WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Tuesday, 29 June 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

BILLS (3) - ASSENT

Message from the Governor received and read notifying assent to the following Bills -

1. Energy Coordination Amendment Bill.
2. Commonwealth Places (Mirror Taxes Administration) Bill.
3. Treasurer's Advance Authorization Bill 1999.

SOUTHERN LINK ROAD, JARRAHDALE

Petition

Hon Ljiljanna Ravlich presented the following petition bearing the signatures of 106 persons -

> To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned wish to express our utmost concern at the proposed Southern Link Road for Jarrahdale and for the Serpentine-Jarrahdale Shire. This proposal will be injurious to the lifestyle, industry and wellbeing of local residents.
>
> We call upon the Government to take heed of the community's needs and concerns and to urgently examine the proposal before it is implemented and to evaluate other alternatives deemed to be more beneficial to the whole Western Australian community.
>
> 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 1184.]

HOME AND COMMUNITY CARE SAFEGUARDS POLICY

Petition

Hon Ljiljanna Ravlich presented the following petition bearing the signatures of 79 persons -

> To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned ask that this Parliament reverse the decision to introduce the "safeguards policy" from July 1st 1999 which will compulsory impose fees for Home and Community Care (HACC) services.
>
> 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 1185.]

URANIUM MINING INDUSTRY

Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, from 180 people concerning the proposed establishment of a uranium mining industry and its associated health impacts.

[See paper No 1182.]

NUCLEAR WASTE DUMP

Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, from 903 people expressing opposition to the proposal to locate a high-level nuclear waste dump in Western Australia.

[See paper No 1183.]

WESTRAIL SLEEPERS - OLD-GROWTH FOREST TIMBERS

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter -

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the House at its rising adjourn until 9 am on 25 December 1999 for the purpose of calling on the State Government to abandon the practice of using precious native forest for railway sleepers, and to express concern about the Court Government's failure to adequately protect Western Australia's old growth forest.

Yours Sincerely

Hon Tom Stephens MLC
Leader of the Opposition in the Legislative Council

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.38 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December.

Railway sleeper contracts in this State are an increasing cause of community consternation, particularly when viewed against the State Government's recent track record in this regard: In August 1998, Westrail awarded a contract for 60 000 type-A sleepers, 10 000 type-B sleepers and 30 000 type-X sleepers. That was a source of controversy and considerable community concern. In January 1999, Westrail again awarded a contract for 30 000 type-A sleepers and 5 000 type-B sleepers. A contract for the supply of 15 000 type-B sleepers was again advertised in April 1999. This was done by a Minister for Transport who is a member of the National Party, which parades itself in the community as having concern for the forests of this State. Also, it claims to be a party which expresses support for the conservation values of the community.

Hon N.D. Griffiths: Absolute grandstanders!

Hon TOM STEPHENS: Elements of the National Party are grandstanders, and certainly hypocrites, which is worse, as they leave in place a Minister for Transport in the coalition Government who presides over the logging of the precious forests of Western Australia for timber for railway sleepers. The National Party's position paper of 11 February 1999 called for the phasing out of clear-felling in old-growth forests. Nevertheless, the National Party's Minister for Transport has actively pursued a policy of encouraging the felling of old-growth forest so that jarrah, in some cases karri and, indeed, yellow tingle can be used for railway sleepers. Viable cost-effective alternatives to jarrah sleepers are available, but this minister continues to support the use of native timber for railway sleepers. There were media reports of the debate on the forest issue in which the Minister for Primary Industry, Monty House, is recorded as saying -

I do not believe anyone would disagree that . . . we do not need to cut down good timber to make railway sleepers . . .

When asked a question on 24 June on this issue, the Minister for the Environment answered -

I agree absolutely with the deputy leader . . . of the National Party. We are in total agreement about this.

When asked in a supplementary question whether she was aware of the Westrail contract to supply 30 000 type-A and 5 000 type-B timber sleepers, she said -

No, I am not, but we want the timber industry to restructure and go to greater value-adding and to greater levels of local manufacturing, and the RFA will deliver that.

During question time last Thursday, I asked the Minister for Transport whether he agreed with his deputy leader's statement. The Minister for Transport took the opportunity to acknowledge that Westrail had used timber sleepers in the majority of its tracks. He stated that he had spoken to the Minister for the Environment that afternoon about the practice and that they would continue those negotiations in future to see whether other arrangements could be made. The minister should take the opportunity in this House today to inform members what progress he has made on that most pressing and urgent matter in terms of discussions, the outcomes of those discussions, when we can expect outcomes and what they will be. In particular, he should inform this House whether Westrail's tender 27/99 for the delivery of 15 000 timber railway sleepers advertised on 27 April has been awarded. If it has, when was the tender awarded, to whom was it awarded and what price per sleeper is Westrail being charged? They are pieces of information in the current forestry debate to which the wider Western Australian community is entitled. If it has not been awarded and a contract has not yet been signed, it is incumbent upon this minister to undertake to abandon this tender process this afternoon and to call a new tender for the supply of non-timber railway sleepers. The minister should also undertake to table the business case for the selection of sleepers established as part of the capital evaluation proposal for the grain-line-strengthening project which was the subject of tender document 93/98. That tender called for the supply and delivery of 30 000 type-A and 5 000 type-B first-grade timber sleepers. It is obviously of significant public interest for the business case to be made public. Today is a good opportunity for the Minister for Transport to do that. Unfortunately, the minister has already refused to do so in his response to a question asked by the member for Armadale in the other place. However, the Minister for Transport should not fail to do that today. He has the opportunity to table that business case.

The fact that a combination of timber and steel sleepers is used in the project only strengthens the argument that alternatives to timber are not only preferable, but clearly viable. Presumably the minister cannot want to hide the cost of the sleepers, as the cost of timber and other sleepers is already in the public domain. In addition, the business case was only part of the

capital evaluation proposal. In refusing to release information previously in response to a question on notice, the minister referred to the whole proposal as containing commercially sensitive information. He did not refer to the business case specifically. This type of reason is washing less among the Western Australian public. In recent days we have seen evidence of the extent to which this Government will go to hide its dealings and behaviour. Whether it is the destruction of files or hiding behind commercially sensitive arguments - whatever the Government is up to - it is no longer acceptable to the Western Australian community that it adopt that approach. If this is the reason for not releasing the business case, the minister should at least give the reasons for not using non-timber sleepers. This would give the public something on which to judge the decision. In the interests of openness and accountability, the minister should release at least the business case, but preferably he should make public the total proposal. The Government's increasing tendency to hide behind the excuse of commercially confidential or sensitive information no longer washes with us, as it no longer washes with the community. This is particularly evident in relation to the way this Government has avoided freedom of information requests.

The Government is spending public money. It cannot avoid its responsibilities to the community to explain on what it is spending its money and how it has reached its decisions. Does this minister honestly believe that he is not burdened with a duty to explain the reasons that Westrail is spending $126m the way it is, particularly on an issue that is being debated by the general public? Alternative types of railway sleepers, their cost and longevity can be debated easily in this place. Timber sleepers cost between $20 and $30, making them 15 per cent cheaper than steel sleepers, which cost between $23 and $35 each, and almost half the $39-$59 cost of concrete sleepers. Timber sleepers have a life expectancy of only 25 years compared with that of 40 years for steel and 50 years for concrete. There is no cost benefit in choosing jarrah, yellow tingle or other precious woods of the forests of Western Australia. Although timber sleepers are half the price of concrete, they last only half as long. In addition, clearly there is a cost benefit in using steel, which would cost not much more than timber sleepers, but which would last significantly longer.

Given the recent public debate and the outrage over this Government's policies concerning the native forests of Western Australia and the fact that the tender was advertised only in April, one is left to ask whether Westrail investigated any forms of sleepers. I ask the minister that question today and, if it did, it is time that the assessment of that issue was made available to the community. The Government has a precedent for alternative forms of sleepers; that is, the Labor Party's precedent which was established with the railway line in the northern suburbs, for which concrete sleepers were used. It was obviously considered a sensible and economic proposition for concrete sleepers to be used when that line was built. The Labor Government of the day had the foresight not only to build the line, but also to use environmentally acceptable sleepers in the process and, indeed, it extended the line with an environmentally sensitive strategy. A purpose-built factory constructed in 1991 made those sleepers. Although no manufacturing plants in the south west of Western Australia are involved in the manufacture of these sleepers, there is absolutely no reason why it cannot be done; that is, to make sure that it is part of Westrail's request to use that product for the lines. If the Government were willing to make a commitment to using concrete sleepers, obviously the demand would be sufficient to establish such a factory again. Clearly the Government should be making this commitment. Enough of our native forests are being chopped down for other purposes without railway sleepers being left as an ongoing drain.

This Government's track record on the forest issue has caused uproar in the general community. Clearly it has caused divisions in the coalition and the state parliamentary Liberal Party, and division between the federal Liberal Ministry for Forestry and Conservation - that is, Minister Wilson Tuckey - and the State Government, particularly the federal minister's assessment of National Party policy. One also suspects there would be divisions between that federal minister and his state counterpart. Perhaps when the truth comes out about last Saturday's conversation between Minister Tuckey and Premier Court, we will see the size of the rift that has developed. The Government could be accused of not seeing the wood, or in this case the forest, for the trees. One must ask where is the value-adding in chopping down trees and running trains over them. If the minister does not take this opportunity to state whether he proposes to change this outdated policy, one must question his belief and the belief of his party in the need to protect our native forests. Possibly he is merely following the line of the Premier about the RFA given to the Minister for Forestry and Conservation on Saturday, as stated by him in the Federal Parliament yesterday. Mr Tuckey, the misappointed minister, if ever there was one, said in answer to a question -

Hon Greg Smith: He is a good minister.

Hon TOM STEPHENS: Did Hon Greg Smith say he was a good minister?

Hon Greg Smith: I said he is a very good minister.

Hon TOM STEPHENS: He said -

> My last contact with the Premier of Western Australia on this issue was on Saturday. He assures me that he plans no changes to the Regional Forest Agreement.

In question time today the Premier was not prepared to confirm the conversation that Mr Tuckey confirmed in the Federal Parliament yesterday. Fortunately, today in question time the Deputy Premier was able to throw further light on a conversation that the Premier has not yet had the courage to own up to. This is despite confirmation by the federal minister. Legal advice obtained by conservation groups confirms that the Western Australian Government can legally protect more of the State's old-growth forests. Western Australia has statutory and constitutional powers to add to the forest reserve that the agreement does not and cannot override.

I am sure this House would be interested to know whether this minister, or perhaps the Leader of the House, can confirm the Government's position is as stated by the federal Minister for Forestry and Conservation. However, Mr Tuckey has threatened that any such step could breach the RFA and indicated that the Federal Government had an array of powers to ensure that it did not happen.

It will be interesting to see whether this Government responds to the clear and overwhelming calls of the Western Australian public to include more forests in reserves, even at the expense of less timber being used and made available for railway sleepers! I am sure it is time for the Minister for Transport to make a move on this issue - already too late, but better late than never. Obviously the Government should not accept the threats being made to it by the Federal Government on this issue. It does have an opportunity to exercise its independence and constitutional powers and ensure it does the right thing by the forests of the Western Australian community.

It ill behoves this Government to cower in the face of threats from the likes of Wilson Tuckey. It is time this Government, including its Minister for Transport, had the gumption to stand up in response to the demands of the people of Western Australia and protect the forests.

Several Opposition members: Hear, hear!

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [3.53 pm]: Obviously the Government takes very seriously the use of timber sleepers in the Westrail business. Timber sleepers have been preferred for use in the majority of Westrail tracks, particularly in locations in which the axle loads, train speeds and freight tasks are low. They have a shorter lifespan than concrete or steel sleepers. However, the acquisition costs are lower and therefore provide commercial viability in particular applications.

Concrete sleepers are higher priced and are generally used in tracks on which frequent passenger train operations occur or where the freight axle loads and train speeds are high and therefore require a high level of reliability. As the Leader of the Opposition pointed out, concrete sleepers are in use in the northern suburbs railway line and the railway between Perth and Koolyanobbing.

Westrail currently uses steel sleepers where strengthening of existing wooden sleeper tracks is required. They are being installed in a ratio of 1:2 or at every fourth timber sleeper. They are more expensive than the timber sleepers; nonetheless, in particular applications the additional costs are justified due to the commercial benefits.

In general terms the price of the narrow-gauge processed and treated timber sleeper is approximately 15 per cent less than that of a comparable steel sleeper. In turn the steel sleeper costs approximately 40 per cent less than a comparable concrete sleeper. The processed and treated timber has an expected life of 25 years, with a range anywhere between 10 and 40 years. Comparable steel sleepers have an expected lifespan range of 40 years, while concrete sleepers have an expected average life of around 50 years.

The installation of steel sleepers requires additional ballast when installed on a 1:4 or 1:2 pattern with timber sleepers. Additional track resurfacing is required during the life of a steel sleeper to avoid track geometry problems. Obviously that adds to the cost of its installation. Ballast is required for concrete sleepers due to the increased depth of the concrete. Installation costs are also greater due to the need for higher-capacity plant and equipment to accommodate the substantially heavier concrete sleepers.

With reference to comments by the Leader of the Opposition, the permissible level of jarrah harvest of first and second-grade sawlogs from the State's forest over the next four years is an average of 324 000 cubic metres per annum. The level for karri first and second-grade sawlogs is 186 000 cubic metres. Typically, Westrail uses about 9 200 cubic metres of sawn sleepers per annum, which requires approximately 27 500 cubic metres of logs. That equates to 5.4 per cent of the annual permissible level of the harvest under the RFA.

However, as the specification for the timber sleepers accepts defects in the wood, some timber sleepers are cut from third-grade sawlogs. The important aspect of the third-grade logs is that they are not included in the level of harvest determined by the Minister for the Environment in either the forest management plan or the Regional Forest Agreement and are, in fact, a by-product of harvesting logs to meet the contract requirement of the first and second-grade logs up to a permissible level of timber harvest.

Railway sleepers are also cut from lower-quality second-grade logs or the poorer sections of first- grade logs, which are not suitable for the higher-value end uses. It is intended that concrete sleepers will be used in the extension of the northern railway to Clarkson and for the Koolyanobbing to Kalgoorlie section of the line. That will be done only when the funding becomes available. We are negotiating with the Federal Government on those issues.

Future upgrading of the south west railway line, with which we are dealing at present, may also contain some of the concrete sleepers. While traditionally Westrail predominantly uses timber sleepers, it is moving towards greater use of concrete and steel sleepers, particularly when it is financially beneficial.

I have requested the Acting Commissioner of Railways to review Westrail's use of timber sleepers. Obviously his investigation will involve a close examination of the desirability of the use of timber sleepers. We will certainly be considering the possibility of using concrete or steel sleepers in the future.

Hon Tom Stephens: Did you give him a time frame?

Hon M.J. CRIDDLE: Westrail recently awarded a contract to BHP Steel for the supply of 400 000 steel sleepers over the next three years for use on low-tonnage lines throughout the rail network. In addition, we let the 15 000 timber sleeper order for the contract in May which will be used in conjunction with the steel sleeper program to maintain and strengthen the network.

HON CHRISTINE SHARP (South West) [3.58 pm]: In the light of the parlous state of mismanagement of our forests I

rise to talk about a different concern about this Government's failure to adequately protect our old-growth forests. I refer to a memorandum which fell into my hands last week and which has caused me a great deal of concern since I read it. It is from Bunnings Forest Products Pty Ltd to its employees in the forest harvesting and treatment area; that is, the people on the ground who are occupied with logging. The subject of the memorandum is chip logs. It reads -

> Further to recent changes to the chip specifications, it is necessary to further reduce the amount of chip being produced from our operation.
>
> Our chip stocks at the end of March are 90,000 tonnes.
>
> The plan is to reduce these stocks to 27,000 tonnes by October 1999.
>
> C.A.L.M. also need to reduce the amount of karri chip being produced.
>
> The changes are as follows:
>
> 1. Implement diameter limits on Karri chiplog. Minimum diameter 230mm . . .
> 2. C.A.L.M. will mark with a "L" large karri trees that do not have 1st grade sawlog in them. (these will only be left providing they do not present a safety hazard and are inside 100 metres from the boundary).
> 3. No chiplogs from dead karri or marri trees either standing or ground salvage to be produced.
> 4. A strict karri chip quota will be imposed on each contractor.
> 5. Marri to be left standing in jarrah coupes. (The exception being those to be felled for safety reasons).
> 6. Karri coupes with a high component of senescent karri and marri chip should be considered in part or total for deferral from harvesting.

It is signed S. Martyn of Bunnings Forest Products. I seek leave to table the memorandum.

Leave granted. [See paper No 1186.]

Hon CHRISTINE SHARP: The question is, what does this memorandum mean? It means that we are imposing very significant changes on the way we are currently logging and harvesting karri, marri and jarrah forests and that the reason for these changes is the overproduction of chip material. That overproduction requires significant changes to be made to silvicultural treatment. The memo means that instead of clear-felling karri forests, we are now moving to a type of selection system, a hotchpotch selection, which is driven by Bunnings Forest Products' requirement for product. It appears that Japan's specifications for chip logs have changed. There has been a reduction in quantity and a greater specification of quality chip logs. It appears that only reasonably young chip material is acceptable - that no dead material is acceptable. In other words, the chip logs cannot come from the salvage of waste material. The memorandum also means that gap creation will no longer take place in jarrah coupes because marri trees are to be left standing. We are abandoning karri clear-felling in favour of a market-driven selective system and gap creation in the jarrah forests. These changes are clearly driven by the market requirements of Bunnings Forest Products. They are not driven in any sense by any scientific criteria for forest management or any end goal of sustainability. The memo clearly states that if karri does not contain first-grade sawlog, it will not be taken. Therefore, the areas of forest which will be targeted for logging will be the areas of tall mature karri in their prime and most such forests are heritage listed. This memorandum was circulated one week before the Regional Forest Agreement was signed and it reflects the actual reserves design of the RFA. That design basically maximised the amount of tall, main type karri forest available to the timber industry because, as this memorandum indicates, that is what Bunnings Forest Products is most keen to obtain. We have a forest management system which is based on the market requirements of a timber company.

How did I find out about this? Did I find out about it by reading a ministerial statement or from a report of public advice from the Environmental Protection Authority? No. I found out about it when a constituent of mine informally produced this information for me. That in itself is an outrage. The Environmental Protection and Conservation and Land Management Acts contain very clear processes to be followed when we change how we log the forest. As a former member of the EPA, I believe points 1 to 4 and 6 of this memo are arguably in breach of the first condition of the ministerial condition on the WA Chip and Pulp Co Pty Ltd Environmental Review and Management Programme of 1998. That condition states -

> The proponent shall adhere to the proposal . . .

In other words, one must continue logging in the way described and assessed by the EPA. The fifth point of the memorandum, "Marri to be left standing in jarrah coupes", is likely to be a breach of condition 2.2 of the ministerial conditions set in 1992 as part of the proposal to amend the 1987 forest management plans.

I find it quite extraordinary that one week before the RFA was signed, a huge change was made to the way we are logging the forest and that that change was made confidentially on the part of the Department of Conservation and Land Management in conjunction with a commercial operator and apparently without following any due process whatsoever. I have sought clarification from the EPA about whether that authority was consulted about this matter as is clearly required under section 46 of the Environmental Protection Act and condition 2.2 of the 1992 ministerial conditions. I have been informed by the chairman of the Environmental Protection Authority that the authority's advice about whether these changes are substantial and should be allowed to progress has not been sought. Very shortly I will ask my next question of the Minister for Finance representing the Minister for the Environment because I would like to know whether the Minister for the Environment is aware of these changes. It is clear that it is the minister's responsibility to determine whether such changes should take place

and to ensure that due process is followed. At this stage, I have no reason to believe from my investigations that due process has been followed. We are looking at a situation in which our logging clearly breaches the Act.

HON GREG SMITH (Mining and Pastoral) [4.08 pm]: Something that amazes me about opposition to the timber industry and someone like Hon Tom Stephens moving a motion opposing the use of timber for railway sleepers is that timber is one of the true renewable resources we have. If we mine iron ore or produce cement, once it has been used, it is gone; it is mined and gone forever. However, we can cut a tree down today and 100 years from now there will be a tree standing on that spot which is just as big and healthy as the one there previously. Old-growth forests are old in the way we view time. Human life lasts about 70 years and we think of a 100-year-old tree as being very old.

A hundred years is a brief time in the history of forests. We will run out of iron ore in 100 or 200 years from now; however, we can cut down a tree, plant it and regrow it. It is one of our truly renewable resources. Production forests are just that; they are there to produce timber. Only 15 per cent of the total Manjimup Shire has been cleared for agriculture. If plantations were put into all of the area of the Manjimup Shire that has been cleared, with the exclusion of residents' backyards, only an extra 12 per cent of area would be available for the production of timber. The argument against using timber for sleepers is an unsustainable one. Timber is a sustainable industry; it reproduces itself, whereas any other material will eventually run out. It may be a long way off - it could be 500 years or 1 000 years off - but I see no end to the human civilisation within the next 500 years, unless we are blown up and gone in the year 2000 as some fatalists think will happen.

Hon Tom Stephens: If you lot stay in Government, I can see the end of human civilisation as we know it!

Hon GREG SMITH: The member will not live long enough to see that! The timber industry is sustainable; timber grows again. I cannot fathom the opposition to it when we talk about something that is truly renewable. We grow wheat crops. When a paddock on a farm is ploughed in March, it becomes totally denudated of everything that exists on the farm - it is just dirt - yet by December, a crop of wheat has grown on it which we harvest. The timber industry is exactly the same except it is working on a time frame of 100 years. The Standing Committee on Ecologically Sustainable Development has looked at the forests and has been to places such as Big Brook Forest. The people there told the committee that the forest was the rifle range 70 years ago. Trees are now growing there that are as big as any other trees in the forests with the exception of the big marris that have been left. The area has a hundred-year forest which is magnificent.

I thought the Greens would be celebrating a reduction in the supply of woodchips. They have been saying that the whole timber industry is woodchip driven, but are now saying that the supply of woodchips is being reduced and it is not being done properly. They cannot have it both ways. Arguments have been put forward that the karri forests need thinning. The Executive Director of CALM said the karri forests will be thinned when a use is found for the thinnings. It is natural that an industry will be commercially driven. I have no doubt that a commercial use will be found for karri thinnings in the future. Karri forests which require thinning will produce woodchips as an end result. It brings to mind an article written by Peter Walsh which I read last week, in which he said that when the environment movement was trying to protect forests in the east; they wanted to protect a 70-year forest which had been clear-felled 70 years ago . The movement wanted to protect it because koalas were now living in it.

At some stage, we must accept that an area of forest will be set aside for production and another area of forest will be set aside for reserve. Some 1.2 million hectares of forest are in reserve and will be there in perpetuity. There is no discussion about starting to saw timber contained in that 1.2 million hectares. The industry requires production forests. We as a society require timber products. If the use of timber is being opposed, whether for sleepers, paper or fine furniture, it is up to the industry to decide what it does with the product. The royalty would be no different whether it is making sleepers or furniture, although the minister representing the Minister for the Environment might be able to tell us different. More royalties are paid for chiplog than on first-grade timber for saw mills because we try to motivate the use of wood for sawmilling rather than for chiplogging.

I must place it on the record that the timber industry is the one industry that replenishes itself. Any other sleepers that we produce, regardless of what we produce them from, are used and gone forever. Timber sleepers can be produced, and a hundred years from now, we can cut another hundred timber sleepers from the same product that the original sleepers were made from.

HON NORM KELLY (East Metropolitan) [4.15 pm]: Firstly, I will comment on Hon Greg Smith's remarks about the sustainability of logging practices. What he says is true if one takes a simplistic view; that is, if a working forest is worked on a hundred-year rotation, and we log 1 per cent of that forest every year, that in basic terms will be a sustainable logging industry. I am sure many people in Western Australia would be very happy to retain existing logging areas as timber areas for harvesting as long as those areas which are regarded as old-growth forests are not touched. If we had a sustainable timber industry, old-growth areas would not need to be logged. It is because we have not been able to log at a sustainable rate that such pressure is on our few remaining old-growth forests to be made production forest. That is what the entire argument revolves around. I appreciate Hon Greg Smith's understanding of rotations and sustainability, but unfortunately this State must pay for its previous overexploitation of state forests in recent decades. That is the reason that we must pare back now and make up for that overexploitation.

The Minister for Transport said that the issue of Westrail purchasing sleepers is very much an economic equation. I think he said that timber sleepers were about 15 per cent -

Hon M.J. Criddle: I explained the reason for that decline.

Hon NORM KELLY: That is correct, as well as how long they last, etc. However, one of the reasons that native timber sleepers are a viable proposition for Westrail is the very low royalty rate which is generated from the use of those timbers.

Unfortunately it is a royalty which looks destined to remain at a very low rate. The royalty for third-grade jarrah sawlogs is only $13.33 a tonne, and for third-grade karri sawlogs it is $12.69 a tonne. It is an extremely low rate of royalty for such a resource. That has been one of the things that the Standing Committee on Ecologically Sustainable Development has investigated. Hon Murray Criddle was a member of that committee for a long time before he became a minister. I am sure he is well aware of the need to increase royalties. During the recent estimates hearings, during the Department of Conservation and Land Management's session, I asked about royalty increases. Some significant increases in royalties have taken place in recent years, but unfortunately it seems that the promise of future royalty increases could be coming to a stop.

