



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Tuesday, 25 May 1999

Legislative Council

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

BILLS (6) - ASSENT

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

1. Restraining Orders Amendment Bill.
2. Appropriation (Consolidated Fund) Bill (No 3).
3. Appropriation (Consolidated Fund) Bill (No 4).
4. Perth Parking Management Bill.
5. Perth Parking Management (Taxing) Bill.
6. Perth Parking Management (Consequential Provisions) Bill.

NORTH WEST CAPE, WORLD HERITAGE LISTING

Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, from 132 persons asking for world heritage listing for North West Cape.

[See paper No 1073.]

PANGAEA NUCLEAR WASTE REPOSITORY

Petition

Hon Giz Watson presented the following petition bearing 1 132 signatures -

To: The President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are totally opposed to the Pangea proposal to locate a high level nuclear waste dump in Western Australia.

Your petitioners, therefore, humbly pray that the Legislative Council will consider the health and welfare of the present and future residents of Western Australia and environmental impacts to be of more importance than profits from a high level nuclear waste dump that will present problems of a large magnitude for generations to come.

[See paper No 1074.]

SELECT COMMITTEE OF PRIVILEGE

Failure to Produce Documents under Summons - Tabling of Report

Hon B.K. Donaldson presented the report of the Select Committee on Privilege on a failure to produce documents under summons, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 1075.]

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Commonwealth Places (Mirror Taxes Administration) Bill - Tabling of Report

Hon M.D. Nixon presented the report of the thirty-fourth report of the Select Committee on Privilege in relation to the Commonwealth Places (Mirror Taxes Administration) Bill, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 1076.]

SELECT COMMITTEE ON IMMUNISATION AND VACCINATION RATES IN CHILDREN

Extension of Time

Hon B.M. Scott presented a report from the Select Committee on Immunisation and Vaccination Rates in Children requesting that the time in which it had to report be extended from 26 May to 24 June 1999, and on her motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 1077.]

GREATER BUNBURY AREA DEVELOPMENT*Urgency Motion*

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 25 May -

Dear Mr President

At today's sitting it is my intention to move an Urgency Motion under SO72 that the House at its rising do adjourn until 10.00am on the 25 December 1999 for the purpose of discussing the failure of the State Government to provide funding and support to enable the Greater Bunbury area to continue the level of development it has experienced over the past decade.

Yours sincerely

Bob Thomas MLC
Member for the South West

The standing orders require that at least four members rise in their places to indicate their support for this motion.

[At least four members rose in their places.]

HON BOB THOMAS (South West) [3.40 pm]: I move -

That the House at its rising adjourn until 10.00 am on 25 December.

I thank each of the members who stood in support of this motion so that we can consider this extremely important issue. The people of the Bunbury area are concerned that this Government has no vision for or confidence in the Bunbury area, and is not providing funding or support to enable the greater Bunbury area to continue the level of development experienced over the past decade. It is a matter of grave concern among many of the opinion leaders in Bunbury that when the projects, which were commenced under the Bunbury 2000 policy and the Better Cities program, are finished - most of them will near completion towards the end of this year - no new projects will be coming on stream to provide the economic activity and the jobs that are vital and necessary for the Bunbury labour market.

The Government had a golden opportunity in this year's budget to exhibit some vision for that area and to undertake the establishment of social and economic infrastructure so that the Bunbury area can continue the growth experienced over the past decade or more. Members will remember that in 1983 when the Labor Party came to power, it established a minister for the south west and created the South West Development Authority, and Bunbury experienced a real increase in economic activity, both private and public. The Bunbury 2000 policy vision witnessed the establishment of the Edith Cowan University and a regular public transport system. A major part of that policy was the relocation of the marshalling yards in the centre of the city to make that land available for commercial development. It also established the Bunbury city entertainment centre; the landscaping around the railway precinct and the entertainment centre; the Koombana Bay development and the construction of the Ern Manea bridge in Koombana Bay. We saw much private development around the Koombana Bay tourism complex run by the Malatestas, and much money being invested in social infrastructure, such as the construction of the new schools in the Australind-Eaton area, the Australind Senior High School, the Clifton Park Primary School and the Eaton Primary School.

In 1991, the Federal Government established the Better Cities program. The minister for the south west at that time, David Smith, went to Canberra and convinced the Federal Government that it should change the guidelines for that program so that regional centres such as Bunbury could benefit from the urban renewal which flowed from the investment of the Better Cities funds. The Better Cities program was used to good effect in Bunbury. The fuel tanks on top of Marlston Hill were relocated, the waste water treatment plant to the north of Marlston Hill was relocated and much money was spent redirecting sewage. Anybody who is interested can now see a marvellous development around Marlston Hill and the north end of Victoria Street - the results of that Better Cities program money. Once those projects and the Worsley expansion near completion, very few new projects will be happening in Bunbury, either public or private, which will create that much needed economic activity to generate the jobs necessary in regional areas.

Bunbury is Western Australia's second capital city. It is an important regional centre. It is the capital of the south west, which is the most populous and the most economically diverse region in Western Australia, yet this Government has completely ignored it. This Government has no vision for that area and it has no confidence in the area. One need only look at this year's state budget to recognise the way that Bunbury has been ignored by this State Government. The only new project in this year's budget is the \$4.2m for the construction of the much needed East Eaton Primary School. That project came about because 200 parents protested outside the member for Mitchell's office when the Premier was there and used people power to get some action on this because they were sick and tired of this Government's inertia. The rest of the money in this year's budget is for projects which are already under way. The much needed Carey Park Primary School and the police station upgrade were funded in last year's budget. This year about \$3.2m is available for extra services at the health campus, and the rest of it is simply a continuation of projects undertaken in last year's budget.

The Government has missed an opportunity, at a time when it has borrowed an extra \$800m for infrastructure development throughout the State, to invest in the future development of Western Australia's second capital city. It has lost an opportunity to do some very much needed work there. The Australind-Eaton-Leschenault area is one of the fastest growing areas in Australia. The number of children in the schools is increasing rapidly and there is a glaring need for extra high school places in that area, yet nothing has been planned for in this budget. I appreciate the fact that the Government has done something about the East Eaton Primary School, but it has missed the opportunity to do something about high school places. In fact,

the State Government seems to have become moribund on this issue because it has the local area educational planning project underway which will probably end up delivering a super school for Bunbury; will see the three very good schools, Australind, Bunbury and Newton Moore Senior High Schools, downgraded to years 8 to 10, and a year 11 and 12 super school campus will probably be built near the university. That would be a travesty. However, last year the Government said that no money was available to do anything about that for five years, so it will be another four years before it starts to spend any money on that vital infrastructure.

The Government also lost the opportunity to do something about Back Beach. This is a vital project for Bunbury. In fact, if we are to properly showcase Bunbury's tourism product, we must address the erosion on Back Beach and upgrade all of the area along its eastern side. However, there is no money in this year's budget. All we have is a promise that if money is available, Bunbury might get some of it for this vital project.

Another matter that should have been addressed in this budget is the need for a convention centre in Bunbury. Bunbury already has an entertainment centre. Because it is operating at a small loss, the Bunbury City Council approached the Government and suggested that the Government contribute towards the construction of a convention centre, which would operate in conjunction with the Bunbury Regional Entertainment Centre, as it is now called, and that the convention centre would provide the profitability for that integrated complex. No such allocation is provided in this year's budget. My colleague Clive Brown has suggested that instead of spending \$100m on a government convention centre in Perth when a private developer is prepared to fund and build it, we should take 10 per cent of that - that is, \$10m - and use it to build a convention centre in an area which would derive economic benefit from it. The Government is short-sighted by not being prepared to do that.

It seemed that most people in the Bunbury area had agreed that aged care should be the focus of any future use of the old regional hospital site on Blair Street. I thought that there would be money in this year's budget for development of those facilities on that site. I read some of the campaign literature that the member for Mitchell put out in 1996, and even he was supportive of that. However, he seems to have changed his mind and now wants a Homeswest-style development on that site. I recommend that the Government go back to the original concept and provide an integrated aged care facility on that site. It is an ideal, central site, and it would be well received in an area in which there is a relatively large aged population.

The region's ability to attract and develop new industry has been diminished by the reduction of funding in this year's budget for the South West Development Commission. The figure in last year's budget was \$4.77m and this year it has fallen to \$4.37m. However, if one looks behind those figures, one sees an even greater reduction in the amount of money available for grants, subsidies and transfer payments, which is an item listed on page 1281 of this year's *Budget Statements*. Grants, subsidies and transfer payments have fallen from \$583 000 in 1997-98 to an estimated \$170 000 in 1998-99, with a budget estimate of \$200 000 for 1999-2000. This is the seed capital that is used by various organisations within the south west to generate feasibility studies and to shore up or prove up projects which will be employment generators in the future. The Government has reduced the ability of the South West Development Commission to work with those organisations to create the new projects which will deliver jobs in the future. The Government should be condemned for that.

The Government's privatisation push in the south west is short-sighted. There will be 250 jobs lost between the Muja and Bunbury power stations. That is a huge number of jobs and pay packets to take out of a regional economy. However, what is worse is that there will be a decrease in the economic activity that is generated from the spending power from those jobs, and more jobs will be lost because less money will go through the tills of local businesses, which will find it difficult to retain their existing staff. Once those people who have lost their jobs at Western Power move away, the area will qualify for fewer police, fewer teachers, fewer nurses and so on, and there will be a downward spiral. That is very short-sighted.

The Labor Party believes that people not only need a job for a good and worthwhile lifestyle, but they also need to live in an aesthetic environment. The Government has been extremely short-sighted in this year's budget by not placing into reserve more of the tuart forest to the south of Bunbury along Centenary Road so that a reserve would stretch all the way from the Preston River across to the coast which would provide a proper gene corridor for the passage of animals.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.55 pm]: I thank the member for his dorothy dixer motion. This is not an urgency motion; this is a dorothy dixer if ever I have seen one.

Before speaking about Bunbury, I make one point with respect to the convention centre. Burswood International Resort Casino made an offer to the Government to build a convention and exhibition centre in exchange for significant taxation concessions, which have been valued by the Government at about \$160m over 10 years. It was not free. At the end of the day Burswood would retain ownership of it. What the Government is now seeking to do is quite a different proposal. Let us put that furphy to bed once and for all. The offer was not free; it was in exchange for significant tax concessions which would have been -

Hon John Halden: Nothing is free. The taxpayers of Western Australia would pay for it.

Hon N.F. MOORE: That is right. However, the member keeps saying it was free and Hon Bob Thomas said today it was free. That is not correct. It is time the Opposition understood that.

I will quickly go through a range of things which are happening, and have happened, in Bunbury and which demonstrate this Government's commitment to the south west, and to Bunbury in particular. I will go through a long, random list of capital works and expenditures on a range of government activities within Bunbury. It will demonstrate to anybody, on a fair assessment of matters, that this is a significant commitment.

Hon Tom Stephens: The best thing you could do is to move Hon Barry House to Margaret River.

Hon N.F. MOORE: It is interesting that the member who moved this -

Several members interjected.

The PRESIDENT: Order! Hon Bob Thomas was heard in relative silence, and most members recognise that. Because someone else now speaks, there is no need to interject. I want to hear from the Leader of the House. Then I will hear from Hon John Halden, followed by Hon Barry House, and if someone else wants to speak, that member can say whatever he or she wants to say.

Hon N.F. MOORE: I presume that the Bunbury-based member who moved this urgency motion has actually shifted his electorate office to Bunbury. That is an assumption I made following my reading of a press release I just received.

I will go through a few of the things that are contained in the budget or amounts that have been spent in recent times in Bunbury. The Picton Industrial Park is a \$4.7m project. The proper planning processes for the Back Beach project are being put in place, and will mean that the Back Beach will be fixed. There will be \$4.2m allocated for a new school at East Eaton. That is part of the social dividend. There will be a further \$3.2m for the South West Health Campus. The Government has already spent \$68m on a state-of-the-art hospital. That is another social dividend. Perhaps the member who moved the motion thinks we should build one every year; because the Government built it last year, it is not part of what it is supposed to be doing for Bunbury. I cannot believe that. The Opposition did not build it.

A State Emergency Service regional director will be located in Bunbury. An additional State Emergency Service officer will be placed in Bunbury to improve service delivery. The Ministry of Justice will provide \$200 000 for video conferencing facilities. Family and Children's Services will provide \$50 000 for a new under-10 year olds' preventive family support service in Bunbury. The expansion of the Kemerton Industrial Park will continue. There will be further marketing and development of the Marlston Hill project. It is a magnificent project. I agree with the member that it is a fantastic contribution to the infrastructure of Bunbury. An amount of \$3.2m has been allocated by LandCorp this year for the Marlston Hill project; \$1.5m will be spent on the waterfront precinct in the next year; \$1.5m will be spent on land development; and \$200 000 will be spent on upgrading Casuarina Drive. The State Government's investment has already resulted in private investment of \$10m at Marlston Hill.

The Government has also undertaken the following initiatives -

\$290 000 for the regional transport office in Bunbury.

\$120 000 to relocate the Bunbury licensing centre.

\$600 000 to reconstruct and widen Raymond Road from the South Western Highway to the Australind bypass.

\$300 000 to construct and primerseal the Perth-Bunbury highway from Peel to the Bunbury outer ring road.

\$2.3m to continue construction and sealing of the South Western Highway.

Main Roads WA to construct and primerseal Coalfields Highway at Roelands Hill for \$2.6m.

Bunbury Port Authority to spend \$4m on a range of initiatives.

Water Corporation to spend \$800 000 on infill sewerage in Bunbury.

\$2.2m to be spent on the waste water treatment plant at Eaton-Australind and \$1.1m to be spent on the waste water treatment plant at Bunbury.

\$150 000 to prepare a Bunbury regional plan.

\$54 000 has been allocated by the Department of Environmental Protection for a waste management recycling fund at Bunbury.

\$275m over two years to increase the capacity of Harvey Dam.

\$923 000 for the development and sale of residential lots in Harvey.

\$400 000 for the construction of a community house in Boyanup.

\$1m from the Ministry of Sport and Recreation's community sporting and recreation facilities fund for a new aquatic facility at Australind.

\$5m for a new primary school at Carey Park. That decision was made by this Government, during my time as Minister for Education.

\$500 000 for a Bunbury Agriculture WA centre.

Planning for a major south west regional sporting complex.

The planning for the last item is under way, and I hope that complex will include a south west institute of sport that is associated with the Western Australian Institute of Sport in Perth. That is an excellent initiative. I have made a decision to look at creating a regional sporting complex at Bunbury to cater for the needs of the greater south west, not just Bunbury. That is in the process of being planned, and it will then be funded and built.

Hon Bob Thomas: What does that mean for Eaton?

Hon B.M. Scott: A social dividend!

Hon N.F. MOORE: That is right. A pool is being built at Australind, which has been funded by the State Government through the CSRFF. The regional sporting complex will be a major project at Haig Park. The list continues -

The Bunbury district police complex, a \$9m project, of which \$2.7m is included in this budget.

\$9m has been spent on the past few years on the South West Regional College of TAFE.

I was pleased when I was Minister for Employment and Training to get work started on that project. That project will be finalised with \$350 000 in this year's budget.

I have outlined just a few things. My colleagues could go through all the information that is available to members about what is being spent in Bunbury in this budget.

Hon Tom Stephens: Not enough!

Hon N.F. MOORE: It was never enough for the Labor Government! That is the attitude it adopted. All the Labor Party wants to do is spend money. That is what it did in government, and that is what it is seeking to do in opposition. Fortunately, it cannot sign the cheques! Over the past six years, Bunbury has done exceptionally well. Some members here would probably say that Bunbury has done better than their electorate! Bunbury has done very well for a long time. We believe very much, as Hon Bob Thomas has said, that Bunbury is the capital of the south west. It is a major growth area of Western Australia. Any person who suggests that there are some economic problems in the south west should have a good look, because the south west is booming. Its tourism industry has taken off. A range of other industries associated with activities in the south west have taken off. Significant economic development is taking place in the south west at present, largely as a result of activity by the private sector, supported by a Government that provides for the infrastructure needs of the region. I have no doubt that this Government can hold its head very high in respect of what it has done in the south west of the State, in particular in Bunbury, and I am very proud to outline what we have done.

Bunbury is a magnificent city. Interestingly - a number of people will be surprised to hear this - Bunbury won the top tourism town award last year, because the people of Bunbury have decided that tourism is a good industry and one in which they should be involved, and they have put in place a very important and successful tourism strategy. That tourism strategy led to Bunbury's becoming the top tourism town. It actually won two awards, and I suspect it will have another go at winning an award this year. I have made some funds available to ensure that that contest continues, because in the past it was not intended to continue.

Hon Tom Stephens: On a whiteboard?

Hon N.F. MOORE: No. I do not use a whiteboard. I threw the whiteboard out the door when I walked into the previous minister's office. My predecessor had a strategy where he listed all the grants, and he then used a blue or a red pen to colour them in, depending on which electorate they were in. That is how it used to work. Those two pens and that whiteboard went out the door. If the Leader of the Opposition had a good, hard look at how and where the money is being spent by this Government, he would find it is fair across-the-board. With regard to the community sporting and recreation facilities fund, I am accused from time to time of spending too much money in Labor Party electorates.

Hon N.D. Griffiths: Which Liberal members of this House are making those accusations?

Hon N.F. MOORE: They can tell Hon Nick Griffiths themselves if they wish.

I have listed some of the information that is available for members in this year's budget. The document entitled *Budget 2000 Securing our Future* outlines the funds that will be spent in 1999-2000. It lists expenditure on a range of areas, not just in one or two parts of the city, or one or two parts of government activity, but across the spectrum. It involves things like water supplies, infill sewerage, and the building of schools, hospitals and sporting facilities across the board. That is the social dividend that this Government is delivering. If anyone cannot read that document and understand what is happening, I feel very sorry about that person's lack of capacity to understand and interpret very good information.

HON JOHN HALDEN (South Metropolitan) [4.05 pm]: Members know my well-established connection with Bunbury and the reason that I want to contribute to this debate. The Leader of the Government missed the point with regard to this debate. For a long time, Bunbury has been described as the gateway to the south west. However, the problem for Bunbury is that people may pass by and never enter that gateway if the government does not use some creative thinking and provide important infrastructure to get away from the concept that Bunbury is an industrial town surrounded by dormitory suburbs. If we do not get past that point, Bunbury's future will not be what the minister said it would be, and it will not be what I am sure Hon Barry House, who will follow me, would say, which is that if Bunbury is to have a future, as the Leader of the Government said, part of that future will be based on tourism. However, Bunbury will not be a great tourist attraction if all that happens is that people drive past Bunbury on their way to the vineyards, the national parks, the forests and the other beautiful areas to the south of Bunbury. Bunbury must develop its own uniqueness to encourage people to drive into it and have a look, otherwise what the Leader of the Government has said will happen will not happen.

Hon N.F. Moore: I think you will find it is happening. They are doing an excellent job.

Hon JOHN HALDEN: I was there last week, and I will be going back there this week, the minister will be pleased to know.

Hon N.F. Moore: The number cruncher is headed off to Bunbury! There must be about to be a leadership spill!

The PRESIDENT: Order, Leader of the House! Hon John Halden has the call.

Hon JOHN HALDEN: The Government has been long on rhetoric about Bunbury. We heard more rhetoric a moment ago. We need only compare the infrastructure that was provided by the Labor Government with the infrastructure that is being provided by this Government for Bunbury, greater Bunbury and the south west. The figures make interesting reading. The Labor Government injected more than \$10m a year into the South West Development Commission.

Hon Greg Smith: It was once \$27m.

Hon JOHN HALDEN: On one occasion it got to that level. This year, it is \$4m. What sort of projects did we institute in Bunbury? We instituted a university, which came under great criticism from the current Premier, who said it was not feasible and would not work. It was also a Labor Government initiative to reshape the central business district. Other Labor initiatives were the Better Cities program, the sewage infill program in Carey Park, Marlston Hill, Koombana Bay, the entertainment centre, the art gallery, Kemerton Industrial Park, and the removal of the pipeline across the estuary. They are the things that Labor did.

Members should note the list that the Leader of the House read out - they were government day-to-day activities. There was no great planning or foresight and definitely no great initiative. There was a little bit of pork barrelling, I will concede that. If we want Bunbury to go ahead and become a major regional centre -

Hon Greg Smith: We delivered!

Hon JOHN HALDEN: We did that; I agree. If we want that development we cannot have these ad hoc arrangements.

Hon Tom Stephens: Greg Smith - the pizza boy.

Hon Ljiljana Ravlich: Mr Dolmio!

The PRESIDENT: Members on my left are speaking over their own member.

Hon JOHN HALDEN: The Leader of the House made a point that requires some response. He referred to the local hospital and said that the South West Health Campus had been a great government initiative. In response I will read a letter which appeared in the *South West Times* on 20 May this year and which was written by Mrs Ruth McMilliam. The letter states -

FOLLOWING a recent personal experience at the new South West Health Campus, I was relieved to find many thousands of dollars had been spent a glossy brochure delivered to all Bunbury homes which hailed the efficiencies of the new system and showed pictures of real doctors and nurses working there.

