I do not believe the member is sitting in her chair.

The ACTING SPEAKER: Thank you, member for Churchlands.

Debate Resumed

[Quorum formed.]

Ms L.L. BAKER: I shall try not to sway since that interferes with the member's consideration of where I am in my seat.

I refer to the principles and objectives of the bill, particularly around what residents will expect when they come to a declared place, which are set out in the bill and in the second reading speech, and were debated during consideration in detail of the bill. The concern that I and others in this chamber have is the potential for services in these declared places to be limited by contract terms or by resource parameters. I am trying to say as plainly as I can that people in this kind of facility are going to require access to courses, and this may be the first time that we have ever had the ability to identify these individuals. They may have intellectual and cognitive disabilities or a range of other issues, and it will be an ideal time to intervene to improve their lives so that when they move from a declared place into the community, a halfway house or wherever they go, they have had an intervention of some sort that has had a positive outcome for them. We have seen that when privatised services are in place, the government has less control over what level of service is offered and delivered to people. If the government

intends to look at either outsourcing or privatising in these centres, it should make sure that residents are provided with the best possible training, including developmental programs that promote their physical, mental, social and vocational abilities, and that they should have access to appropriate care for their physical, medical and dental health needs, including substance abuse problems and associated health conditions. I was reading directly from the principles and objectives of the bill. Once a service is privatised, it will be less easy to manage what is going on in that service. Will an audit be conducted? Who will be responsible for ensuring that people in declared places are provided with the range of services they need to get well or to improve their circumstances? That is a very important point I wanted to make in this third reading debate.

In the second reading debate, and again in consideration in detail, we covered the reasons that people may be in a facility like this. A person may be unable to understand what a charge is, unable to understand how to plead or what the impact of a plea might be on them, and unable to understand what a trial is. A person may not understand, and therefore not exercise, the right to challenge a juror. They may not be able to follow the course of a trial or they may be unable to understand the substantial effect of evidence presented by the prosecution in the trial and unable to properly defend a charge. These matters are all included in the definition of a mentally impaired accused and we should be well and truly familiar with them now. That is why these centres are clearly so important.

I spoke earlier about the fear in the community over this issue and I tied that to the poor process that the government undertook to identify the sites. I will return to that. While I was sitting here waiting to give my very short contribution to this third reading debate, some information came from Consumers of Mental Health WA (Inc). I assume that other members have received this information as well. The community is fearful of what it does not know. We are right in the middle of a very complex time in this country and fear is running riot over terrorism and accusations of criminality all over the country. In this instance, the information that came to me is about the impact of mental illness in the community. A cry of horror has come from Consumers of Mental Health WA about the Bethlem sanatorium exhibition in the Perth Royal Show. In relation to the third reading debate of this bill, it is a great example of why we have to be so careful about what we know now about mental health and mental illness and cultural changes. Just last night a debate was in play about alcohol and drugs and a government member was critical of the Labor opposition over a position that it held some years ago. He alleged that we had been supportive of a range of recreational drugs, I think he called them. Times change and, along with that, what is appropriate changes. If that were not the case, we would all still be living in caves and bashing each other over the heads with sticks and dragging each other by the hair.

Mr S.K. L'Estrange: That is what the member for Gosnells wants.

Ms L.L. BAKER: I think that is what the member for Bassendean did to one of the ministerial advisers the other night; he dragged her by the hair when it was caught in the buttons on the front of his suit.

I want to quote from a document I received in the last half-hour. The Bethlem sanatorium exhibition is being marketed as —

> ... "high fright, high startle ride" that is "not for the faint hearted" ... brings the horrors endured within Bedlam Sanatorium ... to the 'Kids and Family Sideshow Fun' section of the Perth Royal Show.

I am sorry, but I do not think that is an appropriate thing to be doing in this day and age. I think they have it really wrong. I think it embeds stereotypes of people with mental health issues. For goodness sake; it seems as though we are only just coming out of the Dark Ages —

Ms A.R. Mitchell: The bill is not about mental health, though.

Ms L.L. BAKER: I am saying that, in my view, the establishment of declared places has caused some angst in the community because of the community's lack of understanding about who will be in these declared places, their issues and how they will be housed. I am simply drawing parallels with a similar situation that has been raised in documentation that has come over our desks just this afternoon. This is a similar situation and it is not okay for that to continue. People with mental health issues should not be viewed as scary or horrific or people who should be locked away or featured in a horror sideshow. Unfortunately, that is what we will see in this Royal Show exhibition, from what I have been told.