The response, which I received only today, indicates that a review by Arthur Andersen suggested that a 13 per cent increase be applied to karri and jarrah forest products, with a 10 per cent first stage being applied from 1 July 1997 and 3 per cent from 1 July 1998, and that a further increase of no more than 1.11 per cent for karri and 6.35 per cent for jarrah be applied from 1 July 1998 subject to an independent review of timber royalty methodology. That independent assessment recommended those subsequent increases in royalty, but the increases from 1 July 1998 are regarded as final. The response further points out that royalties are indexed annually by reference to movement in the timber price index. There does not appear to be any commitment from the Government to a policy of steadily increasing the timber royalties collected from our native forests beyond the increases resulting from the timber price index. That is despite the acknowledgment that the royalties received from the logging of native forests are not sufficient to maintain those forests sustainably for future timber production.

We discuss ecological sustainability, but we must also consider economic sustainability. The royalties from this timber production are not sufficient to maintain these working forests for the 100, 120 or 60-year rotation required before the next round of logging occurs. That is why the recent RFA included $3m as a top up for the thinning of jarrah forests. Those forests have not been thinned even though good silvicultural practices determined that they should have been thinned many years ago. The money was not there and the royalties generated did not allow that proper long-term management. Any logging of our native forests should return to the State sufficient moneys to ensure the management of that forest until the next logging rotation.

I refer now to the RFA and the issues raised in the recent debate, primarily in the media, between the federal Minister for Forestry and Conservation, the current state Environment Minister and other ministers who see themselves as better able to play that role. This agreement is meant to provide security for the people of Western Australia and the timber industry for the next 20 years. However, it is a very weak document. Most of it is tied up in non-legally binding clauses. That is a negative because it does not provide the security that was promised, but it is also a positive because it means that the State Government can change the RFA signed in May. There is flexibility in the document for the State Government to add new reserves. Wilson Tuckey might disagree, but any decent lawyer opposite would need to look only once at the document to confirm that that opportunity exists. Many government backbenchers are looking for the opportunity to make these changes because they realise they have failed the Western Australian people with the original RFA. They know that it does not represent the will of the people to protect old-growth forests.

Clause 16 in part 2 of the RFA provides that it is not intended to create legally binding relations and provisions. It mentions various non-legally binding conditions and reference is made to the five-yearly review. This promise of regular reviews is not a requirement of the RFA. If the Government so chooses, it can say it is too busy and that it will wait until the 10-year review referred to in the forest management plan.

I will not have time to mention other relevant issues; I may have to refer to this again during the adjournment debate.

Hon Simon O'Brien: Hurry up.

Hon NORM KELLY: Much more remains to be said. As much as this RFA can be seen as a weak document because it does not provide security to the people of Western Australia or to the timber industry, that weakness can be transformed into a strength because it will allow the State Government to take the action it has failed to take so far in this forestry issue.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.26 pm]: This is a beat up by *The West Australian* about 35 000 sleepers. If its journalists had done some homework they would have established what Hon Murray Criddle pointed out; that is, there is more to this than meets the eye. As time goes by, people will commend the Government for its management of the forests and the timber industry.

Railway sleepers are not included as part of the timber products that meet the value-adding requirements under the Department of Conservation and Land Management's contracts of sale with sawmilling companies. However, they provide a valuable market for sawn timber that contains wood quality defects. In other words, it keeps people in business. Many of the logs that could not be used for furniture can now be used in this way. Railway sleepers are predominantly cut from low-quality sawlogs containing a large proportion of timber with rot or gum and other defects not readily suitable for kiln drying and other value-added processes. Sometimes the internal faults are discovered after the logs have been cut, and they can then be used for sleepers. This is all part of the balance of the industry. Some of the timber is used for chips, some is high-quality timber and some is used for sleepers. The South Africans have been growing eucalypts for 100 years for props in mines. The trees regrow from the same stumps, but the regrowth trees are not as big as the original trees and they are cut much earlier. They are used in the mines because, unlike steel or concrete props, they creak and groan if there is any movement in the soil.

Specifications for railway sleepers allow for hardwood to be included, which is regarded as a defect not normally acceptable for furniture, appearance grade or structural grade timber. Railway sleepers are now increasingly being produced by small sawmillers in the south west who rely on an outlet for generally lower-quality or second-grade log timber. That enables those sawmillers to produce other value-added products in a financially viable way from the balance of their log resources.

This is a balancing of the industry. We have the growing industry, the felling industry and the sawmilling industry, and sleeper production is part of that industry. Members were comparing the price of concrete, steel and wooden sleepers. The minister pointed out the cost of installation and the difference in the amount of ballast required; much more is required for the concrete and timber installations. That is all part of the cost of installation.

The Government is very proud of the new reserve system, which includes the following icon blocks and areas of high community attachment: Wandoo National Park, proposed by the Australian Heritage Commission and the WA Forest Alliance; the extension to Monadnocks National Park, proposed by WAFA; the extension to Lane-Poole Reserve, proposed by the WAFA; Wellington National Park, Noggerup Conservation Park, and Hester, Dalgarup and Glenlynn blocks, proposed by the Bridgetown, Noggerup and Preston community groups; the Margaret River, Forest Grove and Yelverton National Parks, proposed by the Leeuwin Conservation Group; and the Blackwood River and Milyeannup National Parks and the Hilliger Forest Conservation Zone, proposed by the Leeuwin Conservation Group.

Other icon blocks identified by the Margaret River conservation group include Bramley forest and Yalgorup National Park. The Leeuwin Conservation Group identified areas around the Blackwood River, Millinup national park and the Hilliger forest conservation zone.

We have reserved all these icon areas. I do not know what the Opposition is complaining about. We have done a good job, and that will come out as time goes on. I support the Minister for Transport and the wonderful job he is doing.

Motion lapsed, pursuant to standing orders.

FEDERAL COURTS (STATE JURISDICTION) BILL 1999

Introduction and First Reading

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

FEDERAL COURTS (STATE JURISDICTION) BILL 1999

YEAR 2000 INFORMATION DISCLOSURE BILL 1999

Standing Order No 230 (c) and (d), Suspension

HON PETER FOSS (East Metropolitan - Attorney General) [4.31 pm]: I move -

> That Standing Order 230(c) and (d) be suspended in its application to the Federal Courts (State Jurisdiction) Bill 1999 and the Year 2000 Information Disclosure Bill 1999.

I have spoken to other members of the House and it has been agreed to bring these matters on to be dealt with urgently.

Question put and passed with an absolute majority.

Standing Orders Suspension, Passage of Bills through All Stages

On motion by Hon Peter Foss (Attorney General), resolved with an absolute majority -

> That standing orders be suspended so far as will enable the Federal Courts (State Jurisdiction) Bill 1999 and the Year 2000 Information Disclosure Bill 1999 to pass through any or all stages in the same sitting.

FEDERAL COURTS (STATE JURISDICTION) BILL 1999

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [4.33 pm]: I move -

> That the Bill be now read a second time.

On 17 June 1999 the High Court held that State Parliaments were not able to confer state jurisdiction on federal courts - the Federal Court of Australia and the Family Court of Australia - and that the Commonwealth Parliament was not able to consent to the conferral of state jurisdiction on federal courts. This Bill is designed to deal with the situation created by the High Court's decision which has had the effect of rendering invalid judgment and orders of federal courts made in the exercise of state jurisdiction and proceedings pending in federal courts where the court was being called on to exercise state jurisdiction under cross-vesting schemes.

In 1987 the Commonwealth and the States and Territories enacted complementary legislation in the form of the Jurisdiction of Courts (Cross-vesting) Act 1987 under which the Commonwealth vested federal jurisdiction in State and Territory Supreme Courts and the Family Court of Western Australia and the States and Territories vested state jurisdiction in federal courts. That legislation was enacted to overcome costly and arid jurisdictional disputes and operated satisfactorily right up until the High Court's decision.

The High Court's decision has implications for not only the general cross-vesting scheme but also the specific cross-vesting schemes introduced subsequently in relation to the Corporations Law and the Competition Policy Reform Act and also for certain applied law schemes where laws of another jurisdiction are applied as state law and under which state jurisdiction has been conferred on the Federal Court.

The cross-vesting schemes were first challenged in the High Court in Gould v Brown, which was decided on 2 February

1998. In that case the court upheld the validity of the schemes by a statutory majority, 3:3. In early December 1998 a differently constituted High Court heard a further four challenges to the schemes in Re Wakim; ex parte McNally and anor; re Wakim, ex parte Darvall; re Brown, ex parte Amann; and Spinks v Prentice. This resulted in the court by a 6:1 majority ruling that the cross-vesting schemes, in so far as they conferred state jurisdiction on federal courts, were invalid, essentially on the ground that the conferral of such jurisdiction was not permitted by chapter III of the Commonwealth Constitution. The Commonwealth and all of the States and Territories had intervened on the hearing of these cases before the High Court to support the cross-vesting schemes but ultimately to no avail.

In anticipation of an unfavourable decision, the Standing Committee of Attorneys General arranged for legislation to be prepared which, when enacted, would preserve the validity of judgments and orders of federal courts made in the exercise of cross-vested state jurisdiction and would enable proceedings pending in federal courts to be transferred to the Supreme Courts. A model Bill has been prepared by Victorian parliamentary counsel in collaboration with other state parliamentary counsel and the Special Committee of Solicitors General. The Bill before the House is based on that model Bill.

The objects of the Bill are -

(a) to provide that ineffective judgments of federal courts made in the purported exercise of state jurisdiction are taken to be judgments of the Supreme Court or the Family Court of Western Australia, as the case requires;

(b) to provide for the transfer of current proceedings before a federal court in relation to state matters to the Supreme Court or the Family Court of Western Australia, as the case requires; and

(c) to enable state courts to deal with matters that arise under applied law schemes which would otherwise have been dealt with by a federal court.

The Bill provides that ineffective judgments of federal courts will have the same effect as if they had been given by the Supreme Court - in the case of the Federal Court - and the Family Court of Western Australia - in the case of the Family Court of Australia. This will enable such judgments to be enforced in the same way as judgments of the Supreme Court or the Family Court of Western Australia, as the case may be. This aspect of the Bill is in similar terms to the Family Court (Orders of Registrars) Act 1997 passed by the Western Australian Parliament to address the decision of the Full Court of the Family Court of Australia in Horne v Horne which declared that certain orders made by Registrars of the Family Court of Western Australia were invalid. This legislation was in turn based on the legislation approved by the High Court in R v Humby; ex parte Rooney (1973) 129 CLR 231.

The Bill also provides for proceedings pending in federal courts which are affected by the High Court's decision to be transferred to the Supreme Court or the Family Court of Western Australia, as the case requires, and to be treated as if the proceedings had been commenced in that court.

All States will introduce legislation based on the model Bill at the earliest available opportunity. The Western Australian Bill differs from the Bills which are to be introduced in the other States in one important respect and that is to take account of the fact that Western Australia has its own Family Court. In that regard, it should be noted that the problems that will befall the Family Court of Australia as a result of the High Court's decision will not exist in Western Australia because we have our own Family Court, which is capable of exercising both state and federal jurisdiction. For that we can thank one of my predecessors, Hon Ian Medcalf QC who, when Attorney General, foresaw the kinds of problems which are now confronting us and took the decision that Western Australia should establish its own Family Court. I commend the Bill to the House.

HON N.D. GRIFFITHS (East Metropolitan) [4.38 pm]: I will not speak at the same rate as the Attorney General. Although I will make some reference to his second reading speech, I will not do that from memory because I could not hear every word that he said. The Australian Labor Party supports the Bill, which seeks to overcome a specific problem. As the Attorney General rightly pointed out in his second reading speech, a number of the judgments in the recent case of Gould v Brown foreshadowed what eventually occurred. A number of those judgments confirmed the view that the Federal Parliament could not legislate to confer state jurisdiction on federal courts. It is interesting that the complexion of the High Court has changed. However, these matters were no doubt given further consideration, but that consideration was to some extent anticipated because of the stance taken by the Standing Committee of Attorneys General, which has arranged for legislation of the kind that is now before us to be in train here and in other parts of Australia. I note at this stage no State has passed such legislation, but they are all contemplating doing so, although some Parliaments are in recess. I note the objects of the Bill to which the Attorney General has referred.

This Bill does not say that a judgment of the Federal Court now becomes a judgment of the Supreme Court or Family Court of Western Australia. It is adopting the course that we adopted during the difficulty that arose over Horne v Horne, to say as a result of decisions of the Federal Court, certain rights and obligations and certain matters of legal status exist. We as a Parliament are legislating to say that those matters of status, rights and obligations exist. We are exercising, as is appropriate for a Legislature, a legislative function; we are not saying that this is a series of judicial findings in lieu of judicial findings. That might seem curious. The first time I heard it, it seemed very curious, but I suppose it is consistent with the way things happen in Australia. Many people think it very curious indeed that the High Court has decided to take a different stance from that which it adopted a very short time ago. The cross-vesting scheme which the Parliaments of Australia introduced over a decade ago was certainly very much in the public interest. However, the law is the law. In Australia the law is what the High Court says it is. We must deal with it as best we can as legislators.

When we last examined this issue, albeit in the Horne v Horne context, I was drawn to the very interesting decision of the early 1970s, to which the Attorney General referred in his second reading speech, of The Queen v Humby ex parte Rooney,

which is reported in 129 Commonwealth Law Reports at page 231. I note that in between what occurred 10 days ago and the last time that the High Court considered this issue, there was a dramatic change in judicial personnel. None of those judges who were around in those days occupies judicial office now, but the names are familiar. Until recently some of those judges were occupying judicial office. The judgment referred to is a judgment of Justices MacTiernan, Menzies, Gibbs, Stephen and Mason, the latter two being respectively a Governor General and a Chief Justice. Sir Edward MacTiernan, of course, was a legendary appointee under the Scullin Government who continued throughout many decades and eventually retired under the Fraser Government. When one looks at the High Court, one is looking at a very interesting part of Australian history.

I refer briefly to two aspects of the judgment. It is important to note the scheme we are establishing has longstanding judicial support, even though those judges have left us, in a judicial sense, and, in some cases, in a temporal sense. I suppose in those days their Honours were called Mr Justice. Mr Justice Stephen, as he was in 1973, at page 243 is making an observation about an amendment to the Matrimonial Causes Act but it is the same sort of issue. He refers to a subsection which, he says -

> . . . declares the rights, liabilities, obligations and status of individuals to be and always to have been the same as if purported decrees had in fact been made by a single judge of a Supreme Court. It does not deem those decrees to have been made by a judge nor does it confer validity upon them; it leaves them, so far as their inherent quality is concerned, as they were before the passing of this Act. . . .
>
> the subsection operates by attaching to them, as acts in the law, consequences which it declares them to have always had and it describes those consequences by reference to the consequences flowing from the making of decrees by a single judge of the Supreme Court of the relevant State.

That is one graphic way of putting a distinction between what we are doing and what some people might think is substituting one lot of judgments for another lot of judgments. Mr Justice Mason, as he then was, put it succinctly when he referred to a number of authorities at page 250 of the report. He used these words -

> It is plain enough that the circumstance that a statute affects rights in issue in pending litigation has not been thought to involve any invasion of the judicial power.

I hope those words stand up. The way Australian law is developing at the moment, one cannot be absolutely confident that a particular course of action will work. I hope it does work because if it does not, it will put litigants through unnecessary expense. There is already uncertainty and greater expense will be incurred by many people involved, particularly those who have had matters partly dealt with and will bear the cost of transferring. I am sure that lawyers are very charitable people but in these areas the fees can be significant.

I have no interest in holding up the legislation. It is very good that Western Australia is one of the first States to act. It is important that our Parliament is sitting and in that context I note that even though we are proceeding with the matter today, and I hope we will finish it today in this House, I would think it will not become law in this State for some time.

HON HELEN HODGSON (North Metropolitan) [4.49 pm]: The Australian Democrats also support the passage of this legislation. We agree that a considerable amount of urgency is attached to its passing, which is why we raised no questions about the suspension of standing orders. Basically the way in which the cross-vesting scheme has worked over the past decade has been very useful to the operation of the courts. Anybody who has had any practical dealings with the courts and the way in which this has worked has found that it has been advantageous. In Western Australia the impact is primarily on corporate law cases because Western Australia retains its own Family Court. There is a question of what happens to de facto property disputes which must still go to the Supreme Court here because the Family Court cannot deal with them.. However, that is another issue for another day.

Before I did a bit of digging around on this matter I was not aware that from the earliest days of the cross-vesting scheme, questions were raised as to its constitutionality. A footnote to the Wakim case, which I obtained from the Australasian Legal Information Institute service, states -

> . . . the Advisory Committee on the Australian Judicial System, in its Report to the Constitutional Commission (1987, . . .), expressed doubts as to the validity of the legislation and drafted a constitutional amendment to support the proposal for cross-vesting. In 1988, in its Final Report . . . , the Constitutional Commission recommended that the Constitution be amended to permit cross-vesting. However, the legislation was enacted without the support of any constitutional amendment.

We are all aware of how difficult it is to get constitutional amendment, and when it is a matter that is not seen as having great day-to-day impact on the majority of Australians, it does not receive high priority in terms of forming referendums to bring in these changes. It is a pity that in this case the advice of the Constitutional Commission was not acted on 10 years ago.

Hon Peter Foss: It is hard to whip up enthusiasm for these things.

Hon HELEN HODGSON: For corporate law, definitely. It is interesting to see that the judgment was 6:1 and it reversed last year's 3:3 decision. Mr Justice Kirby was the one dissenting judge. It is interesting to see that the arguments basically centred around form versus substance - that the Constitution is laid out in a particular way and there is a legalistic way of interpreting the Constitution. That was what the majority basically held. They were obviously regretful about this, because in Chief Justice Gleeson's judgment he said -

> The inability of the federal courts to exercise cross-vested State jurisdiction in the manner provided for under the present legislation simply shows another deficiency in the system. I do not think that it can be seriously doubted

> that, if Australia is to have a system of federal courts, the public interest requires that these courts should have jurisdiction to deal with all existing controversies between litigants in those courts.
>
> However, the judiciary has no power to amend or modernise the Constitution to give effect to what the judges think is in the public interest.

Mr Justice Kirby, on the other hand, was happy to say -

> What can be more conducive to the national society of Australia as envisaged by the Constitution than the provision of legislative consent to a scheme that ensures justice, efficiency and clarity in the nation's court system? This is something at the very heart of the nation's existence and of its identity as such.

Therefore, it is clear that the High Court of Australia saw the need and the advantages of the system, but it felt constrained by the technicalities of the Constitution.

However, I note that already some commentators have said that even these new state laws could be the subject of a legal challenge. That was reported in *The Australian* on Friday, 18 June, by Bob Baxt, I think, if my note here is correct. It is clear that although we have to act and we have to act fast, there are still issues that may cause problems here. Commentators have already referred to the impact this might have on other forms of uniform legislation. Therefore, the quicker this is fixed permanently, the better. However, it is not something that we in this place can do much about, except to fix the problems immediately before us.

I also have a copy of a press release put out by the Law Council of Australia, which urges prompt action because of its concerns about the validity of orders made in the Federal Court of Australia and the Family Court relating to corporations, family and civil law. There is also some concern that the effect of the decision will be to put additional pressures on state and territory courts as Corporations Law cases are directed away from the Federal Court. That is probably my main concern here. We are already aware of the delays in the Supreme Court system and this will increase pressure on the court system - not as much as in the other States, though, because here it is only Corporations Law. I hope that there are ways administratively that additional resources can be made available to cover that situation.

Having examined the matters that are covered in the Bill, the major forms of orders that have been granted have all been covered in a way that will ratify them. Hon Nick Griffiths has already referred to our acting in a similar way in respect of the Horne v Horne case. With those comments, the Australian Democrats also support the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [4.55 pm]: I thank members for their support of the Bill. I too would certainly like to see a constitutional amendment. I suggested that as soon as the matter was raised in the Standing Committee of Attorneys General. It is on the agenda for SCAG. I am pleased to see that the Attorney General of New South Wales, Hon Jeff Shaw, QC, has made that statement. We obviously cannot move amendments to the Constitution. That must come from the Federal Government. However, as State Attorneys General, we are definitely pushing that.

As to whether this method will work, again we are to some extent in the hands of the High Court. It was very much supported earlier on. Interestingly, I was the person who came up with the idea for the method of dealing with it last time because of my background in conflict of laws. It bears its characterisation from the conflict of laws. We were having tremendous problems seeing how we could legislate in such a way that we did not again offend part III. I suggested that approach, and it was only after that that we looked for cases to see whether we could do it. That is when we came across the earlier case. Therefore, it is nice to know that there is a previous decision. I sincerely hope that the High Court does not feel constrained to change again. I always wonder how at some stage the High Court can find the most extraordinary things in the Constitution when we do not need it, but when we do need it, the High Court cannot find them. I hoped that the High Court would take a more practical approach to this. It was very good legislation. I commend the previous Government on having passed it and all the other Australian jurisdictions for having done so. It is for the benefit of the people of Australia. I hope we find another resolution which restores that cross-vesting of jurisdiction. However, I think a part III amendment is the only way we can do it.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

COURT SECURITY AND CUSTODIAL SERVICES BILL

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL

Second Reading

Resumed from 16 June.

HON KEN TRAVERS (North Metropolitan) [4.58 pm]: I rise to oppose this Bill. I realise I will have only a couple of minutes before I am interrupted and I will have to resume my comments. However, I put it on the record that I see this Bill as the start of a slippery slide down the slope of privatisation of the custody of our prisoners. As a Parliament we need to step back and look at what are the fundamental roles of government. I know there has been a lot of contracting out of different government services over the past 10 to 20 years, and in the past five years it has been a rapid process. However, there is no doubt that some fundamental matters should remain in the control of the public sector. I argue that custody of prisoners or people on remand is a fundamental function for which the State Government must take direct responsibility and not through some contracting out situation. There are good reasons for that, and I will go through some of them. First, I

realise that this Bill deals specifically with court security, court custody management, prisoner movement and lockup management, but they are a fundamental part of the prison system.

[Questions without notice taken.]

Hon KEN TRAVERS: These Bills deal with contracting out and the removal from government responsibility of a most fundamental issue with which a Government should be involved; namely, custodial security services. By rights, Governments should deal with this area directly, not through second and third parties. These Bills are typical of the style of the Attorney General: The power for his intervention at any point is seen throughout the Bills, which is something we see often in the Attorney's Bills.

I now outline the Government's reasons for these Bills. The Bills and the second reading speeches give little explanation of that argument. However, the second reading speech devotes a couple of pages to outlining the deficiencies of the current arrangements. It briefly refers to the difficulty in police officers having a responsibility, prison officers having another responsibility, and the melding of the two responsibilities. It also refers to different Acts applying to police officers and prison officers. It argues the need to give similar powers to these officers to have a streamlined system. That may be a good thing, and may free up trained prison and police officers to return to the prison and police systems. That is not a problem. However, why not do this in a public service organisation? Why not operate within a new body contained in the Public Service? These Bills seek to place the service into the private sector.

I know the Australian Labor Party will oppose this legislation vigorously, and I understand the Greens (WA) will oppose it vigorously. I also understand that, based on amendments placed on our desk this afternoon, we may see a little deal done between the Government and the Australian Democrats to have these Bills pass through Parliament. People who traditionally supported the Australian Democrats will be absolutely disgusted if the Bills pass with that party's support. People who traditionally support the environment, social justice and human rights will be devastated to see this legislation pass with the support of the Democrats.

Hon Simon O'Brien: What does the environment have to do with the Bills? Why not stick to the Bills, rather than trying to perform political stunts? You have won two seats in the North Metropolitan Region, and the Democrats have won one. You should be focusing your efforts on trying to win back your supporter base, and not worrying about the Democrats'.

The PRESIDENT: Order! I am trying to concentrate on a cognate debate on custodial services.

Hon KEN TRAVERS: I refer to people who traditionally supported the Democrats. I will list the areas again, although I do not want to get Hon Simon O'Brien too excited. Social justice and human rights were relevant to people's devastation when the federal Democrats supported tax reform.

I return to the Bills before us. Nowhere in the legislation or the second reading speeches does the minister suggest that the measures will lead to net savings for government. I cannot wait to see how the Democrats will justify their support. Every indication is that the Democrats have done a deal to support the Government on the legislation. The minister has not indicated that the legislation will give any savings to government. The research from the Attorney's trip overseas a couple of years ago found no identifiable savings in such a system. History indicates that when such government services are contracted out, initial savings may be made through a contract. Claims of this nature were made with contracting out at the Joondalup Health Campus and MetroBus. However, before long the meter starts to tick over, and any apparent savings are quickly gone. This Government has no ability to manage contracts. When the Government contracted out services at the Joondalup Health Campus, it claimed initial savings. We saw hospital beds closed halfway through this year. These were reopened as the Government directed money to prop up the supposed flagship of contracting out and privatisation. It does not work in the health system, and it will not work with court custodial services and the prison system.

Members should be under no illusions: This is part of a deal the Government has done with the Democrats to get this legislation through. Let us not forget the other deal involved; namely that with Corrections Corporation of Australia, which is one and the same as Corrections Corporation of America. That company will operate in the same manner as it has operated in other parts of Australia, which followed the American traditions. The deal will maximise the profit opportunities for that company in operating both the court security and custodial services for prisoner transportation.

Hon Ljiljanna Ravlich: It is probably anticompetitive.

Hon KEN TRAVERS: Everything else the Government does is anticompetitive - I will not be surprised if this is the same.

The Government cannot even control and regulate its own area of responsibility. I follow closely the Water Corporation and the new system of water industry regulation. We have an Office of Water Regulation. Recently I attended a conference run by the Government, which a number of people from government and the private sector also attended. One point was clear: The regulator was a toothless tiger which could not control even the Water Corporation, which is a Government-owned organisation run as a private sector agency. It acts as though it were in the private sector, and uses its position of power to strangle the rest of the water industry in Western Australia. Government agencies, such as Aqwest, as the Bunbury Water Board is now known, say they feel they are being strangled by the Water Corporation's powers.