Because in reality the doctors, nurses and service is almost non-existent.

Last week I arrived in pain at the emergency centre at 1.30am with a suspected broken elbow.

Upon arrival I was not approached by a nurse, but after being asked to wait I had to scream my personal details through a bullet-proof glass to a lady on the other side who could not hear me, so a pantomime ensued with her yelling loudly from one side and me from the other . . .

That is how the constituents feel about Messrs Sullivan and Osborne. The letter continues -

I was not offered a bed or asked if we had private insurance . . . I was given two Panadol and sent home.

I returned at 8.30am, had X-rays and again was asked to wait.

I waited five hours and during that time people came into the emergency waiting room with various ailments, and all had to yell their personal details through this glass for all the world to hear, while dealing with sick or injured children.

She goes on to say that the water fountain did not work and various other people were treated in less than ideal circumstances.

We have this wonderful hospital being administered by this super competent Government. However, we now hear about problems with the doctors at the hospital. Another article in the *South West Times* of 20 May entitled "Public hospital, GPs rift" states -

DOCTORS at WA's biggest general practice will cut patient treatment at Bunbury Regional Hospital, claiming the hospital no longer welcomes their services.

Dr Foster and Associates chairman Dr Michael Hall said on Tuesday that as of September 1, the surgery's 20 doctors would treat inpatients only in obstetrics, anaesthetics and some operations.

The decision had been prompted by the hospital's withdrawal of "facilities and privileges" enjoyed by General Practitioners at other country hospitals.

The article goes on to point out that doctors could not access telephones and were treated in an offhand manner and so on. That typifies the behaviour of members opposite. The Leader of the House said that the Government had provided a wonderful health campus and had spent all this money.

Hon N.F. Moore: You get your advice from the newspapers.

Hon JOHN HALDEN: He tells everyone how wonderful it is but when we scratch the surface we find that there are no patient services and 20 doctors do not want to work there. That is typical.

Hon N.F. Moore: It is typical of you to get all your information from the newspapers.

Hon JOHN HALDEN: It is all smokescreens and mirrors but no substance. The substance is very important for Bunbury; it is crucial in determining how Bunbury will develop over the next 20 years. Unless we have a master plan and a reason for people to visit Bunbury - it offers many tourist attractions - they will drive straight past it. That is very unfortunate because Bunbury has some wonderful features, one of which is the redeveloped harbour - another Labor initiative.

Members opposite cannot rest on the laurels of their predecessors, which is what the budget does. It does not provide clarity about where the Government is taking this town. The local council knows where it wants to take the town, and I am sure it is not happy with the Government because it will not provide the necessary financial support and infrastructure to develop -

Hon N.F. Moore: Give us an example.

Hon JOHN HALDEN: I will not name councillors.

Hon N.F. MOORE: Provide some examples.

Hon JOHN HALDEN: The ball is in the Government's court. There is a special need and it will not be fixed by the current expenditure proposals.

HON BARRY HOUSE (South West) [4.16 pm]: I welcome this motion because it is an attempt by the Labor Party to rediscover Bunbury, and it is about time that happened. There are 17 constituencies in the south west, and the Labor Party holds two.

Several members interjected.

The PRESIDENT: Hon John Halden has had his go.

Hon BARRY HOUSE: It is refreshing to note that Hon Bob Thomas has finally found Bunbury. His electorate office is in Albany and Hon John Cowdell's is in Mandurah. My office is in Margaret River because I can afford to be there now that Bunbury is so well covered by coalition members.

This motion provides me with an opportunity to deliver a history lesson and to compare the record of the ALP Government with that of the coalition Government since 1993. We heard about Bunbury 2000 and its launch by Brian Burke and his Government. That launch was the beginning of insidious government self-promotion in this State.

Hon Kim Chance: Developed into a fine art by the Court Government!

Hon N.F. Moore: Goebbels would have been proud of the Labor Government.

Hon BARRY HOUSE: It was perfected -

Hon Ljiljanna Ravlich interjected.

Hon BARRY HOUSE: The member was tired a moment ago.

The PRESIDENT: Hon Barry House has the floor.

Hon BARRY HOUSE: It is worth spending some time on the genesis of that plan. In 1981, Premier Sir Charles Court delivered a speech at the Bunbury Italian Club. Mr Burke and his entourage picked up the substance of that speech, packaged it and sold it. They did that well and achieved some short-term political success. As a result of the good packaging of that policy and a redistribution, which created the new seat of Mitchell, the Labor Party won Bunbury and Mitchell at the 1983 election. From 1983 to 1993 we heard much rhetoric but saw little action. Everything produced during that time had faults.

Hon Tom Stephens: They had quality representatives.

Hon BARRY HOUSE: They were good at picking things up and moving them around. That was the game in Bunbury for some time. Buildings were picked up, moved elsewhere, turned around to face the other way and so on, but there was little tangible gain from the exercise. They did turn Bunbury around to face the inlet as Sir Charles Court suggested in 1981.

Moving the railway terminal out of the Bunbury CBD to Wollaston was part of that process. Hon Bob Thomas did not embellish on that matter. It is still debatable today whether it was a successful move. In fact, a study is being conducted by the Department of Transport regarding relocating that railway, the terminal along the woodchip line back to the Bunbury CBD. That may come to pass.

Marlston Hill has been mentioned frequently. A tremendous amount of talk took place concerning this site for a decade, but little action was seen until the coalition took over government in 1993.

Hon Bob Thomas: You've got to be joking!

Hon N.F. Moore: Hon Bob Thomas wouldn't know.

Hon Bob Thomas: Yes, I would - I have an office there. Who shifted the wastewater treatment plant?

Hon BARRY HOUSE: That was finally removed in 1993 when the coalition took over. The silos are another issue. The fuel tanks were removed in 1993, and the development on that side of the Marlston Hill site started post-1993. We heard many fairy tales in the 1980s about moving some of the shipping operations, mainly relating to mineral sands operations,

out of the outer harbour area. That proposal would have cost millions of dollars for no tangible benefit. As a consequence of that process, the confidence of the mineral sands industry was destroyed through a continuing threat to its shipping operations.

The boat harbour was mentioned - this is okay, but very limited. Only a few pens are available, and a strong school of thought in Bunbury suggests that it is located in the wrong spot. It should be in front of the Koombana Bay Sailing Club. The previous Labor Government did a fantastic job and blew up half the silos, but it did not go the whole hog and blow up the rest. Ownership of the land on which they stood, which was a legacy from the Labor Government, has been quit by this Government. Private developers now have control of that land, although I am glad my dollars are not trying to develop some old wheat silos into a hotel - I wish them luck.

A point glossed over by members opposite in this debate was the Lord Forrest Bunbury Tower deal. This building stands out on the Bunbury skyline as a permanent monument to the Labor Government of the 1980s. It was a WA Inc deal put up by Austmark, an arm of the Bond Corporation. Many government departments were relocated to the Bunbury Tower and tied to exorbitant, St Georges Terrace rents for 25 years in a cosy deal made with the Labor Party's mates in the 1980s. Bunbury has magnificent outlooks to water on three sides. The Lord Forrest complex is about the only building in Bunbury from which one cannot see water! It is completely in the wrong place. It is a standing monument to the Labor Government of the 1980s for which taxpayers will pay for the next 10 or 15 years.

I will run out of time in this debate. I grant that a lot of foresight was shown in developing the Edith Cowan University, Bunbury Campus. We would not take that development back at this stage. Nevertheless, it was done the wrong way. This was formerly a state-run college of advanced education. As the Federal Government would not pick up the ongoing costs of the institution, the State Government was virtually bailed out of the deal in 1988 by Edith Cowan University, which incorporated that college into the university. The Edith Cowan campus has battled and struggled for 12 or 13 years to maintain itself as a viable institution, and I hope that it has turned the corner.

Another monument to the Labor era is the Dolphin Discovery Centre. Some school of thought in Bunbury in the 1980s was that Bunbury would match or even better Monkey Mia because of the dolphins in Koombana Bay. Another half a million dollars of taxpayers' money was spent on the Dolphin Discovery Centre on the shores of Koombana Bay. This is a nice facility, but came at a huge cost to taxpayers. I will be surprised if it ever manages to pay for itself. If people in the know want to see dolphins, they go to the beach into which dolphins have come for the past couple of thousand years, not the Dolphin Discovery Centre.

The first few years of the coalition Government post-1993 were spent correcting Labor Government mistakes and putting Bunbury and the greater Bunbury area back on track. The people of the area thought so much of the contribution of Labor Party members that they voted them all out of office at the 1993 election, which is where the Labor Party stands today.

HON MURRAY MONTGOMERY (South West) [4.26 pm]: It is said that Bunbury relies to some degree on tourism. I will not focus on that aspect, which was covered by Hon John Halden and Hon Barry House in their comments about hotels, including The Lord Forrest Hotel. I will raise two other issues within the province of the south west and the greater Bunbury region.

It is claimed that the Government has provided no funding or introduced no initiatives for the development associated with minerals and energy, yet this year's budget has allocated \$1.3m for a geological survey and for the consideration of mining safety and environmental services within the region. If that is not ensuring that ongoing development occurs, members opposite have misread where the Department of Minerals and Energy is headed. Any surveys conducted in the region will provide backup to the private operators in the mining industry.

Hon Barry House: I did not have time to mention the Collie power station either.

Hon MURRAY MONTGOMERY: I am glad the member has raised that facility, on which the Labor Party would not make a decision during its last years in office. It needed a push from this Government to ensure the construction of the Collie power station.

Hon J.A. Scott: That is no great achievement!

Hon MURRAY MONTGOMERY: I notice that Hon Jim Scott is happy to work on his laptop computer in this Chamber and use the energy required to drive it.

Several members interjected.

The PRESIDENT: Order!

Hon MURRAY MONTGOMERY: The Collie power station will be officially opened in 10 or 12 days, and it will be a landmark in Collie. This will ensure that this State's and its industries' energy requirements are met.

Agriculture is the third sector from which this State gains much of its wealth. Interestingly, Agriculture WA proposes to spend \$350 000 in partnership with Western Dairy Inc for research and development in the milk industry. The list goes on. There is research into the shelf-life of milk. The potato industry is spending \$500 000 on developing new varieties. A great deal of money is being spent in horticulture and viticulture. That is an initiative of which the Government should be proud. Obviously, it is a matter that the Labor Party has forgotten.

Motion lapsed, pursuant to standing orders.

MINERALS EXPLORATION INDUSTRY

Statement by Minister for Mines

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [4.31 pm] - by leave: During debate on the Appropriation (Consolidated Fund) Bill (No 3) on 5 May 1999, Hon Tom Helm accused me and the Department of Minerals and Energy of contributing to the downturn in the minerals exploration industry and the resulting unemployment by the excessive granting to mining companies of exemptions from their expenditure commitments. To support his arguments he referred to Sons of Gwalia Ltd and its associated companies and the exemptions granted to them between 1991 and 1998. Hon Tom Helm also implied that the delays associated with the granting of mineral tenements were the result of the Government providing insufficient resources to facilitate negotiations between native title parties and the applicants. His comments are based on limited data and display a lack of understanding of the essential elements upon which the impressive achievements of the industry in this State have been built. I therefore feel compelled to comment on those issues for the purpose of removing any confusion and misunderstanding that Hon Tom Helm's comments may have engendered.

Anyone who is at all familiar with what is going on in the mining industry in this State knows that the current downturn in exploration activity is mainly the result of the unworkable native title provisions that have led to an enormous backlog of applications in the system and the downturn in commodity prices, which has resulted in reduced profits for producers and made it virtually impossible for junior explorers to raise funds for their operations. Any suggestions that the granting of exemptions is the cause of the current difficulties is nonsense. The truth of the matter is that exemptions have been with us since the introduction of the Mining Act 1904, and the conditions under which such exemptions have been granted have remained essentially the same throughout the century. Under the 1904 Act the exemptions related to labour covenants, but when the 1978 Act was introduced the labour covenants were converted to expenditure conditions. The exemption provisions remained the same, with the recognition of grouping of tenements into projects for reporting and expenditure condition purposes.

Hon Tom Helm expressed concern that Sons of Gwalia and its associated companies had been granted exemptions from expending a total of \$28.8m on various tenements between 1991 and 1998. However, he failed to mention just how much those companies had actually spent on their tenements during that period. It is essential to consider both sides of the ledger in this regard. By way of illustration, I will mention the exemplary performance of Sons of Gwalia and one of its associated companies, Burmine Operations, in terms of their expenditure commitments. For example, in 1995 the companies held a total of 356 tenements with a total expenditure commitment of just over \$9m. They were given exemptions on some of their tenements to the total value of about \$3.7m, but they actually recorded total expenditure on those tenements of over \$156m. This expenditure equates to an impressive 17 times the actual expenditure commitment on the 356 tenements. In 1998 the same companies held 323 tenements with a total expenditure commitment of about \$7.7m. They sought and were granted expenditure exemptions totalling \$3.6m, but they actually spent a total of \$147m on those tenements during the year. This expenditure exceeds the total expenditure commitment on the 323 tenements by 19 times.

The two most common and very justifiable reasons given for granting exemptions from expenditure on these companies' tenements were that time was required to evaluate previous work and to plan future work - about 70 per cent of the exemptions - and that the tenements were part of an approved project where the total expenditure on the project exceeded the minimum commitment for all the tenements in that project. That relates to about 20 per cent of the exemptions. It is very reasonable for a company which has spent a significant sum on its tenements over a period of time to then be given time to properly evaluate the results of that work and to plan for the most effective expenditure of its shareholders' funds in future work.

Regarding project expenditure and bearing in mind that only one in 1 000 exploration projects uncovers an economically viable ore body, it is logical for a company initially to concentrate expenditure on the most prospective targets, with the intention of later spreading the exploration and other activity over the remaining tenements in an approved project as the information base develops.

The primary basis of the Mining Act 1978 is that tenement holders should fully meet their expenditure commitments. However, the Government's policy on exemptions recognises the nature of the industry and the time-proven methods which have underpinned its success in this State. It should also be emphasised that the vast majority of exemptions are granted for only one year, with companies having to satisfy a stringent evaluation process on a year-by-year basis. Each application for an exemption by any company is carefully considered in the context of the criteria listed as grounds for exemption in the Mining Act, the company's past performance and its plans for future work. The whole aim of the process is to ensure efficient, continuing exploration of the company's ground, and applications that do not satisfy the criteria are refused.

Hon Tom Helm has also claimed that I can grant exemptions "at the drop of a hat" for any reason I choose under the general ministerial discretionary power in section 102 of the Mining Act 1978. The fact is that this general discretionary power is rarely used, with nearly all exemptions being granted for one or more of the specific reasons outlined in section 102. He has also again questioned my decision to grant an exemption to Peko Exploration Ltd. I have previously given him an answer as to why that decision was made; however, I will again attempt to enlighten him on the matter. In accordance with a Supreme Court decision that overturned my earlier decision to forfeit Peko's tenement and directed me to review that decision, I requested further information from both Peko and the other company involved, GHK Mining Pty Ltd. After carefully considering submissions received from both companies, I decided to allow exemption from expenditure and not to forfeit Peko's mining lease as it contained a resource deemed "uneconomic" to develop. Peko had incurred significant past expenditure on the lease in question and in fact, from 1988 to 1997, more than \$3m was spent on the area in which the ore reserve was identified. The resource was deemed uneconomic and a "stand alone" prospect, but could be processed, subject to the gold price, at the Kanowna Bell plant about 34 kilometres away.

The key issue is that, under the Mining Act 1978, a subeconomic resource is a valid reason for exemption for expenditure. Also, the Director of the Geological Survey of Western Australia was satisfied that Peko had sufficiently outlined a resource that was uneconomic to develop. I imposed a fine of \$3 000 in lieu of forfeiture on the basis that while an expenditure shortfall had occurred, the breach was not considered of sufficient gravity to justify forfeiture of the lease. There must be incentive for companies to spend and risk big money in this State knowing that if they find a deposit they will not lose it. If Hon Tom Helm would like to see the exemption option removed from the Mining Act, I would be interested to know what alternative measures he would suggest, particularly bearing in mind the huge risks to companies' funds in carrying out widespread mineral exploration and development.

At this point and in the light of Hon Tom Helm's inference that the minerals industry is not fulfilling its obligations, it is appropriate briefly to acknowledge the general expenditure performance of the minerals industry on granted tenements in this State. To do so I will look at two "sample" years during the term of the current Government. In 1994-95 the industry's total expenditure commitment was about \$360m, but the industry's actual reported expenditure that year was \$2.2b. In 1996-97, against a total expenditure commitment of about \$365m, the total reported expenditure was \$3.5b. By any yardstick this is an excellent performance by a dedicated and world-class industry.

The suggestion that the department's lack of resources is the cause of the backlog of tenement applications in the system reveals little understanding of the native title processes. As I have previously stated, it would not matter if the department had 10 000 staff, because what is required is for the applicants and the various native title parties to reach agreement. They do not even have to consult with the department until they have reached agreement if that is what they want. But no-one can force parties to agree, and until we have the Native Title Act's general uncertainties and those created by the Miriuwung-Gajerrong case sorted out, very few of the almost 11 000 tenement applications currently in the backlog are likely to be progressed to determination. As a result of difficulties arising from the unworkable native title processes, we have almost 11 000 tenement applications backlogged in the system covering over 230 000 square kilometres of this State - that is, an area larger than the State of Victoria - which is effectively sterilised from significant exploration activity.

This is in stark contrast to the situation existing before the Native Title Act applied in this State, when about 2 800 tenement applications awaited determination at any given time. There is no doubt that this sterilisation of large parts of this State is contributing to the downturn in exploration activity and the resultant unemployment in the industry. Furthermore, this situation is not likely to change significantly until we have more workable state legislation which secures the interest of all parties involved in this complex issue.

Contrary to the suggestions made by Hon Tom Helm, the major impact of delays from the Native Title Act falls on companies that employ most of the 41 000 people who are directly employed in the industry. These companies need granted titles to undertake their exploration programs and to employ the various contractors, including the drillers who work for them.

Regarding access to ground by prospectors wishing to explore for alluvial gold, the fact is that the 230 square kilometres which are out of bounds for company exploration activity until titles are granted are open for prospectors to work in accordance with their miners' rights. These areas are readily identified using the department's Tengraph database system, which is available for use at any of the department's regional offices. As I said recently, the issue of miners' right holders being given controlled access to granted exploration licences has been on the table for a long time. The Mining Industry Liaison Committee, which includes prospector representation, has been considering the matter for over two years but has been unable to reach agreement. I intend soon to make a final decision on this matter after carefully considering the reasonable concerns raised by the minerals industry in respect of this complex issue. To this end I have in recent months been speaking with both prospectors and industry members and have been made aware of their respective positions.

Hon Tom Helm is also inaccurate in his claim that the Government does not consider the position of prospectors. While it has never been easy to accommodate the sometimes conflicting interests of the various elements of the minerals industry, the Government has wherever possible adopted a balanced approach on issues with a view to assisting all sectors of the industry. The Government has responded to the approaches made by prospectors in particular. Examples include the greatly improved access to granted tenements by way of the special prospecting licence for gold, and a number of measures I announced recently that will assist prospectors as well the corporate sector.

As to Adjournment

HON TOM HELM (Mining and Pastoral) [4.46 pm]: I move -

That consideration of the ministerial statement be made an order of the day for a later stage of this day's sitting.

The PRESIDENT: Under Standing Order No 112 debate can be adjourned to either a later hour of the same day or another day. There can be no debate on the motion.

Question put and a division called for.

Bells rung and the House divided.

Point of Order

Hon PETER FOSS: Mr President, I ask you to rule on whether a motion of this nature requires notice if it is to be moved by other than a minister.

The PRESIDENT: Some advice had been sought from me prior to that motion being moved. One of the options available

to the member under the standing orders to enable him to respond to the statement, which in the main was directed to him, is to make a personal explanation; for instance if he claims to be misrepresented - I do not know, and I assume that he wants to read the statement to find that out. Another way in which he can seek a response is to move that consideration of the minister's statement be made an order of the day for a later stage of this day's sitting. Had the member decided to move to make the matter an order of the day for a future sitting it would preclude him from debating the matter in the adjournment debate tonight, so he was almost caught in a cleft stick. I will suggest to the member that he negotiate with the Leader of the Government in respect of this matter, because there is a need to bring it on before we adjourn tonight, even if purely for further adjournment.

Hon PETER FOSS: While I understand the member's quandary and in no way would I wish to interfere with his right to reply at an appropriate time - I fully support that - I am a little concerned at the nature of the motion which has been moved as to whether that can be moved other than by a minister without giving notice.

The PRESIDENT: A question has been raised and I will take it up with both the member and the Leader of the Government later this afternoon.

Division resulted as follows -

Ayes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport

Hon N.D. Griffiths
Hon John Halden
Hon Tom Helm
Hon Helen Hodgson

Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich
Hon J.A. Scott

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Noes (13)

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

Hon Peter Foss
Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore

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

Hon Greg Smith
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Pairs

Hon Christine Sharp
Hon Tom Stephens
Hon Bob Thomas

Hon Derrick Tomlinson
Hon Ray Halligan
Hon Max Evans

Question thus passed.