I will finish by reiterating what I said at the beginning. This has been a very long journey and one riddled with unnecessary angst. If we were to write a 101 guide on the consultation process for building a declared place, we would use all the mistakes made in this journey to get it right next time. I personally hope that the government has learned from this activity and what it has done to the community around Kiara. I hope it understands that the backlash that came from the lack of process and from the government going back on its word about how it would select sites is what caused the problems. I am hoping that in the future the consultation process for the development of the next declared place—I assume there will be more declared places—will be a far better process in which the community has a chance to speak and can understand that the people to be housed in

a declared place are not necessarily horror sideshow freaks, as I referred to earlier in my presentation. These people lack the capacity to assess what charges are being laid against them and they suffer from a level of intellectual or cognitive disability that means we need to support them to keep them safe and to keep the wider community safe. To achieve that, I urge the government to make sure that the next journey to find a location and build a declared place is far less rocky, far clearer and engages the community on all sides.

MS S.F. McGURK (Fremantle) [3.24 pm]: I, too, rise to make a brief contribution to the third reading debate on the Declared Places (Mentally Impaired Accused) Bill 2013. As we know, the bill works in conjunction with the Criminal Law (Mentally Impaired Accused) Act. Most members on this side of the house who have made a contribution during these proceedings have made it clear that they do not oppose the bill. They understand the need for what are called the disability justice centres to be built to house people who have been accused of a criminal act, but are not in a position to plead before the courts because they have an intellectual or cognitive disability, so that they and the community are safe. People on this side of the house understand that those centres are necessary. Therefore, we support the bill. We have concerns about the process by which this government decided the location of those places. First there was to be two places, but now there will be only one disability justice centre. The process by which that centre's location has been decided engendered a lot of concern among the community, and, as the member for Maylands said, it has also engendered quite a bit of fear and distrust. All of that could have been avoided if the government had embarked on a process of genuine consultation and carefully managed the determination of the location of the disability justice centres.

In this debate, it has been particularly galling to have the Premier label the opposition's concerns as not caring about people with mental disability. I will get onto the specific examples he gave a bit later. Publicly and in Parliament we represent those people in the community who are concerned about the location of these centres, and it is unfair to say that we do not care about people with mental disabilities who are facing criminal charges but are unable to plead. That is galling and not helpful to the debate.

In the way the government has gone about deciding the location for these centres, it has insulted not only the community in the member for Bassendean's electorate, but also the whole community. A number of opposition members have outlined their objections to that process. In 2012 it was announced that there would be two centres—one in Kenwick and one in Herne Hill. However, when there was a public outcry about that placement and it became clear to the government that those two locations were in marginal seats, Forrestfield and Swan Hills—I do not understand why it was not clear before it made the announcement—it backtracked from those locations. The government said it would reconsider the matter and used the cover of the restrictions of planning laws to make its decision.

The government made a hasty retreat prior to the 2013 state election and said that it would look at the issue again and ensure that there was proper consultation. It used the cover of planning legislation to say that it needed to look at alternative locations. It is clear to everybody that it was a political decision on the part of the state government. Those 2012 locations in Kenwick and Herne Hill did not suit the government going into a close state election as both of those proposed centres were located in marginal seats.

If people thought that the retreat from those two locations was politically motivated, they felt vindicated when they heard the announcement of the two alternative locations—both in the state electorate of Bassendean. It has not been clear to anyone that there was a clear process of consultation and objective criteria to be met for the government to arrive at locations for disability justice centres. The government set itself eight criteria—no-one set them for it—but a number of those criteria were ignored in selecting new locations. They included proximity to schools. It was not thought desirable to have the centres in close proximity to schools. It was also thought that these centres should not be in close proximity to residential areas, and local government support was to be ensured. Those were three of the government's own criteria that it failed to meet with the proposed centres.

We learnt in the budget estimates process that the centre to be located next to the Lockridge Senior High School was not needed or could not be afforded—it could not be accommodated in the budget—but the centre proposed close to the Lockridge Primary School would go ahead. The centre will be 500 metres from that primary school. There was certainly no consultation with the community. People received unaddressed letters at their homes the day before the announcement was made public. There were no public meetings with the City of Swan, and we know that the City of Swan subsequently opposed the government's proposals wholeheartedly. There was no consultation, and no attempt to get buy-in from the local community or its local government representatives—clearly in contravention of the government's own criteria. Still, the government ploughed ahead.