The Government's claims that it will somehow regulate the private sector in contracting out the court security and prisoner transport services leave me bewildered. The Government has not been able to so regulate the Water Corporation, which it owns. It cannot even keep it under control and regulate that industry. It happens in the electricity industry, and the energy industries are very similar in that regard.

We will not get any savings. Everything that is identified as a deficiency with the current arrangements could be easily and

simply picked up by a public service-run organisation over which the minister could quite rightly have ultimate control if he were prepared to accept ministerial responsibility. Apart from the fact that there is nothing good about this legislation in terms of positives and benefits for the community, will there be downsides? Yes, there will be many downsides to this legislation. I hope that the Democrats in this place listen to this carefully because I think the issues I will outline will be very clear and near to their hearts.

On a number of occasions in this place the Democrats have condemned the Labor Party on sentencing issues and what they saw as our support for the Government's increasing the prison population in Western Australia. If this Bill and the rest of the deal that the Government has done with Corrections Corporation of Australia goes through, and we get a private prison in Western Australia, there will be an increase in the prison population. That will happen because a market force will drive it up. We have seen it happen in America and in the water industry. Again, it was one of the issues that came out of the conference I attended recently. Private water providers are travelling around the world and are bidding up the health standards within the water industry. The reason for that is they then provide the services to the Government to correct those problems. The same thing will happen here. We have seen it happen in America where the parent company - the Government's mate - has been bidding up and running the fear campaigns on law and order within the community which have led to the massive increase in prisoner populations in America.

Point of Order

Hon PETER FOSS: I have no doubt we can hear this speech from Hon Ken Travers when, in due course, another Bill comes from another place. Despite his concerns, he should be addressing this Bill rather than that one.

The PRESIDENT: The two Bills with which we are dealing, as I understand it and as I have read them, are different in substance to a Bill that is currently being considered in another place. At the moment Hon Ken Travers is concentrating his efforts on the substance of another Bill. I also recognise that when he talks about court security and custodial services generally, it invites comments of a broad-ranging type. However, we are dealing with the two Bills I called, not with a Bill that may or may not be considered by this House. His comments must be relevant to these Bills.

Debate Resumed

Hon KEN TRAVERS: I appreciate your comments, Mr President, that there is a strong link with this legislation. The point I made earlier is that there is a link in the contracts which will be issued in these two areas. When I talk about market forces coming into play in the whole sentencing system in Western Australia, I note that the same issue will occur in court custody and prisoner transport because it is part of the total industry. These companies, which will be seeking to take over the private contracts for which this Bill provides, will see it as part of a whole industry package in terms of wanting the contracts for both the private prison and this work. That is why, when they bid up and run the fear campaigns, they will see it as a positive initiative for the total industry in prisoner management. From the time a police officer arrests a person and takes him to the lockup, they will have another customer. That is why I hope this Bill and other related matters will not go through. I appeal to members in this place to reject this legislation, go back to some fundamental positions on human rights and social justice and say that the community has an obligation. When it wants to deprive a person of his or her liberty, it has an obligation to take fundamental responsibility for that person from that point on. It has no right to give responsibility to some profit-making organisation outside government control. That relates directly to this Bill.

We have seen this movement into the custody of prisoners around the world, and we have seen the corresponding increase in the total prisoner population. Whether it is for a short time in the police lockup, whether it is being transported back and forth between the prisons and the courts or whether it is staying in the prison system, it means an increase in the profits that the company will receive. The more people it can get into the system, the more it will want to see it happen. The end result of this legislation, even without the other piece of legislation, will see us going down the path of the American situation with increases in the numbers in custody. I will reinforce that point and I will quote from a book titled *Restorative Justice - Contemporary Themes and Practice* by Helen Bowen and Jim Consedine. I need go no further than the preface by Vivien Stern, the Secretary-General of Penal Reform International in London, in August 1998. She says -

> As with other such social changes, the United States leads the world. In 1980 there were half a million people in US prisons. By the end of 1997 there were 1.7 million. At the end of 1985 one in every 320 US residents was locked up. At the end of 1995 the figure was one in every 167. The process seems unstoppable and it is assumed in the United States that there is more to come. Estimates suggest that by the year 2000 the US will be locking up 2 million of its people, that is, more than half the population of New Zealand.

Hon Bob Thomas: What was that figure?

Hon KEN TRAVERS: It was one in 167. Hon Bob Thomas may advise us whether that figure has come down even lower than that already.

Point of Order

Hon PETER FOSS: Although I understand that some connection can be made, reading out statistics on the number of people who will be imprisoned has no relevance to this Bill.

The PRESIDENT: As I read it, the Bill refers in particular to the functions of lockup management, court security, court custody and the movement of persons in custody. It also refers to a number of other administrative functions that will be imposed on various public officers. It seems to me that when we are talking about the functions of lockup management, court security, court custody and the movement of persons in custody, we are not just discussing or relating our comments directly to what occurs in this court. The movement of persons in custody relevantly relates to what occurs within the prison

system. In part, that is where some of these people can be found. I told Hon Ken Travers earlier that we do not need a dissertation on whether we should build a private prison. That is the subject of legislation which may be considered in this House in due course. However, whether a particular country adopts an attitude about persons in custody and some related statistics is not so irrelevant to the debate that I should rule it out of order. It is a wide-ranging area. It should not be considered to be related only to what occurs within a court lockup facility. However, if Hon Ken Travers starts talking about a private prison and whether we should build one, he will be ruled out of order.

Debate Resumed

Hon KEN TRAVERS: Thank you, Mr President. It is not my intention to go down that path. However, I can understand why the Attorney General would want to break a link between the custodial side and the prison side of the debate; nonetheless, they are intricately linked. One does not go to prison without first going through the custodial system, and that is the subject of this Bill. In America all aspects of the industry are linked, and the Government will seek to link them in this State.

I am sure that if I am wrong the Attorney General will correct me, but it appears that his only reference to who will be undertaking this new function is when he mentions a "preferred tenderer"; I think that was the term. The Government has in mind the company it wants to do this and members on this side of the House know which that is. It is no coincidence that the company that the Government would prefer to run its court security and custodial services is the same company it wants to run the private prison. That scares us more than the prospect of this Bill's being passed. I can understand why the Attorney General wants to pretend the two issues do not relate to each other; nonetheless, I accept that we should confine our comments to this legislation.

Since the privatisation of the custodial services system in America, both at the court level and at the police lockup level, and later in the prison system, there has been, and there continues to be, a massive increase in the number of people entering the system. The point at which they enter is the police lockup, which is the subject of this Bill. The company will have a massive incentive, particularly a company that has an integrated position within the industry, to run fear campaigns aimed at getting more people into our court system.

Hon John Halden interjected.

Hon KEN TRAVERS: As Hon John Halden says, it will buy off the politicians. In his contribution to the second reading debate he gave the House many examples of corruption within the process not only in that general industry but also in the corporation with which this Government seeks to deal. Earlier outside the House I was shocked to hear from Hon John Halden the litany of events that have occurred around the world in the mismanagement of contracts and the processes it has entered into to obtain and maintain the contracts in the first place.

Hon John Halden: Should we forget about the extra activities for fundraising, such as drug running through prisons in the United States?

The PRESIDENT: Order! I have read the second reading speech and I did not see anything about drug running in it.

Hon John Halden: I can have another go.

The PRESIDENT: Order! I am sure it is not relevant to the movement of people in custody and general lockup management. Hon Ken Travers was on the right track but was obviously diverted by another member.

Hon KEN TRAVERS: Anyone who does not want to see an increase in the number of people being taken into custody by the police, being processed through the court system and then ending up in a prison, irrespective of whether it is a public or a private prison, should oppose this Bill. Anyone who is concerned that this legislation will put in place a financial incentive that will encourage someone to do that should oppose this Bill. Anyone who has any commitment to social justice or human rights will oppose this Bill. Anyone who is genuine about not wanting to increase the number of people going before the courts and then into the prison system, despite our having passed new sentencing legislation in the belief that we had dealt with these issues, will oppose this Bill.

Anything we may have done previously regarding sentencing legislation in this State will pale into insignificance compared with what will come before us in future if this Bill is passed. This is part of a process that will ensure that the more people who are arrested by the police, the more people who go to court, and the more prisoners who need to be transported around the State, the more profits the private operators will make out of the human misery of the people taken into that system. We have seen it throughout the rest of the world. I have no doubt in my mind whatsoever that we will see it occur in Western Australia, even if no other piece of legislation comes before this House.

I am sure you will pick me up if I am wrong, Mr President, but it has been identified that the Bill introduced by the Attorney General has no accountability mechanism. Some amendments were placed on the Supplementary Notice Paper this afternoon that seek to provide for the independent regulation of these private contractors that will be running our court system and police lockups if this Bill is passed.

As I said, this Government has a history of not being able to regulate or control its own people, as evidenced by events within the water industry. I therefore cannot see any mechanism by which this Government will be able to adequately and properly regulate the court security and custodial services. There is no doubt that it is proper for Governments to regulate and to provide mechanisms to ensure that regulation occurs. The Bill also takes out of the control of this House - although I realise that at times we lose control when ministers refuse to accept their ministerial responsibilities - an issue that should be brought to the Parliament. If we are able to convince the people of Western Australia that a Government must be brought to account

because its ministers are not exercising their ministerial responsibility, different people will be elected at the next election. However, once this Bill is passed it will be outside the control of the Parliament because no doubt, as occurs regularly when services are contracted out, the contract will last beyond the term of this Government. Even if people want to change it after the next election it will be too late because the contract will go beyond this Parliament and probably the next Parliament, as will be the case in a range of areas. As I said, the Bill does not contain any proper mechanism for ensuring accountability.

Hon John Halden: The difficulty is that the detail of this is in a Bill in the other place.

Sitting suspended from 6.00 to 7.30 pm

Hon KEN TRAVERS: It is not my intention to take much more of the House's time other than to summarise the points that we must all keep in mind when we vote on the second reading of the Bill. I hope the House will reject it unceremoniously, as the legislation deserves. The reasons for rejecting it are simple. Firstly, it will lead to an increase in the number of people passing through the court system and on into the prison system. Secondly, no matter how many amendments are made to this legislation, this area will not be able to be regulated to the extent necessary and expected from our community. Thirdly, we should reject it because there is a fundamental obligation on society and this Parliament, when we take people's liberty away from them and place them in any form of custody, to ensure they remain at all times under the control of the community and not of a private sector organisation.

I urge the Australian Democrats to reject this Bill and not to go ahead with the deal that they have struck with the Government. I am sure it will be interesting to note that when other pieces of legislation come into this House, we will see that, even though the Attorney General was keen to separate this debate from the privatisation of prisons, they will be intricately linked; that the Government has struck a deal with the operators of both the prisons and the court custodial systems and the Democrats on this legislation and any other legislation to privatise prisons that may come before us. To hand over Western Australian citizens to private contractors at any stage from the custodial system to the prison system will be an absolute sell-out of their human rights and any concept of social justice. I urge the Democrats to ensure that they do not become the "dealocrats" of the Western Australian Parliament, as their federal colleagues have recently become, but to reject this legislation. I also urge members on the other side to think long and hard before supporting this Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [7.32 pm]: I was curious to note from the Notice Paper that I was the person who took the adjournment last time because at that stage no-one else offered to speak.

Hon N.D. Griffiths: You wanted to close the debate.

Hon PETER FOSS: No, it was because no-one else offered to speak. However, I notice that someone has come along since to speak, Hon Ken Travers, the well- known -

Hon N.D. Griffiths: That is rubbish. You've postponed this Bill for eight weeks, part of your dirty deal.

Hon PETER FOSS: Is it not amazing?

Hon N.F. Moore: The punitive power broker.

Hon PETER FOSS: Yes.

The PRESIDENT: Order! We are now dealing with the summing up of these two Bills by the minister.

Hon PETER FOSS: Hon Ken Travers is the great unfounded-allegation person. One thing that marks Hon Ken Travers is if the Opposition wants someone to come in and make a series of totally unfounded allegations and to make the most outrageous statements -

Hon Ken Travers: Which one is unfounded?

Hon PETER FOSS: Just wait.

The PRESIDENT: Order, members! The minister is entitled to his right of reply and I am sure he will address whatever issues members have raised during their contributions to the second reading speech. However, let us not allow the debate to deteriorate into a cat fight.

Hon PETER FOSS: The amazing thing about Hon Ken Travers is he was plainly called in to try to bully Hon Helen Hodgson and the Australian Democrats to take the Australian Labor Party's point of view. The interesting thing about this is the extraordinary indignation that I have heard from the Labor Party over the word that they have suddenly found to be a bad word - a "deal".

Hon N.D. Griffiths: A "dirty deal" is the phrase.

The PRESIDENT: Order! Attorney General, I am not directing my comments to you but to Hon Nick Griffiths. I want to hear the right of reply.

Hon PETER FOSS: If there was ever a party in history known for deals, it is the Australian Labor Party. In fact the whole faction system of the Labor Party has been set up on deals. The people in charge of the Opposition in this House are all part of a deal, as we all know. The biggest deal mongers in the world are the members of the Labor Party. For some reason a member in this House has taken a view of this legislation; it is not just a matter of being told by the unions to oppose this legislation come what may, because I happen to know that many opposition members believe that this is actually a very good idea. However, I will not embarrass the Opposition by naming those people.

Hon Ljiljanna Ravlich: What a load of nonsense, and you know it. You embarrass us!

Hon PETER FOSS: I will not embarrass the Opposition. However, I do note that the usual problem in the Labor Party is between the left and the right.

Point of Order

Hon LJILJANNA RAVLICH: Mr President, the internal operations of the Labor Party and the concept of deals referred to by the Attorney General has nothing to do with this legislation. Can he get on with the debate? We have to suffer it anyway.

The PRESIDENT: Hon Ljiljanna Ravlich is right inasmuch as the internal dealings of the Labor Party have little to do with the debate. However, it is a relevant point in respect of the question of any dealing on these Bills because other members have referred to negotiations that may have taken place. However, I do not want to dwell on that; I want to get on with the substance of the Bill.

Debate Resumed

Hon PETER FOSS: I want to make a clear distinction between what has happened with this legislation. Hon Helen Hodgson said that if the Bill is passed, it is in the public interest to find out firstly what can occur. She suggested, rather than establishing the regulator proposed by the Government from within government, there be an external, independent regulator. We do not have a problem with that. I do not for one moment believe that a person trying to secure through legislation what that person believes is the best statutory result should in any way be characterised as being involved in a dirty deal. I remember being lectured by members opposite when they suddenly found themselves with a majority in this House that that was what this House was all about: To review, not merely oppose, legislation.

Hon John Halden: And sometimes to oppose it as it is nonsense because it does set out the principles.

The PRESIDENT: Order!

Hon PETER FOSS: I think I am probing in a slightly sensitive place here. The fact is, Mr President, that is the role of this House: To seek to pass the most effective legislation.

Hon John Halden: Sometimes to defeat it.

Hon PETER FOSS: Yes. Hon John Halden should not forget important legislation like the Hairdressers Registration Repeal Bill 1997. Generally speaking the Opposition should work to improve legislation and allow the Government to get on with governing. Hon Ken Travers gave us a series of broad-brush allegations; he had no evidence.

Hon N.D. Griffiths: If that is true he has learnt from the Attorney General.

Hon PETER FOSS: I never get involved in broad-brush allegations. I want to deal with the specifics in this. The Opposition brought in its hatchet man. When the Labor Party cannot achieve something by persuasion it is well known in the Labor movement that it will use muscle. Hon Ken Travers was to bring muscle to bear and to make threats.

I will deal with some of the suggestions raised by the Opposition. Hon John Halden has considerable difficulty understanding -

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Let us bring a bit of decorum into the place and get on with debate. I do not know what happens after a 10-minute recess.

Hon PETER FOSS: Members opposite must understand, first of all, what this is about. I notice that Hon Ken Travers again tried to turn this into a debate about saving money. The most extraordinary aspect of the debate is that the Government has never put this forward on the basis of saving money, although it does hope to save some money. Constantly the Opposition asks the Government to prove that it will save money. Our argument has always been about better government and better management. The Government has always argued against the current system of large numbers of agencies handing responsibility from one to another and having people in charge whose jobs are meant to be something else. The name of the project identified its purpose from the beginning - the core functions project. What is the point of having trained policemen standing in court waiting year after year for something to happen?

Hon Ken Travers: I do not have a problem with that side of it. Why not use the Government to do it?

Hon PETER FOSS: It has been plainly admitted by interjection from Hon Ken Travers that the Opposition accepts that it is a good idea. All the Opposition wants is to have government employees involved. Have members ever heard ideology stronger than that? The Opposition wants government employees doing the work. We want to take policemen and prison officers away from these duties, and the Opposition wants to create a new kind of government employee. Why is that? Why does the Opposition want to hire a whole lot of new people?

Several members interjected.

The PRESIDENT: Order! I have said before that one of the prerequisites in this place is that I hear the debate. More importantly, officers in this place are required to record what is being said. With all the interjections that are occurring at the moment, members are being most discourteous to our Hansard reporter.

Hon PETER FOSS: Hon Ken Travers has clearly brought the whole debate down to a question of ideology.

Several members interjected.

Hon PETER FOSS: Members opposite have a problem when I say that. I know that Hon John Halden understands the point. Even though Hon John Halden is a member of the ALP's left faction, I know he understands the difference between ideologies. Some members of the left want only to hammer ideology. The Opposition wants us to hire a whole lot of new people to do this job.

Hon Ken Travers: What are you going to do?

Hon PETER FOSS: Members opposite want us to take them into government service.

Several members interjected.

Hon PETER FOSS: Members opposite should let me finish. Do members want to get through this debate?

Hon Ljiljanna Ravlich: We are in no hurry at all.

Hon Kim Chance: I am not flying north for winter; I am staying here.

Hon PETER FOSS: I will speak quietly to make the point. The Opposition is not objecting to this for the usual reason that somebody employed by government will lose his job. Members opposite want us to go out and take some new people into government service, because they say there is some inalienable rule that the Government should not take a person's liberty away and have them looked after by a contractor. Let me correct that point. Under this legislation the person who will hold the custody, and in whose custody the prisoners will remain, will be the Director General of the Ministry of Justice.

Hon Ken Travers: He will be busy.

Hon PETER FOSS: Again, we have a misunderstanding. The Labor Party has this obsession that we cannot get rid of that responsibility. We are not trying to do that. We are not handing the responsibility for custody over to someone else; that remains with the director general. The people who will be doing this work will be officers of the court. The only difference is that they will be under a contract of service to a contractor and the contractor will be a contractor for service to the Government.

Hon Ken Travers: That sounds like ideology to me.

Hon PETER FOSS: Historically, who were the jailers in years gone by? A person was probably in the custody of a sheriff, who was not in the civil service. There was no civil service in those days. Who employed the bailiffs? We still have private contract bailiffs. Bailiffs have a contract with the Government and they hold an office. Prison officers will have a contract with the Government and they will hold an office. History ceased in the 1930s and 1940s for members opposite. As long as the person held custody and held an office, that person could exercise the authority of the Crown, or whoever was entitled to that custody. These people will be officers of the court. The Opposition has a twentieth-century view of the contract under which these people are employed. The Opposition is obsessed with whether they are under a contract of service with the Government or whether it is a contract for services. That is an important factor to the Opposition. Individual employees will be employed under a contract of service. The prisoners will be in the hands of officers of the court. We made it clear that they must be officers of the court under the direction of the court when it is appropriate. Any lawyer is an officer of the court. He is not employed by the court, or by the Government, but he is an officer of the court.

Members opposite are officers, not employees. No member of this House is an employee. I do not know whether members ever receive forms asking whether they are employed, self-employed or unemployed. They should say, "None of the above" because they hold an office. We do not receive workers compensation because we are not employees. Are members opposite saying that because they are not employees, in some way that is wrong? There is nothing wrong with holding an office or with not being an employee of the Government. Members opposite hold an office and carry out an official position. If people have an office it is appropriate they carry out their responsibilities on behalf of the Crown. Members opposite have this obsession because of their experience with people as employees and they believe we should all be employees. As long as these people are employed on the same basis upon which they are currently employed - that is, these people are officers - they are obliged to carry out their duties. I do not see any difference.

Hon John Halden: What a weak line. They do not believe you. This is nonsense. They are easily bored.

Hon PETER FOSS: It is not; it is an interesting line. Hon Ken Travers and all those other people say it has always been the case that if one is to exercise the power of the Crown in taking away a person's custody, one must be an employee. That is a pretty modern concept. If the member wants to go back historically, not too many people were employed. Often they paid for those positions.

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: They used to make their money out of fees. It is not a compelling argument but merely an answer to a very stupid alternative. We have a standard statement by Hon Ken Travers that we cannot contract this work because it is not done; there is some fundamental, inalienable right to be held in the custody of an employee, not an officer. What do members think used to happen? People used to buy those jobs and offices and get their money back through fees.

Hon John Halden: They still do. That is what you are proposing.

Hon PETER FOSS: It is not. Members are saying that to be held in custody by an employee is inalienable and historical and that having officers is only a modern idea. They are wrong.

Hon Ken Travers: It is fundamental, not historical.

Hon PETER FOSS: It is fundamental since the Labor Party has been around because its members have said that that is the way it should be done. By calling it fundamental members opposite are almost saying that it is inherent so it cannot be done any other way. It is done in other ways in most other places in the world. Members opposite seem to think that because it has been done in Western Australia for 40 or 50 years, it must be fundamental.

Hon N.D. Griffiths: What is your model?

Hon PETER FOSS: We can go back to the historical model or go to America, if the member wants, where most of those people are officers and are even elected officers.

Hon John Halden: Is that not a disgraceful system?

Hon PETER FOSS: In the United States people probably cannot fiddle the process with factions to get people elected.

Several members interjected.

The PRESIDENT: Order! Hon John Halden.

Hon PETER FOSS: All these statements are fascinating but there is no fundamental need for a person to be under a contract of service as opposed to a contract for services. They do not even have to be under a contract for services; they can be elected officers holding the positions and carrying out those duties. I suppose the next thing members opposite want is for members of Parliament to be employees. That would probably be fundamental. That would be the next logical statement.

Hon John Halden interjected.

The PRESIDENT: Order! Hon John Halden. I am trying to lessen the interjections so that we can get on with the right of reply. If the member does not interject on the Attorney General, he does not have to respond and we can get on with the reply.

Hon PETER FOSS: I was very patient when sitting through the most unutterable rubbish I have ever heard. I amazed myself by not interjecting. My reply to the debate has obviously led to more interjections. It is a pity members opposite cannot show the same restraint as I showed.

Hon N.D. Griffiths: We are showing less on some occasions but more on others.

Hon PETER FOSS: Good. One of the things I cannot believe Hon John Halden did not understand is the concept of FTEs, whole policemen, and the benefits to be gained.

Hon N.D. Griffiths: That is because you could not add up for a month.

Hon PETER FOSS: I have no problem. One of the most extraordinary things was the fuss the Opposition made over the 100 or 200 FTEs. We decided to stage this contract so that about 100 FTEs would be released in the first half and 200 FTEs in the second half. The fuss that was made over that was unbelievable.

Several members interjected.

The PRESIDENT: Order!

Hon Ljiljanna Ravlich: You did not even know that it was to happen.

Hon PETER FOSS: I knew it was to happen. I did not say a great deal about it because at that stage we had not told the contractor we were intending to stage it in that way. It is appropriate that we should tell the contractor. Until such time as we have spoken to the contractor and got its agreement to stage it, it would be a bit of a problem to say that we would do so. As soon as we received the agreement of the contractor to make the staging, I was quite happy to tell everybody else.

Hon N.D. Griffiths: You did not want to tell the Parliament because you wanted to do another dirty deal.

The PRESIDENT: Order! Members cannot open the second reading debate. What they did not say then perhaps they could say in committee but they cannot all have a second go at the second reading. If the Attorney General directs his comments to me and disregards the disorderly interjections, we might make some progress.

Hon PETER FOSS: On the question of the FTEs raised by Hon John Halden, some people will be completely released from their duties, particularly policemen and prison officers. However, many prison officers and policemen are taken away from their ordinary duties from time to time to do this work. At times it can be extremely disconcerting. I have had representations from police officers who say one of the most debilitating events to happen, especially to a small station, is to lose two officers to escort duties. That does not represent a whole person being released to those duties. If even once a month a police officer must go on escort duty for, say, two days, which is a problem particularly in the north of the State, that is time out from his usual work. It is not merely time away, but an interruption to his duties and the processes in which he would normally engage. If he is carrying out a current investigation and he must go away for two days, his investigation may lose impetus because he is away. The impact may be greater than the two days we have calculated. Escort duty

certainly takes him away from the police station for two days. We will give back that time to policemen, which is very important. The Opposition says that is nonsense and those police officers must still do it. We will relieve those policemen from many of their escort duties.

Hon Ken Travers: But not all.

Hon PETER FOSS: We will do it where it makes sense to do it and we will contract where it makes sense to do so.

Hon Ken Travers: Where it makes money for the private operator.

Hon PETER FOSS: If I might say so, that is another stupid remark. We will pay where we think it is sensible to do so. We could pay for an operator to do these duties where it is not sensible, but it will cost us more money. Why would we do that when it does not make sense? I did not hear this fuss when I talked about our taking over the functions of the police prosecutors and using officers of the Director of Public Prosecutions. Where it makes sense, we will take it over and where it does not, we will not. People do not say we are only doing this because it makes money for the DPP. We are doing it where it makes economic sense for everybody. If a policeman in Mukinbudin spends 90 per cent of his time being a policeman and 10 per cent of his time being a prosecutor, it would be silly to station a permanent prosecutor at Mukinbudin, who would spend 10 per cent of his time being a prosecutor and 90 per cent of his time doing nothing. Would that be a sensible thing to do? No, it would not be sensible for the Government. If a private contractor were to do it, it would not be sensible for the private contractor either. A contractor would have to pay the prosecutor for 100 per cent of the time when he would be there for 10 per cent of the time. We will use our brains. We will do it when it makes sense and we will not do it when it does not make sense. If it costs more to have a contractor take over the duties, we will not do it. It is not a matter of making more or less money for the operator. We will do it where it makes economic sense; that is, on exactly those same occasions on which we would have done it if those officers were employed by us. One does it in a way that makes sense.