SENTENCING LEGISLATION AMENDMENT AND REPEAL BILL

SENTENCE ADMINISTRATION BILL

Second Reading

Resumed from 13 May.

HON LJILJANNA RAVLICH (East Metropolitan) [4.49 pm]: I welcome the opportunity to continue my remarks on the Sentencing Legislation Amendment and Repeal Bill and the Sentence Administration Bill. The last time I spoke, and before debate was adjourned on this matter, the Attorney General took a point of order and argued that a discussion on crime rates and the infrastructure demand on our prison system was unrelated to the sentencing legislation before the House. I have never heard anything so preposterous in my life. The Attorney General should hang his head in shame for not recognising something so fundamental when he holds the responsible position he has in this place as the leading law agent in this State. That sort of comment only indicates how out of touch the Attorney General is and his lack of understanding of his portfolio. Quite clearly, there is a direct correlation between increases in crime, the sentencing mechanisms put in place in this State and the impact of sentencing legislation as it flows through to the prison population. That obviously has an impact on infrastructure demand. Western Australia's prison system is in an absolute mess. That comes as no surprise to anybody. It clearly came as no surprise to Australasian Correctional Services, which undertook a comprehensive study of the State's prison system in 1996. I remember asking questions of the Attorney General at that time, and a number of months after the report had been released and tabled in this place I asked him whether he had read the report by Australasian Correctional Services on prison infrastructure demand in Western Australia. He admitted that he had not. It was a very important report because it indicated what a horrific state of affairs existed in the State's prison system. It also indicated the level of neglect by the Attorney General in the administration of his portfolio.

I will go through some of the key findings of that report. Among other things, it stated that -

The Adult Offender Management System of Western Australia has serious deficiencies in the quality and quantity of its physical infrastructure and of the management systems that operate out of that infrastructure.

It went on to state that -

The Adult Offender Management System is exhibiting a significant number of symptoms, recognised as precursors of the ultimate breakdown condition in prisons - RIOT!

This report was released in 1996, and you, Mr President, along with everybody else in this State will be more than aware that at the beginning of this year there was a riot at Casuarina Prison. It should not have surprised anybody that the riot occurred, given that the report was released in 1996. The report also found that -

The most serious single problem is overcrowding of prisons. On any given day every cell is full and a substantial percentage require double bunks to cater for the excess.

I understand that situation has not improved at all; it is pretty much where it was in 1996. Prisoners are still double-bunking at Casuarina, and no doubt similar pressures on resources are occurring throughout the whole prison system. Apparently this is in contravention of United Nations' recommendations, under which -

all prisoners are required to be housed on a single occupancy basis with spare cell capacity in the system of 15%. The effects of the overcrowding and the doubling up of prisoners in designated single cells has the potential to inflame tensions and to increase the transmission of disease which compromises "Duty of Care" responsibilities of the MOJ.

I raise that issue because I do not think we can divorce what is happening in the community from sentencing legislation, and then divorce that as a discrete unit from its impact on the state prison system. If any matters are interrelated, clearly it is those three integral parts of the way this Government manages crime, law and order and the prison infrastructure. I am concerned that this Government promised in 1993 to make the streets of Western Australia safe. All the evidence before us quite clearly indicates the Government has not delivered in this area, as it has not delivered in any other area of administration of government services to the people of Western Australia.

The Attorney General likes punishment; I do not know what excites him, but he seemed to get excited the last time I spoke in this House when he said the information I conveyed on crime rates, which were based on data from the Australian Bureau of Statistics, was wrong. The Attorney General said it was not that bad and that there had been an improvement in crime rates in the past six months. I was trying to be easy on the Attorney General and I did not want to outline every single rating this State has achieved in comparison with other States on law and order issues. I was trying to be kind, so I identified only four or five key areas. Clearly, the Attorney General likes punishment and pain. For the benefit of the Attorney General, who told this House that crime levels have decreased in the past six months and that Western Australians should be joyous about that, I will go through the comprehensive list. I know it might bore some members but I will comprehensively explain the rating of this State on law and order issues. I am sorry to do this, but clearly that is what the Attorney General wanted.

For crimes against property in 1997-98, and the number of reported victims per 100 000 of population, Western Australia scored first ranking. For unlawful entry with intent, Western Australia came first; for unlawful entry with intent involving the taking of property, Western Australia ranked second highest; and for other unlawful entry with intent offences it came first. For motor vehicle theft, Western Australia had the second highest figure of all the mainland States. This was after the Government had carried on about the vehicle immobiliser initiative which cost taxpayers millions of dollars. For other theft, Western Australia had the highest figure. For crimes against the person - manslaughter - Western Australia came first. For driving causing death Western Australia was first; for assault it came third but I understand there was a 9 per cent increase from the previous year in this State. For sexual assault, Western Australia came second, as it did for armed robbery. It was second for unarmed robbery, but there was a 40 per cent increase from the previous year. For murder, WA was third; attempted murder, fourth; and blackmail and extortion, first. I find it rich that the Attorney General said I did not know what I was talking about because in the past six months the level of crime in this State had declined.

Any improvement in law and order by this Government is coming from a very low base indeed. Given those statistics, there is only one direction in which we can go and that is upwards. The Attorney General is a disgrace for putting nonsense arguments to this place and expecting them to go unchallenged. They will not go unchallenged. These crime statistics show an appalling record. They will have a substantial impact on sentencing legislation.

[Questions without notice taken.]

Hon LJILJANNA RAVLICH: Before we took questions without notice, I outlined the appalling Western Australian crime statistics and indicated that we cannot realistically separate the key areas of crime from sentencing and prison administration. However, the Attorney General would have us make that separation. The second reading speech of the principal Bill outlines that remission is proposed to be abolished. I understand supporting arguments in that regard. However, I understand that parole will be retained, but will be less available.

Hon Peter Foss: It will be more available in some cases.

Hon LJILJANNA RAVLICH: What about overall?

Hon Peter Foss: It depends on the length of sentence involved. Most sentences are short, and presently no parole is granted for sentences under 12 months' imprisonment.

Hon LJILJANNA RAVLICH: I am concerned that the sentencing legislation will have a direct impact on the prison population, and will have resourcing implications. I am concerned about this package of so-called law and order reforms as they address not the heart of the problem, but its tail end - that is, they are too little, too late. We do not see in this package of law and order initiatives a preventive strategy.

Hon Peter Foss: That is not part of my portfolio.

Hon LJILJANNA RAVLICH: Maybe not, but it is not coming from anywhere else either. It is not very impressive.

The PRESIDENT: Order! This is the second reading, not the committee, stage of debate. Hon Ljiljanna Ravlich will address her remarks to the Chair.

Hon LJILJANNA RAVLICH: Thank you, Mr President. If preventive measures are being applied by another minister with that specific ministerial responsibility, we can only conclude that they are not working when one considers the appalling law and order record in this State. Therefore, it is necessary to consider why they are not working and to re-address the deficiency. I am concerned that people in our community do not feel safe, as is borne out by statistics.

The PRESIDENT: Order! If Hon Nick Griffiths wants to hand over a message to Hon Ljiljanna Ravlich, that is all he may do.

Hon LJILJANNA RAVLICH: These statistics were produced by the report on government services, which outlines perceptions of safety in public places. This survey was conducted in all States, including Western Australia, to gauge the extent to which people felt safe in certain types of environments. I will go through the findings of that survey. Western Australia received the worst rating of the mainland States. The people who were surveyed in Western Australia rated staying at home alone during the day at a six, the worst rating. Western Australians do not feel safe when they stay home alone during the day. Being at home alone after dark, walking or jogging locally during the day, and walking or jogging locally after dark all rated a six, which is the worst rating. Travelling on public transport during the day received a rating of five, and travelling on public transport after dark received a rating of six. People do not have confidence in the safety of the environment or the community in which they live. The Government should take a long, hard look at why that is the case and come up with strategies to ensure that people can feel safe within their communities.

The Government first should accept that there is a problem. The notion of the Attorney General that we do not have a problem because there has been an improvement in the crime statistics in the past six months is the reason that we do not see any change. That is why we have the "let's build more jails" mentality of lock them up, throw away the key and the view subcontracting the building and the operation of private prisons will solve law and order problems in this State.

Several members interjected.

Hon LJILJANNA RAVLICH: That is without a contract, as is currently the case with the construction of the new Wooroloo South Prison. I understood it would be a 600-bed facility. Now I understand it will have 720 beds. That will keep up with last month's increase in crime. We have major problems, the biggest one of which is that the Government does not recognise it has a problem. Until such time as the Government does that, the people of Western Australia can expect more crime and offences to be committed against individuals. This situation will get worse before it gets better.

I have a great deal of sympathy for Western Australians who are the victims of crime. I read about those people every time I turn the pages of my newspaper. I was a victim of crime three times last year. It is happening to other people, and it is a frequent occurrence. I am sick and tired of opening up my newspaper every morning to read that another woman has been stabbed in her driveway or to see the photograph of an elderly person with a bashed-up face, and then to see that after a day or so that is the end of it, because the Government forgets it has a problem.

I ask the Government not to forget that it has a problem. It has an enormous problem. On behalf of Western Australian taxpayers, I ask the Government to do something about the problem. The Government must remember its 1993 election promise that it would make the streets of Western Australian towns and cities safe. Let us look at the Government's appalling record. The Government said that it would increase resourcing to police generally for overtime. The Government promised that it would release 200 police officers from the court system as a result of legislation which will be hitting this place shortly. The *Budget Statements* have narrowed that figure down to about 100. The Government must start to tell the truth. We do not want furphies. The Government should give us the bottom line and ensure its statements are true and accurate. The Government has not made the streets of Western Australia safe. It is not releasing 200 police officers for duty. If the Government is lucky it will release up to 100 police officers. The Attorney General did not even know that. The Opposition caught the Attorney General by surprise when we put that to him. The Attorney General does not know what is going on in his portfolio.

In 1993 the coalition Government also promised to stop the revolving door syndrome on juvenile crime. It has not.

Hon Peter Foss: We have done that.

Hon LJILJANNA RAVLICH: What a joke. Mr President, do I have to deal with the Attorney General? He does not have the brain power to be in this place. He should be somewhere else.

Hon Peter Foss interjected.

Hon LJILJANNA RAVLICH: I am glad I am talking to you, Mr President, because if I were not I would be infuriated by the remarks made by the Attorney General. I cannot believe that in response to a comment I made that this Government had not kept its 1993 coalition promise to stop the revolving door syndrome in juvenile crime, the Attorney General said that the juvenile crime problem has been fixed. I hope that *The West Australian* picks this up, and that everyone in the press gallery is listening.

Hon Peter Foss: I said the revolving door syndrome has been stopped.

Hon LJILJANNA RAVLICH: The Attorney General said that Western Australia has no more juvenile crime; he has fixed it all up! I am sure that Western Australians, particularly the elderly who have a difficult time and who are the victims of many of these muggings and antisocial and criminal behaviour, have as much confidence in the Attorney General as he has in himself when he says that the revolving door on juvenile crime has been stopped.

Hon Peter Foss: It has.

The PRESIDENT: Order!

Hon LJILJANNA RAVLICH: I conclude my remarks by saying that the Government is tinkering at the edges. It should address the problem of why crime is occurring in our communities. I say it has something to do with the lack of opportunities for young people, and with the sort of society that we are moving towards in which the gap between the haves and have nots is increasing. It has to do with many things, but this Government seems content to tinker at the edges.

Hon Peter Foss interjected.

The PRESIDENT: Order! I have asked the Attorney General not to interject. The rules apply to the Attorney General as much as they apply to any other member in this House.

Hon LJILJANNA RAVLICH: I am concerned that the Attorney General does not recognise or accept that he has a problem. He has received report after report which say, "Hey, wake up, and smell the coffee; Attorney, you have a problem." The Attorney General still does not recognise that he has a problem. I support the second reading of the legislation. However, it will not necessarily provide the solutions that the Government is seeking, because the Government must look at the issue of law and order in a more holistic approach rather than tinkering at a number of parts to this complex social problem. The Government has done little about the problem since it got into office, apart from presiding over an alarming increase in crime rates in this State.

HON JOHN HALDEN (South Metropolitan) [5.48 pm]: I will make a few comments on my concerns about this legislation. I fear that this legislation will have the inevitable consequence of so many other pieces of legislation that have passed through this place in the past few years; that is, the incarceration rate in our prisons will increase. I heard the Attorney General suggest last week in the Parliament that that would not be the case. The Attorney General has been listening to the predictions of the Ministry of Justice.

The PRESIDENT: Order! Hon John Halden should not address the Attorney General when I have just asked him not to interject. That is unfair. I ask the member to address the Chair.

Hon JOHN HALDEN: I will be well behaved, and I will not encourage him. The Attorney General has suggested there will be no increase in the incarceration rate. Even the budget papers suggest that statement is a fallacy. It suggests a daily average muster of 2 900, a figure already exceeded by over 100. This legislation is not the reason for this increase from 2 302, as reported in the budget for the previous year. Already 3 000 people are in the system as a result of legislation - for example, the Bail Act - and tougher sentencing laws. All of those things have resulted in more people being incarcerated. I will not reiterate the crime rate figures presented by Hon Ljiljanna Ravlich. Although selected examples might show that the crime rate is diminishing, there is clear evidence to show that that is not the case across the board.

To see whether the policy of greater incarceration and being tougher on the criminal is working, we need only look at the results of the surveys in which people have been asked whether they feel safer today as a result of the Government's policy. The answer is no, they do not. The crime rate across the board is not diminishing, yet I fear this legislation, like so many of its predecessors in this area, will only increase the incarceration rate, whether that is done by changes to the parole system, or how parole is granted, or by the wonderful matrix taken from the United States. Why in God's name would we take anything out of the United States of America as a model for law and order? When compared with any other westernised nation, that society not only jails more people, but also has the highest crime rate. Surely those simple correlations suggest we will not achieve much by following the systems there.

Many have suggested that the matrix is an instrument to ratchet up the number of people who are convicted and placed in prisons for longer periods. We must also take into account the cost to taxpayers. They know that in 1997-98, \$165m was spent on the prison system. In the budget for next year it will be over \$200m. If the rate of increase of the past 12 months - that is, 600 prisoners a year - continues for the next four years, on today's figures we will spend on the prison system nearly \$350m, or nearly 4 per cent of the State's budget. Will people feel any safer? I doubt it. Will the crime rate go down? There seems to be no evidence, either here, nationally or internationally, to support that notion. Why go down that policy stream?

Hon Peter Foss: Are you against the imprisonment of people who commit crimes?

Hon JOHN HALDEN: No, I am not. That is a pathetic question. It is a most stupid question.

Hon Peter Foss: I am interested to know, because they have committed crimes.

Hon JOHN HALDEN: Some people must be imprisoned for their own protection and that of society. The case of one of the many people in this prison system was reported to me recently. This boy should not be in jail. He is a young university student who had 12 demerit points recorded against his licence. He was picked up and charged with driving with a blood alcohol level in excess of 0.05 per cent and having no motor drivers licence. He got six months' imprisonment. What a way to ruin somebody's life! I repeat: This is his first offence, and he got six months.

Hon Kim Chance: Who wins out of that?

Hon JOHN HALDEN: Exactly.

Hon Peter Foss: Are you criticising the courts?

Hon Kim Chance: The laws.

Hon JOHN HALDEN: That is a piece of nonsense. We do not know the solution; however, we should be broadening the available options to punish these sorts of people, not narrowing them. Later in my speech, I will read out some selected comments from people in Canada. The more the options are narrowed, the more we get increased incarceration. Putting people in jail, in the "University of Crime", makes them worse. That is the present situation. The Government has a right to go down this policy path. I do not mind its doing that. It is the most stupid, inane thing those opposite can do because eventually financially - apart from anything else - they will not be able to sustain that position.

Hon Peter Foss: Are you saying that it narrows the options?

Hon JOHN HALDEN: Yes, I am.

Hon Peter Foss: You might like to explain that.

Hon JOHN HALDEN: I will make my speech, and the Attorney General should just sit and listen.

Hon Peter Foss: Having said that, I would like to hear the member explain it.

Hon Ljiljana Ravlich: Just wait.

The PRESIDENT: Order! I am listening to Hon John Halden.

Hon JOHN HALDEN: I am trying to address my comments to you, Mr President. There does not appear to be a social or economic case to justify increasing incarceration rates. Again I refer to the budget this year. On the basis of the average daily muster, the incarceration rate has increased from one budget to the next by 598. That is the reoffending rate determined by the Ministry of Justice.

Hon Peter Foss: We increased breaching. That is one reason people are going back in. Breaching is one option that is available. That is the revolving door which has been closed.

Hon JOHN HALDEN: These figures put out by the Ministry of Justice tell us -

Hon Peter Foss: That's breaching.

Hon JOHN HALDEN: The budget documents - I do not have the page number - tell us in the output measures that the rate of reoffending was 29.7 per cent in 1998-99, and will be 30 per cent in 1999-2000. Interestingly, the percentage of community orders successfully completed is much cheaper and provides a wide range of options. The figure increases from 67 per cent to 70 per cent. The Attorney General has tried to put words in my mouth - I will not allow that - to the effect that I believe as a society we should be soft on those who break the law. On the contrary, I believe the law and the punishment should fit crime. That does not mean we should continue to jail people hand over fist; nor does it mean that the 19-year-old university student with no criminal record, no motor drivers licence and who was driving with a blood alcohol level in excess of 0.05 per cent should end up in jail for six months.

Hon Peter Foss: You are criticising the courts, not the law.

Hon JOHN HALDEN: I am criticising the law. For a decade I have heard those opposite complain about the sentencing practices of the judiciary.

Hon Peter Foss: That's a discretion they have.

Hon Helen Hodgson: That you want to take away from them.

Hon Peter Foss: Exactly.

Hon JOHN HALDEN: This place has the ability to set - quite clearly it does this - the general parameters and give the philosophy of how the judiciary should treat offenders. That has been done for some time, with the result that the incarceration rate in this State is going through the roof with the perceived benefits being absolutely nil. The Government could look at a new matrix which is likely to ratchet up the incarceration rate -

Hon Peter Foss: It depends on the evidence.

Hon JOHN HALDEN: I will keep trying to put my case, Mr President. There are other options. The minister in his travels around the world when looking at justice systems could have investigated a restorative justice option.

Hon Peter Foss: I have read your speech already. I know who wrote it. I have read it.

Hon JOHN HALDEN: Why should I bother? The Attorney General is wonderful. He is so smart that he has read my speech and has the answer to it. I am so pleased that I have wasted my time in here. The Attorney General is so smart that all members, bar him, are irrelevant.

Hon Bob Thomas: His prescience knows no bounds!

The PRESIDENT: Order! Hon John Halden has the floor. A question has been raised about who is writing whose speech. That has some ramifications. I ask that Hon John Halden continue with his comments.

Hon JOHN HALDEN: Restorative justice systems are not unique, do not exist in only one country, and are not totally experimental.

Sitting suspended from 6.00 to 7.30 pm

Hon JOHN HALDEN: It will obviously be much quieter and my speech will be much more succinct with the absence of a particular member at the moment. I am only too happy about that. I was considering inviting you, Mr President, to incorporate my comments in *Hansard* in view of the Attorney General's telepathy in this matter. It is good to see him now back in the Chamber.

Hon Peter Foss: Have I missed the pearls of wisdom?

Hon JOHN HALDEN: No, purely insults which are justified and deserved. It is interesting that the Attorney General suggested prior to the dinner break that he knew who had written my speech. The Leader of the Australian Democrats, Hon Helen Hodgson, also suggested that she knew. It is unfortunate that she does not know, and I do not think the Attorney General does either. When referring to the issue of restorative justice, it is not hard to suggest that some people advocate it quite strenuously. I do not want to be seen as one of those people, but rather as one who pursues options and the reality that there may be some merit in those options. I do not want to discard them or incorporate them in my philosophy. Perhaps the Attorney General might learn from that in view of his avid fondness for matrixes from the United States of America.

Hon Peter Foss: I am in favour of restorative justice too.

The PRESIDENT: Order!

Hon JOHN HALDEN: The Attorney General cannot help himself, he must keep dabbling. He is just a little terrier.

Hon Peter Foss: Stop referring to me and I will not refer back.

The PRESIDENT: Order! Hon John Halden has the call, let us hear him.

Hon JOHN HALDEN: The concept of restorative justice is not unique. It is a process that has been instituted in many countries. To illustrate that I will list the countries in which that process is currently involved in criminal justice systems: Austria, Belgium, Canada, Finland, France, Germany, Greece, Holland, Japan, New Zealand, Turkey, the United Kingdom and parts of the United States. The process may not be spectacular. I do not know; I can only adduce from the information available to me on the Internet whether it has been. It is interesting to note from the New Zealand jurisdiction, where restorative justice is mainly instituted for juvenile offences, that there has been a significant decline of approximately 7 per cent in the crime rate where this process is involved. Some other features of the process should be considered, and I will refer to them later in my speech. In Canada this process has been used in both the juvenile and adult systems. It has also been used, and it is suggested from my reading that the process has been effective in Canada, with what that country describes as first nation Canadians. First nation Canadians are defined in the literature of that country as natives or aboriginals. It would be foolish not to accept that this system has some advantages. The system of restorative justice is based upon some central premises. The first point - the Attorney General nods his head because he knows more than all of us of course.