As people have raised previously on this side of the house, this issue needed to be handled sensitively, and we needed to ensure that the government did not ride roughshod over its own criteria. It would be a challenge to get the community on board with this sort of proposal. No-one said that it would be an easy task, but it is not beyond government experience in public policy. The example given by other speakers was the previous

Gallop government's handling of the Boronia Pre-release Centre for Women, and the location of that prison alongside Curtin University. That was handled well by that government, and subsequently has been integrated and received by the local community. It is possible for it to be done, but I would not have thought so from the way this government has handled this process. Of all the issues, that is the one that has been most insulting to the immediate community, but it is not beyond the state government to be able to work through a process of consultation and discussion with the community about where these centres are to be properly located.

The eventual location of the centre now under construction, as I understand it, is close to the Lockridge Primary School—a school that has faced its own challenges over the years. A new school was built in 2010, and the school leadership and its community have worked hard to build up that school.

The ACTING SPEAKER: Member, I need to interrupt you. The bill has actually been agreed to, and you cannot bring up new things. You have to speak to the bill as it was agreed to. You need to be careful in that area.

Ms S.F. McGURK: As a point of clarification, Mr Acting Speaker, I raised these issues in my second reading contribution.

The ACTING SPEAKER: This is not the second reading debate. This is the third reading. The bill has been agreed to. You are bringing up these matters again. This is the third reading debate, so you need to keep to the bill that has been agreed to.

Ms S.F. McGURK: My apologies. It was my understanding that I could raise issues that I had raised in my second reading contribution.

The ACTING SPEAKER: That is incorrect.

Ms S.F. McGURK: It is the case in the bill now that we need to have some community buy-in for the location of those sites. These issues were raised at length in consideration in detail. An opportunity to drive home those lost opportunities by the government in the way that it has handled these centres is important in the context of the bill.

Point of Order

Mrs M.H. ROBERTS: Matters that were raised during consideration in detail are allowed under standing orders to be raised in the third reading debate.

The ACTING SPEAKER (Mr I.M. Britza): The matters that were agreed to in consideration in detail cannot be brought up in the third reading debate.

Mrs M.H. Roberts: The matters that were agreed to?

The ACTING SPEAKER: That is correct. From my understanding, if they were agreed to in the clauses during consideration in detail, they cannot be brought up during the third reading.

Mrs M.H. Roberts: You might need to take some more advice on this matter.

The ACTING SPEAKER: You cannot canvass other issues related to those matters. We are stretching it now.

Mrs M.H. ROBERTS: I need to make the point quite clear. It is my clear understanding that we can refer to matters that were agreed to in consideration in detail.

The ACTING SPEAKER: That is correct. Anything that has been agreed to can be raised, but you cannot bring in new things.

Debate Resumed

Ms S.F. McGURK: I will continue, and perhaps as I refer to specific issues, I am sure the Acting Speaker will pull me up if they cannot be drawn to specific issues of agreement.

If I look at the principles and objectives of the bill under part 2, I see that the protection and safety of residents and the community, and the best interests of residents who are not adults are all considered to be matters of paramount consideration in performing the functions of the legislation. They are the issues that I am discussing in relation to location. I certainly am not satisfied that people in the surrounding community will be at risk, and that there will not be adequate security around those centres, whether that be wire fencing, double fencing, security doors or other physical security measures. I understand that they are part of the structure of the centre being proposed. However, here we are talking about the perception of the surrounding community, so the principles outlined in reference to the communities surrounding the centres are very important. We also talked about the principles in part 2 of the bill that refer to the best interests of residents of the centre. Part 2 clause 5(2) states —

> Residents are to be provided the best possible training, including development programmes …

This raises the issue of the number of people who might qualify to be kept in the detention centres. I understand that there could be somewhere between five and eight people currently eligible to be housed in the centre. Last year, it was considered that there might be eight people eligible to be housed in a justice centre this year, and during debates I have heard five people referred to. It is somewhere in that order. I understand that the majority of those people have foetal alcohol syndrome and a number are Indigenous. There are questions about whether it is best to house those people in the metropolitan area away from their communities. I hope that the government continues its policy of, where possible, housing people in their community. If they are not a danger to themselves or the surrounding community, they should be detained in some way closer to their own communities. I question whether it is in the best interests of regional Indigenous people to bring them to the metropolitan area. I think it was the member for Girrawheen who pointed out in her speech in the second reading debate that it is questionable whether putting people in the fairly artificial environment of a disability justice centre would be the best form of rehabilitation to get them back to their former lives in regional or remote areas. All those considerations needed to be taken into account, and given a lot more consideration, particularly by the local community so that it could be satisfied that this is the best policy. By the way the government handled the choice of locations, I am not satisfied that that was the case.