One of the most important aspects of this is the reallocation of policemen. I made the point about a policeman who has a two-day interruption in his work, because it costs more than two days. It plainly costs the two days because he is not there for the two days he is being an escort; but more important is the interruption of his work. That is important for the benefit of the public.

Hon N.D. Griffiths: Is there something else with police pay?

Hon PETER FOSS: Does the member mean when policemen are away on escort duty?

Hon N.D. Griffiths: No, when they are in court.

Hon PETER FOSS: Does the member mean when they are giving evidence? The police are in court as orderlies.

Hon N.D. Griffiths: Not that we are necessarily advocating it, but there are benefits for police officers learning how the system works. Quite often they are very junior officers.

Hon PETER FOSS: They are not.

Hon N.D. Griffiths: Quite often they are.

Hon PETER FOSS: Quite often they are senior constables who -

Hon N.D. Griffiths: Quite often they are senior constables who are not capable of active duty.

Hon PETER FOSS: That is right. That is why they are there.

Hon N.D. Griffiths: However, they still pass on a bit of authority.

The PRESIDENT: Order, Hon Nick Griffiths! We do not want an argument about seniority.

Hon PETER FOSS: There is considerable concern on the part of police. I know that the police definitely do not see court duty as one of their prime police roles.

Hon N.D. Griffiths: They are quite right, but you are wrong.

Hon PETER FOSS: There was continual harping on what occurs in America and what occurs in Australia. Let us look at Corrections Corporation of Australia Pty Ltd. It is a proprietary company incorporated in Queensland. Its equal shareholders are Corrections Corporation of America, the company that was referred to, a public company listed on the New York Stock Exchange, and Sodexho SA, a public company listed on the Paris Stock Exchange. It manages 65 correctional facilities internationally, and it is one of the world's most experienced prison operators. Sodexho is an active participant in standards setting and outcomes.

Let us consider the record of CCA in Australia. It operates Borrallon Correction Centre in Queensland, Deer Park correctional centre in Victoria, and prison and court escorts in Melbourne. Its performance in these services is not only equivalent to, but in many cases it has been better than, public sector performance. What is more important is that we are setting contract standards and compliance which are of a higher order than in either Queensland or Victoria. In many cases the reality of how CCA has performed puts public institutions to shame.

Dealing with the suggestion that we will fill up our prisons as a result of having CCA, I inform members that in the past 12 months we managed to get 500 extra prisoners without any assistance whatsoever from CCA. This has nothing to do with

CCA; there has been an increase in prisoners around the world and throughout Australia. We do not yet have CCA in Western Australia, yet we have had a significant increase in our prison population. To lay that at the door of CCA is extraordinary, and to say that it will follow as a matter of course is again extraordinary, especially when one looks at the differences in the political systems in Western Australia, Australia and the United States. Plainly, the political system in the United States is a congressional one, with individual members supported by lobbyists and with events able to be influenced by lobbyists. We are all aware of and have read about a wide variety of situations that occur in the United States that do not happen here, whether or not CCA or other prison operators are involved. The political system in the United States is different from ours.

Hon John Halden: Its political and economic systems are dominated by contracting out.

Hon PETER FOSS: It is extraordinary to say that Americans are dominated by contracting out. In some areas in America contracting out has never occurred. American utilities have never been publicly run. Government in the United States has not been big on contracting out.

A few anecdotes were told by Hon John Halden about Victoria, which involved prisoners being left unattended in the dock and a security officer being handcuffed to a lift. Interestingly, an investigation into those allegations took place, and both were proved false. As to the prisoner who was supposedly left unattended in the dock, the officer who left was an officer in training in the company of an experienced officer. The prisoner was not left unattended; the experienced officer remained. The alleged incident in the lift was shown to be a total fabrication; it did not occur at all.

I will give some indication of the training proposed in Western Australia. The contract in this State has specific requirements for a six-week period of initial intake training, followed by two weeks per annum refresher training. We will be specific about the operational requirements and all aspects of security and prisoner management.

Hon John Halden: It is really amazing that I could be so wrong so often. I cannot imagine why I would be so wrong so often.

Hon PETER FOSS: No. It is quite extraordinary how these stories get around. I only mentioned those two stories because Hon John Halden raised them. In fact an investigation was carried out into those incidents.

Hon M.J. Criddle: Do not worry about the interjections.

Hon PETER FOSS: Yes, I think the minister is right. Hon John Halden tried to suggest it was no coincidence that the same private contractor was awarded the contracts for the core functions and the private prison, as if it were a case of manipulation. I can assure members that is not how it happened.

Hon John Halden interjected.

Hon PETER FOSS: Hon John Halden made his nasty suggestions so I want to put on the record what happened. I know what happened. As far as the core functions are concerned, the preferred tenderer was chosen. At that stage we had no idea who would be the preferred contractor for the prison.

Several members interjected.

The PRESIDENT: Order, members! Let us hear the Attorney General in silence.

Hon PETER FOSS: I want to put this on the record because I know many people in the community have faith in my veracity.

Hon N.D. Griffiths: Not many.

Hon Ken Travers: Name them!

Hon Ljiljanna Ravlich: You do not get out, do you? You must get out of this place.

The PRESIDENT: Order!

Hon PETER FOSS: I am surprised. I thought at least members opposite had some faith in my veracity as well. Regardless of whether they like my ideology, I never expected them to react like that. I thought they had some faith in my veracity. I am disappointed to see that reaction. I hope it is purely for show on the day.

I inform members quite definitely that when CCA was chosen to provide the core functions, we had no idea which contractor would win the prison contract. We did not even know what its propositions were.

Hon John Halden: Hon Peter Jones suggested it would be beneficial to the Government to have both -

Hon PETER FOSS: He may have suggested it. I do not know whether he did.

Hon John Halden: He wrote to you.

Hon PETER FOSS: That was not the basis upon which the contractor was chosen. These are the facts, whether or not members like them. Two totally different processes were involved. When the prison tenders came in, the design submitted by CCA was obviously the best, and it was awarded that contract. If it had not had the best design, it would not have been awarded the contract. Its design was extremely good. Anybody who has seen the design would admit that it is indeed a very good design. It was way ahead of the others. If members believe that it was something more than coincidence, I can assure them it was not.

Hon John Halden: I ask this question in all seriousness: The design may well have been better, but the design and the management are two different issues, surely?

Hon PETER FOSS: One of the aspects that is so good about the design is that it allows for the best management. One of the impressive aspects of the design was that it had plainly been drawn up with management in mind.

Hon Ljiljanna Ravlich: So they designed it for themselves. How cute.

The PRESIDENT: Order, members! Would Hon Peter Foss tell me this: It is the design and management of what? Are we talking about the private prison?

Hon PETER FOSS: Yes, we are.

The PRESIDENT: I have been picking up other members for talking about that very matter. The Attorney General took a point of order at one stage. I want to hear about the four elements; that is, generally, the functions of lockup management, the court security, the court custody and the movement of persons in custody. I say that because although the Attorney General is entitled to respond to the other members, we are dealing with the two Bills that are before us.

Hon PETER FOSS: I have no alternative if I am to reply to an allegation made by Hon John Halden that we let the two contracts to the same contractor on purpose.

The PRESIDENT: I do not want the debate extended to include that other Bill.

Hon PETER FOSS: I do not intend to do that. I was referring to the fact that they were chosen quite separately. We had two separate teams, two separate consultants and two different probity auditors. I know that CCA was chosen for the second contract because its design was considerably better than all the others, particularly in the area of management. It happened that the contractor chosen for the prison turned out to be the same contractor chosen for the core functions. However, I say categorically that the contractor was chosen because its tender for the prison was the best, not because it already happened to have the core functions contract.

Hon John Halden: Mr Jones is a very smart man.

Hon PETER FOSS: Mr Jones had nothing whatsoever to do with the second team. Hon John Halden also asked what would happen if there was a civil disturbance and the police had to be called. At the moment, if there is a civil disturbance, the police are called. Under those circumstances when the police are called under the current system, the same will happen when the service is contracted out. The situations will be identical whether they involve Ministry of Justice employees, police or whoever. When it is appropriate to call for the police, that will happen. However, the people who will be in place in those courts will be better trained, so that the occasions on which they must call for the police may very well be fewer. It is not intended - and considerable concern would be expressed on the part of the police if it were intended - that these people take over the role of the tactical response group. If it is appropriate to call for the TRG, that will happen and it is not intended that the TRG's role will be taken over by these people.

Hon John Halden: Why not? You are contracting out everything else.

Hon PETER FOSS: No, we shall contract these people to take over the functions currently done in the courts, but not to take over the functions of the police. If it is appropriate for the police to be called, I would expect that to be done. We are not trying to create a new Police Service, a new TRG, or a group of people in the courts who will do anything more than the current officers do. We have given an assurance to the courts that when there is a need to call the police, an appropriate person will be on site in the courts who will have appropriate liaison with the police and call them. To say it would be wrong to call the police is to totally misunderstand the intention in this matter.

Hon John Halden: I did not suggest that.

Hon PETER FOSS: The member did. He said that as soon as something happens, these people will call the police.

Hon John Halden: Of course it is appropriate to call the police if needed.

Hon PETER FOSS: They will call the police in situations when the police would normally be called.

Hon John Halden: I thought these new people would be so good that they would not need to call the police.

Hon PETER FOSS: What a silly remark. Hon John Halden is purposely misunderstanding. He was making out that if they called the police at any stage, they would be passing on the expensive part of the operation. He is wrong. The only things to be passed to the police are those that would normally be passed to them. We are not trying to create a super Police Service or do things in the court that are not done now. For instance, if a policeman on light duties has been assigned to the courts, and a ruckus breaks out or terrorists come into the court, under the present circumstances that person will call the police. I sincerely hope that the new people will learn to call the police.

Hon Ljiljanna Ravlich: He would have the power to act in those circumstances.

Hon PETER FOSS: Of course, any policeman would have the power to act in those circumstances, but I would not expect a single policeman on light duties in a court to act if terrorists came into the court. He should get the TRG there as fast as possible. That is the sensible thing to do. It would be silly for a single policeman to tackle a terrorist.

The PRESIDENT: Order! Those questions can be asked in committee. Members cannot use this as a question-and-answer session.

Hon PETER FOSS: Hon John Halden was being disingenuous. He wanted to indicate that these people would have a greater role than they will. They are seeking to replace the people currently in that position in the same functions and duties.

Hon Ljiljanna Ravlich: They do not have the same power.

Hon PETER FOSS: That is interesting and I must take up that point.

The PRESIDENT: Order! That is half our problem. Picking up the interjections is not progressing the debate. Hon Ljiljanna Ravlich knows she is out of order, but I do not think people expect me to name every person every time they interject. Let us settle down and progress the debate so that we get into committee and ask some of the questions members obviously want answered.

Hon PETER FOSS: That is the important point. Instead of being trained for general duties, these people will be specifically trained for court security, detention and lockup duties, using the nationally accredited adult custodial care training course, which is on a par with the training of Ministry of Justice prison employees. They will be specifically trained and dedicated to that duty. Hon Ljiljanna Ravlich did not understand the meaning of the word "dedicated". It means that would be their sole job, but she thought it meant they would show more dedication to their job than people employed by the Government.

Hon Ljiljanna Ravlich: There are CCA employees and court officers, and you cannot tell me they are the same thing.

Hon PETER FOSS: Hon Ljiljanna Ravlich obviously has not read the Bill or the second reading speech, because one of the current problems is the considerable concern that police already do not have sufficient powers. They are called upon to do many things, but there is considerable doubt about their statutory power to do those things. Apart from anything else, this Bill resolves those doubts. It gives powers which are a matter of some concern at the moment. Hon Ljiljanna Ravlich missed the point when she said they do not have the powers. They will have exactly the same powers under this Bill, and there will be no doubt about them. They will be clearly stated. It is important to give powers to the officers of the court.

Hon N.D. Griffiths: You are selling bodies.

Hon Ljiljanna Ravlich: You are wasting our time.

Hon PETER FOSS: Members opposite are obviously playing games. Having heard that gem from Hon Nick Griffiths, I expect someone shortly to ask, "What about the workers?" and accuse me of wearing a top hat and striped trousers. That is the level to which interjections from the other side have dropped.

Hon Kim Chance: Will you answer the question?

The PRESIDENT: Order! I do not want to hear any more interjections. I try to let the debate run as freely as I can. However, if all members are to play games, I must come into the game too and that allows me to exercise the standing orders. The Attorney General should not bother about the interjections because, again, we are not making any progress.

Hon PETER FOSS: The speeches from opposition members in this debate clearly show they do not understand or they do not want to understand the provisions of this Bill. They have severely misrepresented the Bill in this Parliament and no doubt outside the Parliament. This Bill provides for a much more satisfactory system than is currently in operation. It resolves doubts about the powers of police officers or any other person in the court, and sets up a system of people whose job is dedicated to one function, instead of putting people in these positions who have not been trained for this job, or taking people whose real job is something else and putting them into this job for part of the time.

The remarks by Hon Ljiljanna Ravlich about the word "dedicated" clearly show she does not understand the meaning of the word. When someone is dedicated to a job, it does not mean their heart is in it more than that of anybody else; it means it is the only job to which they are assigned. Hon Ljiljanna Ravlich wants to see the contract, but unfortunately this contract cannot be signed until this Bill has been passed. It will be signed and tabled, as I always do these matters, and I will have great pleasure tabling it.

Hon Ljiljanna Ravlich: You have never tabled them. Do not waste your breath. You know you have not. You are telling porkies.

Hon PETER FOSS: There is nothing I would rather do than table a contract in this House.

Hon N.D. Griffiths: When was the last time you did it?

Hon PETER FOSS: I have tabled every contract that has been concluded that I have been asked to table. I have been one of the most diligent ministers in that regard.

Hon N.D. Griffiths: It does not say much for your colleagues.

Hon PETER FOSS: Hon Helen Hodgson has made an important point that we -

Hon N.D. Griffiths: Crawler!

Hon PETER FOSS: It is interesting to see the Labor Party's true colours! It is clear that we can expect help from the Labor Party only when we are doing what it wants us to do. The rest of the time it is prepared to abuse us, call us all sorts of names, and talk about dirty deals. Members opposite know perfectly well that when they have the numbers, they behave like dictators; when they do not have the numbers, they behave like politicians.

The PRESIDENT: Order, Attorney General! Let us get back to this Bill so we can make some progress. I say this to

members on both sides of the House: If they do not want to deal with the Bill, fine, 11 o'clock will come and we will all go home, and we can come back tomorrow and deal with this or something else. If members are going to waste time, they should at least do it one at a time, rather than all interject over each other.

Hon PETER FOSS: The point that was made is that this is a real opportunity to clarify an area which is currently unclear. It is an area in which police officers have been exercising powers that we are not certain they have, and in which the powers of prison officers are probably limited. This is an opportunity to make sure there is an accountability which, despite what people say, is not in the public system at the moment. I know people like to say there is a problem with contracts, but with contracts we often have greater accountability than we currently expect of the Public Service. The amendments that are proposed by Hon Helen Hodgson will ensure that that accountability is not only in the contract but also in the statute, and that it is applied not only to the private sector but also to the public sector; and it is about time the public sector had the same stringency applied to it. I commend the Bill to the House, and I hope sincerely that the Labor Party will see the error of its ways.

Court Security and Custodial Services Bill

Second Reading

Question put and a division taken with the following result -

Ayes (15)

Hon M.J. Criddle	Hon Peter Foss	Hon Murray Montgomery	Hon Greg Smith
Hon Dexter Davies	Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Helen Hodgson	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon Norm Kelly	Hon B.M. Scott	

Noes (13)

Hon Kim Chance	Hon John Halden	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Tom Helm	Hon Christine Sharp	Hon Giz Watson
Hon Cheryl Davenport	Hon Ljiljanna Ravlich	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths			

Pairs

Hon Barry House	Hon Mark Nevill
Hon N.F. Moore	Hon E.R.J. Dermer

Question thus passed.

Bill read a second time.

Court Security and Custodial Services (Consequential Provisions) Bill

Second Reading

Question put and a division taken with the following result -

Ayes (16)

Hon M.J. Criddle	Hon Peter Foss	Hon Murray Montgomery	Hon Greg Smith
Hon Dexter Davies	Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Helen Hodgson	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Max Evans	Hon Norm Kelly	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*

Noes (13)

Hon Kim Chance	Hon John Halden	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Tom Helm	Hon Christine Sharp	Hon Giz Watson
Hon Cheryl Davenport	Hon Ljiljanna Ravlich	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths			

Pairs

Hon Barry House	Hon Mark Nevill
Hon N.F. Moore	Hon E.R.J. Dermer

Question thus passed.

Bill read a second time.

Points of Order

Hon JOHN HALDEN: Mr President, I want to clarify with you that there is a standing order that prohibits us in this place from discussing debate and amendments that may be taking place in the other Chamber. I understand it is Standing Order No 94 that you are looking for. Can you clarify that for me?

Ruling by the President

The PRESIDENT: Standing Order No 94, under the heading of "Allusion to debates in the Assembly", reads as follows -

> No Member shall allude to any debate of the current session in the Assembly, or to any measure impending therein.

That is the very point I was referring to when everyone seemed to be wanting to talk about another Bill that has not arrived in this place. The answer is yes, the member is correct.

Hon JOHN HALDEN: Clearly, in the amendments worked out in the deal between the Government and the Democrats in the past few days, one of the issues is something which is on our Supplementary Notice Paper 54-2, which refers to the inspector of custodial services. That Supplementary Notice Paper provides a thumbnail sketch of certain functions and duties of the inspector of custodial services as it relates in part to this Bill. In taking this point of order, I am now faced with a problem, bearing in mind your ruling. The difficulty is that many of the questions we must ask in all seriousness relate to the inspector of custodial services; that is, how this person is to be appointed, how he could be removed from office, the functions of this person, the powers of this person -

The PRESIDENT: Order! I am starting to focus on what the member is saying but I ask that he get to the point because I have Supplementary Notice Paper 54-2 and I have the part which refers to the inspector of custodial services.

Hon JOHN HALDEN: It makes reference to directions, reporting and ministerial powers etc, but we want to discuss that in this place now. Mr President, bearing in mind your previous ruling one minute ago, it seems we could not do it because it would breach standing orders. This leaves us in a particularly invidious position, especially for those of us who have heard speeches on the topic of accountability by some in this place, on how we actually debate these very important matters when the standing orders preclude us from debating them.

Hon Derrick Tomlinson: Surely you would debate the matter as a pertinent Bill before us?

Hon JOHN HALDEN: Exactly.

The PRESIDENT: Order! I understand what the member is driving at. It seems that he cannot discuss the issue, in particular part 5, which relates to the inspector of custodial services, because it refers to a Bill that is currently not in this House.

Hon JOHN HALDEN: That is part of it, but I would like you to rule on that first.

The PRESIDENT: I know that the Bill to which the member is referring has not arrived in this House. However, we are relating our comments to the Court Security and Custodial Services Bill and how the inspector of custodial services relates to that Bill. Members can discuss Supplementary Notice Paper 54-2 in committee as long as the Chairman of Committees is prepared to allow discussion on it. If someone takes a point of order at the time and says, "This is irrelevant because it refers to a Bill in another place", obviously that will be discussed, but I do not think that view would be sustained anyway. The member can discuss the inspector of custodial services. I do not know at this stage how members will vote on it because I have not read this closely enough. The amendment appears to be to the Court Security and Custodial Services Bill. That Bill is in this House and we can deal with that.

Hon JOHN HALDEN: On a further point of order, because there is commonality of the functions of this person between this Bill and the Bill in another place, one of the things that must clearly be discussed in this place is the functions and powers of that inspector because those functions and powers actually relate to a Bill in another place and this Bill, but the functions and powers discussion is happening in the other place, not in here. Those functions and powers are central to a debate here, as they are central to the debate in the other place.

Hon Peter Foss: It is simple: You do not discuss those proceedings.

Hon JOHN HALDEN: I do not need the Attorney General's help. Mr President, the difficulty as I perceive it - maybe with your direction it will not be a great difficulty - is that if we are to discuss functions and powers that relate to both Bills, we must have the liberty of not being constrained by Standing Order No 94; if we are, we will not be able to discuss those matters. The functions and powers are absolutely crucial, as are a number of matters.

The PRESIDENT: One of our problems is that we are confusing two issues. One is the matter in this House; the other is a matter that has not come anywhere near this place and may never come anywhere near it. It is a pity at times that we have notice of what is going on in another place, because if we did not have that notice, we would not have to worry about it. The member must worry about part 5, inspector of custodial services, as it applies to the Bill in this House. The member cannot rely on what might or might not happen to another Bill if and when it arrives in this House. I understand the member's problem about raising issues that would infringe Standing Order No 94, but members must work their way around it. For the time being, members must dismiss from their minds that the other Bill in the other place exists and deal with the inspector of custodial services as the position applies to the Court Security and Custodial Services Bill, as difficult as that may be. In a fairer world, it might be that all Bills would be here in a package; that might overcome some of the problems. I understand that the amendments apparently proposed to be moved in this House will in the end coincide with matters in another Bill.

Hon JOHN HALDEN: Mr President, I understand what you have said and I am happy to accept that. I raise another point, the powers of the inspector, whether it relates to that Bill or this Bill. How in all honesty can we debate the powers of the inspector in here when it is a matter in a Bill in another place and it relates to this Bill? I am almost breaching the standing orders in doing this, but I must do this to make my point. The Bill refers in another place to "the inspector may have access

to prisons, certain persons, vehicles and documents". Vehicles relate specifically to this Bill. How in God's name can we refer to this when it is in the other place and in breach of Standing Order No 94?

Hon PETER FOSS: This is not a point of order. A point of order must be taken during the debate relevant to something that is happening. This is a series of questions to the President about what the member should do next. If he has a point of order, he should raise it. It is usual in this House that we cannot anticipate other business. We get around it by putting forward our questions. I am sure we will be able to do that when we get to that stage. However, we do it when something has happened. If a point of order is raised, it is dealt with. This is not a point of order; it is seeking the advice of the President in anticipation of something happening.

The PRESIDENT: I understand the Attorney General's point, but it has always been my practice to try to assist members when they have a question about procedure. I am very aware that everything that Hon John Halden has raised is not necessarily directly on point to a particular point of order. However, I assume it is being raised at this stage so that when the House goes into Committee members can determine what they can and cannot debate. I am interested only in furthering the debate, and that is why I will try to clarify the standing orders.

It is obvious at the moment that I do not understand Hon John Halden's point. I do not see the problem being as big as he sees it. When members go into Committee they will be able to discuss the role of the inspector of custodial services in relation to the Court Security and Custodial Services Bill. However, apparently that will clash with debate on a Bill currently being debated in the other place. Members must strike the other Bill from their minds; it does not exist as far as this place is concerned. If that then causes this proposed amendment to appear to be a nonsense, that is an issue members must take up at the time. Members know that this House is not meant to pass laws that are a nonsense. However, the opportunity will exist for members to question the Attorney General on the issue of creating a nonsense. In due course, that can occur, but it occurs in committee. I am more than happy to offer one final comment to Hon John Halden if that is necessary.

Hon JOHN HALDEN: I understand that nonsense is something we would not want to make in this place.

Hon Tom Stephens: We do it all the time.

The PRESIDENT: I am talking about a legal nonsense and that is an important aspect of what we are doing.

Hon JOHN HALDEN: I accept everything you have said, Mr President, and I understand it. As a result of that I would like the opportunity to discuss a motion.

The PRESIDENT: Having sorted out that issue, the member can move the motion.

COURT SECURITY AND CUSTODIAL SERVICES BILL

COURT SECURITY AND CUSTODIAL SERVICES (CONSEQUENTIAL PROVISIONS) BILL

Referral to Public Administration Committee

HON JOHN HALDEN (South Metropolitan) [8.45 pm]: I move -

> That the Court Security and Custodial Services Bill and the Court Security and Custodial Sevices (Consequential Provisions) Bill be referred to the Public Administration Committee for consideration and report.

The PRESIDENT: The member can speak to that because it is a motion within his power. The second reading has occurred and we seem to have sorted out the procedural matter to my satisfaction, if not the member's.

Hon JOHN HALDEN: To mine also. I do not know whether it has been sorted out to the satisfaction of the legal fraternity.

I do not know how many times I have heard the cries: "We did not know about this"; "We have not had time to consider this"; "We need further time to seek advice from various people about what we should do"; and "We must consult." I know the Attorney General provided the amendments to this Bill to others two hours before he deigned to give them to the Opposition. It was approximately 3.15 or 3.20 pm today that I first heard these amendments would be debated. I wandered up here at 3.30 pm and was told they were being photocopied. I then decided to ring the appropriate CEO to organise a briefing. It should be noted that one had not been organised previously despite the controversial nature of this legislation.

I understand that accountability is very important and that we must do the best deal in legislation in this place.

The PRESIDENT: We are debating a referral motion.

Hon JOHN HALDEN: I understand that. It is difficult when members do not know a damned thing about what is happening. When members know nothing about the implications of what is being put to them they must run between this House and the other place to work out what is going on. They are left in a difficult position. What is the value of this legislation? What is it attempting to do? Will it work? What are its implications and its upside and downside? It is offensive to members of the Labor Party to be caught in this position. I am sure it is also offensive to the Australian Democrats bearing in mind their previous protestations on these matters. We would not want to pass substandard legislation.