Hon Peter Foss: I am amazed that you do not know about the juvenile justice teams.

Hon JOHN HALDEN: He is just impossible! He cannot help himself.

Hon Peter Foss: You know they are doing it in New Zealand but you do not know what is happening in Western Australia.

Hon JOHN HALDEN: We know tokenism when we see it, and that is happening in Western Australia. The Attorney General will now throw a tantrum and put his hands on his hips.

The PRESIDENT: Order! Let us debate the Bill.

Hon JOHN HALDEN: I acknowledge that some minor efforts are being made in this area. There is a debate internationally about restorative justice and whether it is a soft option. That debate will rage forever because in essence it is a debate between the options of incarceration or a process which involves the victim, the broader community and the offender. The process is non-adversarial and that is how it should be. It seeks a resolution from the process and restitution for victims and the community, as well as acceptance by the offenders that they have done something wrong. There is a need for them to acknowledge that, apologise and accept the consequences. That is a very different process from the process operating in this State which is primarily a judicial and retributive process. Restorative justice offers the most significant benefit to the victims. They confront the perpetrators, say what they think of them, describe the consequences of the perpetrators' actions for the victims and their families and then say what the penalties will be. The process allows some negotiation, but only after the offenders have accepted that they have committed an offence and that their behaviour was unacceptable. Does that ever happen in a court process? In a court process, as I vividly know it, one does not do that. It is a matter of, "I say I am innocent; you say I am guilty. You go ahead and try to prove me guilty." It is totally adversarial. At the end of the day, as someone who worked in the prison system for the first two years of his working life after graduating from university, I know it is a process whereby, because that paradigm has been set up, all accused people say they are innocent despite the verdict of the jury or the judge. Under the normal processes the victim has little say. The victim does not get to vent his spleen, or does not get to gain an understanding of the offender, and does not have a role in what may be the sentence. The current process is not satisfactory from the point of view of an offender. The victims do not think they have gained much out of the court process either. Many of us have seen that in the film footage of people who leave the Supreme Court. The victims say, "This has not been tough enough", "This is not good enough", or whatever. The process of restorative justice for the vast majority of people is different from that. The offender has an understanding of the victim; he must deal face to face with the victim. The victim gets to express his views, feelings and hurt to the offender. The victim gets to negotiate, if it is appropriate, the sentence of the offender. In the vast majority of cases the victim does not walk away feeling the hurt and the betrayal that we currently see because he is an integral part of the system. The benefits of the restorative system is

that it is much more time efficient and much cheaper, and generally the incarceration is for lesser periods. There are exceptions to that and they are at the extreme end of capital offences, but the victims feel that they have been in the process, they have participated, contributed and agreed to it. It may be a much better process. They are central, they are there with their legal representatives and mediators, and they know that the law fully supports them.

I will highlight and read from my notes the benefits and processes that are involved in this. It is important to look at this from the perspective of the victim. I am not saying this process will work in every instance, but it will work in many more instances than we currently allow for in this State because currently in this State we have tokenism. Whatever the Attorney General may say, it is no more than that. This is what is suggested internationally as the benefits: The victims have sufficient opportunity to tell their truths to relevant listeners. The victims receive needed compensation or restitution. The injustice is adequately acknowledged. Victims are protected against further violation. The outcome adequately reflects the severity of the offence. Victims receive adequate information about the crime, offender and the legal process. The experience of justice is adequately public; perhaps very public. Victims and/or their families receive adequate support. Material, psychological and spiritual needs are addressed. How do offenders experience this sort of justice? The offenders are encouraged to take responsibility for what they have done. The current adversarial system does not get anywhere near that.

My first job involved 171 Aboriginal prisoners who were convicted of serious offences. I was the graduate social worker in Fremantle Prison and I reckon 161 of them were all innocent on the basis of what they told me. This is a public process involving people sitting around, not in a courtroom. It is a much cheaper and quicker process. They are asked, "Do you acknowledge this?" - "Yes."

Hon Peter Foss interjected.

Hon JOHN HALDEN: Yes, I accept that.

Hon Peter Foss: It does not work with people who do not accept they are guilty.

Hon JOHN HALDEN: Exactly, and if one does not accept his guilt, one has the system that I know only too well.

Hon Peter Foss: You did not accept your decision so you had to go to that system.

Hon JOHN HALDEN: Exactly. It was very fortunate for me, but unfortunate for others.

Offenders are given encouragement and opportunities to make right what they have done - and that is not incarceration; make right what they have done is to say "sorry" in the first instance. Other repercussions are involved, but an adversarial system does not encourage that. Offenders have an opportunity to participate in this and the minister is correct when he says that they must accept responsibility for their actions.

Hon Peter Foss interjected.

Hon JOHN HALDEN: Yes, although other circumstances may militate against that. Offenders are encouraged to change their behaviour, not only by this process, but also by the fact that they must confront face to face and deal with the victim, not with a judge and not with the protocols of a court, because they make life easier for an offender because they are artificial protocols. The process allows us to place mechanisms into future behaviour that monitor and control behaviour. If an offender does not behave appropriately or does not live up to the obligations that he has made during this process, other consequences are available to our judicial system. Offender needs are also taken into account.

We have a system in which some of the more vile consequences of people's sexual deviance in relation to minors are played out in our courtrooms. However, the programs appropriate to those people are not available when they are most needed prior to their leaving prison. There are restrictions on those processes as a result of budgetary constraints in our prison system. However, the needs and the issues must still be addressed. It is not a matter of whether the person is in prison; it is whether we should provide a service to those people that will help them or, more important, provide them with the opportunity to help themselves. At present that provision is restricted.

Casuarina Prison holds some of our most serious offenders who may want to try to rehabilitate themselves and give themselves other lifetime opportunities and life skills. How can that be provided in a 22-hour lock-down regime? It is not available. It is nonsense to assume that incarceration will make people behave better. It must be backed up by the provision of resources. It cannot be done in a 22-hour lock down regime.

I refer obliquely to a specific example. I know of a convicted murderer who is serving a 20-year sentence, but who is undertaking university courses. In 15 to 17 years that person will be released from prison. People like him want some life opportunities even then. That person cannot achieve that because in a 22-hour lock-down he cannot gain access to a computer. Prisoners in his situation cannot get access to any educational support because our system is stuffed. It is overcrowded, congested and wrong.

I work from the very simple premise that 99.9 per cent of people we send to jail will get out of jail. They have been sent there for some of the most horrendous and horrific offences that I do not even want to imagine; nonetheless, they will be released. In that event I want the surety for my two daughters that they will be better behaved people. If we do not provide them with opportunities and programs and if we do not address their deviant behaviour appropriately, they will not be better behaved people. The American experience indicates that their behaviour will be worse. If that is the sort of system we want we are betraying ourselves. In spite of our philosophical differences I do not think anyone wants that. They are not even philosophical differences. Based on international and national experience the policy of the Government in this area is nonsense. The 34 members in this Chamber know that prisons are universities of crime. As the Criminal Code rightfully

suggests, prison should be a matter of last resort and the first pinnacle from where we start. Once in prison, those who must be there - not those who are conveniently there as a result of political manoeuvrings that we play with each other - must come out of our prison system better behaved than when they went in. If they do not, we have betrayed everything. We will end up with a society like New York, which has a huge incarceration rate. There are 17 times more murders in New York than in Australia as a whole. Is that the sort of country we want? Of course it is not.

There are issues about the protection of the community and how that can be incorporated in this process. There are issues about how matters are monitored, resolved and, if need be, referred back so that the process can be continued. However, it cannot be done unless the maximum array of penalties is available.

Earlier, the Attorney General invited me to suggest areas in which we were cutting back on options. We do not have to go much further than work release, referred to in his second reading speech, and one-chance parole. Can members imagine the consequences of one-chance parole? Although I may have graduated in 1975, I know from personal experience that prisoners cannot sustain long-term parole. Two years is the internationally accepted standard. Parolees breach parole as a result of minor offences. Does the Government know what it is doing with this legislation? Someone can be caught for having a blood alcohol level of 0.08 per cent and go back into prison for the remainder of the parole period as well as the new offence. Why would someone do that for the sake of an 0.08 per cent blood alcohol level? For goodness sake!

When I worked in Fremantle Prison I knew a 24-year-old Aboriginal person whose most serious offences, of which there were many and which should not be disregarded, were driving without a licence, driving with a BAC over 0.08 per cent and unlawful use of a motor vehicle. That was it. Do members opposite know how long he would spend in jail for that? As a result of a regime that was the same as this he spent 13 years and eight months in jail. He could not be given more than two years on parole. What a great success! In those days convicted murderers did not spend 13 years and eight months in jail. What a joke! Convicted murderers spent seven and a half years in jail. That poor Aboriginal who, for whatever cultural or personal reasons - God only knows - stole motor vehicles, drank and sped, received twice a life sentence. That is what the Government is doing with this Bill. It is nonsense. It also provides for a matrix that ratchets up. That will be really good!

On the weekend when I suggested that there might be under 6 000 people in our prison system in four years' time the Ministry of Justice said that was impossible. This financial year, the average daily muster will increase by more than 600. If as an arithmetic progression we were to increase that over the next four years, on today's muster figures nearly 5 500 people would be in our prison system. That is nearly double the current figure. Under the current regime, nothing will prevent that. I do not care what members opposite do, because it will be their nemesis. I tell members opposite with absolute authority that they will give me the opportunity for the next two years to hunt them down every corner and to tell them about how wrong they were and about the consequences of their policies to people and to our community.

Hon Peter Foss: Are you saying we should not lock them up?

Hon JOHN HALDEN: The Attorney should not be stupid. I am saying we should lock up people appropriately.

Hon Peter Foss: You cannot have it both ways.

Hon JOHN HALDEN: We can have it both ways, and the Attorney knows it. That is the great problem. Yesterday, I did an ABC Radio interview, and the person said - I do not mean to be offensive to the person, but I cannot remember his name - that 20 or 30 years ago, the rate of incarceration compared with the rate of charges was much greater than it is now. I agree with that, although what it has to do with the argument I do not know. The reality is that 20 or 30 years ago, they did not have the options to incarceration that are available now. I have some information from Hon Justice Brier Hucaluk from the Provisional Court of Saskatchewan about the Canadian experience and about how it is crucial to look at the options that are available.

Hon Peter Foss: The situation with indigenous people is even worse there than the situation here.

Hon JOHN HALDEN: The Attorney may be correct, but it varies in Canada.

Hon Peter Foss: I visited Canada because I thought it would have a more enlightened attitude and that the indigenous people would have the solution, and I was incredibly disappointed.

Hon JOHN HALDEN: From what I have read, one would have to be disappointed.

In Manitoba, the indigenous population comprises 12 per cent of the population but 50 per cent of the prison population. In Western Australia, the Aboriginal population comprises 2 per cent of the population but 35 per cent, or about one-third, of the prison population.

Hon Peter Foss: The percentage of Aboriginal people in the population is increasing, and the percentage of Aboriginal people in the prison population is also increasing.

Hon JOHN HALDEN: I do not know, but I am happy to believe that. When we are working from a very low base in this matter, and we get from 12 per cent to 50 per cent, or from 13 per cent to 55 per cent, it suggests the problem is still the same. We cannot alleviate the issue of over-representation.

Hon Peter Foss: One of the big problems is that Aboriginal people are having larger families and non-Aboriginal people are having smaller families. Aboriginal people are at high risk of offending, and the size of the family is itself a risk, so they are increasing as a proportion of the target age, which is a serious problem.

[Leave granted for the member's time to be extended.]

Hon JOHN HALDEN: When the Attorney makes those comments, he is talking about the periphery or the margin. Aboriginal people comprise only a small percentage of the population. Even if Aboriginal people have families of 12, they still comprise only 2 per cent of the total population. The Attorney is missing the point.

Hon Peter Foss: The percentage is increasing.

Hon JOHN HALDEN: I understand that, but the Attorney is still missing the point. Aboriginal children comprise only 3 or 4 per cent of the total number of children in our society, yet they are so over-represented in our juvenile justice system as to be a problem. We cannot use those sorts of lines to justify the problem.

Hon Peter Foss: They will go to 6 or 10 per cent of the target juveniles. That is the point.

Hon JOHN HALDEN: If they go to 6 or 10 per cent, that still does not equate to 50 per cent in juvenile detention centres and one-third, or 35 per cent, in the adult prison system. That is not the issue. We should stop finessing about the minutiae of this matter and deal with the obvious facts. Section 718.2 of the Saskatchewan Criminal Code gives judges the opportunity to consider a range of options, one of which is restorative justice. It also allows judges to impose penalties such as imprisonment, fines, community service and community work orders in a way about which the judge or others in a restorative model can agree.

Hon Peter Foss: That is the case in our system too.

Hon JOHN HALDEN: But how often is it realistically used?

Hon Peter Foss: It is not used as much as in Victoria.

Hon JOHN HALDEN: It is not used much at all in reality. I refer to the example of a young woman who was charged with killing her common law spouse. It was clear that she had alcohol and drug-related problems and that she was struggling because of her educational background. This process determined that there would be a period of imprisonment - three years - but there would also be other conditions; that is, she was required to achieve certain educational progress. She passed grade 10 and started grade 11. This young woman was diagnosed as suffering from hypothyroidism. That condition had to be treated and it was. She was required to serve the sentence and was then allowed to go back into the community for an extended period of supervision and criteria were established about what she had to do. The process involved not only incarceration but also targets. If she wanted to walk out the door and keep walking away there were consequences.

The benefits were that she would be able to live in her community. This young native Canadian woman went back into the community from which she had been separated for a long period and was supported by that cultural group, which had to give its commitment to encouraging her rehabilitation.

This process has many features. As I said earlier, as we contract the options we limit the potential for saving money and rectifying the problem. We need as many options as possible.

The report goes on to state that restorative justice should be considered. Those who think it is a simple option for the perpetrator are wrong. The perpetrator must eyeball the victim, not in a court room but across a table. The victim has the opportunity to say what he thinks of the perpetrator and to talk about the effects of what has occurred. The perpetrator must start to look at himself.

Page 18 of the report states -

The Overrepresentation of Aboriginal Canadians in Penal Institutions

If overreliance on incarceration is a problem with the general population -

which is probably an understatement -

- it is of much greater concern in the sentencing of aboriginal Canadians. In the mid-1980s, aboriginal people were about 2 percent of the population of Canada, yet they made up 10 percent of the penitentiary population.

They think that is a problem! In Western Australia, Aboriginals comprise 2 per cent of the general population and 33.3 to 35 per cent of the prison population.

Hon Peter Foss: What year was that?

Hon JOHN HALDEN: It refers to the mid 1980s.

Hon Peter Foss: When I went there the figures were comparable.

Hon JOHN HALDEN: Whatever the increase, it is nowhere near the dimension of the problem we have here.

Hon Peter Foss: You will find that that is the situation.

Hon JOHN HALDEN: I accept that. However, it was perceived as a very significant problem in Canada when the variation was a factor of 500 per cent. Here it is a factor of nearly 5 000 per cent. Yet, this legislation and the Government's policies do not come close to addressing the issue.

I assure the Attorney General that this is not a problem unique to him.

Hon Peter Foss: It is a problem. We have addressed it on a national basis, and we are the only State that has.

Hon JOHN HALDEN: I accept that but the Government's policies are wrong. I am not suggesting that the Attorney General has no desire to fix the problem, but these policies are wrong.

Hon Peter Foss: It takes longer to fix than a couple of years.

Hon JOHN HALDEN: I understand that.

Hon Peter Foss: It takes a generation or more.

Hon JOHN HALDEN: I started working with these people at Fremantle Prison at the age of 22. I am now 44 and the problem is not fixed. It takes longer than a generation.

Hon Peter Foss: It takes at least a generation.

Hon JOHN HALDEN: It takes a lot longer than that.

What the Government is proposing in this and other legislation as the cure-all -

Hon Peter Foss: No, it is not.

Hon JOHN HALDEN: It is the process and the policy. I accept that the Attorney General disagrees, but this is the path down which the Government is leading us. It does not solve the situation because it is internationally recognised as creating more problems. Whatever the solution, no matter how smart the Attorney General and I think we are, we do not have the answers.

Hon Peter Foss: No-one has the solution.

Hon JOHN HALDEN: I am pleased we agree.

Hon Peter Foss: If we thought we could solve the problem overnight, we would do it. In the meantime, what do we do?

Hon JOHN HALDEN: In the meantime we provide the greatest range of options and we accept that prison is the last resort.

Hon Peter Foss: That is in the Act.

Hon JOHN HALDEN: Exactly. We look at providing legislation that gives direction to the community and to the judiciary. We must provide other options; we must look at the knowledge that we have and act upon it. This no-tolerance approach is nonsense. The Attorney's press release of 10 days ago about jailing them or shooting them is nonsense.

Hon Peter Foss: That is not what it said.

Hon JOHN HALDEN: It is. I understand the Attorney was feeling the pressure applied by the person sitting in the courtyard that day, but it was a nonsensical press release. It was no more than pandering to political opportunists.

Hon Bob Thomas: He was shoring up his preselection.

Hon JOHN HALDEN: I understand the process, but if the Attorney General intends to do this job then that sort of pandering is nonsense.

I have no problem with the first part of this legislation, which gets closer to truth in sentencing. In fact, I commend the Attorney General for that; it is much more sensible. I do not know why we did not go all the way down that path.

Hon Peter Foss: What, and abolish parole?

Hon JOHN HALDEN: No, in stating what is the sentence and everyone knowing what it means.

Hon Peter Foss: We have been through that.

Hon JOHN HALDEN: What confuses this issue is the notion of "supervised" and "unsupervised" parole. What a stupid notion! A person is either on parole supervised or he is not on parole. Do not tell me that. I can tell the Attorney that the distinction will not mean a damned thing to the average Aboriginal juvenile aged 19 years. Once he is off supervised parole, whether it be in six months or two years, as outlined in the legislation, he will think it is unsupervised. He will have a rude shock when he finds himself back in jail for an extra 12 months, at a cost of \$70 000 to taxpayers, for committing a minor and stupid offence. The Attorney General and his Government will be responsible for that nonsense. The Government will perpetrate this hypocrisy on the community.

This legislation has good points and some enormous problems. If the Attorney had a scintilla of integrity, he would think about it again. He would not use as a sentencing premise some stupid system adopted from America which will ratchet up the number of people in WA jails. These measures are ill-conceived and a nonsense.

HON GIZ WATSON (North Metropolitan) [8.21 pm]: On behalf of the Greens (WA), I oppose these Bills. Much has been said about how far reaching these changes will be, and I have taken time to read much of the commentary on them provided by various members of the legal profession. I have no personal expertise in this area, and it is interesting to note the range of criticism from many areas of the judiciary.

A fundamental issue raised with this proposed sentencing matrix is that it will give enormous control to Parliament and the Attorney General to prescribe sentencing. The removal of judicial discretion is a very major step, which we must regard with grave concern. I now refer to a paper written by Michael Barker, QC, which other members may have read, in which

he outlines the problems associated with limiting judicial independence. His paper is titled "Bagging Judges: Good Sport or a Dangerous Game?" I believe it appeared in the Law Society journal, but I will check that reference.

Hon N.D. Griffiths: Was that an article from *Brief* of a couple of months ago?

Hon GIZ WATSON: I am not sure. The copy has some scales in the corner. Michael Barker refers to whether judges are accountable as follows -

While in our system of representative democracy and responsible government the executive is drawn from freely elected members of parliament, so the people have the power of the ballot box periodically to remove and so ensure their preferred social and economic policies are always in place, the function of the judiciary depends on the capacity of the judges to act as effective guardians of the rule of law over the long term.

If judges were treated simply as politicians, subject to elections . . . they would become like politicians and have personal, short-term agendas to meet as judges rather than persons engaged in the adjudication of disputes 'according to law'. The public would no longer have confidence that judges' decisions were made by legally competent persons with appropriate integrity or that their decisions had been made "without fear or favour, affection or ill-will." There could be no guarantee that courts could perform their constitutional function to ensure that the executive did not make decisions by "whim, caprice, ritual, chance, prejudice or conceit", or in secret, or without disclosure to affected persons of relevant information, or on a rational and informed basis, or in breach of the rules of natural justice that require an affected party to be treated fairly and to be heard by an unbiased decision-maker.

In his opinion, judges already have a high degree of accountability. He writes -

a judge must give reasons for a decision;

decisions are subject to appeal and so to the scrutiny of other judges;

judges are accountable to peer opinion, which is a powerful form of scrutiny; . . .

The judiciary is best made 'accountable' by ensuring and protecting its independence, appointing as judges persons with demonstrated competence and integrity, and in ensuring that the courts have the resources to operate efficiently in the interests of all citizens.

The point has been made in this place that Parliament is the ultimate law making power. I appreciate that. However, we must think carefully about the fundamentals of the separation of powers, and the judiciary's role. We must ensure that that principle remains both respected and strong within our community. This proposed legislation arises from a perception that something is wrong with the judiciary or in the way sentences are being handled. I will comment on whether that is an accurate view shortly.