Members raised concerns about part 9 of the bill that refers to the possible privatisation of the declared places. Although there is no decision to contract out those services yet, there is the capacity to do that within the bill. There is real concern that with such a sensitive issue, particularly for the surrounding community but also in relation to the care, training and management of people detained in the centres, whether privatising services is good public policy. One of the big concerns about privatisation is that if people have concerns about a centre, accountability will be reduced when there is a private provider. For instance, if a person has a concern about the way that Serco manages one of its contracts, that person needs to go to Serco. If that is not satisfactory, they go to their elected member of Parliament or the government of the day. With such sensitive centres—these people's care is something people want done in the most transparent and careful way possible—it is questionable whether privatising those contracts is good public policy.

Another concern about the privatisation of the centres—this applies across the board—is that the government's motivation is to save public dollars; it perceives that it might be cheaper for a private operator to undertake those services. However, logic would dictate that somewhere the service has to suffer if the same amount of dollars is put towards undertaking a particular task. Not only does the work need to be done, presumably to the same standard—perhaps a private operator would make certain it was to a better standard—but in addition to that, a private operator needs to have a profit layer that is not required in the public sector. There is a question about not only accountability, but also the affordability of having a private operator run the centre. Are we simply taking away public dollars that could go to providing a better service, but are instead going to a private operator by way of profit?

My concerns go to part 2 of the legislation and the principles and objectives. The Premier accused opposition members of not caring about people with mental impairment or disabilities and gave the example of a teenager in reference to a question without notice in June last year. In reference to people who will be in these centres, he said —

> The people chosen are, by all accounts, safe and will be under constant supervision, with the security around these two centres. I will give one example. This is perhaps an extreme case, but I think we have to show a bit of compassion here. This is a case in which a teenager with a head injury was held in Casuarina Prison after he was charged with stealing an ice-cream from a roadhouse in the outback. He could not understand the court procedures. He was never convicted.

After some toing and froing, the Premier continued —

> A teenager stole an ice-cream. He had suffered a head injury and lacked the intellectual capacity to stand trial, if there was ever going to be a trial for stealing an ice-cream.
>
> …
>
> This teenager spent several years in Casuarina because there was nowhere else for him. That is not acceptable. Any sense of social justice would say that that is totally unacceptable.

We know that the Premier was disingenuous in the extreme in giving that example. The circumstances of that individual were quite different from how the Premier described them. It was a person who suffered from foetal alcohol syndrome or solvent abuse who had attacked police officers and been violent in a number of different instances. It was ludicrous to say that someone who could be charged with stealing an ice-cream would end up in Casuarina. It does not make sense, but it did not stop the Premier using that example on a number of occasions to

say that this was the type of person who could be housed in a disability justice centre. The opposition and the public were aware of that sort of misinformation—that that person was not the sort of person who would end up in a disability justice centre. The misinformation increased the amount of frustration and fear in the community about what these centres could mean.

Finally, I want to mention the Mental Health Law Centre's concerns. I drew on its advice in the debate on the Mental Health Bill 2013. The centre raised a number of concerns about the Declared Places (Mentally Impaired Accused) Bill 2013, and although some of them have been dealt with, I think they are worth emphasising. Some of the issues raise concern about what happens to residents within the centre and call for a proper, robust and transparent complaints process and for freedom of communication so that residents are clear that they can make complaints about their care and treatment. In fact, it requested that the annual report of the Mentally Impaired Accused Review Board include a record and outcome of all complaints. Professor Stokes, in his report in July 2012, stated that uncontrolled delegated power in the mental health system is a contributing factor to a variable standard of care and poor governance. This bill provides the opportunity to ensure that that is not the case, and that a robust system is in place so that the complaints of people detained within declared places are aired and heard. Similarly, it raised the issue of closed-circuit television for centres so that any allegations could be properly dealt with. Those issues were discussed during consideration in detail and are contained in the bill, but I thought they were worth repeating.