We want a thorough review to ensure that everyone is accountable. I believe in that, particularly at this moment, because I have been insulted by the Attorney General and his department. If he thinks I will accept that he will not bother to advise me or talk to me before bringing on this debate at 5.00 pm and that I will in be in a position to make an informed comment on this legislation, he is mistaken. I know full well that when we divide the Australian Democrats will vote with the Labor

Party, given their previous protestations. They are always on the side of thorough consultation, extensive information and ample time to consider their position. I do not know how many times I have heard them speak on that matter.

Several members interjected.

Hon JOHN HALDEN: We will wait to see whether it is a sham.

The issue I raised with the President as a point of order was not frivolous, and I hope no member believes it was. The inspector of custodial services' role is very important. In the brief time, with the arrogance of these people who have concocted this deal, all 18 of them -

Hon Peter Foss interjected.

Hon JOHN HALDEN: The Attorney General laughs. I have considered that role. In general, the Government has done this reasonably well.

Hon Peter Foss: That is good.

Hon JOHN HALDEN: I would like to make some amendments, and I would like further information about some issues. We are confronted with 25 pages of legislation, most of which deal with this issue, and the Attorney General expects me to stand here at 8.30 pm without a word of briefing or consultation and make an informed contribution and to guide public debate, whether it be for or against this move. He must be out of his mind! Both groups are arrogant beyond belief. The Attorney General yawns.

Hon Peter Foss: You will always oppose it and give nonsensical reasons.

Hon JOHN HALDEN: The Attorney General is wrong. I never intended to oppose this proposition.

Hon Peter Foss: You opposed the rest of the legislation.

Hon JOHN HALDEN: The Attorney never listens. The role of an inspector of prisons is very important. I have recently carried out some research into the role of a gentleman in England named Roebottom.

Hon Peter Foss: It is Chief Inspector Roebottom.

Hon JOHN HALDEN: I have read a number of things he and others have said. By the way, the Attorney's plagiarism of their legislation and his ideas is remarkable, but we will not go into that at the moment. I do not know his title.

Hon Peter Foss: It is Chief Inspector of Prisons.

Hon JOHN HALDEN: He performs an important role in the British prisons systems. We know from critiques about him that he is pro private prisons, and pro improving services, be it in public or private prisons. I have no problem in respecting what I have read about the role he plays. I have been presented with material at short notice, and with no consultation by the Ministry of Justice. Maybe a message is on my voice mail, but it has not been answered because I have been in the Chamber dealing with these Bills - I do not know. Nevertheless, differences may exist between this measure and the British legislation and practice.

In the space of whatever number of hours - three, two one; it does not matter - the arrogance from both parties involved has been astounding, bearing in mind the bleatings from one of the two parties before today.

Hon Peter Foss: You are getting into tedious repetition at this stage.

The PRESIDENT: Order!

Hon JOHN HALDEN: Maybe the President might decide that! Is that all right with the Attorney General, or does he want that job as well?

Hon Peter Foss: I am allowed to interject.

The PRESIDENT: Order!

Hon JOHN HALDEN: The Attorney can do as he likes, as he is as irrelevant when interjecting as he is when speaking.

The PRESIDENT: Order! I call Hon John Halden and the Attorney General to order. I want to hear whether the Bills should or should not be referred to the committee.

Hon JOHN HALDEN: I have no idea whether this legislation is congruent with the English legislation, but I know that one is entitled to make that important exploration. What is Mr Roebottom's title?

Hon Peter Foss: Her Majesty's Chief Inspector of Prisons.

Hon JOHN HALDEN: An aspect of the British legislation and experience is that Her Majesty's Chief Inspector of Prisons can make all the recommendations and write all the reports he likes, but ultimately the Government does not have to act on those recommendations. Some suggestion may be made that political forces will demand that the Government acts. However, I have become acquainted with a series of information on this matter. A conference was held in the United Kingdom in 1997 at which the superintendent of prisons spoke about problems there; namely, overcrowding, be it private

or public prisons; violence in prisons; administration; drugs in prisons and so on. However, the feeling was that even though Mr Roebottom was a very competent person, it remained a government problem. The Government had been inactive, in spite of his criticism and comments, and had not addressed the core problems.

The PRESIDENT: Order! We are discussing a referral motion. The member can make passing comment if it is incidental to the subject matter; however, we now seem to be heading into a general discussion on something to do with the prison system. No doubt that is something the member can raise if and when these measures ever arrive at the Standing Committee on Public Administration. This is not the place to raise them. The member must tell me why the Bills should or should not go to the Public Administration Committee. Once everyone has had an opportunity to tell me whether they should be referred, we will put it to the vote. If the referral is successful, members can ask all the questions they like in the Public Administration Committee. I am trying to give Hon John Halden as much leeway as possible without infringing standing orders. The member is now entering debate.

Hon JOHN HALDEN: I put it to you succinctly, Mr President: A proposal embodied in the Bills is to create an inspector of custodial services. A similar model is found in another place, where the chief inspector does a good job; however, he has no power to have any of his recommendations, thoughts or comments implemented. I noted earlier that the document, which I have had little time to consider, outlines some type of requirement in the Bill that the minister "may" respond to the report of the inspector of custodial services once it is tabled in this House. Despite no consultation, it is clear that "must" should be used rather than "may". If the House will not be consulted, we need to be sure that the role of inspector of custodial services in this State will not be watered down, as is the experience of the United Kingdom. That was the point to which I was trying to refer earlier, Mr President.

We are considering a role somewhere between the Auditor General, the Ombudsman and a chief executive officer. I thought it might be interesting to acquaint the House with the views of a stakeholder in this area. I quote a letter from Peter V. Jones, who, I presume, is the chairman of the core functions unit, although that is not stated in the letter.

Hon Peter Foss: It is Hon P.V. Jones.

Hon JOHN HALDEN: It does not say that in the letter, which is addressed to Dr Paul Schapper, former Director General of the Public Sector Management Office of 197 St Georges Terrace, Perth, WA 6000. I must read the five paragraphs of this letter, Mr President. I do not want to prolong debate, but we might lose some of its context without reading it all. With an offsider, he consulted the Ombudsman, the Deputy Auditor General, the Commissioner for Public Sector Standards and a representative of the Freedom of Information Office. These comments are relevant to what we are considering and what a future committee might consider regarding where the Attorney is trying to position this inspector.

This letter is dated 5 December 1997. As I said, it was from Mr Jones and it states -

> Dear Paul,
>
> POSSIBLE ESTABLISHMENT OF REGULATOR
>
> The Drafting Instructions for legislation enabling the out-sourcing of functions which are, or will be, the responsibility of the Ministry of Justice were discussed by the project Steering Committee at its meeting on 5 September last. I was overseas at the time of the meeting, and the Instructions were discussed as the Attorney General and Minister for Justice required they be attached to the Cabinet Minute seeking Drafting Approval.
>
> The Instructions include the establishment of a Regulator to "monitor" the several contracts, and who would be able to appoint "Monitors" to investigate and report on any aspects of the Contract or the Contractors performance considered necessary by the Regulator.
>
> As part of the "stakeholder" briefings, I met last week with the Ombudsman, the Deputy Auditor General, the Commissioner for Public Sector Standards, and a representative of the Freedom of Information Office. They came to the Project office at Jardine House and a briefing and discussion continued for some hours.
>
> Regarding the establishment of a "regulator" with a defined role and staff supported by legislation, those being briefed were strongly opposed to such an intention, and left the Acting Contract Manager and me in no doubt that they would pursue the issue further if they felt it necessary to do so. In subsequent discussion, I indicated that I would convey their views to the Steering committee and seek to have the matter reviewed.
>
> When this matter was referred to at the Steering committee meeting on 19 November, I indicated my personal opposition to such an appointment as it inflicted another permanent layer of administrative intervention -

This is Jones. He is objecting now.

> - that was unnecessary and provided no additional benefit that could not be provided by the proposed contractual and supervisory arrangements. These arrangements would be supported by periodic external assessment as required and requested by the Director General, using external entities on a contract basis. However, the strong opposition from the above Offices introduced factors associated with commercial reality, probity, the powers of the Auditor General and the Ombudsman and related issues.
>
> But the main objection was the entitlement of the director General to enter into a commercial contract and have the integrity of that contract subject to review and possible change by another party, who is not subject to, or associated with, the contract. It was strongly felt that the credibility of the Director General, -

I add, of the Ministry of Justice -

> - or any person with a similar situation, would be compromised and possibly entitled to question his capacity to enter into any such contract with complete integrity and credibility.

This is important.

Hon Peter Foss: I support a regulator.

Hon JOHN HALDEN: The Attorney General has never supported a regulator. It continues -

> Both the Deputy Auditor General and the Ombudsman were of the view that the terms of the contract could address the required standards of service, requirements associated with duty of care, all the financial terms and conditions involved including possible penalties, and any other matters and conditions which need to be addressed. It was also felt that the responsibilities of the Offices of the three officers attending the briefing could also be compromised, or at least overlapped, by such an appointment.

I am reading on. I said I would read five paragraphs, but I am reading on for the sake of clarity. It goes on-

> It was strongly projected, that where Regulators currently exist, it relates to a licensing function with utilities and with the responsibility of monitoring the observance of the license conditions. There is no license issued by a regulator in this proposed instance and a normal client/contractor relationship should be allowed to exist, together with the requirements of applicable legislation relating to such matters as Worksafe conditions, industrial law, Road Traffic Act, Prisons Act, etc..

I could read on, but I will not.

The PRESIDENT: Hon John Halden has now explained some of the reasons why he wants the Bills referred to the Standing Committee on Public Administration. He has highlighted the apparent conflict in respect of the inspector of custodial services' job. That is fine, if that is his view and that is one of the reasons it should go to the committee. However, I now want to hear any other reasons it should go to the Public Administration Committee, and I do not want debate on the substance of any of the Bills.

Hon JOHN HALDEN: I was not proposing to. I do not think we will have a problem, but if we do, I am sure you will advise me of that, Mr President. Having read that, I do not agree with all of it.

Hon Peter Foss: I do not agree with it either.

Hon JOHN HALDEN: This is the issue: Until I received this information, after the discourtesy of those involved in this, I would never have known that there was a conflict of opinion about this matter within government.

Hon Peter Foss: There is no conflict within government.

Hon Ljiljanna Ravlich: I would not say that.

Hon JOHN HALDEN: There is a conflict of opinion in the broader community. Surely we would want to know the detail of that conflict.

Hon M.J. Criddle: Let us adjourn so we can sort it out.

Hon JOHN HALDEN: Would the Minister for Transport like me to do that? I do not want to offend anyone. I am happy to seek leave to adjourn this so I can continue my remarks a later stage.

Hon M.J. Criddle: No, finish your remarks.

Hon JOHN HALDEN: I will continue then. I thank the minister for his generous offer, but I will not take it up. In terms of this important area, we must know clearly the reasons that these views were put to government. They were put to government; they were put to Dr Schapper, the former Director General of the Public Sector Management Office. We must explore that against some of my views which oppose that. I do not say that I am right or wrong, but this is a particularly important matter. Surely we should not disregard the views of the Ombudsman, the Deputy Auditor General, a representative from the Freedom of Information Office and the Chairman of the Office of the Commissioner for Public Sector Standards?

Hon Peter Foss interjected.

Hon JOHN HALDEN: I know that. We must ensure that we understand their objections and either agree or disagree with them. At this moment we do not. In fact, until two hours ago, I did not even know there were any objections. They also raise an interesting matter which we also must consider in this matter. I will not bore you or offend you, Mr President, with great dissertation about the issue of overlapping responsibilities referred to in the letter. The United Kingdom has worked out a regime in which the chief inspector deals with the macro issues.

Hon Peter Foss: Systemic.

Hon JOHN HALDEN: That is a word I would never have known unless the Attorney General had advised me, but I am so pleased he did. The personal issues are still those that are dealt with by the Ombudsman.

Hon Peter Foss: That is exactly what we have.

Hon JOHN HALDEN: There is a difficulty. The Attorney General tells me that is exactly what we have. However, is a personal complaint personal or does it relate to systemic issues?

The PRESIDENT: Order! That is a matter that the Public Administration Committee can consider in due course. I say that because Hon John Halden said that another matter for consideration is the issue of overlapping responsibility. He then referred to something that occurred in the United Kingdom. That is all that needs to be said because that is an issue that he believes must be taken up in due course.

Hon JOHN HALDEN: I agree, Mr President; it must be taken up. We had a debate earlier about our passing legislation or amending legislation that may in fact impact significantly on legislation from another place. I do not wish to go any further in discussing that. However, surely if the Attorney General had been wise and we had the two pieces of legislation in here, as we are doing with these two Bills, we might have been able to deal with another one concurrently, or this part of it. We are not beyond doing that.

Hon Peter Foss: Does that mean when it arrives here you will be happy to deal with it concurrently?

Hon JOHN HALDEN: I presume this will be passed so it would not be concurrent with anything.

Hon Peter Foss: The other could arrive at any minute.

The PRESIDENT: Order! We will not go into that. I have just said that Hon John Halden should strike it from his mind.

Hon JOHN HALDEN: If it arrives here at any second we will deal with it concurrently. I make that pledge on behalf of the Australian Labor Party. In whichever way possible we will allow it to be tied into this mess by this shabby little deal into which the Government has got us. Due to the interrelationship between what is in another place and what is in here, to have any thorough examination of what is proposed we must consider the two parts of the whole, or the two-thirds part as it is in the other place and the one-third part that is here.

Hon Peter Foss: Even if it is in this House, we cannot anticipate unless they are dealt with cognately. That is a problem so it would be a good idea to do that.

Hon JOHN HALDEN: I agreed to it. I do not know why the Attorney General is interjecting on that basis. If he must; he must.

Hon Peter Foss: I am pointing out the problems that will arise if we do not deal with it cognately.

Hon JOHN HALDEN: I am faced with a problem about my point of order and your subsequent ruling, Mr President. There are a number of matters in terms of the appointment of the inspector of custodial services that are not before us now. If this had been dealt with in a far more professional, open way we could have examined those matters. I will not go into them because I do not want to infuriate you or stretch your tolerance, Mr President.

The PRESIDENT: Order! A mere passing comment, if it is incidental to the subject matter, is not in breach of Standing Order No 94. Obviously members must have some freedom to raise issues. I do not want Hon John Halden to debate a Bill that is not here. He knows as well as any member that is the situation.

Hon JOHN HALDEN: Surely, bearing in mind what you just said, Mr President, in terms of the totality of what we are dealing with here and of what should be considered by the committee, matters concerning conditions of appointment; how we might remove a person from office, bearing in mind it will be an appointment by the Governor; the functions and powers of this person related to both Bills, the directions he can receive and how the minister can intervene in the processes - I will not go any further; that is probably enough - impact on this legislation and another piece of legislation. Surely, in considering this we would want to discuss that? The abuse here by the Attorney General is that I was not even paid the courtesy of being advised about that.

If we deal with what is before us I do not know that I can then offend anyone. We have some idea about where the inspector may visit and in general terms what powers he has to take statements from people. Under proposed new section 43, the person does not have to give the information or answer the question unless the investigator requires the person to do so. If the person gives the information or answers the question at the request of the investigator but without having been required by the investigator to do so, the information or answer may be admissible in evidence against the person in any proceedings of the effect of giving the information or answering the question in response to a requirement of the investigator to do so as mentioned in subsection (6) of the offences as mentioned in subsection (7).

Significant powers are conferred upon the investigator, but I do not know whether they are appropriate. Over the past two-and-a-half to three hours I have not learnt what is the legal recourse of the person he has been investigating. I would not know whether it was reasonable law, good law or bad law. However, the Standing Committee on Public Administration might be able to make a judgment about that. The Bill provides that the inspector may have access to certain places, persons and vehicles. I wonder whether that list is sufficiently encompassing bearing in mind that we could be dealing with a private sector operator here. Do we need to have access to a range of other venues at which this private sector operator may be able to have information stored? I do not know whether this legislation is sufficiently encompassing to allow an inspector to fulfil the requirements of his duties as proposed.

However, I know that the inspector has certain responsibilities to consult with the chief judicial officer. It would be interesting to know whether the chief judicial officer has been paid the same courtesy as I have on this matter. He probably does not have the slightest idea whether the courtesy being extended to me is being extended to him. I might like to know

what he thinks about this piece of legislation. I might also like to know what the chief magistrate and others in the judiciary think of it. It is important to ascertain that even if it is from only one person.

This piece of legislation refers to the issue of reporting. It says there will be a list of where the inspector has visited in the preceding 12 months to 30 June and where he proposes to visit in the following year, and that he can report to the Speaker of the Legislative Assembly and the President of the Legislative Council. Another Bill says that the minister may respond to whatever the inspector has said. Again the issue of whether it should be "may" or "must" arises specifically in this Bill. I honestly do not know the answer. Nobody has told me in any detail why I should know. Based on the Attorney General's previous comments, because I philosophically oppose the Bill, I am not entitled know anything. I am entitled to be treated like a mushroom because I philosophically object to the privatisation of the imprisonment of people and the making of money out of that deprivation of liberty. I make no bones about that, but I have always supported a regulator. My view about this matter is that haste and a grubby, dirty little deal have led these people to a position where they can expect nothing more from me than total opposition. However, my opposition is not based on the grubby deal; it is based on the words of the leader of the Australian Democrats in this place. She said that because of our philosophical opposition, we were derelict in our duty. I made a rather obtuse series of comments that night.

The PRESIDENT: Order! That is not relevant.

Hon JOHN HALDEN: It is not now but it will be very shortly. The issue is that it would be a dereliction of my duty if, with no knowledge, and no briefing on the impact of what is being suggested here, and being expected to vote on it, I presume, sometime this evening - which would be totally unaccountable and totally undemocratic - I should not want to proceed down the path of having this matter extensively investigated, evaluated and reported upon. I should think that that was absolutely upholding my duties in this place, which are about accountability, openness and ensuring that the bastards are always kept honest. I support the motion I have moved.

Debate adjourned, on motion by Hon Peter Foss (Attorney General).

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1) 1999

Second Reading

Resumed from 24 June.

HON LJILJANNA RAVLICH (East Metropolitan) [9.24 pm]: I welcome the opportunity to continue my remarks about the joint venture between Brown and Root AOC and Western Power. Last Thursday I was referring to correspondence from the Minister for Energy to the Managing Director of Western Power Corporation regarding the formation of this joint venture company. The correspondence is dated 10 October 1997. The minister clearly outlined some of his concerns about the potential liability of the State and some taxation issues arising from the memorandum forwarded to him by Mr D. Eiszele, the chief executive officer of Western Power. The minister stated -

> The potential state liability extends beyond the initial investment of -

That sum has been blotted out. The letter continues -

> It is likely that larger contracts may require WPC to provide parent entity guarantees. Even without such guarantees WPC, as a good corporate citizen, will have a business and moral responsibility to honour contracts of the company. To uphold public accountability I request you provide;
>
> 1) a separate confidential Annual Report to me as Minister for Energy, and
>
> 2) specifically include the business in the Strategic Development Plan.
>
> I acknowledge that this is not what your private sector counterpart is used to but using public funds requires accountability.

I am particularly concerned that the confidential annual report which the Minister for Energy sought has never seen the light of day. Nobody I have been in contact with has any knowledge of or has seen that confidential annual report. It is beholden on the minister representing the Minister for Energy to table that report in this place because not doing so confirms the view of many people that this Government is acting secretively with this joint venture arrangement. Once again, no strategic development plan has been either tabled in this place or made public. In due course I will be seeking to have those documents tabled in this place by the minister representing the Minister for Energy. The Minister for Energy expressed his concerns about the taxation issues as follows -

> This venture is expecting to make a profit and pay Commonwealth taxes, including income tax, with the anticipated dividends to WPC being "tax free". I assume by tax free you mean Commonwealth tax has been paid and therefore dividends will not be taxed again by the State under the Tax Equivalents Regime. This issue needs Treasury input.

It would be interesting to see that Treasury input into this matter. The letter continues -

> Using State assets to generate Commonwealth taxes does not assist us with the worsening vertical fiscal imbalance.
>
> Please arrange to brief the OOE and Treasury on this venture. Following a satisfactory outcome of this briefing I should be in a position to confirm my full support for the initiative.

Clearly the Minister for Energy was concerned about this project yet none of his concerns have been aired publicly. One

thing I can say with great confidence is that all information about the operations of Integrated Power Services has been kept very confidential. This issue was brought to my attention by employees of Western Power who had some major concerns about what was proposed for Integrated Power Services.

In response to their concerns, I decided the most appropriate way of dealing with this matter was to obtain details of the arrangement through a freedom of information application. I was surprised at the amount of information that was available, and a schedule of documents was provided to me on 14 April 1999. This is a venture which has been in the making for approximately two years, therefore there is no shortage of information. However, I have come up against Western Power Corporation's lack of preparedness to freely hand over documents. It has therefore been a struggle to obtain any information at all. It is my intention that the information on this joint venture be made available so that we do not have a situation arising whereby taxpayers' money is being committed to a joint venture project and, because of confidentiality arguments, they are kept in the dark on what they are receiving in return for the investment of that money.

One thing that the schedule of documents revealed was the extent of information available and I call on the minister to table documents as outlined in that schedule of documents. For example, we know that there is an implementation plan for Integrated Power Services Pty Ltd. I suspect that the plan will provide invaluable information on not only the implementation of the joint venture company but also projections about future proposals for IPS. There was also an IPS market review undertaken and I am sure many people would be interested in the contents of that. Furthermore, there is information on staff conditions of employment together with the business performance report as at April 1998; the list goes on. There is no shortage of documentation on this matter yet, once again, no information has been presented to this place. It is absolutely critical for accountability purposes, and for providing information to Western Power employees in particular, that the final articles of association are presented to this place together with a final shareholders agreement and information on Halliburton Australia Pty Ltd stock trading and company news. For the Government to deny this information to this place would be a major breach of trust.

There are many other issues associated with this matter. I understand, for example, that Integrated Power Services rents workshop space and equipment at a commercial rate from Western Power at Kewdale. That in itself is interesting because I am not sure whether Brown and Root AOC makes any adjustments for that or the method by which it contributes to that benefit. It would be useful for members in this place to find out how much Brown and Root AOC is contributing to the rental of that workshop space. If, for example, it has been given a discount because it is a joint venture partner, it would also be interesting to know how that discount was determined, who determined it and when it was determined.

The other issues in which I take a very keen interest as opposition spokesperson for public sector management are tendering, government purchasing and the like. I have some personal difficulties with the notion of companies being awarded preferred supplier status. The reason for my difficulty is that, in some areas, having a small number of multinational companies with preferred supplier status interferes with the efficient operation of market forces because, invariably, preferred suppliers are invited to bid on a contract and the rest of the market does not have an opportunity of securing that contract. It is interesting that Integrated Power Services was given a preferred supplier status; I assume it was given that status by Western Power Corporation. Why was it given a preferred supplier status when it had no track record as a joint venture company with Western Power? It does not make sense to me and I still hold the view that there is a major conflict of interest given that Western Power and the Government have given a company in which they have a 50 per cent ownership that preferred supplier status.

I hope in time to have much more information than that which I currently have on what I believe is a strange arrangement between Western Power and Brown and Root AOC. However, I have enough information to be able to place a number of questions on the record on which I believe this side of the House and also Western Australian taxpayers require straightforward answers. My first question is: Why did Western Power enter into a joint venture arrangement with Brown and Root AOC as opposed to other interested companies? It will be interesting to note whether expressions of interest were called for from any other interested companies. Secondly, how widely did Western Power seek expressions of interest, if indeed it did? Thirdly, why is Brown and Root AOC specifically the beneficiary of the backing of a state government agency in their own commercial ventures? Fourthly, why has Integrated Power Services been given the preferred supplier status, who gave it that status and when was that status bestowed upon it? Fifthly, how many contracts in total have been awarded to Integrated Power Services by Western Power and what is the proposed future of Integrated Power Services? It will be good to see not only the operational plan but also the strategic plan of Integrated Power Services. I hope the minister will have no difficulty tabling that information. I will not accept the argument that because Western Power has a private sector joint venture partner, the information cannot be revealed on commercial-confidentiality grounds. Sixthly, how many Western Power workers have been transferred from Western Power to Integrated Power Services and under what conditions? Seventhly, we need to know to what extent there is a conflict of interest by Integrated Power Services having preferred tenderer status, letting contracts and then contracting the work back to itself. What is the public benefit in that process? If one looks at the honesty of the whole process one must seriously question the probity of it.

For the life of me, I cannot see what the Government would achieve by calling for tenders and then awarding the contract to its own joint venture company and bringing the work back in. What is motivating Western Power and the Government to embrace this process, and what is the purported public benefit in going down this path?

A number of other issues emerge from the correspondence between the Managing Director of Western Power and the Minister for Energy, such as the potential state liability, which has not been made public. Will the minister table the separate confidential annual report and, if so, when? When will the minister table the strategic development plan and the implementation plan? The final point that needs to be brought to light is an explanation of the taxation position and any Treasury reports in relation to the operations of Integrated Power Services in this State and offshore. I have grave

reservations about Western Power's reason for going down this path. However, the one thing I have learnt from being in this place for a couple of years is that usually where there is smoke there is fire. If workers on the ground have some concerns about the operations of IPS we should not ignore them.

Hon Max Evans: The member can stop because her colleague has left the Chamber.