The Bills also operate as a response to a perception in the community of confusion and perhaps even despair about the levels of crime; however, these levels are subject to question. A recent article in the police and community "Safer WA, Together Against Crime" information sheet of May 1999 presented a counter position to the view that crime is increasing and is as dreadful as it is often portrayed in the media. I quote from the newsletter -

Latest crime figures released by the Western Australia Police Service show some highly encouraging trends, with a drop in the number of reported robberies, burglaries and motor vehicle thefts as well as a significant improvement in clearance rates across the board.

In the January-March 1999 quarter, robbery offences dropped by nearly 16 per cent compared with the same quarter in 1998, burglary dropped by more than 10 per cent and motor vehicle theft dropped by more than 26 per cent.

That is encouraging. I question whether this getting tough approach to law and order relates to the reality of what is taking place in the community, or to a major political football which political parties have long used to appear as if they are providing answers when their solutions are not working. I refer also to some comments about sentencing and its role in response to community attitudes found in an article by Felicity Hampel, a Victorian QC; it reads -

While a sentence must reflect community feeling about a particular offence, emotion must be tempered with reason. Justice, particularly criminal justice, cannot be arbitrary. Every person who is sentenced for a crime, no matter how grievous or minor, or how unusual or common, is entitled to be dealt with individually according to the circumstances of their particular case, and consistently with established sentencing principles.

Hon B.K. Donaldson: Hon Giz Watson forgot to mention that that same QC is chairman of the civil liberties association in Victoria.

Hon GIZ WATSON: She is the acting president of Liberty Victoria which is the Victorian council for civil liberties.

Hon B.K. Donaldson: We had an opportunity to meet her.

Hon GIZ WATSON: I valued her input at that meeting as well. The point she makes relates very much to the proposed sentencing matrix. Criticism has been made, and it is valid criticism, that the matrix attempts to simplify the process and is in danger of making unlike cases alike. Each case must be determined on its merits. She makes a good point in that article, and I recommend that members read that.

The point that was made earlier this evening is whether we want to follow a United States model that not only has been criticised roundly in the United States and hotly debated as to whether it is effective in terms of reducing crime, but also has resulted in the highest rate of incarceration of any country in the world to the point that currently Amnesty International, the human rights group, is running a campaign specifically against the American judicial system for its breaches of human rights. I argue that the American justice system is the last model that we should be considering here. I am horrified to think of the consequences of going down that route.

We know that the rate of incarceration of black Americans is outrageously disproportionate to the rest of the population. We know that the situation in American jails is one of the worst in any western country. We must seriously question why on earth we would go for a model like that in the United States when there are so many alternative approaches to justice matters, particularly the Canadian and New Zealand models.

On this issue of the success of that model in the United States I draw members' attention to the fact although the matrix has been modelled on US law there are some substantial differences. I again refer to the article by Michael Barker QC in which he says -

The US law was introduced particularly because many US federal court sentencing decisions were not the subject of higher court review and were being imposed disparately throughout the United States. The sentencing guidelines were considered an appropriate way of introducing consistency in sentencing outcomes. Whether they have been successful is hotly debated in the US. However, in Western Australia sentencing decisions are subject to review by appeal courts. In that way, inconsistent or inappropriate sentencing is monitored and corrected by the Court of Criminal Appeal.

That is a significant difference. There has been a suggestion that Western Australia move to the US model. Our court system is different from that in the US and, as has been pointed out, there is always a right of appeal. The other significant difference with the sentencing matrix as it is applied in the United States is that the US has an independent sentencing commission. That sentencing commission sets the terms of the matrix. Again I will quote Michael Barker QC who states -

Normally in the United States, while sentencing guidelines have been introduced in many jurisdictions, an independent Sentencing Commission drafts and monitors the guidelines - not the government or Attorney-General of the day.

We are looking at partially adopting the American model but without the safeguards of an independent sentencing commission. That will be even worse than the US model because it does not have that independence. The other real danger with a matrix approach to sentencing is that in limiting the judicial discretion unlike cases will be treated as alike. The point is made that judicial sentencing should be exercised by reference to the nature of the offence committed, the public interest in seeing an offender punished, the circumstances peculiar to the offender and the public interest in seeing the offender become a productive member of the community. Discretion necessarily involves a weighing up of those considerations, whereas a sentencing matrix will see all cases falling within one or other category of offence and therefore being treated in the same way. While all like cases within a category would be treated alike, unlike cases within the same category would also be treated alike, which is an unjust result.

The point has been made particularly in the report to Parliament by Hon David Malcolm, Chief Justice of Western Australia, tabled in this place in November 1998. He stated that in breach of normal protocols there was no consultation with the judiciary. In that report to the Parliament the Chief Justice made the point on page 1 -

The Bills were introduced into Parliament in breach of a long standing convention that there would be prior consultation about legislation which affects the jurisdiction of the courts.

That raises enormous concerns that the very people who are at the heart of operating the justice system were not consulted before this legislation was brought to Parliament. Whatever else one might think about these Bills the ability to make this work without the cooperation of the judiciary will be an almost impossible task. The criticisms of these Bills, in particular of the sentencing matrix, have come from a variety of associations and representatives of the WA legal system including the WA Bar Association. The report that was tabled by David Malcolm represented the views of all Supreme and District Court judges throughout the State. The Law Society has also expressed major concerns not only with the proposed legislation and the matrix but also the process and lack of consultation in proposing these changes.

The Bills propose to provide clear and consistent sentencing and make courts more accountable and consistent. The assumption behind that is that somehow, at this point, sentencing is not clear and consistent and that courts are not accountable. I challenge that. From what I have read that is not the case. I will refer to that further in a little while.

We also must question the assumption behind the need for this type of drastic change to our sentencing legislation. Hon John Halden spoke very strongly about the enormous social consequences of increasing the prison population and not seeing a prison as the absolute last resort. The way I see the proposed changes to the sentencing laws is that there is an underlying assumption that prison is a preferred option by the community as a way of punishing people. There is an assumption that it is an effective form of deterrent and punishment, it reduces crime, longer sentences are required to make the community safe and any other types of options are going soft on crime.

Hon Ray Halligan: Doesn't the community feel that way?

Hon GIZ WATSON: The community may feel that way; however, I question whether this will deliver that. The experience is that longer sentences and more imprisonment create a more skilled offender. Prisons, as they are operated at the moment, do not create people who will reintegrate into society and become productive and rehabilitated because insufficient attention

is paid to the necessary programs, retraining and challenging of offending behaviour that is necessary to change people's culture and behaviour.

Hon Ray Halligan: Isn't that another issue?

Hon GIZ WATSON: No, it is not another issue.

Hon Ray Halligan: How is it related to the matrix and how will the matrix create additional incarcerated persons?

The DEPUTY PRESIDENT (Hon John Cowdell): Order, members! We are not in the committee stage yet.

Hon GIZ WATSON: I challenge the assumption that getting tough on crime actually achieves the results that are claimed by its advocates. There is an enormous amount of evidence that the resources for having offenders challenge their behaviour require attention. Hon John Halden addressed this matter very well and has direct experience from working within prisons. We must put resources into keeping people out of jail and having them address their offending behaviour by working with the community to reintegrate, rather than putting them in situations in which they come into contact with more skilled and established criminals. I am not saying that there are not cases in which certain people must be incarcerated for the protection of the community, but it is not a prescription which should be used widely and without looking at alternatives. For the past 20 years, Western Australia has had the highest rate of adult imprisonment in Australia. These proposed changes to the sentencing legislation will only result in that rate going up.

Hon Ray Halligan: Can you explain that a little more?

Hon GIZ WATSON: I do not have to explain that because the briefing I received from the Ministry of Justice told me that is exactly what will happen. I did not make it up; I was told.

Hon Ray Halligan: There is no alternative view to that; it must be right.

Hon GIZ WATSON: It is introducing the Bill.

Hon Ray Halligan: No, the minister is introducing the Bill.

Hon GIZ WATSON: It is his ministry.

The DEPUTY PRESIDENT: Order, members!

Hon Ray Halligan: Get some better information.

Hon GIZ WATSON: The point about sentencing being clear and understandable to the public is one of the reasons put forward for having these changes and having a matrix which would make that obvious. That has been challenged effectively by Hon David Malcolm in his comments to this place when he said that the information is available. The problem is that the Ministry of Justice has failed to develop an appropriate program to collect and publish sentencing statistics. It is obvious that the decisions of courts are available; however, for an average member of the public, they are not in a form which is easily digested or immediately available to them. The point has been made that, for a long time, the ministry has been asked to address this issue. I will quote from Hon David Malcolm's report tabled in this place. On page 3 he made the following points -

5. The sentencing process is currently wholly conducted in open court. In the Supreme Court and District Court Judges are required by law as declared by the Court of Criminal Appeal to give detailed reasons for the sentences which they impose. The reasons so given are pronounced in open court, recorded in the transcript of proceedings and may be supplemented by written reasons.

He then goes on -

6. Part of the purpose of the new legislation is said to be to enable the Government to publish sentencing statistics for the information of the Parliament, the courts and, importantly, the public. The provisions of the *Sentencing Legislation Amendment and Repeal Bill 1998* imply that computer programmes will be developed, together with a reporting system, to enable the collection and publication of such statistics. The collection and publication of detailed sentencing statistics was part of the computer programme which was to be developed for the Supreme and District Courts under the Courts Computerisation Project. This project commenced in 1989 and was administered by the Crown Law Department and later the Ministry of Justice.
7. Until 1988-89 the Australian Bureau of Statistics . . . produced detailed sentencing statistics for "Higher Courts" throughout Australia, including the Supreme and District Courts in Western Australia. These statistics detailed the range of sentences actually imposed for a range of offences. The statistics were used to determine the range of sentences commonly imposed for a range of offences. The range of sentences so determined have been referred to by the Court of Criminal Appeal in respect of a number of frequently occurring offences, such as armed robbery, robbery, burglary and, in particular, stealing motor vehicles, motor vehicle manslaughter and dangerous driving causing death.
8. The ABS ceased to publish these statistics after 1989. The need for them and, in particular, detailed statistics for the sentences imposed in the Supreme and District Courts and other courts has been brought to the attention of the Ministry of Justice and, in particular, the Information Technology personnel of the Ministry and others at the highest level for more than 7 years.

The claim that the judiciary is not assisting in having information openly available and available for public scrutiny is wrong. This submission indicates that the problem lies with the Ministry of Justice in not providing the necessary procedure or program in a form that the public can understand, although the judgments are not available at this point for people to understand.

The other aspect of this proposed matrix is that it is to prescribe sentencing within certain boundaries. Judges are already required to stay within a range of stipulated sentences and, if they do not, their judgments are subject to appeal by a higher court. Judges are already working within certain guidelines. The current Sentencing Act requires that they give reasons for their sentences. Their reasons will take into account the range of discretions which they are currently able to exercise.

I mention a model which we are looking to adopt and refer to some comments made by the WA Bar Association about this matter, and its concerns that the Attorney General will have an unreasonable amount of power. In a document sent to me entitled "Sentencing Administration Bill (1998) and Sentencing Legislation Amendment and Repeal Bill 1998 (WA), Position Paper, WA Bar Association", it is stated on page 2 that -

Sentencing guidelines have been introduced by legislation in other parts of the world, notably the United States, to deal with a perceived lack of consistency in sentencing by judges. The Second Reading Speech introducing the Bill does not expressly criticise the exercise of the existing sentencing discretion by judges, but plainly implies that there is no good reason in many cases for differentiation in sentences imposed for apparently similar offences.

Sentencing guidelines were introduced initially in the United States by the 1984 Sentencing Reform Act by the US Congress. As in Western Australia, the legislation was a reaction to the political perception that there were vastly different sentences being imposed for like offenders. The US legislation set up a *Sentencing Commission* to establish guidelines which could only be departed from if there were aggravating or mitigating circumstances.

In essence, sentencing was to be carried out by the Commission rather than the Courts or the Congress.

Under the Western Australian Bill, there is no proposal to set up a Commission to establish and review guidelines from time to time, but rather the sentencing matrix will be controlled by the Attorney-General and subject to disallowance by either House of Parliament. In short, under the Western Australian Bill, sentencing will in essence be by the government and Parliament, not by an independent Sentencing Commission and certainly not by the courts.

That is a major shift that I am not willing to support. I do not believe that it is a wise move to put that level of discretion or that level of decision-making in the hands of one person. The matrix will be established by regulation after these Bills are passed and we are being asked to decide on something about which we have not seen any of the details. This happens all too often in this place; we are asked to pass something when we have not seen its final form. The detail of the matrix is of enormous significance.

We have every right to be opposing the passage of these Bills because, if they are passed, they will result in more imprisonment; longer sentences; the abolition of early release; the reduction of parole, which will inevitably lead to more overcrowding in existing jails and the inevitable building of more jails; more suicides; more black deaths in custody; more resentment within our community; more crime, not less; more cost, not less; more court delays; more appeals; and more demand on legal aid. One in three applications for legal aid is currently being knocked back because of the continuing restrictions on legal aid. This approach to dealing with a major social problem is being faced not only in Western Australia but also in other countries. This approach of introducing tougher sentences and reducing the discretion of the judges is a sign of intolerance, short-sightedness and a lack of compassion and understanding of other alternatives. It is all about punishment; it is not anything about owning any sort of community responsibility for each other; it does not tackle any root causes of crime or social dysfunction; it does not do anything to improve the fundamental causes of people getting into criminal behaviour, fundamental causes such as poverty, racism, disempowerment, alienation, addictive behaviour and mental illness. A disproportionate number of people within our prison system are suffering from some degree of mental illness. This approach to crime will also impact disproportionately on our young and Aboriginal people. It will make that situation worse.

We must have a major re-think about how we handle this sort of social dysfunction. We must own the whole problem as a community rather than acting with a short knee-jerk reaction and getting tough on crime and incarcerating more people. This is actually building consequences for the future which will be much worse than what we presently have. There are alternatives available, although not for all offenders, to reintegrate people into society in a constructive way. We must be attentive to challenging behaviour, to re-skilling people, to confronting violence and the sort of behaviour which gets people into situations whereby they end up being imprisoned. We know that different models exist. One of the examples of which I am aware and supportive is the alternatives to violence project currently being used in some Western Australian prisons. Whichever way one looks at it, even if only from an economic point of view, one realises that the more money that is spent on building more jails and incarcerating people for longer, fewer resources will be available for alternative programs. It is the wrong way to redress the dysfunction that we see occurring more and more within our community. It is based largely on growing inequalities. It is based on the fact that we have become a society that does not value its members. We have become a society that is not compassionate and not community minded. If we continue to draw lines and respond to behaviour by imposing harsh sentences, we will reap the consequences for many generations to come.

In conclusion, I always think of a song by Joan Baez when I think about issues of prisons, sentencing and criminal matters. The line that I always think of says there but for fortune go you or I. Who knows how people get themselves into a situation in which they get on a downward spiral into criminal behaviour? I understand enough about it to believe that there is an

enormous number of people who can be broken out of that cycle if we take a more compassionate and community-minded approach rather than casting people out and throwing them on the scrapheap forever.

HON MARK NEVILL (Mining and Pastoral) [9.01 pm]: The principal Bill is based on a premise that the courts cannot appropriately apply sentencing policy as it exists. It is also based on a view for which I have not seen much evidence; that is, that the public is bewildered by the sentencing procedures under which we now operate. I am not aware of any great problem in that area. I have tried to make some judgment about what the impact of this Bill will be, and I can understand why there are varying views. That is because it is difficult to be certain about what the outcome of this legislation will be. It is certainly complex, and the path that the Attorney General is taking is risky. At best, the prison population will not increase; at worst, the problem could get out of hand. We know that it is out of hand already when we see the increase in prison numbers over the past six months. It has risen at a ridiculous rate. If this Bill has the effect of further exacerbating that problem, it will be very damaging to the Government.

The tinkering, if I may call it that, with the sentencing system has its risks. I quote a passage from Judge Hammond's "Report of the Review of Remission and Parole". On page 16 he says -

. . . changes to systems of parole and remission can lead to major unintended increases in prisoner numbers. Western Australia's rate of imprisonment is already above the national average and the rate of imprisonment of Aboriginal people is particularly high. The potential impact on the prison population of any new sentencing arrangements needs to be carefully considered.

I have no doubt that it has been carefully considered. However, I am not confident that the outcome the minister is expecting will be delivered. I remember that when the Fines, Penalties and Infringement Notices Enforcement Bill came before this House in 1994, I or some of my colleagues representing seats in the mining and pastoral area predicted major problems for Aboriginal people. We received all sorts of assurances. However, that is the case, and here we are five years on and we are still grappling with those problems.

Hon Peter Foss: It reduced the number of people in prisons from 6 000 a year to -

Hon MARK NEVILL: Yes. The minister is pre-empting my comments. It has certainly had some beneficial impacts; there is no doubt about that. However, a matter was highlighted at the time which we felt would cause problems, and it did.

Hon Peter Foss interjected.

Hon MARK NEVILL: No, it is not. I am just saying that it was clear to some of us that the system would not work as it applied to many Aboriginal people in our electorate. That has come to pass. We know that the outcomes are not always what were intended.

Hon Peter Foss: The reduction to 1 per cent of people incarcerated for not paying fines is a remarkable improvement.

Hon MARK NEVILL: It is 1 per cent of the male prisoner population.

Hon Peter Foss: It is 1 per cent of what it used to be.

Hon MARK NEVILL: From 6 000 to 600 is 10 per cent.

Hon Peter Foss: It was 1 600.

Hon MARK NEVILL: I thought it was 600. However, whether we are arguing about 1 per cent or 10 per cent, it is a significant reduction. I am not haggling over that issue. When one reads the speeches in the second reading debate, one gains the impression that most of these initiatives have come from the Hammond report. As I said earlier, that report deals only with remission and parole. Many major changes in this Bill are unrelated to the Hammond report.

The Chief Justice also commented about making changes to the system and the unintended consequences. On page 1 of his report to Parliament he says -

While the proposed changes regarding remission and parole were the subject of a report by a Committee chaired by Chief Judge Hammond of the District Court which consulted widely with the Judiciary and others, it is noted that there was no consultation with the Chief Justice, the Chief Judge or other members of the Judiciary prior to the introduction of the legislation into Parliament. Apart from matters of remission and parole the legislation provides for far-reaching changes in relation to sentencing generally. The failure to consult was in clear breach of long standing conventions acknowledged by the Hon Attorney General of a requirement to consult the head of the relevant court regarding any legislation which would affect the jurisdiction of the court or the manner in which such jurisdiction should be exercised. The failure to consult in respect of this legislation on the sentencing matrix provisions is all the more remarkable because of the dramatic nature of the proposed reforms and their potential impact on the workload of the courts, both at the first instance and on appeal. This stands in stark contrast to the very detailed and extensive consultations which preceded the *Sentencing Act 1995* and the *Sentence Administration Act 1995*.

When one looks back at the Sentence Administration Act, one does not see a lot that changed that. The major new initiative contained in that legislation was suspended sentences. There is a bit of a contradiction, but having suspended sentences without conditions certainly affects the usefulness of those sentences in many cases.

It is important that the judiciary and the magistracy are absolutely on side when these changes are brought in.

Hon Peter Foss: There was a difference between the District Court and the Supreme Court, because the District Court supported it and the Supreme Court did not.

Hon MARK NEVILL: If the two courts are amalgamated, they will either support or oppose it.

However, returning to the issue, there is no doubt that the public generally supports truth-in-sentencing with enthusiasm. However, it often does not understand the dramatic effect that this type of legislation can have on prison populations, and the public often does not understand how that can dramatically affect the amount of money going into prisons. The Government could contribute to its own demise if it has miscalculated the effects on the number of people who will go to prison under this legislation. It will go a long way to helping the Australian Labor Party achieve the 10 marginal seats that it needs to win government. Our prison system is shaky at best and if people start becoming political about the operation of the system, it could be damaging for the Government. I do not want to see the issue of prisons and prison policy politicised too much; however, until we have consensus on what to do in that area, there is the risk that it will be brought to the fore. When I look at the Government's legislation on justice and criminal justice issues, it does not seem to fit into a strategy. There may well be a strategy there but it seems to be piecemeal. If there is an overall strategy, the Government must highlight how this legislation fits into that strategy because that is the only way that we can make progress in this area. I do not pretend to understand the two Bills before the House. Every time I look at them I come to different conclusions. That is probably my fault rather than the drafting.

Hon Helen Hodgson: That is why they should have been properly reviewed in the first place.

Hon MARK NEVILL: I just say that it is probably my fault.

Under the current system, if a prisoner is paroled and commits an offence, the charge is often levelled by politicians that if that person had served his full sentence the crime could have been avoided. If the prisoner has a determinate sentence where, instead of receiving a third of the time on parole, he serves four years instead of six years with two years on parole, and he then commits a crime in his fifth year, or the first year he is out of prison, it is still a crime. He does not have the threat hanging over his head of breaking parole; however, his situation will be regarded as completely different from that of someone who is out of prison and commits an offence while on parole when in fact it is still an offence.

Hon Peter Foss: One-third remission will not serve any purpose.