MS J.M. FREEMAN (Mirrabooka) [3.51 pm]: I, too, rise to speak on the Declared Places (Mentally Impaired Accused) Bill 2013 and congratulate all the members who have contributed to the debate that has led to the third reading. I know that the process has been somewhat of a trial for the parliamentary secretary, but the robust and critical analysis of this bill, particularly during consideration in detail, will benefit many people in the future, including current and future parliamentarians, relevant departments, workers in declared places and, most particularly, residents and their advocates. The bill is a very serious matter, and we looked at it clause by clause to consider its ramifications. That is the intent and purpose of what we should do in this place, because it reflects our role as representatives of the community in making people aware of how legislation will affect the community.

I recognise that the Declared Places (Mentally Impaired Accused) Bill does not give Parliament any role in declaring the places. The declared places will be chosen by the government. As the parliamentary secretary said during consideration in detail, declared places will come under a different process within government in terms of procurement and other such areas. Once a place has been declared, this bill will apply what should occur in that declared place, how it will operate for residents and what processes will be available to protect workers and residents.

For me, it is a very interesting process, because, as the member for Fremantle pointed out, it is important to look at declared places in not only the metropolitan area, but also the regions. Places will be declared in the future, but the issue for me is the government not adhering to its criteria and principles about how to go through the initial phase before the provisions of this bill are placed upon the centres. If the government does not adhere to that criteria—its principles—it should be a signal to all of us in this place that such criteria therefore need to be enshrined in legislation or regulation for us to properly represent everyone in our communities. To refuse to do that by defeating the proposed amendments is to duckshove the responsibility of this place onto other legislation. It is disrespectful to the community to say that it is dealt with somewhere else, and that does not fit within the principles and objects of the bill, which are to act in the best interests of the residents who are not adults and of the protection and safety of the residents. If the principles outlined in part 2 of the bill are the core principles that the government wants to implement—they are worthy and good principles and should be adhered to—we should look at considering declared places as community facilities. This bill moves away from the corrective services model about sending people without the capacity to plead or to defend themselves and punishing them towards a disability support and community model in which residents are not punished. If a person has done something of which they are not cognitively or intellectually capable of understanding the ramifications, they cannot be taken to a court through a corrective services model. If the community model is applicable, should we not include community and how the community accepts, acknowledges and builds community around it when we declare a place? That is what is at fault in this process. We keep standing up here to say that this process happened without community consultation. As people can be open to understanding and accepting of the principles and endorsing that people in the community require such facilities—namely, to work with residents and assist them because that is required—then community consultation must be at the core of the process. That must be at the basis and foundation for this bill to meet its principles and objectives. That is why the Labor Party says in this place that it absolutely agrees that once a place is declared, this is great legislation to have in place—but by not putting in anything about how to go through that consultation process, and not adhering to the principles of that process by not enshrining it in legislation or regulations, the government is undermining the principles and objectives of the

bill, and undermining the residents in the first instance. Opposition members stand up and say this government was wrong when it went through a process that suddenly imposed a declared place on a community without working with that community to the benefit of that community and to the benefit of the declared place. That is what we keep saying in this place. It is not that we want to talk outside the requirements of the third reading debate. We say that this consultation process is integral to the terms of the purposes and objectives of this bill; that is why we raise it. If it is based on a community model, a lack of community consultation undermines those principles and objectives. Therefore, that has already placed one of the major objectives of these principles at risk.

Part 9 of the bill deals with contracts for declared places services. Previous speakers put very well the concern that this could lead to privatisation and undermine workers and their conditions. What needs to be put fairly and squarely at the core of this matter is that when the basis of the operation of these centres is a profit mode or something like an operative mode with a cash-raising operation—be it an NGO or a private contractor—the principles are undermined because it is counterproductive to the desire to return the benefit to the residents. It is counterproductive, and certain residents will need to be kept in the centres. There is a profit-based model on how to operate, or at least a cash flow on how to operate, instead of what should be at the core of how to operate—that is, for the benefit of the residents. That is why something like this should never, ever be seen as not being core to government and its services. This is a core function of government—we have a responsibility to deliver it, and that is what we should do. It is of concern that part 9, "Contracts for declared place services", could lead to the privatisation of services. It is a concern that that was in the Declared Places (Mentally Impaired Accused) Bill 2013. There is no need or requirement for it because it should be a core function.

Debate adjourned, pursuant to standing orders.