Hon LJILJANNA RAVLICH: I am happy to continue because this is a matter of major public importance. I do not know why the Government has chosen to go down this path. I would be extremely pleased to receive any information which the Government can provide on this matter. I am particularly concerned about the level of secrecy surrounding this issue. Very few people I have spoken to have heard of IPS or know what is motivating Western Power to go down this path. I cannot see any benefit to the State or to Western Australian taxpayers. Most people understand the Tiwest Joint Venture cogeneration facilities maintenance contract to be managed by Western Power. Invitations have been issued on behalf of the board and the executive of Western Power Corporation to the official opening of the Tiwest Joint Venture cogeneration facility by the Minister for Energy on Tuesday, 6 July 1999 at 10.00 am in Kwinana. Most people who attend that opening would be of the view that it is a Western Power initiative. They would not understand that it is a contract which has been won by Integrated Power Services, of which Western Power is only a 50 per cent shareholder. In terms of open competition, something is wrong when Western Power continues to award contracts to its own company for work which needs to be done for Western Power.

In a strict accounting sense Western Power might be doing what is required of it, but in the sense of probity and honesty it is sailing close to the wind. Something is fundamentally dishonest about the process currently taking place. A case can be mounted to have this investigated by the Australian Competition and Consumer Commission to see whether this arrangement is anticompetitive. It is clear that Western Power is engaged in a commercially uncompetitive activity that interferes with the operations of market forces in this State. I will continue to call for documents and information on this matter, because a thorough investigation is needed into the way this was set up.

Hon Max Evans: They could have done the work themselves. They are doing the work through a body that is only half-owned by them.

Hon LJILJANNA RAVLICH: The Minister for Finance knows this did not go through an open tender process. We need to know why Brown and Root AOC was chosen and why expressions of interest were not called, and whether the activities of Western Power's joint venture company, IPS, are anticompetitive. If the Government is confident that all is well, my involvement in this issue should not present any problems to it. However, if it has concerns about what is occurring, those concerns are well founded. I hold concerns on behalf of Western Australian taxpayers and Western Power workers, particularly those in the generation division. I deem those concerns to be serious.

HON SIMON O'BRIEN (South Metropolitan) [9.47 pm]: I am delighted to have the opportunity to participate in this debate as I want to draw the attention of the House to an important matter. In order to introduce that matter I point out that for a long time I have been arguing the need for high-level multi-agency cooperation to identify and deal with certain social problems before they develop. One incident which drew my attention to this need will be familiar to all members.

A dysfunctional family which was exhibiting constant antisocial behaviour made life hell for the neighbourhood in which they dwelt. There was verbal harassment of people in the street, urinating in people's front yards, vandalism, kids in the street at all hours of the day and night, petty theft, and damage to property. On occasions this could regress to worse incidents, including an incident in which an elderly citizen investigating a burglary was beaten almost to death.

I will not identify the locality tonight. After local residents made many appeals for relief temporary measures were taken by some public officers, but generally all that the residents received were excuses and buck passing, because agencies believed that other agencies should be dealing with certain aspects of the problem. That situation was not tackled with any attitude of wanting to bring it to final resolution. In summary, we had a situation which happens from time to time in which law-abiding citizens with genuine fears appealed to the system for decisive intervention and the system did not deliver.

I feel I take a reasonable view that early intervention skills are lacking in some of our State Government agencies together with a lack of determination by management to deal decisively with situations when several agencies are involved. I took this up with a number of people with responsibilities in this area, including at ministerial level. Generally I was told that cross-agency cooperation was alive and well and that committees were liaising over a range of issues. Clearly in my experience that was not satisfactory. I looked for evidence that a multi-agency approach could be made to work and I found it.

Social trends in these times of rapid change tend to manifest themselves in advanced countries like Australia, but perhaps in more heavily populated countries some time before they become fully apparent in Australia. Although Australians are great innovators, other members would agree that we do ourselves a favour by observing developing trends in other places and recognising that we can learn from other jurisdictions' experiences.

Recently I had the opportunity to travel with the Standing Committee on Estimates and Financial Operations in connection with an inquiry on prisons. We visited Europe and the United Kingdom in particular. We observed some of the trends and practices in Britain's prisons, visited a private prison and so on. All those inquiries were in connection with activities which may be occurring in Western Australia in the near future and in which those other jurisdictions have some experience. We felt that we might benefit and learn from those experiences. Indeed, Mr Deputy President (Hon J.A. Cowdell), you will find when we report that that has been the case.

Another aspect of prison development in England to address their problem of overcrowding, which they share with us and

indeed most other countries in the world, is that they have started using ships moored at anchor to house excess prisoners. Clearly they have come a long way in 200 years. I must not be too hard in making that pronouncement because I am hoping that some of my remarks will be related to friends in England. They were kind enough not to observe too often that Australians, seen of course by the British as descendants of convicts, were returning to have a look at British prisons presumably from the point of view that we have forgotten how it should be done!

I also had the opportunity to examine the British Crime and Disorder Act of 1998 and the development of the policy behind it. Particularly apparent in that legislation are measures dealing with youth justice. Its reforms concentrate on a number of points. In particular I draw the House's attention to the strategy to prevent offending by young people, in helping offenders and their parents take responsibility for offending behaviour; in earlier, more effective intervention; in faster, more efficient procedures from arrest to sentence; and in a partnership between all youth justice agencies for a better system.

While prevention and rehabilitation are prime goals, the actual tools used are strong, demonstrating a nation which has a clear policy. Legislation has created local child-curfew schemes to protect children under the age of 10 in a particular area from getting into trouble, child safety orders to provide targeted intervention with children at risk, antisocial behaviour orders to deal with serious antisocial behaviour by those aged 10 and above, police powers for the removal of truants to designated premises, final warning schemes to replace police cautioning of offenders, reparation orders requiring young offenders to make amends, action plan orders to tackle offending behaviour and its causes, parenting orders to help reinforce and support parental responsibility, and detention and training orders with a custodial sentence with a clear focus on preventing more offences. I have recommended to certain people in Western Australia that we take a look at the Crime and Disorder Act 1998, which makes very interesting reading, to see what is happening in the British jurisdiction.

In addition to my visit with the Standing Committee on Estimates and Financial Operations, and because I was in the UK, I was able to visit the Kent County Constabulary. It has a reputation for using innovative methods, and indeed, with such success that many of its plans and procedures have been adopted on a national basis. A determined multi-agency approach is one of the major tools Kent police use in the United Kingdom, where it is so effective that much of it has been adopted as national practice. In my opening remarks I indicated that it was an area of keen interest to me. I was delighted therefore to have the benefit of discussions with the policy's architects when I visited Maidstone in February. I want to acknowledge the generous assistance in the time and effort that was provided to me by a number of officers in Kent. First of all, I acknowledge the chief constable for allowing his officers to take time out of their busy routines to meet with me. In particular, I acknowledge the untiring efforts before, during and since my visit, by Inspector Trevor Hall. Inspector Hall is the officer in charge of the Kent Strategic Crime Reduction Unit. In visiting him I was going straight to the heart of my matters of interest. I acknowledge the assistance of police officers Barry Chapman and Brian Ward, who are also from the Kent Strategic Crime Reduction Unit, together with their colleague, police officer Angela Martin. Officer Martin was away for part of the day on other business, which I understand was quite dangerous in part. I appreciate the efforts of all those officers for making me feel welcome and well briefed. I also acknowledge Mr Ian Kirk, the Drug Services Manager of Kent County Council, and Ms Judy Doherty, the Young Offender Team Manager of Kent County Council.

What I learnt from Inspector Hall and his team is best summarised in Inspector Hall's words, when he described to me the two-pronged method that they have developed for dealing with crime and disorder. He said -

> Criminals are identified through intelligence, often recruiting informants to help us. We pursue criminals to put them away; we target young persons at risk to try and get them back on track before they cause real grief.
>
> The second issue is our multi-agency work. It is recognised by all partners that we all have our own businesses operating independent of the multi-agency role. But whilst trying to deliver this, we do not, knowingly, [muck] them up.
>
> All agencies at Chief Officer level sign up to the multi-agency approach. This is important, for if some local individual decides not to cooperate then we can sort them out through drawing attention to the fact they are not delivering what has been agreed.

A good example of this working practice is in the Kent drug initiative in the 1998-2004 plan. They have the Kent initiative and drugs partnership. This is a key element to their success. It is the active partnership which works between various government agencies. The signatories to this partnership are the chief executive officers of all the agencies involved; for example, the chief constable, the strategic director of social services, the chair of the drug action team, the director of the Racial Equality Council, the chief executive of the East Kent Health Authority, the drug strategy coordinator of HM Prisons service in the area, the chief executive of the Kent Council on Addiction, the chief probation officer, the chief executive officer of the council and others.

In explaining the multi-agency partnership, Inspector Hall continued -

> We acknowledge that we are all working with the same people in the same locations duplicating what each other is dong. By rationalising this approach we all save time and money.
>
> We look at what is good for the community. There is a strategy set with action plans and performance targets. . . .
>
> So we have public support. **This is important for we police by consent.**

I wanted to see some examples of this working in practice. The determination that had been recommended to me is inherent in the ethos of the Kent County Constabulary. I found some examples, one or two of which I will quickly mention now. For example, there is a crime reduction strategy called safer communities, the objective being to give guidance on the development of a multi-agency approach - again, that multi-agency approach is the key to their success - to address crime

reduction and community safety issues and enable the identification of appropriate measures aimed at providing local solutions for local problems. Tactics have been developed aimed specifically at rural communities, disaffected youth, dysfunctional families, drug misuse and town centres. A good example of the safer communities strategy at work occurred in the White Road Estate in Chatham, with a 27 per cent reduction in reported crime for the two full years from March 1995 to February 1996 compared with March 1996 to February 1997.

There is a lot more. Kent has a juvenile offender strategy, including the creation of youth offender teams and an intensive support and supervision program for persistent young offenders. It has a burglary reduction initiative, a drug prevention initiative, and two good antitruancy initiatives. One is called STEP - the school time enterprise program - which is a multi-agency approach to tackle truancy and crime. I would call that a prevocational program. Another initiative is called KITE - the Kent initiative on truants and exclusions - which directs younger teenagers to greater challenges through the Duke of Edinburgh scheme. There is a scheme to reduce crime committed and suffered by the 13 to 16-year-old age group called STOP. There is a town and shopping centre crime initiative.

Hon B.M. Scott: They are very good with their acronyms.

Hon SIMON O'BRIEN: Yes. All these programs have certain key elements in common. They are a determined approach by agencies in partnership who know what their policy is, together with a determination to fix the root cause of the problem. I applaud this. This is what I was looking for, and I was delighted to be educated about some of the progress which has been made in these areas. These programs were initiated in Kent some years ago, and now those involved are collecting data year by year on the fruits and progress of those initiatives.

At this time in Western Australia cross-agency committees under police chairmanship are being established in each police district. The first moves towards this were occurring perhaps as early as August-September last year, but in effect they were really starting to get under way perhaps in February-March this year. It is a good move if the district level superintendents, managers and so on of all the agencies involved are able to tackle the hard problems, have the will and commitment to succeed, and know they have the support to do that. I might add that it was not my initiative which caused this to happen; this is an initiative of Safer WA, which is coincidentally happening at this time. However, I raise the matter to draw attention to the point that it is necessary that these new committees have high-level commitment towards getting results. Otherwise they will simply be more liaison committees to which people send along junior office people to represent them because they cannot be bothered going, or they become simply talkfests which do not achieve the results that are needed on the ground.

In the Cannington police district, for example, Safer WA inaugurated a committee of district managers of many agencies under the chairmanship of Superintendent Karl O'Callaghan, the new superintendent of that police district. The sort of thing that Superintendent O'Callaghan is doing is that, first, he has decided that quarterly meetings are not the way to go, and I believe he has already moved to monthly meetings to make sure that that group of managers keep on top of the issues of the day. I certainly wish him well in the program that he has undertaken. On behalf of the community, I wish all of the participants the greatest level of success. I again point out that I raise this in the Parliament as a gesture of support and a sincere desire that this program enjoys the success it deserves.

When I returned from my visit to Kent, I produced a submission for consideration by the president of the Safer WA executive, because it occurred to me that there is a great deal of useful experience that could be obtained from the Kent experience, especially in view of the coincidental start-up of these committees here in Western Australia. In my opening remarks I made the observation that sometimes other places may be a bit ahead of us in social trends and consequently in the way that government develops programs to address and deal with some of these social trends. This certainly seems to be the case with this program. Because we now seem to be going down exactly the same track that the Kent constabulary first went down some years ago, I am hopeful that maybe we can learn and benefit from some of the experiences that have already accrued to Kent, and that will help expedite and facilitate progress in our community.

I will summarise the recommendations that I offered in my submission to the president of the Safer WA executive. First, I pointed out that anticrime programs work for the good of the wider community, not the perpetrators. There is no need to be apologetic for this. Indeed, to quote Inspector Trevor Hall, when I asked him if he had received complaints from the community when the police cracked down on certain areas of social dislocation, he reminded me that in Kent the police have the full backing of the public because they police by consent, as he called it. He summarised it decisively for me when he said that their attitude, which the public supports, is that if people behave like criminals, they will be treated like criminals. The second point of summary was that antisocial and criminal behaviour is the responsibility of all agencies working in equal partnership and that there is no room for backyard parochialism or buck-passing. The third point was that the coordination of interagency partnerships requires the commitment of the most senior officers to form the membership of anticrime or other strategy committees. Finally, I also suggested that the British Crime and Disorder Act 1998 deserved examination.

I thank the House for its courtesy in allowing me to report this matter. I benefited personally from my visit to Kent coincident with my estimates committee prison visit. I again thank all those people who helped make that visit such a success, including my research officer, Mr David Lloyd. I also thank Hon Kim Chance for assisting me to take the opportunity to make these remarks to the House, which I feel is important at this time.

HON KIM CHANCE (Agricultural) [10.10 pm]: I will also contribute briefly to this debate. This will be a very different speech from that which I had originally planned.

Hon B.K. Donaldson: Will you support the Government?

Hon Simon O'Brien: Will it be short?

Hon KIM CHANCE: I am not referring to the quantum effect. The alteration has been due to advice I received from wiser and less single-minded heads than mine among my Labor Party colleagues, who dissuaded me from my intended course of action on the Appropriation (Consolidated Fund) Bill (No 1). In other circumstances it was my intention tonight to advise the House that in the committee debate on the Bill, I would move to request the Legislative Assembly to amend the budget to the extent of deleting the appropriations of Agriculture Western Australia. Obviously, it was not my intention to deny Agriculture Western Australia its $86m-odd appropriation. The point of my proposed action was to draw attention to the failure of the Minister for Primary Industry to seriously attempt to resolve the matter of compensation for the former milk vendors.

After four and a half years, three standing committee reports, a motion carried in this House without dissent, and inumerable questions - although I must say far fewer answers - the minister would have got the point that it was time to do something to fix this issue. I am sure members on both side of this House share my frustration, and that frustration motivated my somewhat extreme proposition. If any members still doubt that the Minister for Primary Industry has decided to deliberately avoid addressing this issue, they should consult the answer he provided today through the Minister for Transport as his representative in this place.

I asked if the Minister for Primary Industry had alleged, during the estimates hearings, that statements made during a debate in this place on the milk vendors issue were inaccurate and intended to serve a political purpose. If that was the case, I asked whether the minister would table advice detailing the precise nature of the allegedly incorrect information. I thought it was a perfectly proper question, deserving of a serious answer. I thought it was a proper question for at least three reasons: Firstly, I was concerned that a minister in another place would reflect on a debate in this place. That is a procedural matter. Secondly, I was concerned that, by implication, it could be said that the minister had accused either me or other of my colleagues of misleading the House by providing inaccurate information, when I am absolutely certain that was not the case. The third and most important reason is that I was interested in precisely what information the minister had deemed to be inaccurate. It was not because I wanted to score some political points, but because I genuinely wanted to know what statements he thought were wrong. If I could understand what the Minister for Primary Industry thought was incorrect, it would help me and others to address those matters of fact which were in dispute or on which perhaps we simply misunderstood each other. That seems to be a problem with this minister.

After four and a half years of this dispute dragging on, we have never come to grips with the matters of fact on which we disagree. The committee and the Opposition have been very clear on this matter, and as a whole House - I am grateful for this - we were clear, in the motion carried on 12 May, that there is a problem which needs to be fixed. For some reason the minister seems incapable of coming to terms with that. Most people will recognise that I have not set out to score any political points on the minister in this issue. Opportunities have arisen in which I could have done that, but I desisted. I want this matter fixed. Without apportioning blame I want the Parliament to correct what it did wrong. I have not sought to apportion blame in this matter other than perhaps in the first debate on the Bill, and it was reasonable for me to do that. I want the minister to do his job and to honour the oath he took when he became a minister. I do not think that is too much to ask.

The question I asked was a serious attempt to resolve this issue. I ask other members to judge the seriousness by which the answer was provided. The minister's answer to my question confirmed that the matter was discussed in the Legislative Assembly Estimates Committee B hearing. That was not the question; we all knew that. He further advised that he was considering the issue. That was not the question either. I would like to know just what he was considering. If he was considering the question, does that mean he is now uncertain whether somebody misled the House? I regard that as a very serious allegation. The question went unanswered.

I asked the minister if he still held to the view that somebody gave incorrect information to this House. He did not address the question. Is he uncertain now that his allegation was correct? If that is the case, why did he make the allegation at all? Or in fact does he mean he is now unable to say which statements were incorrect because he later found that they were correct? Either way, from the minister's answer we are left to guess; he simply failed to address the question. In any event the answer was pitiful and incompetent.

A number of people came into the public gallery during question time today for no other reason than to hear that question asked and to hear an answer. Certainly they were not people who regard the Minister for Primary Industry very highly in any case, so perhaps not a great deal was lost. Members can imagine the disappointment of people who came in specifically to hear that question and its answer when the issue that has dominated their lives for four and half years, and in some cases has ruined their lives, was treated as derisively and dismissively as it was. Some 14 months ago people around Australia became aware of a new slogan that arose from the waterfront dispute which still rings in my ears and which is "MUA here to stay". If the MUA were persistent, and rightly so, I am sure that even the Maritime Union of Australia would lower its colours to the milk vendors.

I have just read a very supportive letter from a government member of Parliament that was made available to me tonight. Attached to that supportive letter was a very straightforward letter from that MP to the Minister for Primary Industry. In that letter, the government MP, whom I do not intend to identify or embarrass, made the point that this issue is simply not going to go away. A truer statement has very rarely been made. These people are simply not going to give up.

They are like the Maritime Union of Australia - here to stay. Surprisingly, these people are not obsessive. I wonder how I would feel in a similar situation after being dismissed and treated like dirt by this minister; I think I might be reaching the stage of obsession. However, these people are not obsessive and that surprises me. They know they are right and they are determined that a just resolution will eventually be won. What they and every opposition member of Parliament - and it

seems an increasing number of coalition members of Parliament - have come to realise is that the Minister for Primary Industry is incapable of resolving this action - that realisation is dawning. If this matter is becoming a burden for the Minister for Primary Industry and if he is becoming annoyed by letters from his coalition colleagues telling him to get off his backside and do his job -

Hon M.J. Criddle: He has actually had an independent person look at it two or three times.

Hon KIM CHANCE: I will get to that.

Hon M.J. Criddle: I will be interested to hear your comments.

Hon KIM CHANCE: If that is annoying and if members of this House find that four and a half years of my ramming this issue down their throats is becoming tedious, I regret that I do not make any apology. I refuse to apologise because every time I worry about putting off another constituent issue in my electorate to deal with the milk vendors' case - I have devoted a huge amount of resources to this case and not one of these vendors lives in my electorate - I pause for a moment and think about what happened to these people. It does not take long in that process for me to willingly give that time and those resources to them. I wish the Minister for Primary Industry could spare those people a moment's consideration. He may not think that they are important enough to devote his time to, but if he did turn his mind to the destruction of those people's lives for a moment, he might at least have the courtesy to seriously address the questions put to him on the matter instead of fobbing the issue off and hoping it will go away. It will not go away. I am not asking the Minister for Primary Industry to agree with me or to do precisely what I want him to do; I am asking him to come to grips with the issue. If he has a problem with the facts as we have presented them, let us hear what the problem is, but let us hear him address it in a serious way. I take members back to an occasion when I told a representative of the minister and the chief executive officer of the Dairy Industry Authority that they had got it wrong. I patiently and politely told them where they had got it wrong, but it made no difference; they went ahead in their own way and proceeded precisely as they wanted, knowing they had it wrong. I do not know why that happened or why the minister, if he was informed of that, was unable to do anything to prevent it.

A number of issues arise which have not previously been discussed in this place on this matter, but they are issues which give me serious doubts about the minister's competence to handle this issue. After four and a half years, three standing committee reports, a Legislative Council motion and untold questions - I have never bothered to tally them up - I thought the facts of this matter were pretty well understood by everyone, except apparently the Minister for Primary Industry. When the minister said recently that this issue involved 250 former milk vendors, not just seven or eight, he indicated just how little he really understands this case. There probably once were 250 milk vendors in Western Australia, but the issue which has been addressed by the Standing Committee on Public Administration and the issue addressed by this House in respect of that committee's third and sixth reports concerns those people displaced by deregulation in 1995.

That is a total of perhaps 50 or 60 people. To infer that 250 people are involved, we would need to go right back to the distribution adjustment assistance scheme, denoted the A scheme. That scheme was introduced by the Labor Government as an adjustment mechanism years prior to deregulation, which was not even legislated in this place until November 1994. To start throwing around the figure of 250 people means that we are automatically dealing with a scheme which has never been considered by either this House or its committees. We are dealing with a group of people who are dealt with under the A scheme, which was an entirely different proposition. The A scheme was a top up, and it was based on the continuing licence arrangements under a Labor Government in which one licensee sold his business to another licensee. No person lost his business. It was a matter of one person selling property to another person who was buying property. In order to assist the adjustment process, the distribution adjustment assistance scheme was used as a top up to lubricate that process.

After deregulation in 1995, a person had no opportunity to sell a milk-vending business if he did not get a contract, because he had nothing to sell. A person had no property right that he could sell; he was simply pushed out of the industry. That made schemes B and C entirely different in their function from what scheme A was designed to do, but the minister does not seem to be on top of any of this. He is still talking about people who were involved in the A scheme. If he cannot see even now that some people are singularly disadvantaged in this process relative to others, then I have real doubts that we will ever get a resolution out of this minister.

I presume that tomorrow, coalition members will receive a letter - I think the letters were posted today - from a former vendor. I urge members to read this letter carefully. The letter is from G.T. and D.P. Nagy and is dated 28 June, and it states with regard to arbitration -

> For our group both the DAAS and the further assistance schemes - which currently offer us less than half the value of our former **shop** milk distribution businesses - have been a spectacular failure. Another great failure that was supposed to address this ongoing problem was arbitration. The Arbitrator was set guidelines to work from and the Minister for Primary Industry stated that ***"the arbitrator will not be restricted"*** and would have ***"considerable flexibility in making his determination"***. **This was untrue**! The Arbitrator himself throughout his report to vendors who applied for arbitration states that:
>
> 1. ***"I have been extremely mindful of the total funding limitation".***
> 2. ***"Total funding for the scheme is $7 million. This ceiling is not to be exceeded".***
> 3. ***"I have perused in particular Hansard reports of debate in both Houses of Parliament when the relevant legislation was proceeding."***

Well, the arbitrator must have somehow missed the following in Hansard (15th Dec 1994 page 9852) when the Hon Eric Charlton on behalf of the Government states that:

> ***"The important factor is not that it is $7m, but at least everybody knows that that is the minimum available. The Minister is not placing restrictions on the Arbitrator so that when he gets to $7m that is the end of it. Because of the unknown aspects involved no-one could set a figure, and the Minister has repeated that over and over again."***

Is it not strange? The arbitrator said that he went through *Hansard* to try to find what were his limits and he found that in the second quote I provided, "Total funding for the scheme is $7m. This ceiling is not to be exceeded." Which *Hansard* was the arbitrator reading when he came to the view that he had a cast-iron ceiling, when the minister representing the Minister for Primary Industry in this House at that time said, "Because of the unknown aspects involved, no-one could set a figure and the minister has repeated that over and over again"? That is one of the problems that we have been up against in this case. One person is saying "black is black", another is saying "black is white", and another is saying "maybe it is a shade of grey". There lies my frustration. We cannot get to grips with this issue because nobody seems capable of coming to grips with it. The Standing Committee on Public Administration did come to grips with it. To its credit, every government and opposition member came to the same view. A real problem was created by legislation which we all passed, which went through both Houses of Parliament and for which each of us is accountable. We subsequently found a problem. This House decided, upon considering advice from those three separate reports of the Standing Committee on Public Administration, that it was something it wanted to fix. We came to that decision finally on 12 May this year.

When we put the question to the minister, the only minister who is able to do anything about it, the Minister for Primary Industry, he tells us first that it involves 250 people when it patently does not involve 250 people or anything like that. He then fobs me off when an answer is sought to a serious question as to why he is having a problem with this issue. He can fob me off all he likes, it does not bother me, I can get over that, but I wonder about those people in the gallery during question time today. I wonder about them after four and a half years of losing their businesses, their houses, the future for their children that they thought they could give them and the superannuation they thought they had. I wonder how they felt about being fobbed off. I spoke to them after question time and they are not feeling good about the Minister for Primary Industry, and I do not blame them. I do not feel very good about some of the advice the minister has been getting, particularly from the CEO of the Dairy Industry Authority, Mr Adrian Scott, whose attitude to me personally and to the Standing Committee on Public Administration left a great deal to be desired. Mr Scott's view is that this is something that occurred before his time; it is a nuisance and he does not want to fix it. I have news for him, because both he and the Minister for Primary Industry will hear a lot more about this issue because, despite their attitude, it will eventually be resolved. If resolving this issue means somehow dislodging the Minister for Primary Industry, that is what will happen.