Hon MARK NEVILL: Not in the way that it was given automatically, I agree. However, we must get away from the idea of prisoners serving their sentences in prison only; their sentences must be served both in prison and in the community. I am not sure that the regime proposed in the Bill will facilitate that. I do not fully understand the system of parole orders in the Bill.

Hon Peter Foss: The only difference is for people with sentences of more than six years, who are a minority in the system.

Hon MARK NEVILL: There are some benefits for people on parole not serving the remaining third of the sentence. As the Attorney General said, it intimidates many people into better behaviour; and on the statistics that I have seen it appears to be successful. Some research that I have undertaken indicates that parolees and those serving probation commit the 4 per cent of offences known to police for the most violent crimes - murder, rape, robbery and assault. That may still be a concern to the public; however, the simple fact is that we must take risks because many people who have committed very serious crimes and served their sentences, as we know, re-offend, taking a risk while on parole, yet only a small proportion commit those serious crimes. It is probably a risk that we must take for the benefit of many others for which it does some good.

Hon Peter Foss: We could assess the prisoners for whom it will work and those for whom it will not work.

Hon MARK NEVILL: Yes. As I said earlier, from my studies and observation, rehabilitation programs work best outside prison. The evidence strongly shows that, and parole outside prison can be part of the sentence. I am not sure how that all fits together under the Bill.

The truth-in-sentencing provisions which some of the Bill covers - although people might say it does not do that - tend not to separate violent offenders from non-violent offenders. Non-violent offenders can often receive sentences beyond what is needed to ensure public safety. In that sense, we must carefully target what we do, particularly with longer sentences as they can be a massive drain on public funds. The minister said in his second reading speech -

Critically important to the proposed regime is that sentences will be adjusted so that a person spends the same amount of time in jail under the proposed system as would have been the case had the offender been sentenced under the current system. If this were not done, there would be an across-the-board increase in sentences and an intolerably large increase in the prison population. If there were to be an increase, the Government would prefer this to occur with respect to targeted crimes.

One of the problems with this legislation is that it does not target crimes well. It can treat unlike crimes alike.

Hon Peter Foss: If the courts follow that provision it should result in exactly the same practical effect of sentences as previously.

Hon MARK NEVILL: I am not sure that it will achieve that aim.

Hon Peter Foss: If the court does what it is asked to do, it will.

Hon MARK NEVILL: The other problem with this type of sentencing scheme is that it shifts the discretion away from the

judge back onto the prosecutor and the Executive. When I say "the Executive", I mean that the matrix can be amended by regulation.

Hon Peter Foss: Only if Parliament approves it.

Hon MARK NEVILL: Yes, but it is putting it fairly and squarely in the hands of the Executive. We know that prosecutors can predetermine the sentencing outcome by manipulating the facts, making decisions about charging, presenting evidence as an aggravating factor and arguing for or against mitigating evidence. All sorts of ways exist for manipulating the result under different sentencing regimes.

Hon Peter Foss: It does not change the charge; the offence is purely the evidence which would normally be given and taken into account when sentencing anyway. A defendant does not get charged with a different offence.

Hon MARK NEVILL: Is it not up to the prosecutor to decide whether someone is charged with a simple offence?

Hon Peter Foss: He does it now.

Hon MARK NEVILL: I am not talking only about this Bill but about mandatory sentencing and other types of sentencing.

Hon Peter Foss interjected.

The DEPUTY PRESIDENT: Order! Perhaps this dialogue should cease. Hon Mark Nevill might wish to address the Chair.

Hon MARK NEVILL: My other concern about the Bill is that there will be continuous amendment of the matrix by these regulations. A series of crimes will attract publicity. The Government will rush in some regulations to increase penalties, which always go up, whether they be for bashing up old ladies, stealing their purse or whatever. I can imagine the Attorney General being given the latest sets of polling by the Premier, and the Premier saying that the Government must do something about the particular crime problem. What would be the answer? It would be to whack in some regulations to vary the matrix and to push up the length of sentences.

Hon Peter Foss: This House would have to agree with it.

Hon MARK NEVILL: Politicians are not exactly strong when it comes to talking against tougher penalties. The Attorney General knows that.

Hon Peter Foss: One of the reasons I put the regulations in was to stop rednecks putting up the length of sentencing, because if they were to do that, we would have a bigger prison population.

Hon MARK NEVILL: When it comes to the last 18 months before an election, I can imagine the Opposition probably saying to the Attorney General that he is being soft on crime and only increasing a sentence by one year when it should be two.

Hon Peter Foss: You can do that in the Act as well.

Hon MARK NEVILL: Yes, but I think we will see a bidding war, like the disgraceful situation in New South Wales prior to every election.

Hon Peter Foss: I could reduce the matrix by regulations but they would have to have the approval of the House.

Hon MARK NEVILL: I do not know whether the Attorney General would have that sort of courage.

Hon Peter Foss: I could do it.

Hon MARK NEVILL: The Attorney General would need the imprimatur of his colleagues to do that. With this matrix we will get an added enhancement for second and third rapes and all sorts of things.

Hon Peter Foss: I suspect that you will not get to the third stage at all.

Hon MARK NEVILL: That may be, but the Criminal Code is in a bit of a sleepy hollow as far as the public is concerned. A matrix sitting in front of the public on page 3 of *The West Australian* will invite a lot of public pressure.

Hon Peter Foss: Interestingly enough, when people are given the choice and put in a real-life situation, they tend to sentence lower. It is fascinating that they talk in general terms of maximum penalties when they come up with broad statements, but when they try them, they come out with lower ones.

Hon MARK NEVILL: Changes to the matrix will result more easily from what one commentator called media-induced moral panic. We will be very vulnerable. A few weeks ago the front page of *The West Australian* had a picture of an elderly woman who had been bashed. A couple of stories on the same subject had appeared before that. I asked myself whether the crime rate was going up or had three assaults of elderly pensioners been reported in the media. One does not really know.

Hon Peter Foss: I know.

Hon MARK NEVILL: The public makes judgments on the emotive response to that sort of story and not on the empirical research of what is happening. The front page of *The West Australian* should show assaulted Aboriginal women because they are four times more likely to be victimised than a female pensioner. Do members know who assaults them? It is Aboriginal men. The victimisation rate of young people is quite high. Who assaults young people? It is other young people.

Hon Peter Foss: Usually young people they know.

Hon MARK NEVILL: Most assaults are by people who are known to the victims.

Hon Peter Foss: The reason for the high clearance rate of personal injury assaults is that the person who did it is usually known to the victim.

Hon MARK NEVILL: Most of the fear of the crime does not come from the fear of being assaulted by someone one knows but from the fear of being assaulted by someone one does not know, yet that covers only a very small portion of assaults. I do not know whether it would be politically acceptable to have assaulted Aboriginal women feature on the front pages of our Press.

Hon Peter Foss: Three seniors groups approached *The West Australian* and asked the editor to stop featuring elderly people being assaulted because it made elderly people frightened in excess of the fact of the reality of assault, and they also believe it may lead to copycat behaviour.

Hon MARK NEVILL: Not much polling has been done, but on the polling that I have seen the fear of crime has always been much higher in Western Australia than in any other State. We must get the real risk into perspective, which can only be done by good research. Our criminal justice policy should flow from good research. The United States has magnificent research. Its research is in one place and its prison policies are in another; they do not relate to each other. Germany and Holland have good empirical research and their prison policies very strongly flow directly from them. They listen to public opinion but do not take a lot of notice of emotive responses. From what I can see, they make their decisions as a result of good research. I am getting off the point.

Paul Moyle recently wrote a quite interesting book review which was published in the "University of Western Australia Law Review". The book was by Hogg and Brown and called *Rethinking Law and Order*. At page 177 it states -

Politicians, of course, are keen to give the appearance of responding swiftly and decisively to the perception that violent crime is getting out of control. Tougher law-and-order policies have thus become a predictable criminal justice trend and there does not seem to be any serious opposition to this development, at least at the moment. Hogg and Brown, however, are keen to debunk the rhetoric behind the law-and-order stance of many Australian politicians. Their views are challenging and provocative, and their book provides a well argued critique of conventional government thinking on criminal justice policy. It examines how and why 'the dominant form of law-and-order "commonsense" has failed us, and how we might develop a more responsible and constructive law-and-order politics which takes crime, fear of crime, and criminal justice *more* rather than less seriously' . . .

There is always hope. He goes on to say -

On a brighter note, a recent example from within the Western Australian criminal justice system suggests that there may be a growing awareness of the limitations of the 'commonsense, law-and-order' approach to dealing with crime. A Report of the Parliamentary Standing Committee on Estimates and Financial Operations suggests discontent with the current penal policies of the Western Australian government. The Chair of that Committee, the Hon Mark Nevill MLC -

Hon Peter Foss: Good heavens!

Hon N.D. Griffiths: Do you know him?

Hon MARK NEVILL: It sounds very compelling to me -

reported to the Legislative Council that -

the escalating costs of imprisonment to the State and its apparent ineffectiveness in deterring offenders, particularly juvenile offenders, from re-offending must lead to a re-evaluation of the effectiveness of imprisonment as a sentencing option other than for the most dangerous and persistent criminals from whom the public must always be protected. This leads to a consideration of alternatives to custody.

That is what we must focus on.

Hon Peter Foss: We have a large number of walkouts and there is considerable criticism of that, but it is essential to move people to minimum security.

Hon MARK NEVILL: I do not consider people walking out of open prisons as escapes.

Hon Peter Foss: Nor do I; unfortunately, the Act does.

Hon MARK NEVILL: It is absconding. It is interesting that if someone escapes from a prison in Germany or Holland, it is not an offence, as Hon Simon O'Brien would agree. If someone commits a crime while he is out, obviously it is an offence, but when he is caught he goes from the open prison back into the closed prison. There is no offence and there are very few escapes from either type of prison in those countries.

Hon Peter Foss: In the eastern States they are considered not as escapes but as being absent without leave.

Hon MARK NEVILL: I would call that absconding. In Holland we visited Swolle closed prison, and there was a cherry picker in the yard. As I said to my colleagues, if that cherry picker were in one of our prisons in Western Australia, half the prison population would be over the wall within three or four hours, but there are very few escapes from that prison.

Hon Simon O'Brien: That is Australian ingenuity at work.

Hon MARK NEVILL: Absolutely. They are still crawling out of their First World War trenches and getting over obstacles. The Bill is all about imprisonment. It seems to focus on imprisonment as the only -

Hon Peter Foss: It does not. Where do you get that from?

Hon MARK NEVILL: I am talking about the amendments.

Hon Peter Foss: They do not deal with imprisonment.

Hon MARK NEVILL: It is not dealing with alternatives to imprisonment.

Hon Peter Foss: They are already in the Act.

Hon MARK NEVILL: They may be. Most of it has been repealed, but most of it has been put back in.

Hon Peter Foss: The Sentence Administration Act has been repealed. The alternatives are in the Sentencing Act, and they remain.

The DEPUTY PRESIDENT: Order! The minister ought not to pre-empt his reply at length.

Hon MARK NEVILL: Basically, the amendments are all about imprisonment.

Hon Peter Foss: No.

Hon MARK NEVILL: Absolutely. It seems that prison is the ultimate sanction. I do not know whether it should be regarded as the ultimate sanction. The alternatives can be just as severe and coercive and they have demonstrated that they are much better at solving problems and they are much cheaper.

Hon Peter Foss: It is the last resort.

Hon MARK NEVILL: We must get away from the present focus and consider the alternatives. The United States of America has gone down the road of imprisonment, and 2 per cent of its population is now behind bars and another 2 per cent is looking after it. If the United States had the same imprisonment rate as Australia or Europe, 1.5 per cent of that number would not be in jail and another 1.5 per cent would not be looking after it. In other words, its unemployment rate would go from 5.5 to 8.5 per cent.

Hon Simon O'Brien: It is a major industry.

Hon MARK NEVILL: It is a major industry. One prison that we visited on Rikers Island in New York had more prisoners than the entire prison population of Australia - 19 000.

Hon Peter Foss: Cities there have more people than the whole of Australia.

Hon MARK NEVILL: That was only one prison in the State of New York, and there are federal prisons as well as state prisons. Even the illustrious President Bill Clinton, under the Federal Crimes Bill in 1994, gave the States \$US9.4b to spend on new prisons if truth in sentencing was introduced. The consequence is that there has been a massive prison-building program in the United States. The incarceration rates of those States that took the money have gone through the roof, and those that did not are a hell of a lot better off. We cannot compare what the Attorney General is doing here with the truth in sentencing that happened in the United States; in effect it doubled and tripled many sentences.

Hon Peter Foss interjected.

Hon MARK NEVILL: I would like the Attorney General to answer a few questions, rather than interject. With the abolition of work release, will a prisoner who is an electrician, for example, be unable to go out to a job during the day and go back to prison at night? Will that still be dealt with under a -

Hon Peter Foss: Section 94 of the Prisons Act - work release.

Hon MARK NEVILL: So the Attorney General is not abolishing work release?

Hon Peter Foss: No. Section 94 of the Prisons Act remains.

Hon MARK NEVILL: But the Attorney General is abolishing it under the Sentencing Act?

Hon Peter Foss: Yes.

Hon MARK NEVILL: What does that achieve?

Hon Peter Foss: That is exactly what the Hammond report says; that is, there are alternatives and there is not much point in having it under the Sentencing Act.

Hon MARK NEVILL: That is fine. The Attorney General is also abolishing home detention. Is it possible to have home detention under the current regime, whether it is the Prisons Act or the Sentencing Act? It seems to be an effective alternative, especially when there is a program attached to it. If prisoners are simply at home doing nothing, it is not effective. Where there is a program attached it is effective, and I would not like to see the option of home detention abolished.

Hon Peter Foss: That was a Hammond report recommendation.

Hon MARK NEVILL: Much of the research that I have read suggests that programs work better outside prison than they do inside prison. If the Attorney General closed off that option it would be a retrograde step. It should be left in the Bill and, if possible, perhaps its use should be restricted. The Bill also abolishes remission. Is it still possible for prisoners who exhibit good behaviour to get some small amount of time off their sentences? That is vitally important as a management tool in prison, because if prisoners have no incentive it is harder to manage them.

Hon Peter Foss: Seven to eight days is not a lot. The management options now seem to be privileges.

Hon MARK NEVILL: I will make a couple of general comments in the remaining time available to me. I mentioned earlier that European nations adopt a strong empirical approach to criminal justice policy. It seems to be guided by research. In Australia we do not see much research. The University of Western Australia collates a lot of crime figures, and the Australian Institute of Criminology also gathers material; however, we do not see much basic research into how effective the programs are in the prison system. As the Attorney General knows - I hope this is improving - it is almost impossible to get any useful figures from the Ministry of Justice to find out how successful programs are.

Hon Peter Foss: The new computer programs will assist in that. We will be right then.

Hon MARK NEVILL: I note that during the comments of Hon Ljiljanna Ravlich the Attorney General interjected that Western Australia has the lowest prisoner-on-prisoner assault rate in Australia. I was amazed that he had that figure, because I had asked a question about it and was told that statistics were not kept.

Hon Peter Foss: It comes under the Federal Government. I don't know how it gets it.

Hon N.D. Griffiths: Are you saying you do not know?

Hon Peter Foss: The Federal Government does them.

Hon MARK NEVILL: I have not seen the figures for the prisoner-on-staff assaults in Western Australia. Until only recently, I do not think they were collected in a systematic fashion. Those statistics are very important.

Hon N.D. Griffiths: Are the prisoner-on-prisoner assaults reported?

Hon Peter Foss: The chances are that they are not.

The DEPUTY PRESIDENT: Order! This is not question time.

Hon MARK NEVILL: These might be the subject of some disciplinary action at present. Those important statistics should be collected by the Western Australian Minister for Justice. In the Australia-wide comparisons, the figures for Western Australia are always missing. That is why I am interested to know from where the Attorney General got them.

Hon Peter Foss: From the Commonwealth's figures.

Hon MARK NEVILL: Victoria provides probably the best example in Australia of what I would call a fairly mature approach to law and order issues.

Hon Peter Foss: It was, but it is changing.

Hon MARK NEVILL: It is unfortunate if it is. New South Wales is the worst. Generally, Australia has a long way to go before it takes a much more mature approach to its criminal justice policy. If we can get to that stage, it will be for the betterment of our offenders and allow us to start to do something that has some long-term benefit. Basically our prison system comprises warehouses. We would not like to take people from other countries to visit places like Bandyup Women's Prison because it certainly is not very flattering.

I am not sure where this legislation is taking us. I do not think it is all that important in the scheme of things in reforming our justice system. The provisions in these Bills are fairly marginal to the central issue in the justice system - reducing the imprisonment rate. If we had the same rate of imprisonment as that in Germany or Holland, we would have a thousand spare beds in our prison system. The rate of crime in Victoria is not that different from that in Western Australia; yet its imprisonment rate is half of that in WA.

I do not care what anyone says; the rate of crime in Western Australia has not increased much, if at all. It is about the same. The pattern of crime has changed. In recent years we have cast the net wider. More offences now result in prison sentences. Over the past two years, judges have been giving longer sentences. Let us look at the three most recent murder trials, for instance. There was a quantum leap in the length of the sentences those offenders were given. We cannot blame the judges for being too lenient; I think they are being too hard.

The magistrates in Western Australia, on average, give offenders twice the tariff put forward as the Australian average. The sentences handed down in cases in the Supreme Court and District Court are about the same; however, in the Magistrate's Court - that is where 95 per cent of the offenders are sentenced - they are twice the length of the Australian average. These Bills are not addressing what I think are the core issues in the criminal justice system - the need to reduce the incarceration rate and the need to have alternatives sanctions to imprisonment.

HON HELEN HODGSON (North Metropolitan) [9.45 pm]: With some regret, I rise to speak on this Bill. I had hoped there would be ways of dealing with it before it came to this stage in this place; however, we have had that debate. This Bill is flawed in its concept as well as its execution. We should be considering serious policy matters in a different light from

the way in which these Bills address them. I will raise other matters in committee, and I will refer to some of them during my comments in this stage. Some matters simply do not make sense in terms of the way in which the legislation hangs together and policy is to be implemented. If the whole idea is to make sentencing simpler and more understandable, these Bills fail.

To begin with, I will make some general comments about the justice system. Firstly, I will pick up from where Hon Mark Nevill left off - the perception of crime in this State and the statistics. Recently I attended a community forum, a public meeting, at which the Select Committee on Crime Prevention from the other place discussed some of these issues. It had collected the statistics on crime rates and the perceived increases in crime over the past few years. To say that more crimes are being committed is patently not the case. What is happening is that there are changes in the perception of crime rates.

Hon Mark Nevill: And the pattern of crime.

Hon HELEN HODGSON: Yes. It is building up the perception that we have more of a problem than we do. As I have said in this place before, I think the pattern of the reporting of those crimes has had a big influence on the public perception. There have been a number of very serious offences. The ways in which less serious offences are reported make serious offences seem even more significant. I will draw out an example of that: This evening during the dinner suspension, I watched a part of two different news bulletins. In each of them the three or four lead stories were to do with crime. The perception that the problem is more severe than it really is has been caused not only by the reporting of the extremely dramatic events - for example, those unfolding in South Australia at the moment, which, fortunately, are beyond our jurisdiction - but also by the way in which the old crimes are brought back into the headlines and rehashed and revisited. The judicial system has responded to community concerns.

Recently I was asked to proofread an assignment for a politics student on the way in which the American Supreme Court has responded to community concerns. As I was reading it, I could see the parallels with the situation in Western Australia. The particular example being examined was not crime, it was racial development, but the courts respond to community perceptions in the same way and the legislators come under the same pressure. The way in which the three arms of government move in response to community concerns is the same in Western Australia as it is in other jurisdictions. However, that movement is already happening, and I refer to an article in *The West Australian*, which we all know is the favourite media outlet of the Attorney General. On 5 August 1998 it carried the front page headline "Judges 'tougher' on violent crime". It refers to statistics from the crime research centre of the University of Western Australia and states -

More people were imprisoned as a punishment and jail sentences for violent crimes either were longer or stayed about the same from 1995 to 1997.

Later the Attorney General gets a mention because he acknowledges that the statistics prove the courts responded to legislated increases in penalties. The courts are responding to community perceptions. To introduce blatantly reactionary legislation on that basis is to denigrate the position of the courts in our system.

Hon Mark Nevill: The courts are going overboard in some cases.

Hon HELEN HODGSON: That is the other issue. In the two recent murder cases each sentence was more than 25 years imprisonment. From memory, I think they were for periods of 28 years and 27 years. Who am I to question a decision made by a judge? I do not put myself in the role of an appellate court, but it indicates that sentences are being increased in response to either legislation already passed in this House or community concerns.

There are community concerns about issues such as remission and parole, and these issues are addressed in the Hammond report, to which I will refer later. The question of automatic remission has caused some concern and it is appropriate that it be addressed. However, the bulk of these Bills deals with punitive rather than preventive measures in crime and will do nothing to address public perception. The Bills provide for harsher sentencing by the way in which truth-in-sentencing impacts on parole and remission, and introduce parliamentary interference with the independent and impartial judicial process. This Parliament needs to look more at the real causes of crime in order to have any hope of arriving at a solution. Committees of this Parliament are already looking at some of these issues and I wish members had taken the opportunity to read some of the matters raised in the interim report of the committee in another place.

It has been put to me that the whole thrust of these Bills is how to punish offenders rather than how to restore justice, and that is where the question of restorative justice arises. I will not go over all the issues raised so competently by my colleagues, and when an international movement is considering better ways of implementing justice it is appropriate for members to become familiar with the concepts. To add my perspective to some of the discussion earlier, I am aware that some of these matters are being implemented in the juvenile justice system but it is a very small portion of the justice system and it needs to go far further than that.

I refer to a comment made by the Chief Justice of the Western Australian Supreme Court, David Malcolm, in an address to the Law Society, the Australian Journalists Association and the Criminal Lawyers Association. He said that he remained firmly convinced that superficial or sensational information which leads to demonstrably inaccurate perceptions about crime, the criminal justice system, sentencing and the judiciary is calculated to undermine rather than to underpin the democratic strength of our society. That statement was made in August 1989, 10 years ago, but it is still true of the debate occurring today. The attitude to justice displayed in these Bills is not unique to Western Australia or Australia. We have heard discussion about what is happening in other countries, some of which are moving to alternative solutions. However, others, such as the United States, tend to remain fairly deeply embedded in a punitive system of justice.

These Bills show a total obsession with imprisonment as a means of punishment, and try to score political points by

politicising the issue. We need to take the politics out of the question so that we can effectively provide results for the victim, the community and the offender. Prisons are not places where people are sent to be punished; the fact of imprisonment itself should be the punishment. People who work in that area frequently say that imprisonment does not stop offenders offending, and that other alternatives need to be incorporated into the system and be available to people in prison. There are a number of theories on the need for imprisonment in society. The first is retribution, and I have spoken on that subject previously when a Bill was introduced with the word "retribution" in its title. Fortunately that word was removed from the final version of the legislation. The theory of retribution drives much of the debate in this State at the moment. Deterrence is another theory for imprisoning people to dissuade offenders from committing further crimes. What is the good of preventing people from committing further crimes while they are locked up if systems are not implemented to ensure the offenders are rehabilitated so that they will not commit further crimes when they are released? Deterrence has only a short-term impact if there are no proper programs to deal with prisoners. There is also a theory that the threat of punishment will deter people from committing crimes, but the statistics prove that is not the case. Denunciation is another theory, whereby the length of the sentence shows that society frowns upon the crime. There are similar flaws in that theory; it works on some people but if no rehabilitation process is in place it does not have a lasting impact. Rehabilitation is the model which puts people into prison to teach them and show them the flaws in their behaviour. That is what restorative justice is all about. The last theory is incapacitation; that is, locking people up so that they cannot commit the crime again. That is perfectly valid for crimes such as murder and rape. However, we must make sure that the extent of the sentence is consistent with the nature of the crime. These theories have all enjoyed currency at different times but at the moment Western Australia seems to be moving back to the retributive and deterrent theories of crime, and Australia has not moved in that direction in the past few decades. In fact we now have in all our legislation, including the Western Australian legislation, the theory that prison is a last resort for punishment and that the last resort is something that should be invoked only when all other avenues have been thoroughly explored and we have not been able to resolve the problem.

Debate adjourned, pursuant to standing orders.

STATE FOREST No 69

Assembly's Resolution

Message from the Assembly received and read requesting concurrence in the revocation of state forest No 69.

MINISTERIAL STATEMENT BY MINISTER FOR MINES

Opportunity for Response by Hon Tom Helm - Statement by President

THE PRESIDENT (Hon George Cash): Earlier today the Minister for Mines and Leader of the House was granted leave to make a brief ministerial statement. That statement, a copy of which I now have, was in the main a response to issues previously raised by Hon Tom Helm. During the ministerial statement being read to the House I was approached by an honourable member who sought my advice on the options available to Hon Tom Helm should he wish to respond to the issues raised. I informally advised the honourable member who sought my guidance that a number of options might be available to Hon Tom Helm. The options informally canvassed included that Hon Tom Helm -

- (a) seek leave of the House to respond immediately to the ministerial statement. However, it was recognised that the member might need time to consider the substance and issues contained in the ministerial statement before responding;
- (b) rise in accordance with Standing Order No 85 and make a personal explanation if that standing order was relevant. However, I add for completeness that such a personal explanation would not have allowed the member to debate the issues;
- (c) by negotiation with the Leader of the House and leaders of other parties rise at a later stage of this day's sitting when there was no question before the House and seek the leave of the House to respond to the ministerial statement;
- (d) move that the ministerial statement be made an order of the day for the next sitting of the House; and
- (e) raise the matter during this evening's adjournment debate.

The honourable member who sought my advice and I both acknowledged that once the House had agreed to a motion to make the ministerial statement an order of the day for the next sitting of the House, it would be open to other honourable members to raise a point of order in respect of anticipating debate of a matter on the Notice Paper. This would have prevented Hon Tom Helm raising issues at an early stage should debate on the order of the day not be brought forward to an early date.

At the conclusion of the ministerial statement Hon Tom Helm asked me a question in respect of a motion that he wished to move. I understood he was seeking to use Standing Order No 112 to adjourn the debate to a later stage of this day's sitting. Honourable members will be aware that I put the question and it was carried. However, at the time Hon Tom Helm moved his motion there was no question before the Chair. As the ministerial statement was made by leave, no question needed to be resolved. Notwithstanding that there was no statement before the Chair, I allowed a motion to be carried which should not have been put to the House.

As a motion in respect of Standing Order No 112 can be moved only if a relevant question is before the Chair, I should not have entertained the motion that debate be adjourned to a later stage of this day's sitting. Accordingly, I invite the Leader

of the House to move that the resolution be discharged from the Notice Paper as it was ultra vires the standing orders when it was moved. The effect of such a discharge motion will enable Hon Tom Helm to speak to the issues raised in the ministerial statement in an adjournment debate or at some other appropriate time.

I have discussed this matter with the Leader of the House, the Leader of the Opposition, Hon Tom Helm, the Attorney General and Hon Helen Hodgson, who concur with this course of action.

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

That the order of the day for the adjourned debate on the ministerial statement be discharged from the Notice Paper.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.04 pm]: I move -

That the House do now adjourn.

Ministerial Statements, Notice Given - Adjournment Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.05 pm]: It has been the custom of this House to extend the courtesy of making available copies of ministerial statements at least to the Leaders of the Opposition in advance of leave being obtained to make a ministerial statement.

Hon N.F. Moore: That is a recent custom.

Hon TOM STEPHENS: It was insisted on by the coalition in opposition and was I think a process more honoured than breached. I commend it as a custom for maintenance in the House even for stropmy ministers.

Hon N.D. Griffiths: Which ones are not stropmy?

Hon TOM STEPHENS: There are ministers on the other side who extend every courtesy to the Opposition and I commend them to their ministerial colleagues.

Aboriginal Deaths, Agriculture Protection Board Chemicals - Adjournment Debate

Hon TOM STEPHENS: I refer to a recent article that appeared in the "Big Weekend" section of *The West Australian* about a series of deaths that have been occurring in the Kimberley region that ostensibly appear to be linked to the employment by the Agriculture Protection Board of a large number of Aboriginal people and other colleagues in the late 1970s and early 1980s. The magazine strings together a series of articles on deaths and examples of ill health among that work population. It graphically puts before the Western Australian community, and I put it before the Parliament, an issue which is of concern to me and which should be of concern to the Government. It relates to the failure of the Agriculture Protection Board in the late 1970s and early 1980s to respond to the alarm bells that were being sounded both while Labor was in government and since then.

A wave of destruction was wreaked upon the Aboriginal community of the Kimberley and the other workers involved in a noxious weed eradication program. A number of chemicals were used that appear to have been connected to the loss of health and death of some of that work force. It is important that this issue be properly assessed and addressed by the Agriculture Protection Board. The questions of how this program was embarked on and what chemicals were used must be provided to the surviving participants in that program and to the families of those who have not survived.

The article documents what has been regularly spoken of in the region; that is, the use of chemicals from drums that were unmarked and that arrived in the region without warning to the participants in the program who were not provided with adequate protective gear, adequate training in the handling of the chemicals and advice that they needed to use extreme caution. In the early days of this program in the late 1970s or early 1980s, no protective gear at all was issued to the participants in this noxious weed eradication program, and certainly no warnings were given to them about the type of chemicals they were using. Subsequently they were given some rudimentary protective gear and some rudimentary education on handling noxious chemicals. However, no warning was given of the dire consequences that now seem to have flowed to the participants in this work force.

I have met with these participants and watched their black skin being substantially removed from their bodies. Some participants in this program have lost their skin pigmentation, they have broken out in sores and have suffered ill health. From the east to west Kimberley region, people who do not know each other who have been exposed to this program have suffered common symptoms. There has been a pattern of early death and considerable ill health among those who have not died. It fills me now with great alarm to learn about what went on.

Unfortunately, this type of work program that was made available largely to Aboriginal people was done as a perhaps enlightened way of trying to involve Aboriginal people in much needed employment programs and strategies. However, it regrettably compounds, as members can imagine, the sense of grievance on the part of these participants - grievance that doubles any sense of work shyness that this population might have when it is combined with other unpalatable, unattractive and demoralising work programs that have been designed by various agencies. It ill behoves a community to allow this chapter of its recent history to simply go without proper analysis.

I take the opportunity in this adjournment debate to alert the Government, the minister responsible for that agency and the head of that agency to this matter so that they can take the opportunity to respond to the questions that are still being asked. I understand, for instance, that the Derby chemical depot which was used by the Agriculture Protection Board and at which

these chemical drums, both full and empty, were buried is now being utilised by people who were until recent days working on that site without receiving any warnings that it is a location at which substantial amounts of noxious, dangerous chemicals have been used and buried. These people are now working on another APB program involving the cutting up of baits for distribution in the area for killing feral animals. This is potentially exposing those workers to a dangerous site.

In addition, I am now told that the APB has decided to get rid of that site, and through the Department of Land Administration it is ready to sell it on the open market, without any indication at this stage that it will carry out an assessment of the site to ascertain whether it has been adequately checked for toxic chemical residues and whether it should be utilised at all for any future use until it has been cleaned of these chemicals. That is only the issue of property. Recently I was at a station when I met an Aboriginal man who was a victim of this program and who has been faced with ill health ever since. He said to me, "When will the Government tackle its recent history whereby it involved me in a program that has left me with a legacy of ill health ever since?"

We have a responsibility to the workers who were involved in this program conducted by a government agency in the late 1970s and early 1980s. Certainly the Government of which I was a part shares responsibility, as does the Government that is currently in office, for the task of ensuring that the answers that are sought are delivered to those people in double-quick time.

Great Southern Personnel Inc - Adjournment Debate

HON MURIEL PATTERSON (South West) [10.15 pm]: I ask that the House not rise until I inform members of my concern, and the concern of one of my constituents, regarding an incident relating to Great Southern Personnel Inc. This organisation is quite remarkable in that it is for handicapped young men and women who wish to work but would not be able to do so without the assistance of a coordinator.

On Wednesday, 12 May, a Mrs Pauline Clark rang the office of Great Southern Personnel and asked for a quote to clean up rubbish near a fence line. The coordinator, Mr Williams, drove out to Mrs Clark's place and pulled up about 40 metres from the house, where he was met by Mrs Clark and four dogs. They proceeded to walk towards the area and discuss what was required. Mrs Clark requested that the job be done that afternoon or the next day - in other words, as soon as possible. However, the coordinator considered that the work could not be done within that time. In addition, a bobcat would be needed to do the job properly, and that was beyond the capability of the handicapped people. Mrs Clark said that she wanted the work done immediately. Mr Williams wrote a phone number on his business card and said, "This contractor should be able to help you." He then drove back to his office and no further contact was made.

After Mr and Mrs Williams returned from their young son's soccer game on Saturday morning, a neighbour informed them that the police had called twice and wanted to see them. Later that morning, just before lunch, two police called for the third time. After identifying Mr Williams, they said they had a search warrant for the Williams' premises. In disbelief, Mr Williams asked if the police were sure it was him because there was another Dexter Charles Williams. In further clarification, Mr Williams was asked, "Did you visit a Mrs Clark on Wednesday?" He said that he did. The police told Mr Williams that Mrs Clark had reported a stolen wagon wheel and that she thought he was the likely culprit because after speaking with her neighbour about it, the neighbour said that Mr Williams was a pretty wild person as a teenager - he is now 36 years old - and believed he took it. The police were invited in for the search, after checking the garage and shed. At all times the police were courteous when doing their job. They must have felt pretty silly searching the bedroom cupboards looking for a wagon wheel. A third policeman then arrived on his motor bike and asked if everything was okay. He then went inside. By this stage, there were two visitors, three police looking for a wagon wheel and the Williams, but no wagon wheel. Upon leaving, the senior constable said that the wheel was not there, and he offered to ring the station if the Williams had any concerns. I gather there were plenty of concerns, because both Mr and Mrs Williams were very upset.

Nothing further was heard from the police. Therefore, on Sunday at noon Mr Williams made a phone call to the police station and asked if there were any further developments. He was told that there had been a misunderstanding between Mrs Clark and her husband, George, who upon his return, when told of the theft, explained that the wagon wheel had not been stolen; he had put it in the shed prior to going away.

The regional manager of Great Southern Personnel, Jo Hummerston, contacted Mrs Clark to inform her how concerned they were about her accusations. Mrs Clark said, "Well, Dexter Williams was the last person here and he had shown an interest in the wagon wheel and asked questions about it." This is an amazing incident. Would anyone intending to steal a wagon wheel give a business card and offer help? How could a person show an interest in a wagon wheel that was not there?

The Williams family, their three children aged between eight and 12, their visitors and their neighbours have been severely embarrassed by this fabrication. My real concern is the damage this may cause to Great Southern Personnel, a dedicated group of people who have won the respect of all who come into contact with them for their ability to understand the hardships that the disabled endure, find them employment - I think we all know how hard that can be - and generally support them with their varied skills. Mr Williams has trained as a nurse and has worked for years in the building industry. Other staff members are equally credible. Anything that is done to cast aspersions on this staff member can only hinder the work of Great Southern Personnel.

I do not need to tell members that I am pretty sensitive about this issue, because I have a son who became handicapped after being injured in an accident, and I am very grateful to people who contribute by giving a quality of life to these people. Incidentally, my son is not in this group. I accept the fact that we all make mistakes. That is a fact of life, and this woman is entitled to make mistakes. However, what I object to is that when she found out her mistake, she did not contact Mr Williams and apologise, nor did she enlighten the neighbours and the other people concerned. Instead, she fabricated a

further misleading explanation, to say nothing of wasting the resources of the police, who have enough to do in dealing with real crime. I thank members for their time.

Native Title Petition to the Senate - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [10.21 pm]: It is important to advise the House of a matter that was brought to my attention recently. It is a petition sponsored by Hon Greg Smith and addressed to the President of the Senate that asks the Senate to legislate out of existence native title. I thought from listening to and reading some of the speeches made by Hon Greg Smith that he reflected pretty well the view of the coalition Government that native title is unworkable and we need to work towards making it workable, yet this petition, of which I will have a copy tomorrow for those members who want to see it, asks the Senate to legislate native title out of existence. I do not believe Hon Greg Smith is reflecting the view of the Government on this matter; and if he is not, the Premier should tell people that the member does not reflect the view of the coalition Government and should take steps to have that petition withdrawn. However, if Hon Greg Smith is reflecting the view of the coalition Government, it is an example that this coalition Government is moving closer towards the view of the Hanson One Nation party, or the view of Graeme Campbell, who is circulating a petition of a similar nature. This matter should not be allowed to pass without comment, and that is why I am raising it at this time. I hope people will not bother to sign that petition, but if they do, the responsibility should be laid fairly and squarely at the feet of Hon Greg Smith. Any petition that reflects the view that native title should be legislated out of existence is stupid and short-sighted, and a reflection of Hon Greg Smith's own political views, which suggest that he is only one short step away from joining those extreme right-wingers who belong to the Graeme Campbell party or the Hanson One Nation party.

Question put and passed.

House adjourned at 10.24 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

WATER AND RIVERS COMMISSION AND WATER CORPORATION

Insurance Policies for Members

202. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Water Resources:

In relation to appointments to each of the governing boards of the Water and Rivers Commission and the Water Corporation -

- (1) Are members of the board the subject of any policies of insurance arranged by the board including indemnity insurance?
- (2) If yes -
 - (a) what is the nature of the policy and the liabilities covered by the policy;
 - (b) who is the insurer;
 - (c) what is the maximum liability of the insurer under the policy;
 - (d) what is the annual premium for the policy;
 - (e) who is responsible for disclosing any material matters to the insurer which might affect the obligations of the insurer to meet its liability under the policy; and
 - (f) has the board or any of its members made any such disclosures during the currency of any insurance policy?
- (3) Has the Government or the board provided any of its members with any indemnity other than through a policy of insurance?
- (4) If yes, when was the indemnity provided and why?
- (5) Who are the board's solicitors?
- (6) How does the board choose its solicitors?
- (7) What payment for legal advice and representation were made by the board in the last financial year?
- (8) Is the board or organisation required to publish an annual report?
- (9) When was its last report due?
- (10) When was its last report published?
- (11) When will its next report be published?

Hon MAX EVANS replied:

Water and Rivers Commission:-

- (1) Yes.
- (2)
 - (a) Miscellaneous personal accident insurance cover and death benefits and permanent disability.
 - (b) RiskCover.
 - (c) \$106,382.00.
 - (d) \$239.00 per person.
 - (e) Principal Accounting Officer.
 - (f) No.
- (3) No.
- (4) Not applicable.
- (5) Crown Solicitor's Office.
- (6) Government policy.
- (7) Nil.
- (8) Yes.
- (9) 27 November 1997.
- (10) The report was tabled in the Legislative Assembly and Legislative Council on 16 December 1998.
- (11) Expected to be in November 1999, subject to receipt of the Audit Opinion.

Water Corporation:-

- (1) Yes.
- (2) (a) The Board of Directors of the Water Corporation have;
 - (i) Directors and Officers liability indemnity insurance.
 - (ii) Workers' compensation indemnity insurance.
 - (iii) Corporate Travel and Special Contingency.
- (b) RiskCover.
- (c) The maximum liability of RiskCover for;
 - (i) Directors and Officers liability is \$50,000,000 in the aggregate.
 - (ii) Workers' Compensation is \$200,000,000.
 - (iii) Corporate Travel and Special Contingency is \$10,000,000.
- (d) The annual premium for;
 - (i) Directors and Officers liability is \$55,417 for the Water Corporation in total.
 - (ii) Workers' compensation annual deposit premium is \$917,267 for the Water Corporation in total.
 - (iii) Corporate Travel and Special Contingency is approximately \$15,000 for the Water Corporation in total.
- (e) The Board members are responsible for disclosing appropriate matters to the Corporate Risk Manager. This officer is responsible for providing information to RiskCover.
- (f) Appropriate arrangements are in place for disclosure of matters to the Corporation's insurers.
- (3) The Corporation has provided directors with Deeds of Indemnity.
- (4) In May 1998. The Deeds of Indemnity are for access to Board documents, costs and expenses incurred in legal proceedings and defence costs as permitted by Schedule 2, Division 6, Clause 15 of the Water Corporation Act.
- (5) Freehill Hollingdale and Page are engaged by the Corporation to provide general legal advice. Other law firms are used for specialist advice when required. The Board has access to these solicitors as and when required.
- (6) The Corporation chooses its solicitors for general legal advice through Public Tender.
- (7) There were no payments for legal advice and representation made on behalf of issues raised by the Board of Directors of the Water Corporation during the last financial year.
- (8) Yes.
- (9) 28 October 1998.
- (10) 24 September 1998.
- (11) Same timeframe as previous year.

PRISONS, REPORTS ON ACCOMMODATION

1387. Hon JOHN HALDEN to the Minister for Justice:

- (1) Since September 1, 1990 how many consultants/experts have been engaged by the Government/Ministry of Justice to provide advice on the need for new prisons or prisoner accommodation?
- (2) How many consultants/experts have been engaged since that time?
- (3) How many reports/papers have been provided?
- (4) What was the date of each report or paper?
- (5) What were the recommendations of each report or paper?
- (6) Since September 1, 1990, have any reports or papers been prepared by the Ministry of Justice on new prisons and/or prisoner accommodation?
- (7) What was the date of each report or paper?
- (8) Did each report or paper provide recommendations?
- (9) Of the reports or papers that contained recommendations or conclusions, what were the conclusions and/or recommendations of each report and paper?

Hon PETER FOSS replied:

- (1)-(2) 4.
- (3) 5.

- (4) May 1992
January 1995
November 1996
July 1998
November 1998
- (5) See the reports which have been tabled.
- (6) Yes.
- (7) March 1992
November 1993
July 1996
November 1996
- (8) No.
- (9) The ACS Report which has been tabled contains a summary of the findings/recommendations contained in earlier reports.