Members opposite should consider the damage that this will ultimately do to them as a Government and to their individual parties. It may seem like a small issue with only seven or eight people involved, but it has become an issue which has now fed its way through the entire dairy industry, a dairy industry in which the producers and their licence rights are under threat for reasons entirely separate from this issue. I warned during the debate in November 1994 that if we made a mistake in this issue it would come back and bite us in any market where the right to enter a limited entry market has a tradable value and an identifiable property right - it may be taxi licences, crayfish licences or quota milk producers - and it has happened. We may have to make a judgment at some stage that we will take something from quota milk producers. What precedent will we rely on if the State has to enact legislation which takes that right away? The precedent is that we do not have to compensate them. I warned in November 1994 that this would happen; we are facing it now. Where will we go? A precedent has been established that we can take something away from someone because we know that we are not bound by section 51(xxxi) of the Australian Constitution. We are a sovereign Government; we are not bound by the "just terms" provision. We know we can take something away and unless one can prove a case at common law, which is a very expensive process, there is nothing that can be done to the State of Western Australia for enacting those provisions without compensation.

I am saying this at this time of the night with no members of the media listening and I will not be issuing any media statements on this matter. I am saying this for one purpose only: Fix it; it will not cost much. The minister does not even have to go back to Cabinet to fix it, because the fund has been established, and every month $125 000 is added to it. By now that fund, even though payments have been made from it, will be sitting at approximately $2.2m. The minister does not need to go to Cabinet; he does not even need to wait until Monday to fix this matter. The fund is there and he can pay out those people and get this issue off the books. An election will occur soon and the Government has problems in the dairy industry to face. It should at least get that issue out of the way otherwise it will leave itself with a real problem in a couple of south west seats. I will leave the debate on the issue at that, but I urge the Government, in the spirit of cooperation, to please get this issue off the books. It cannot afford to leave it any longer.

I will address now another matter and refer to a report which I tabled last week on behalf of the Standing Committee on Public Administration. I refer to the eleventh report, which dealt with the Labour Relations Legislation Amendment Act 1997. The substantive part of the report consists of the views of the non-government members of the committee. The government members chose to append a brief comment of a general nature without addressing the specific issues of the inquiry, which was, of course, their own choice. Even though the main part of the report is essentially the work of the non-government members, I commend all members to consider that part of the report extremely carefully. That part of the report has provided an analysis of the legislation in a way that was simply impossible in the somewhat torrid debate that occurred in the Parliament in 1997. If the core component of the Labour Relations Legislation Amendment Bill was the incorporation of compulsory secret pre-strike ballots into our industrial law, by any standards the third wave laws have been a complete

failure. Despite the dozens of occasions on which this law has been flouted, not one trade union and not one worker has ever been prosecuted.

We should not legislate unless we intend to enforce the law. If there are sanctions in the law, they should be followed through. Why do we bother legislating if we intend to treat the law with contempt, or if we are going to allow people to flout the law? I am not talking about bending or breaking it a little, but deliberately challenging it. That is what has happened in this case. On dozens if not hundreds of occasions the secret pre-strike ballot provisions have been deliberately flouted. However, there has not been one application for a secret pre-strike ballot. When that has been brought to the attention of employers in the two years that this law has been on the books, not one has sought a prosecution. They do not want the law. Two years ago opposition members tried to tell the Government that the employers did not want the law and they would never use it. Why are members opposite imposing a law which they will not enforce, which they cannot enforce and which employers will not support? Knowing that, members opposite intentionally put this State through the worst industrial turmoil in 50 years.

The core provision of the Labour Relations Legislation Amendment Act of 1997 is a wreck. Why did we waste the time of this Parliament, with all the resultant industrial strife it stirred up in an otherwise peaceful industrial scenario, for nothing? This is not the only part of the third wave laws that have been an abject failure, but it is by far the most spectacular. It is not as though it came out of the blue and the Government thought it would be a good idea but did not know any better. Commissioner Fielding told the Government in 1995 that the employers did not want this law. Only two employers said it might be a good idea. Everyone else, including Commissioner Fielding, said very clearly that this provision had been in the state legislation but because it was never used it was repealed. Commissioner Fielding said it was a waste of space because the employers would never use it. He pointed out that it missed its mark because it was based on the theory that strikes are engineered from the top down - that unions tell employees to go on strike. If that were ever true, it ceased to be decades ago. I do not know whether it was true, but it has not been true in my time in the workplace.

Strikes happen because people get angry about things going wrong in the workplace. They then hassle their organisers until they agree that something must be done about the situation. One thing that may arise from that is a strike. However, it is not a situation of the union head office, the union secretary, the union organiser and the union shop steward ganging up on the poor old worker and saying, "Everybody out." It simply does not happen. Fielding told us that in 1995. What did the Government do in 1997? It passed secret pre-strike ballot laws, even though it knew no employer wanted it. Interestingly, the two employers who did put up their hands and who said they might support this did that in the context of protected industrial action. That is virtually the system that exists in the Commonwealth. Unlike the commonwealth law, the Western Australian laws do not have any protection. There is no point during negotiations at which a strike can go ahead under certain circumstances and there cannot be a prosecution. Western Australia has among the most repressive industrial relations laws in Australia and the southern hemisphere. Even in South Africa, which used to be a mark in the southern hemisphere for the most repressed laws, is far more accommodating than Western Australia. From a jurisdiction which was able to hold up its head in the International Labour Organisation as being among the best in the world - we are certainly not the worst, I will grant that - Western Australia can no longer say that it is setting an example to the rest of the world as it did previously. We cannot say, "This is the kind of labour relations legislation that the world should be looking at as a target. You might not be able to get there just yet, but this is where you need to end up." We have slipped to third world levels. Why did the Government introduce legislation which has shown no demonstrable benefit?

Other provisions of the Labour Relations Legislation Amendment Act, while less important, are even more vicious. Let us take one at random - the right of entry to workplaces. Our current industrial laws provide a limited range of opportunities for a union representative to enter a workplace to speak to his members. A union cannot go into a workplace to recruit. That breaches an ILO convention. What did the Minister for Labour Relations and the former minister say? "No, there are no breaches of ILO conventions." However, the ILO is clear: If a union is prohibited from going into a workplace to recruit a non-union member, a breach has occurred. What does our law do? It prohibits a union from going into a workplace to recruit a non-union member. Our law even sets down the range of issues about which the union representative is allowed to speak to a worker on the site. He cannot speak about anything he wants to speak about. He is prohibited from speaking to a worker about a range of union services.

Worst of all is the effect that the law has on the oversight that a union can have over a workplace to ensure adherence to the law. For decades this country has relied on a union's ability to go into a workplace and detect and blow the whistle on breaches of the law. We have prevented that from happening. Certainly we have put in place a mechanism which does improve WorkSafe WA's capacity to monitor those breaches. What has that delivered? It has not delivered anything like what was possible when a union had the same ability to observe what was going on in a workplace.

The Government is probably better perceived in the public on law and order matters than is the Australian Labor Party. However, the Government structures legislation which prevents the detection of breaches of the law. The offence of stealing as a servant is regarded as a severe breach of the law and is punished harshly. It should be considered as such: It is not only theft, but also a betrayal of trust, and should be regarded as a higher order of offence.

What about putting the boot on the other foot? What happens when an employer steals from his or her employee? Even if employers are detected stealing from their employees through breaches of the award or through shonky workplace agreement deals, and the case is prosecuted and the prosecution is successful, the penalty is that the person must pay back the money; we will then forget about it! The worst a person can expect is having to give the money back. If one has been caught stealing $1 000 as an employee, one will spend six months inside or worse. However, stealing $1 000 as an employer means that one must pay back the $1 000. I wonder what sort of message that sends to juvenile offenders. A juvenile offender may say it is wrong to steal, but the rich can steal all they like. Will that penalty prevent that person from stealing

again? I doubt it. Will it make an otherwise honest employee less honest? It is okay to steal if one is a boss, but not okay to steal if one is an employee.

Hon B.M. Scott: I do not think that is the case.

Hon KIM CHANCE: A case arose recently in which an employer was convicted of stealing from his employee; that is, the employer was found to be paying under-award wages to the sum of $7 500 to one employee. That is a large sum of money and this underpayment is unlikely to have occurred by accident. It was theft, and was a clear conviction. However, the only penalty the employer received was an order to repay the money! Put the boot on the other foot. Had the employee stolen $7 000 from the employer -

Hon B.M. Scott: What about time taken when people knock off early, which is very common?

Hon KIM CHANCE: That would not qualify as stealing as a criminal charge.

Hon B.M. Scott: Why would that not qualify as stealing? Are they not stealing -

Hon KIM CHANCE: He took money from his employee.

Hon B.M. Scott: If one took 20 minutes early a night for a fortnight, it would add up.

Hon KIM CHANCE: In criminal law, it would be difficult to get a conviction. I would probably agree with Hon Barbara Scott on a moral basis, but it is rather more difficult to prove in law.

It is absurd that we make this peculiar double standard. Nevertheless, amendments to the Industrial Relations Act have made those breaches deliberately harder to detect. A union can no longer enter a workplace and say, "Show us your books." That is the only way that breaches of industrial law in Australia over the last series of decades have been detected. Imagine a Department of Productivity and Labour Relations officer entering the workplace of one of his mates and saying, "Show us your books. We would like to find out whether you have anybody working here on a workplace agreement that is not registered. We would like to find out whether you are paying anybody under the relevant award rates or bargaining arrangement rules." That will never happen. I can imagine WorkSafe trying to do its job and going to inspect work sites. Although safety has been an issue that has been predominantly run by the unions, the same right-of-entry law makes it similarly almost impossible for unions to enter a work site to do anything about safety, particularly if no union members are there.

Hon B.M. Scott: Some employers quite like safety officers on the site.

Hon KIM CHANCE: Absolutely. That would apply to the vast majority of employers. I have no problem at all with that. Why would those employers be concerned about a safety officer going onto the site? I do not believe that they would be. I believe that it is the same situation that we have with the pre-strike ballot provisions. I am not anti-boss - I used to be a boss. I would never have a problem with a union officer coming onto my work site because if I was doing something wrong I would like to know about it in case there was an accident and I might be found culpable as a result of a breach of the Act, particularly in the safety area. An employer is required by law to provide a safe workplace. If we encourage people to think that they will never be supervised because the likelihood of a workplace inspector going onto a site, particularly in a remote area, is remote, some employers will be less likely to comply with the law. However, if one of their employees is a union member, a union should be able to go onto that site and say, "You have a problem here. You are breaching the Occupational Safety and Health Act. You are liable if you do not get it fixed." That will not happen if we deny unions entry to the workplace.

There is an even more bizarre element to the third wave laws and one which again has been ignored by employers. It is the peculiar provision, which I am sure all members remember, where, if a federally affiliated union makes an application, the state affiliate has to report that application made by the union in Sydney, Melbourne or wherever, to the state registrar. The state registrar can then advertise to employers within the state Act to have that state union deregistered. The employer can then virtually nominate which unions can cover those persons. A state affiliated union or a union representing workers under state awards has had to notify the registrar on, I think, six or eight occasions. On not one of those occasions have employers who are respondents to those state awards - and many were transport workers awards - made an application for the new registration of the union. When one says to employers, "You had the opportunity to use this law in this way and clean up a union problem that you have had for years", employers say, "Who would be stupid enough to do it? Who would deliberately take on a union head to head in that manner?" Why is the law there? It is not used; it has not been used for two years; it will never be used. What business have we got having it in our legislation?

I have covered in a superficial way only three of the issues that are raised in that report. I urge all members, regardless of whether they are supportive of that stupid legislation, to read the legislation very carefully and consider the outcomes of it. The outcomes are all bad, and they were always going to be all bad.

Debate adjourned, pursuant to standing orders.

ADJOURNMENT OF THE HOUSE

Special

On motion by Hon M.J. Criddle (Minister for Transport), resolved -

That the House at its rising adjourn until 3.00 pm Wednesday, 30 June.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [11.00 pm]: I move -

That the House do now adjourn.

Year 2000 Computer Problem - Adjournment Debate

HON E.R.J. DERMER (North Metropolitan) [11.01 pm]: I bring the House's attention to the failure of the Government to provide the required reassurance that state government agencies will be prepared to confront the year 2000 computer problem, otherwise known as the Y2K bug. Early in December last year I was concerned after reading a report of the Auditor General which suggested that he had surveyed 37 key government agencies - he did not specify which agencies - and had found a number of them had failed very important tests. The first test was whether each of the government agencies had conducted an inventory plan of their equipment and systems to ensure that they would know what they were required to provide to enable them to respond in the event of a Y2K emergency on 1 January next year. The second test was whether each of the government agencies would have their mission critical systems year 2000 compliant by July of this year, which was the required prudent date for which the systems needed to be compliant. The prudent planning must be based on the computer systems being compliant by July 1999. He asked the agencies whether the funding provided by the Court Government was sufficient to enable them to have their computer systems compliant by July of this year. He asked whether those agencies had developed appropriate contingency plans so they could continue to perform their functions in the event that their computer systems failed as a result of the computer bug. A number of agencies were found to be wanting on those tests.

At that stage, I asked the Minister for Commerce and Trade, who is also the Deputy Premier, through the Leader of the House, whether he was concerned. He responded that he was concerned. I asked him what action the Government was planning to take to meet this concern to make sure that ministers who are responsible for agencies could assure the Parliament and, through the Parliament, the people of Western Australia, that they would be ready to confront the year 2000 computer problem when the time came. Essentially I was told by the Deputy Premier's representative in this Chamber that the responsibility to ensure that agencies were compliant and were prepared for 1 January next year rested with the chief executive officer of each agency. I hardly need to remind you, Mr President, of the basis of ministerial responsibility, which is the cornerstone of the Westminster system. I was disappointed that the Deputy Premier suggested that the responsibility lay with the chief executive officers of agencies. Clearly if the worst occurs and services that should be provided by government agencies fail on 1 January, the people of Western Australia will not blame the CEOs of the agencies. They will know who to blame. They will go straight to the ministers of this Government.

Hon N.D. Griffiths: This is the bloke who does not read maps.

Hon E.R.J. DERMER: Thank you, Hon Nick Griffiths. The Deputy Premier said, in answer to my questions last December, that his role was a monitoring role. Therefore, I thought it was my duty to encourage the Deputy Premier and the other ministers to monitor whether government agencies were prepared for the year 2000 issue should it arise on 1 January. It is an interesting issue. There is often speculation in the community about whether the year 2000 problem is a beat-up, whether it is being made out to be a larger problem than it really is, or whether it is a serious issue which has the potential to threaten basic services in our community, perhaps something akin to the problems that arose with the gas failure in Victoria last year.

The answer to this is very simple. If the appropriate work is done and the issue is attended to, in all probability there will be very little problem on 1 January next year. People might then ask what all the fuss was about. If the work is not done or if important work is overlooked, sadly, we will then know what all the fuss was about because systems will fail on that date. The very simple question is that I have now repeatedly asked the ministers of this Government to give an assurance that their agencies will be ready and will have done the required prudent work to make sure that the computer systems of their agencies will be able to handle the change of date on 1 January next year.

The Deputy Premier said that his job was to monitor the agencies. I wondered what was the best thing I could do. The best thing I can do is to encourage the Deputy Premier and the other ministers in this monitoring work. Therefore, on 23 December last year I put a question on notice to each minister. That question was framed in similar terms to the inquiry that the Auditor General made in the investigation that led to his report earlier in December last year for the 37 agencies. I asked this question of each of the ministers for each of their agencies. If we are going to monitor, we need to be comprehensive.

It was suggested to me that it is the normal practice of the House that when a member asks a particular question or set of questions of each minister, the question on notice is accepted as a question to the Government rather than a question to the individual ministers. That is fine. I checked. It was confirmed to me, following inquiries to the office of the Leader of the House, that that did not prevent ministers individually attending to their own agencies to ensure that they would be compliant, and answering my question in those terms. It just meant that because the question was taken to the Government, I would be required to wait for the last minister to make sure that each of his or her agencies was ready, and when the last of those answers was submitted, I would receive the answer to my question for all agencies.

I have been excessively patient. The questions were put on notice on 23 December. It is now 29 June. There are two more days of parliamentary sitting before we rise for the winter break. The answers are yet to arrive. I hope that the answers will be provided to me in tomorrow's Supplementary Notice Paper; and if not in tomorrow's Supplementary Notice Paper, in Thursday's. If the answers to these questions are not given until the spring session, I have waited far too long. To wait this

long for a basic reassurance from the ministers of the Crown in this State that their agencies are ready to confront this problem is totally irresponsible and reflects on the general attitude of the Government, as well as the individual ministers.

The Deputy Premier advised us last year, through his representative in this House, that his role was to monitor. The purpose of my question to each minister is also to monitor. If we are not given an answer before the winter break, it will indicate that the Government is failing to undertake its responsibility for the performance of its agencies and their capacity to deal with this serious problem. I make it clear in my request on behalf of my constituents and the people of Western Australia to the Acting Leader of the House - who is the only minister present - that I am very serious about demanding an answer to these questions, and I expect to receive that answer in the next two days. If that answer is not provided, it can mean only that the Government is not ready to answer the question and that it has not taken appropriate responsibility for ensuring the agencies are ready to handle the year 2000 computer problem.

Nick Chernoff - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [11.11 pm]: With the indulgence of the House, I will relate a story with a happy ending. I brought this matter to the attention of the House on 26 May and it concerned a friend of my stepson, who had been locked up for six months for committing a series of driving offences. I am pleased to inform the House that since that time an appeal has been lodged on his behalf, and he has been released from jail and given a suspended sentence. I could not let the opportunity go by without offering my gratitude to a number of people. First, I inform the House that the young man's name is Nick Chernoff, and he reached the age of 20 years while he was in the East Perth lockup. It would be remiss of me not to say that when I made inquiries of the Attorney General, the Legal Aid Commission, and various other people, they said the chance of his winning an appeal was very slim. Evidence shows that 80 per cent of appeals heard by the court are lost, but Hon Nick Griffiths, the Law Society, my wife Debbie, Nick's girlfriend, his mother and I all felt it was worth making an appeal.

I now advise the House of the outcome of the efforts people made on behalf of Nick. I make special mention of the WA Bar Association, which canvassed its members to see if one of them would deal with the appeal pro bono. Nick could not afford to pay for an appeal because he is still a student. He was studying civil engineering and was doing very well until he was caught up in offences under the Road Traffic Act. Mr Michael Hawkins, a member of the WA Bar Association, took on Nick's case, and, even though he did not feel confident that it would be successful, it was successful. I am sure all those concerned are grateful for the work done on behalf of Nick. I must say that the Attorney General's department was very helpful, although the Attorney General was somewhat pessimistic about the outcome. People such as Karry Smith, who works in the Attorney General's department, gave every assistance to Nick and his family in an effort to alleviate his problem.

The point of my speech is not only to place on the record the gratitude that Nick and I feel towards those people who worked for his release, but also to highlight the situation in which Nick was placed. The six-month jail sentence was the worst of all outcomes for Nick. I explained before that Nick is a fine, upstanding young man, who does not drink alcohol very often - he has never been caught for a drink-driving offence - does not smoke, has short hair, has no tattoos, earrings or body piercing and is doing very well in his studies.

He was jailed for breaching the Road Traffic Act. If society says we should throw such people as Nick in jail, who are we to argue? However, as a society we have not demonstrated to Nick and other young people like him the effects of breaching the Road Traffic Act, particularly by speeding, running red lights and not paying due care and attention - the offences for which one can lose 12 points. Nick was never given any counselling or the opportunity to see for himself the effects of that reckless breaching of the law. This is not unrelated to the front page of tomorrow's *The West Australian* and the article on the young person who killed two people. I wonder whether it would have been better if, rather than the punishment he received - a suspended sentence - he was ordered to spend time in the casualty wards of hospitals where road traffic accident victims are brought in, or to spend time working with the police or the ambulance people, or to watch videos of the results of accidents and the damage they cause to people - if he had been exposed to the possible results of what he had been doing rather than being incarcerated and punished in that sense without visible outcomes.

We are advised that the Road Traffic Act does not allow for community service orders or any rehabilitation or counselling. That is what we are faced with in our jails today. Nick was not alone in the East Perth lockup. A number of people were in there for similar offences; they too had lost their licences after committing road traffic offences and were not exposed to the possible effects of their actions.

I will not take up much more of the House's time but I repeat that the lawyer who handled Nick's case pro bono was Michael Hawkins. I could not have reported to the House in the way I have without his assistance or that of my wife Debbie, Nick's girlfriend Leanne and my stepson Adam. They were optimistic and supported Nick when he was in desperate straits. He did not expect to go to jail. We got him released, but he still has not had the opportunity to see the effects of a road traffic accident.

Pyrton Women's Prison - Adjournment Debate

HON JOHN HALDEN (South Metropolitan) [11.17 pm]: I also raise a matter regarding prisons, but not in the personal detail given by Hon Tom Helm. I was pleased that the Government had decided to go down the path of building another women's prison. I was pleased when the Attorney General and Minister for Justice said that there would be no problems with establishing a new women's prison at Pyrton. I was advised by my colleague the member for Bassendean from the other place that there were considerable problems with the siting of a new women's prison at Pyrton. I spoke to my colleague Hon Nick Griffiths, who suggested that this was probably not a good idea, that there were issues to do with this site.

However, I know the arrogance, the pomposity, of the Attorney General and Minister for Justice when he tells us that he knows all about everything and that the Pyrton prison will be established. He said it would be established on the old site of the Disability Services Commission and that there would be no problems with the State Planning Commission. Everything had been resolved because, as members in this place know, the Attorney General knows all and is able to carry off everything on every possible occasion because he is so smart and all of us are so stupid. I understand the Attorney General is absent on parliamentary business, but perhaps he might be able to explain at some suitable time, hopefully tomorrow, why today the State Planning Commission, through its subcommittee which I think is called the statutory subcommittee -

Hon Derrick Tomlinson: Planning committee.

Hon JOHN HALDEN: The member is right. The statutory planning committee rejected the Justice Ministry's proposal for the establishment of a prison on this site on two grounds: There were strong Aboriginal associations with the site, and the fact that the proposal failed to detail what the remainder of the 30-hectare site would be used for. I thought, based on the lectures that I and every other member on this side, and I am sure also on the other side of the Parliament, have received from the minister, about how we are all so stupid and he is so smart, this problem would have been fixed. The minister obviously did not fix it with the State Planning Commission.

In addition to my sarcasm, cynicism and absolute disgust at this minister's incompetence in failing to fix this problem, I have some very real concerns. We all know the extent of the overcrowding at Bandyup Women's Prison. That overcrowding has reached historic numbers, which suggests clearly that its maximum capacity has been exceeded by over 100 per cent. I understand that as of today or yesterday, Bandyup had 123 female prisoners, in a prison that was designed to cater for 88 prisoners. Of course, the Government then went down the path of opening up Nyandi, a former juvenile detention centre, which it said would house 22 female prisoners. It now houses 34. All of this was to be resolved by the issue of Pyrton. It clearly has not been resolved. I have said in the Press, and I have said in here, that this minister has committed many follies. These follies have led the Government and the community down the path of saying, "We think we have fixed the problem, but we have not really fixed it because it is in his hands." In spite of the minister's arrogance and his insistence that he knows everything about every matter, the facts do not resemble the reality.

I understand that following this decision by the statutory planning committee, the minister will want to appeal. I am sure the minister will have great grounds for that and will do it with great gusto. We are all used to that sort of nonsense from this person. However, at the end of the day, we are not dealing with the nonsense. We are dealing with the reality of one overcrowded prison, and now two overcrowded prisons, and the reality that this minister wanted Pyrton. It is obvious that he wanted it because it was the cheapest possible option that was available to the Government to provide accommodation for female prisoners. That option is now in considerable jeopardy. Whether that option was in the best interests of those prisoners or the broader society had nothing to do with it. It was the cheapest option. It is unfortunate the minister is not here - I understand he is away on parliamentary business - but it is now incumbent on the Minister for Justice to detail to this House tomorrow the Government's proposals for the rectification of this problem that he has got us into, and to explain to us how and where he will insist that the Government build a new female prison - because there is no greater discrimination in our justice system than that associated with the incarceration of women - who will pay for it, how much it will cost, and what sorts of programs will be provided in that prison.

He tells us that the Pyrton prison could have been refurbished as the cheap option for $3.5m. However, a new women's prison to arrest the problems of the overcrowded Bandyup Women's Prison would have cost $10m.

Hon Derrick Tomlinson: The most recent estimate for a 150-bed prison is $25m.

Hon JOHN HALDEN: I accept that. Whatever the figure is, be it what Hon Derrick Tomlinson has said or the $10m quoted previously, the Government has a responsibility now to detail this to members of Parliament. This Minister for Justice knows everything about everything, and berates us for any objection to anything that he knows because he is so smart. I invite the minister to provide us all with the answers tomorrow. If he does not, it might not be tomorrow, but it will be on Thursday night, I will get up and we will have another debate about this. He is so smart yet he cannot tell us how he will fix this problem. The greatest discrimination against women in our society exists in this prison. The greatest disadvantage, the greatest perpetrations of the abuse of people's rights, exist in this State - I am not exaggerating my claims - and in this prison. The minister has an option; he can tell us how he will fix it or on Thursday night I -

Hon B.M. Scott: What did you do about it to try to fix it?

Hon JOHN HALDEN: It was not this problem, stupid. I do not want to know about that nonsense. When the Labor Government controlled this prison, it was not overcrowded. That sort of nonsense will not achieve a damned thing. It is incumbent upon the Minister for Justice, having been so smart, to tell us how he would fix it - it cannot be fixed.

Question put and passed.

House adjourned at 11.27 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

UNIVERSITIES, INDEPENDENT APPEALS ASSESSMENT PROCESS

1681. Hon J.A. SCOTT to the Leader of the House representing the Minister for Education:

(1) Are universities required to provide an independent appeals assessor to arbitrate grievances over course assessment and selection issues?

(2) Which universities in WA do not have an independent appeals assessments process in place?

(3) Why have these universities not provided independent appeals assessment?

(4) In each WA university, what percentage of students with grievance issues have progressed as far as independent assessment since this appeals process has been in place?

Hon N.F. MOORE replied:

(1)-(4) No, however the universities have well established policies and procedures for dealing with grievances of the kind specified. These are published in university handbooks or manuals. While the actual mechanisms differ in detail from university to university, every attempt is made to settle the matter internally. If it is not possible to resolve the issue at the level where teaching and examining takes place, there is provision for a more formal hearing independent from the teaching and examining process. Furthermore, apart from the internal avenues for recourse, grievances may be taken to external authorities such as the State Ombudsman and, in the case of the public universities, to the Governor as Visitor.

PORT KENNEDY RESORTS, ADVERTISING INVESTIGATION

1682. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Fair Trading:

Regarding question 408 of May 14, 1997 where the Minister for Fair Trading said that Port Kennedy Resorts advertising would be investigated -

(1) Has this matter been investigated?

(2) Has the Minister received a copy of the results of this investigation?

(3) What is the result of these investigations?

(4) What action has he or will he take in relation to this matter?

Hon MAX EVANS replied:

(1) Yes.

(2) Yes. The Hon Member for South Metropolitan was forwarded a copy of the relevant investigation report and the findings of the investigation by the Hon Minister for Fair Trading in correspondence dated 20 October 1997.

(3)-(4) The Ministry advised the Minister the investigation found that the advertisement concerned was not considered misleading or deceptive or to have breached any other provisions of the Fair Trading Act or Trade Practices Act. I am advised that on the evidence considered by the Ministry, no further action is required in relation to this complaint.

MOORA COURTHOUSE, DAMAGE

1685. Hon KIM CHANCE to the Minister for Justice:

I refer to the damage caused to the Moora Court House caused by recent flooding and ask -

(1) Can the Minister provide an assurance that this damage will be repaired as quickly as possible?

(2) When does the Minister expect that the Moora Court House will be repaired so that it can resume operations in full?

(3) Will the Minister take advantage of this opportunity to provide for an upgrade of the existing facilities at the Court House in order to provide for an improvement in office accommodation and public facilities?

Hon PETER FOSS replied:

(1) Yes.

(2) At this stage work will commence in September 1999, however a further structural engineer's report has been sought to confirm the extent of structural damage caused by the second flood.

(3) Yes, it is proposed that the Courthouse will be refurbished. This will include the provision of a new registry

counter with disabled access, new floor coverings, furniture, air conditioning to the courtroom, fire intruder and duress alarm systems and remodelled entrances to both the courtroom and the registry.

WOOROLOO PRISON SOUTH, PRINCIPLES OF AGREEMENT

1729. Hon JOHN HALDEN to the Minister for Justice:

With regard to the Minister's answer to part (4) of question without notice 1136 pertaining to Wooroloo South Prison, the Minister stated "the Principle of Agreement signed on April 19, 1999 provides for a three month period for the resolution of the various financing options". Bearing in mind the Minister's stated openness about the proposed construction and operation of this prison by the private sector, will he now table the Principles of Agreement signed on April 19, 1999?

Hon PETER FOSS replied:

The three month period has not lapsed. Negotiations on the large number of matters contained in the Principles of Agreement are still occurring. When the final agreement is reached on all matters I will be happy to table the relevant contractual documents including the Principles of Agreement.

QUESTIONS WITHOUT NOTICE

STATE FINANCES, END OF FINANCIAL YEAR

1404. Hon TOM STEPHENS to the minister representing the Treasurer:

Given that we are now two days from the end of the financial year, will the Treasurer provide the latest estimates of -

(i) the general government deficit, cash basis, for 1998-99;

(ii) the level of general government net debt as at 30 June 1999;

(iii) the consolidated fund surplus/deficit for 1998-99; and

(iv) the amount expended from the $50m contingency reserve authorised under the Treasurer's Advance Authorization Act 1999?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(i)-(iii) The latest estimates are those presented in the 1999-2000 budget papers.

(iv) No amounts had been expended from the contingency reserve authorised under the Treasurer's Advance Authorization Act 1999 as at close of business on 28 June 1999.

LEGISLATIVE COUNCIL, FUTURE

1405. Hon TOM STEPHENS to the Leader of the House:

I note the Government's expressed concern about the passage of legislation in this House and the number of Bills still on the Notice Paper and ask -

(1) Have the Government's concerns been translated into a plan to abolish this House?

(2) Does the Government intend to expedite its current legislative program in this House, given proposals by the Deputy Leader of the Liberal Party to abolish the House?

Hon N.F. MOORE replied:

(1)-(2) I am not sure of the Government's expressed concern at the lack of progress of legislation in this House. There are days when it takes longer than it should to deal with legislation, but this House has made reasonably good progress and, if all goes well, the House can rise at the end of this week having made a substantial contribution to the legislative program in Western Australia.

The proposal to abolish this House is clearly the view of one member of the Liberal Party, which is not shared by me and many other members of the Liberal Party. However, there is a political party in Western Australia that used to have that as its policy, and I think that policy is tucked away in the bottom drawer somewhere to be dusted off when the occasion demands. There is no doubt that members of the Labor Party, for the time being at least, think this is a pretty good Chamber. I suspect that will continue while they have a fairly large effect on the decision-making process. Bearing in mind that the Labor Party has only 33 per cent of the vote and the members in this Chamber, it is enjoying the occasions when it can have some effect on the decisions of the House. I have no doubt that in due course, when circumstances change again, as they will, the Labor Party will dust off its policy and charge along the path of getting rid of the Legislative Council.

Hon Ken Travers interjected.

Hon N.F. MOORE: If he is leading members opposite, that is fine. On this issue, he will not be leading me.

MR DARRIN FOX

1406. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the case of Mr Darrin Fox, who was sentenced in the District Court today to a term of imprisonment of 12 years for unlawfully killing two people, and ask -

(1) Does the Attorney General accept that this case has attracted significant public attention and has he, in accord with his duties as Attorney General, sought information relating to it?

(2) Has it been brought to the Attorney's attention that at the time Mr Fox committed the offence, he had outstanding fines imposed from 1994 to November 1997?

(3) Why was this non-payment of fines not enforced and why was Mr Fox not locked up, pursuant to the fines enforcement legislation?

(4) Does the Attorney accept that this case is just one of many examples of the fines enforcement legislation not working?

Hon PETER FOSS replied:

(1)-(4) Quite the contrary. One of the problems when we introduced the fines enforcement legislation - unfortunately I do not have the figures at my fingertips - was the extraordinary number of unexecuted warrants. Under the old system some of the warrants from the police station had been lost. Under the new system, they were being gathered in, but many were written off because the people could not be found, let alone the warrants. The amount of outstanding fines was greater than the amount of fines levied in any one year. One of the good things about the new system is that people have been increasingly pegging back the backlog. There is still an enormous backlog from the old system, which did not work at all as an enforcement measure. If people did not pay their fines, the system for getting the money from them was not good.

Not only has the new system been reasonably effective, but also more people are paying their fines without enforcement; that is, the fines coming forward in the system for enforcement are fewer than was previously the case, as there has been an increase in voluntary payment of fines. More importantly, the number of people going to jail each year for non-payment has dropped from 6 000 to 600. I have heard Hon Kim Chance, Hon John Halden and Hon Mark Nevill express the view that people should not be sent to jail for non-payment of fines and that there should be alternatives. Frankly, I accept that point of view and it is only with the greatest of reluctance that people are jailed for non-payment. It is far preferable to suspend their driving licences, execute against their goods or place them on a work and development order. Far fewer people are being sent to jail for non-payment of fines than used to be the case, and the enforcement process is much more up to date than previously.

The member may also recall that the Auditor General commented about the failure to write off extremely old fines, and members would be amazed to know how old some of those fines were. The Government has instituted a process for writing off the old fines, and I hope when we have worked everything through, people will be dealt with far more rapidly than they were under the old system.

The PRESIDENT: Order! I ask the Attorney General to draw his answer to a close.

LONGMORE DETENTION CENTRE

1407. Hon GIZ WATSON to the Minister for Justice:

(1) Will the minister confirm that an Arunta telephone system has recently been installed at the Longmore detention centre, and that other preparations have been made for residents to use the facility?

(2) Were prisoners from Wooroloo Prison Farm participants in the restoration and redecoration of the Longmore detention centre?

(3) How long will it be before residents move into this facility?

(4) Who will use the facility?

(5) How many residents will use the facility?

(6) Did the minister at any time consider using this facility to house either low-security or medium-security prisoners from Bandyup Women's Prison?

(7) If yes, why did this not occur?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) An Arunta telephone system has not been installed at the Longmore detention centre. Some painting of buildings and general cleaning up of the grounds were carried out by prisoners from Wooroloo Prison Farm, as part of a program under section 94 of the Prisons Act.

(3)-(5) It is not intended to use the facility as a prison for the foreseeable future.

(6) Yes.

(7) The buildings would require radical restoration, renovation and alteration to bring them up to an acceptable standard for prison accommodation.

SOUTHERN SUPPLY AREA HARVEST PLAN

1408. Hon NORM KELLY to the minister representing the Minister for the Environment:

In response to question without notice 1340, asked on 17 June, the minister stated that the 1999 harvest plan for the southern supply area is incomplete, due to the finalisation of the Regional Forest Agreement.

(1) When will the 1999 harvest plan be completed?

(2) Have all areas that are available for logging been finalised?

(3) Is the minister aware that the Department of Conservation and Land Management is supplying a harvest plan that purports to be based on the RFA outcome?

(4) What harvest plan is currently being used for logging operations in the southern supply area?

(5) Will the minister table all current or relevant plans for this year's logging operations in the southern supply area?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(5) Harvest plans are prepared by the Department of Conservation and Land Management in accordance with the provisions of the forest management plan 1994-2003 and the ministerial conditions attaching to it. Following finalisation of the RFA, amendments to the current 1999 harvesting plan are required. These will be completed as soon as possible and the minister will be happy to supply a copy of the revised 1999 harvest plan when it is completed.

SPORTING BODIES, YEAR 2000 COMPLIANCE ASSISTANCE

1409. Hon RAY HALLIGAN to the Minister for Sport and Recreation:

(1) Has the Government done anything to help state sporting bodies to become Y2K compliant?

(2) If yes, how much has been provided in terms of financial assistance?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes. Financial assistance, an educational seminar, and resources have been provided to state sporting bodies during 1999.

(2) An allocation of $75 000 for state sport associations and country regional sport associations to encourage assessment and action on the assets - software and hardware - of the associations to accommodate moving to the year 2000 was provided. This allocation was named the Y2K compliance scheme. Twenty applications were received in total, of which 17 were recommended for assistance. Total funding for grants was $21 167.

GOODS AND SERVICES TAX, PUBLIC HOUSING

1410. Hon CHERYL DAVENPORT to the minister representing the Minister for Housing:

I refer to comments made by the Minister for Housing last Wednesday in which he claimed that an additional $3m to $4m will come to Homeswest to cater for the difference in the effect of the Howard-Lees GST agreement, and ask -

(1) Do these figures represent an additional $3m to $4m annually, or over the term of the four-year agreement?

(2) Is this additional funding a part of the new Commonwealth-State Housing Agreement?

(3) If no, in what form has this extra compensation been provided, and will it come from the Commonwealth or State Treasury?

(4) Will the minister table a copy of the draft Commonwealth-State Housing Agreement and any analysis of the GST undertaken by Homeswest?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Annual figures.

(2) No.

(3) From the State Treasury, under additional compensation arrangements agreed in the latest Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations.

(4) The minister will table a copy of the new Commonwealth-State Housing Agreement as soon as it has been signed but will not be tabling any GST analysis by the Ministry of Housing.

SPORT AND RECREATION, INTERNAL REVIEW

1411. Hon KEN TRAVERS to the Minister for Sport and Recreation:

I refer to the minister's answer last Thursday that stated that an internal report on the portfolio of Sport and Recreation had been produced after an internal review, and ask -

(1) Which organisations funded by government but which could be considered independent were looked at?

(2) What is the total funding received by each organisation and what is the source of that funding?

(3) Will the minister table a copy of that report; and if not, why not?

(4) When will the minister make the decisions about the ultimate restructure?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. For the sake of accuracy, the question should refer to last Thursday week. The member asked this question and put it on notice last week, but it was the previous week.

Hon Ken Travers: Extend question time!

Hon N.F. MOORE: I cannot help it if members waste time. The question should read "answer last Thursday week".

(1) Western Australian Coaching Foundation, Womensport West, Aboriginal Development Foundation for Sport and Recreation.

(2) Western Australian Coaching Foundation - total funding $181 600; source, sports lottery account. Womensport West - total funding $222 300; source, sports lottery account. Aboriginal Development Foundation for Sport and Recreation - total funding $92 000; source, sports lottery account.

(3) No, it is an internal report.

(4) Preliminary discussions have already been held with each organisation. The newly appointed Ministry of Sport and Recreation chief executive officer, Ron Alexander, will negotiate further over the coming weeks to finalise a more integrated, streamlined and accountable structure.

The PRESIDENT: Order! Before I call Hon Christine Sharp, I welcome to the President's gallery members of the Portuguese Club of Western Australia, and also the Portuguese folkloric group Madeira a Vista. Welcome to Parliament House.

[Applause.]

FORESTS, HARVESTING CHANGES

1412. Hon CHRISTINE SHARP to the minister representing the Minister for the Environment:

(1) Is the minister aware of changes to forest harvesting in order to reduce the quantity of chip wood stocks?

(2) If so, when and by whom was the minister informed of these changes?

(3) Has the minister determined whether leaving marri trees standing in jarrah coupes is a substantial change under condition 2.2 of the ministerial statement that a proposal may be implemented of the 24 December 1992 amendments to the forest management plan?

(4) If so, what was that determination?

(5) Has the minister referred any changes in forest harvesting to the Environmental Protection Authority for advice under either condition 2.2 above or section 46 of the Environmental Protection Act, or in any other way, since 1 February 1999?

(6) If so, will the minister please table the EPA's advice?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(6) The minister is aware from media reports that the member has referred this matter to the Environmental Protection Authority. The authority will presumably seek the Department of Conservation and Land Management's advice on the matter. CALM's preliminary legal advice is that there is no substance to the allegation that ministerial conditions have been breached.

LEGISLATIVE ASSEMBLY ESTIMATES COMMITTEE B, MINISTER'S STATEMENT

1413. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

(1) Did the Minister for Primary Industry advise the Legislative Assembly Estimates Committee B on 25 May that

some of the information that was provided in the debate on the motion in the Legislative Council concerning the Public Administration Committee's third and sixth reports was inaccurate and served a political purpose?

(2) Can the minister advise if the alleged misleading of this House was committed by government or opposition members?

(3) Can the minister table advice detailing the precise nature of the information that the Minister for Primary Industry alleges was incorrect?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(3) The Legislative Assembly Estimates Committee B debated the issues raised by the member on Tuesday, 25 May 1999. The Legislative Council motion to which the member refers is presently being considered.

HOMESWEST, WAITING LISTS

1414. Hon TOM STEPHENS to the minister representing the Minister for Housing:

Will the minister table for the regions of Cannington, Mirrabooka and Fremantle -

(1) The number of people on the Homeswest waiting list as at 28 June 1999?

(2) The number of current applicants who have been on the waiting list for -

(a) four to 12 months;

(b) one to two years;

(c) two to three years; and

(d) three years or more?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) The Ministry of Housing has recently implemented a new computer system aimed at improving the level and quality of service provided to customers. The specific information requested by the member is not readily available within a limited time frame. However, the minister undertakes to provide the member with this information by 1 July 1999.

MAIN ROADS, CONTRACTS

1415. Hon LJILJANNA RAVLICH to the Minister for Transport:

I refer to the awarding of a $5.2m contract for the construction of part of the Port Hedland to Marble Bar road which was awarded to Henry Walker Contracting Pty Ltd without a tender process in line with the damages claim over the reduction in the Ripon Hills road contract and ask -

(1) On how many occasions since 1993 has Main Roads awarded a contract worth in excess of $1m without going through a formal tender process?

(2) Will the minister identify to whom the contracts were awarded and the value of those contracts?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. I will have to ask the member to put that on notice. It requires a lot of research -

Hon Ljiljanna Ravlich: There must be lots of them! Is that what you are saying?

Hon M.J. CRIDDLE: Main Roads lets around 1 000 tenders per year, so obviously it is a complex -

Hon Ljiljanna Ravlich: How many without a contract?

The PRESIDENT: Order! The minister has asked the member to put the question on notice.

EDUCATION DEPARTMENT, FUNDING

1416. Hon JOHN HALDEN to the Leader of House representing the Minister for Education:

Given that it is two days before the end of the financial year, I ask -

(1) What is the total funding, in addition to the 1998-99 budget appropriation, that will be required by the Education Department for this financial year?

(2) What is the expected overrun of the Education Department as at 30 June this year?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Estimated recurrent expenditure requirements for 1998-99 total $77.5m. A sum of $50.5m has been provided this year, with the balance of $27m being appropriated next year, as shown in the 1999-2000 *Budget Statements*.

PORT KENNEDY RESORTS LTD, PAC ASIA HOLDINGS

1417. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

In regard to the Port Kennedy Resorts Ltd development -

(1) Has the Minister for Planning met or had correspondence with PAC Asia Holdings? If so, what was the outcome of the discussions?

(2) Will the minister advise what financial difficulties are affecting the Port Kennedy Resorts development?

(3) What action will the minister take to ensure the current or future developers abide by the Port Kennedy agreement?

(4) Will the minister order an independent audit on the performance of the Port Kennedy Resorts developers in relation to -

(a) the financial difficulties facing the developers;
(b) amounts spent granting freehold land or leases to the proponents; and
(c) the value of facilities which are solely for public use?

If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Minister for Planning has not met with PAC Asia Holdings. However, he did receive a request from PAC Asia Holdings' legal representative for approval to change the shareholding of the developer. However, because of inadequate information, the request was refused.

(2) As indicated in his answer to question on notice 1670, the Minister for Planning is aware the developer is renegotiating its financial arrangements and he has sought details in this regard.

(3) The developer is required to meet the provisions of the Port Kennedy Development Agreement Act 1992.

(4) The Minister for Planning will consider the need for further assessment of the developer's position on receipt of the information referred to in (2) above.

REID HIGHWAY, CARINE LOCAL AREA TRAFFIC MANAGEMENT COMMITTEE

1418. Hon E.R.J. DERMER to the Minister for Transport:

I refer to the self-evident community divisions in the suburb of Carine arising from the proposed extension of the Reid Highway through that suburb, and the proposed configuration of streets adjacent to the proposed Reid Highway extension.

(1) Will the minister instruct Main Roads WA to convene a local area traffic management committee comprising representatives from each interest group and convened by a trained facilitator in order that a community consensus can be developed?

(2) If not, why not?

(3) If yes to (1), when?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) A community consultation process to determine the most appropriate format for the Reid Highway extension through Carine has been undertaken as part of design works commissioned by Main Roads. The issues currently being raised in respect of side street connections to the highway and access across the highway between adjacent suburbs have already been addressed as part of that process.

(3) Not applicable.

MUJA WORKERS, REDUNDANCY OFFERS ACCEPTED

1419. Hon J.A. COWDELL to the Leader of the House representing the Minister for Energy:

(1) How many Muja workers accepted a redundancy from Western Power immediately prior to the introduction of the accelerated voluntary redundancy scheme on 1 April 1999?

(2) How many workers have accepted voluntary redundancy since the introduction of the new scheme?

(3) What additional benefits are available to workers who accept redundancy under the accelerated voluntary redundancy scheme?

(4) How many workers who accepted redundancy immediately prior to the introduction of the new redundancy scheme have sought to withdraw their previous acceptance?

(5) Will the minister request Western Power to reconsider enhancing the redundancy packages granted to workers earlier this year that are inferior to subsequent packages?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I am advised by Western Power as follows -

(1) Assuming "immediately prior" to be one month prior, eight workers.

(2) There has been a strong response and the Minister for Energy will report on numbers in due course.

(3) Two weeks' pay for each year of completed service uncapped.

(4) None.

(5) No, on the basis that the new scheme applies only to employees who received an offer of redundancy from Western Power after 1 April 1999.

HENRY WALKER CONTRACTING PTY LTD, PROJECT 1003/97

1420. Hon MARK NEVILL to the Minister for Transport:

(1) When project No 1003/97 was initially awarded to Henry Walker Contracting Pty Ltd in the amount of $4 884 819, how many kilometres were involved?

(2) What were the variations to the contract that increased the contract price to $5.5m?

(3) What were the changes in site conditions that resulted in an extra $279 000 being granted to the contractor?

(4) Will the minister table the document wherein the State Supply Commission allegedly endorsed the decision made by Main Roads WA not to put contract No 1003/97 to tender?

(5) If not, why not?

Hon M.J. CRIDDLE replied:

(1) It involved 13 kilometres.

(2) Variation 1, adjustment to quantities; variation 2, delay in possession of site; variation 3, additional water sources; variation 4, change in rock source; variation 5, compensation for a number of final measured quantities that were lower than the schedule of rates limits of accuracy.

(3) The $279 000 is represented by variations 2 to 5.

(4)-(5) I seek leave to table a copy of a letter from the State Supply Commission to Main Roads.

Leave granted. [See paper No 1187.]

IOWNA PROPERTY, PASTORAL LANDS BOARD INSPECTION

1421. Hon TOM HELM to the minister representing the Minister for Lands:

(1) Has the Pastoral Lands Board done a pastoral lease inspection of the Iowna property south of Mt Magnet?

(2) If yes, what were the results of the inspection?

(3) Is it correct that there has been an adverse finding in reference to the management of this pastoral lease?

(4) Has the pastoral lease degraded?

(5) Will the minister table the report? If not, why not?

(6) What is the annual rental on this pastoral lease?

Hon MAX EVANS replied:

(1) Agriculture Western Australia on behalf of the Pastoral Lands Board prepared a range condition report for Iowna station in July 1997.

(2) Grazing pressure needs to be monitored to ensure that stocking rates throughout the entire station are maintained at levels which will ensure overgrazing pressure does not occur. Vulnerable areas are at risk, not only of damage to plants but also of accelerated soil erosion. Stocking rates are to be maintained at or below the present recommended carrying capacity of 2 500 dry sheep equivalents over the summer period. Paddocks which are planned to be used to concentrate sheep prior to shearing should be destocked at all other times. The size of the property, the vegetation types existing on the lease and, most importantly, the condition of the perennial vegetation restricts the earning capacity of the station to the point where off-station income becomes an integral component of the operation.

(3) No.

(4) It was noted that land systems on the pastoral lease varied from good to poor condition.

(5) No. The report is a confidential document between the author, Agriculture Western Australia, the Pastoral Lands Board and the lessee.

(6) The annual rental is $232.26.

SOUTH WEST COACH LINES

1422. Hon TOM STEPHENS to the Minister for Transport:

(1) Has South West Coach Lines obtained any Department of Transport subsidies to provide public transport services in the past three years?

(2) If so, what services is it providing?

(3) When was the relevant contract let and when does it expire?

(4) Can the minister explain how South West Coach Lines was selected to perform this task?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Yes.

(2)-(4) I seek leave to table the attached table.

Leave granted. [See paper No 1188.]

MEMBER FOR BUNBURY, SALE OF TOTALISATOR AGENCY BOARD

1423. Hon BOB THOMAS to the Minister for Racing and Gaming:

(1) Is the minister aware that the member for Bunbury is advocating the sale of the Totalisator Agency Board?

(2) Can the minister confirm that the TAB makes a significant contribution to state revenue?

(3) Will the minister rule out the sale of the TAB as a policy option of this Government?

Hon MAX EVANS replied:

(1)-(3) One of the most regularly asked questions of me, after Victoria sold its TAB to TABCorp Holdings Ltd, is why do we not sell our TAB. Victoria sold its TAB to TABCorp only because it provided a licence to distribute 22 500 slot machines. The money has all been made on that and there is no growth there. New South Wales was able to sell off its TAB to a TAB limited company only because it gave managerial rights to the 90 000 slot machines in New South Wales. They put other revenues into the TABs to sell them; otherwise, selling the TAB has no point. The WA Government does not want to direct revenue into the TAB. The growth rate in 1992 for the WA TAB was 60 per cent; New South Wales had 11 per cent; Victoria, 14 per cent; and Queensland, 21 per cent. Unfortunately, the chief executive officer left the TAB and I sacked the board and appointed a new board of experts. It is going very well. Last year, the TAB made $35m for the State, and about $30m was directed to the racing codes. Nearly $49m is directed this year. It has a budget of $44m this year, and is $5m over budget. Revenue is up by 6 per cent this year, and no other State has growth above 2 or 3 per cent. I am not sure of the basis of the comment of the member for Bunbury. Many people make a mistake in referring to TABs being sold in other States. One would only be selling off a stream of revenue coming to government, of which 36 per cent goes to the Federal Government in income tax. One would have a dividend to shareholders in a sale, which would not capitalise it very much at all. That is why we will keep it in government. It is going very well.

TAXI USER SUBSIDY SCHEME VOUCHERS

1424. Hon NORM KELLY to the Minister for Transport:

Some notice of this question has been given.

(1) Does the Department of Transport have its own facility to enable taxi drivers to cash in taxi user subsidy scheme dockets?

(2) If not, is it compulsory for taxi despatch services to provide this facility?

(3) What action can be taken against a taxi despatch service which refuses to accept taxi user subsidy scheme dockets?

Hon M.J. CRIDDLE replied:

(1)-(2) No.

(3) The Department of Transport will need to investigate the circumstances surrounding any refusal by the taxi despatch service to cash taxi user subsidy scheme vouchers before consideration is given to taking any action.