PRISONS, REPORTS ON MANAGEMENT OF NUMBERS

1388. Hon JOHN HALDEN to the Minister for Justice:

- (1) Has the Ministry of Justice commissioned any reports or papers concerning the management of high prisoner numbers/overcrowding since September 30, 1990?
- (2) What reports or papers have been commissioned?
- (3) Who prepared the papers or reports?
- (4) What was the cost of the reports or papers?
- (5) What was the date of each report and paper?
- (6) What were the recommendations and/or conclusions of each report and paper?

Hon PETER FOSS replied:

- (1) Yes.
- (2) (a) Value Systems Pty Ltd - Department of Corrective Services, WA - Prison Accommodation Requirements - Strategic Value, Management Study - May 1992.
(b) Data Analysis Australia - Forecasting Demand for Adult Prisons in Western Australia.
First Report January 1995. Second Report - November 1998
(c) Australasian Correctional Services - Assessment of Existing Prison Infrastructure and the Projection of Future Needs - Volumes One and Two - 29 November 1996.
- (3) Answered by (2).
- (4) The costs of the abovementioned reports and papers were:
 - (a) \$6,000
 - (b) \$24,900 in 1994 and \$18,000 in 1998
 - (c) \$20,600
- (5) Answered by (2).
- (6) See the reports which have been tabled.

PRISONS, REPORTS ON MANAGEMENT OF NUMBERS

1389. Hon JOHN HALDEN to the Minister for Justice:

- (1) Since September 30, 1990 has the Ministry of Justice prepared any reports or papers relating to the management of the high prison population/overcrowding?
- (2) When was each report or paper prepared?
- (3) What were the conclusions or recommendations of each report and paper?
- (4) What was the date of each report and paper?

Hon PETER FOSS replied:

- (1) Yes.
- (2) Submission to the Interdepartmental Working Group to Examine Prison Accommodation Requirements - 27 March 1992.

Analysis of State Prison Musters - Causes of Increased Musters and Strategies Aimed at Reducing Musters and Providing Sufficient Prison Accommodation in the Short and Long Term. Strategic and Specialist Services Division, Ministry of Justice - November 1993.

Custody Plan - Offender Management Division - Ministry of Justice - July 1996.

Future Directions Report - "Towards Integration" - Policy Projects and Programs Directorate. Offender Management Division, Ministry of Justice - November 1996.

- (3) The ACS Report which has been tabled contains a summary of the findings/recommendations contained in earlier reports.
- (4) See (2).

CRIME STATISTICS

1509. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

For each of the years ending -

- (a) June 30, 1993;
- (b) June 30, 1994;
- (c) June 30, 1995;
- (d) June 30, 1996;
- (e) June 30, 1997;
- (f) June 30, 1998; and
- (g) for each month from July 1, 1998 to March 31, 1999, inclusive,

what was the number of -

- (i) house break-ins/burglaries;
- (ii) clearances of those crimes; and
- (iii) vehicle theft,

reported in the areas of -

- (A) Ballajura;
- (B) Beechboro;
- (C) Malaga;
- (D) Morley; and
- (E) Noranda?

The answer was tabled. [See paper No 1078.]

JERVOISE BAY PROJECT

1522. Hon J.A. SCOTT to the Leader of the House representing the Minister for Commerce and Trade:

In regard to the Jervoise Bay project -

- (1) What other locations were considered for this project?
- (2) For what reasons were these other locations ruled out?
- (3) Will the Minister for Commerce and Trade table the detailed assessments that led to these being ruled out?
- (4) Did the department consider locating this project in the northwest, closer to the oil and gas fields?
- (5) If not, why not?
- (6) What other designs were considered for the project at Jervoise Bay?
- (7) Did this include floating modular docks (currently in use in Japan) which have minimal impact on coastal and bay ecosystems?
- (8) Why are alternative designs not being used?
- (9) Does the building of this project signify a change in Government policy that will result in Government intervention in the marketplace and public investment in speculative projects?

Hon N.F. MOORE replied:

- (1)-(2) Early analysis clearly indicated that non-metropolitan regions could not satisfy the following generic criteria for a world class internationally competitive facility and that Jervoise Bay is the only location in the Perth Metropolitan area that fits the specifications, namely -

Physical factors (based on similar medium-sized facilities in Europe) of a large shorefront common user area, with protected deep water frontage and backed by over 100ha of industrial land.

Market opportunities requiring loadout by sea to the oil and gas fields and heavy/wide load road access to the mineral resources activities in the Pilbara, the Goldfields and the South West.

International competitiveness and quality high-valued work through a relatively large, stable and highly-skilled workforce.

Facilities and support services to undertake a wide range of multiple and overlapping contracts, thereby simultaneously generating a steady base workload, a stable industrial relations climate and avoiding high mobilisation/demobilisation costs.

The backup of a large social and industry services infrastructure with ongoing skills training through TAFE and University courses.

Accordingly, no other sites outside the metropolitan area were assessed.

- (3) No.
- (4) Yes.
- (5) Not applicable.
- (6) The final design for the Jervoise Bay Development is a composite of those elements considered by industry as required for a world competitive facility in Western Australia. A range of possible design features and components were examined before selecting what were deemed by industry as the most appropriate for the targeted activities for the facility.
- (7) The long term masterplan does provide for a future gravity casting basin or drydock (including a floating dock option) for the manufacture of large floating structures, such as concrete or steel platforms but the implementation of such a facility will be the responsibility of industry and will be driven by future project demands.
- (8) Refer to (6) and (7).
- (9) No.

HOMESWEST, MOLTONI CORPORATION CONTRACTS

1567. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

- (1) Has Homeswest awarded any contracts to Moltoni Corporation since July 1, 1996?
- (2) If yes, can the Minister for Housing provide the following details of those contracts -
 - (a) the contract number;
 - (b) the date it was awarded;
 - (c) the project the contract was awarded for;
 - (d) the cost of the contract;
 - (e) if the contract has been completed, the final cost of the contract; and
 - (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

- (1) Yes, through the Fini Group of Companies (project managers for Karawara) and the Government Employees Housing Authority.
- (2) Karawara.
 - (a) Part of the overall contract to complete the redevelopment of Karawara.
 - (b) October 1998.
 - (c) Demolition of Homeswest townhouses and apartment complexes in Karawara.
 - (d) \$583,170.00.
 - (e) The contract is yet to be completed.
 - (f) S & L Salvage and Demolition, Vinsan Contracting, Statewide Demolition, Raptor Demolition, Brajkovich Pty Ltd and Town & Country Demolition.

Government Employees Housing Authority.

- (a) No specific number.
- (b) February 1997
- (c) Demolition of a house at 28 Swimming Pool Road, Wooroloo following a fire which destroyed the residence.
- (d) \$3,640.00.
- (e) As above.
- (f) Contract was not tendered.

HOMESWEST, BRIERTY CONTRACTORS

1568. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

- (1) Has Homeswest awarded any contracts to Brierty Contractors since July 1, 1996?
- (2) If yes, can the Minister for Housing provide the following details of those contracts -
 - (a) the contract number;
 - (b) the date it was awarded;
 - (c) the project the contract was awarded for;
 - (d) the cost of the contract;
 - (e) if the contract has been completed, the final cost of the contract; and
 - (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

- (1) Homeswest has not directly provided a contract to Brierty Contractors. However, a contract was awarded to Brierty Contractors with funding provided by Homeswest, Health Department of WA, Malarabah Regional Council and ATSIC National Office.
- (2)
 - (a) WO78.
 - (b) 21 July 1998.
 - (c) Works included sewerage reticulation and pumping stations at New and Old Looma, sewerage treatment ponds, forming and sealing of access road and road network at Old Looma, drainage improvements at Old Looma, servicing of new housing lots, street lighting and fencing of borefield.
 - (d) Homeswest's contribution to the overall works was \$250,000.00.
 - (e) Not applicable (see (d)).
 - (f) Ideal Contractors and G & B Drainage.

HOMESWEST, JAXON CONSTRUCTIONS

1569. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

- (1) Has Homeswest awarded any contracts to Jaxon Constructions since July 1, 1996?
- (2) If yes, can the Minister for Housing provide the following details of those contracts -
 - (a) the contract number;
 - (b) the date it was awarded;
 - (c) the project the contract was awarded for;
 - (d) the cost of the contract;
 - (e) if the contract has been completed, the final cost of the contract; and
 - (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

Jaxon Constructions have completed many projects for Homeswest and I am not prepared to commit the considerable staff resources required to answer the question in its current form. If the member has a question about a specific construction contract let by Homeswest then I would be prepared to commit the resources to provide an answer.

DIRECTOR OF PUBLIC PROSECUTIONS, ROLE IN PERTH COURT OF PETTY SESSIONS

1580. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the report entitled a Review of the role of the Director of Public Prosecutions in the Perth Court of Petty Sessions 1997 in which it is stated on page 28 that "there has been universal support from many representatives of the criminal justice system for the continuance and expansion of the project" and that "the involvement of the DPP in the Perth Court of Petty Sessions should continue". What funding for the project has been provided in this financial year?

Hon PETER FOSS replied:

In 1996/97 the DPP was provided with additional recurrent funding of \$510,000 (and 8.0 FTEs) to enable it to take over responsibility for committal proceedings held at the Court of Petty Sessions, Central Law Courts, Perth. Recurrent funding has been maintained at that level in each subsequent financial year, including 1998/99.

WATER CORPORATION, CONTRACTUAL DISPUTES

1629. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Over the past three years on how many occasions have companies disputed the contractual arrangements they have with the Water Corporation?
- (2) Of these disputes -
 - (a) how many complaints were subsequently withdrawn;
 - (b) how many were settled before arbitration;
 - (c) how many reached the arbitration stage; and
 - (d) how many remain unresolved?

Hon MAX EVANS replied:

- (1) Over the past three (3) years, there have been a number of occasions where companies have raised dispute notices with the Principal (ie. the Water Corporation) on contractual matters. Most of these disputes have been settled directly with the contractors and do not escalate to a formal dispute. There are no formal records of these types of complaints.
- (2)
 - (a)-(c) No formal record available.
 - (d) At present the Water Corporation has formal disputes on seven contracts involving four contractors. Three of these contracts, involving a single contractor, are in arbitration.

YEAR 200 INFORMATION DISCLOSURE LEGISLATION

1637. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Did the Minister for Commerce and Trade participate in the meeting of State and Territory Minister's responsible for dealing with the Year 2000 computer problem held on April 9, 1999?
- (2) What undertakings or indications were given by the Minister for Commerce and Trade at that meeting with respect to commitments to proceed with Western Australian legislation to complement the Federal Year 2000 disclosure legislation?
- (3) By what date does the Minister for Commerce and Trade expect that such legislation will be presented to the Western Australian Parliament?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) It was agreed to introduce complementary Year 2000 Information Disclosure legislation into the Western Australian Parliament.
- (3) The Bill will be introduced into Parliament in the 1999 Autumn Sitzings.

ROADS FUNDING, ABORIGINAL COMMUNITIES

1639. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Aboriginal Affairs:

Further to question on notice 1037 of 1999, will the Minister for Aboriginal Affairs table which Aboriginal communities will receive funding from the Transform WA program to upgrade and seal community roads in 1999/2000?

Hon M.J. CRIDDLE replied:

Kalumburu, Bidiyadanga, One Arm Point (Bardi) and Burringurrah.

WATER RESOURCES, CALGON TREATMENT FACILITIES IN THE MURCHISON

1640. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Water Resources:

When will Calgon treatment facilities be installed to improve the quality of water supplied to each of the towns of the Murchison region?

Hon MAX EVANS replied:

Yalgoo and Mt Magnet will have Calgon treatment facilities by 30 June 1999. All other towns in the Murchison Region will have Calgon treatment facilities by 31 August 1999.

QUESTIONS WITHOUT NOTICE

TWO-UP IN KALGOORLIE

1236. Hon TOM STEPHENS to the Minister for Racing and Gaming:

- (1) Has the minister received any requests from two-up operators in Kalgoorlie for the number of games played in the town to be reduced?
- (2) Will the minister waive the fees for six months for the Bush Two-up School to protect its long-term viability. If not, why not?
- (3) What steps does the minister propose to take to ensure the Bush Two-up School is not forced to falter or fold?

Hon MAX EVANS replied:

I think someone asked this question some months ago.

Hon Tom Stephens: I did, but it has become pressing.

Hon MAX EVANS: The answers are as follows -

- (1) I have not had an official request. It was mentioned to me by some of the people involved. I suggested to Ron Yuryevitch, when he was a member of the Western Australian Municipal Association, that the council must decide what it wants to do about the matter. The council applies for licences on behalf of clubs. The town itself must take responsibility and decide whether it wants it; it is not up to me.
- (2) I think it paid \$10 000 a year or \$200 a week. I do not know whether it was paid in advance. I have seen no request for that.

Hon Tom Stephens: Would you consider it?

Hon MAX EVANS: I will consider anything. I am the easiest person in the world to deal with on gaming issues. It is up to the town to decide whether it really wants bush two-up to continue. It is very difficult for the Office of Liquor and Gaming when people make inquiries regarding new two-up licences for different clubs. They are supposed to be non-profit organisations. I will let Hon Tom Stephens find out which clubs are making a profit. Interest in bush two-up has been decreasing for some time. The Sheehans are no longer with us and someone else is operating it for them.

Hon Tom Stephens: It is the next generation of Sheehans.

CYCLONE VANCE, LOW INTEREST LOANS

1237. Hon TOM STEPHENS to the Leader of the House representing the Premier:

Further to the Premier's commitment to provide low interest subsidy loans to business affected by cyclone Vance, I ask -

- (1) When will these loans be available?
- (2) What will be the interest rate payable on these loans?
- (3) Will the Premier table the criteria set for applicants for these loans?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) Options for an interest subsidy scheme which detail the proposed interest rate subsidy and criteria for the loans have been developed by the Fire and Emergency Services Department and will be considered by the Government shortly.

Hon Tom Stephens: It is 64 days after the cyclone for goodness sake.

Hon N.F. MOORE: It is interesting that the gentleman who takes his leader to the area 64 days after the cyclone is being critical of this Government. He should ask the people of Exmouth whether they have a good deal. We are talking about low interest loans, not the \$10 000 grant or the support provided by the Government the day after the cyclone. If Hon Tom Stephens listened for five seconds he might understand something.

It is anticipated that the low interest loans guidelines will be released and the loans will be available next month. To this time, the level of inquiry has been low, but it is expected that the guidelines will engender considerable interest in these loans.

QUEENS COUNSEL, APPOINTMENT CHANGE

1238. Hon N.D. GRIFFITHS to the Attorney General:

- (1) Is the Attorney General aware of concern and opposition on the part of the Law Society, the Bar Association, his fellow Queens Counsel and the President of the Western Australian Liberal Party to his plans to change the method of appointment of Queens Counsel?
- (2) In the light of this concern and opposition, will he persist with his plans?

Hon PETER FOSS replied:

It is rather curious. Much of the opposition and concern is based on some rather strange statements about the proposition. I have heard that it has been said that the Attorney General's role in this process is that of a rubber stamp. That is news to me. Certainly since the coalition took office, and I believe during the term of previous Governments, the appointment of a QC is referred to Cabinet and is seriously discussed by Cabinet. Even before it reaches Cabinet it is a matter of considerable discussion between the Chief Justice and me. Obviously I have respect for his views and he has respect for my views in the light of the positions we hold.

Hon Ljiljanna Ravlich: I would not say that.

Hon PETER FOSS: I know from our discussions that he takes my suggestions seriously and that he acts on them. Some of the criticism has been based on misapprehension of the Government's role in the appointment of silk. I have been putting into some form of order what is the current situation; that is, that people apply to the Chief Justice - and that will remain the case; that the Chief Justice makes a recommendation - and that will remain the case; and that he consult a committee. That arrangement was implemented by my predecessor Hon Cheryl Edwardes. The orders reflect the present situation.

An amendment was made, I think, in 1903 that appointments of people by the Crown be direct. People appointed by the Crown are appointed directly. Members opposite should check the Clarkson report, which, interestingly enough, was delivered to Hon Joe Berinson. They will find that I have put into rules that which is the situation.

Although I understand some expressions of concern have been made, some are rather interesting. First, some people appear to be concerned that appointments should be made other than from the bar. The recommendation of the Clarkson committee, and from time to time by resolution of the Law Society in the past, is that people should be entitled to be appointed irrespective of whether they are at the bar.

Some of the other recommendations in the Clarkson report relate to conveyancing counsel, parliamentary counsel and others. Interestingly there is the suggestion that appointments of honoris causa in the case of, for example, Attorneys General such as Hon Joe Berinson -

Hon Tom Stephens: Or yourself.

Hon PETER FOSS: I thank the Leader of the Opposition for raising that point. I applied under the old rules and was appointed under the old rules.

Hon Ken Travers: Wink, wink -

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: No; people are obviously not aware of how well the old rules operated. They operated in a way that this order proposes. I intend to discuss the issue with all those people and to correct the impression that Cabinet is a rubber stamp, about which it will be very surprised. I am certainly not a rubber stamp. I am concerned that much of the criticism appears to be based on a total misunderstanding of the history of the appointment of Queens Counsel. Again I recommend that members opposite read the Clarkson report, which gives a very good description of it. I am sure that previous Cabinets have not been rubber stamps. I am sure all members of Cabinet take their role very seriously.

SALINITY, EXPENDITURE

1239. Hon GIZ WATSON to the minister representing the Minister for Primary Industry:

With regard to the efforts of the State to tackle the salinity problem, I ask -

- (1) What was the total expenditure on measures to reduce salinity in Western Australia in 1997-98?
- (2) What is the estimated expenditure for 1998-99?
- (3) What amount is estimated to be needed over the next 10 years?
- (4) Where will these funds come from?

Hon M.J. CRIDDLE replied:

- (1) Agriculture Western Australia's involvement in the salinity action plan is \$11m from the consolidated fund and \$8m from the Natural Heritage Trust. In addition there was considerable investment from community groups and individuals.
- (2) Agriculture Western Australia's involvement in the salinity action plan is \$11m from the consolidated fund and \$8m from the National Heritage Trust.
- (3) The salinity action plan is currently being reviewed and the future funding requirements will depend on the outcome of a study which identifies future salinity scenarios. The review is scheduled to be completed by the end of the 1999 calendar year.
- (4) Future funds are likely to be sourced from the state consolidated fund, the Commonwealth, industry, research and development corporations, community groups and individuals.

CASUARINA PRISON, EDUCATIONAL PROGRAMS

1240. Hon HELEN HODGSON to the Minister for Justice:

- (1) What educational programs have been conducted for prisoners at Casuarina Prison between 25 December 1998 and 9 May 1999?
- (2) Have normal educational programs recommenced or will they recommence at Casuarina prison and, if so, on what date?
- (3) Were any educational programs conducted for prisoners at Casuarina Prison in the week commencing 10 May 1999 and, if so, what programs were conducted?
- (4) Were any official guests or other groups escorted through Casuarina Prison in the week commencing 10 May 1999, and were they shown the educational facilities?
 - (a) If so, who were the guests or group escorted, and what was the purpose of their visit?
 - (b) Was an educational program being conducted at the time of the visit?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The education centre staff have been providing educational counselling, educational assessments, facilitation of external course delivery in university studies, distance education, adult basic education and various accredited vocational education subjects from 11 January 1999. Face-to-face classes commenced in the education centre from 13 May 1999. These classes are in adult basic education, art, information technology and Aboriginal studies.
- (2) Normal programs will commence when security upgrading is completed and new operational arrangements are in place.

- (3) Yes, students attended an adult basic education class and a computer class. Refer to (1).
- (4) Yes, groups were escorted through the prison. No, they were not shown the education facilities.
 - (a) A group of police officers on 12 May 1999 and a group of Murdoch University law students on 13 May 1999 were escorted through Casuarina Prison to assist with their familiarisation with a prison environment.
 - (b) Yes. On Thursday, 13 May 1999 two classes were being conducted in the education centre.

INTENSIVE LIVESTOCK INDUSTRY, CONSTRUCTION APPROVAL

1241. Hon MURIEL PATTERSON to the minister representing the Minister for Primary Industry:

Does the construction of an intensive livestock industry, such as a piggery or cattle feedlot, require specific approvals from either Agriculture Western Australia or the Environmental Protection Authority?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The construction of an intensive livestock industry, such as a piggery or cattle feedlot, does not require specific approval from Agriculture Western Australia. Approval from the Environmental Protection Authority may be required depending on an initial assessment of the project by the Department of Environmental Protection.

COLLIE TOURIST AND TRAVEL BUREAU, FUNDING

1242. Hon J.A. COWDELL to the Minister for Tourism:

From the grants provided to the south west regional tourism association from the Western Australian Tourism Commission for the periods 1996-97, 1997-98 and 1998-99, will the minister table the amounts allocated to the Collie Tourist and Travel Bureau for each period.

Hon N.F. MOORE replied:

I thank the member for some notice of this question. In 1996-97 the WATC provided \$15 368 to the Collie Tourist and Travel Bureau. In the 1997-98 financial year, the WATC shifted from the regional tourism funding policy 1994-97 to new fee-for-service based contracts with the State's regional tourism associations. The WATC has an agreement in place with Tourism South West as the recognised regional tourism association of the south west region. The new agreements are premised on regional decision making. In accordance with the principle of regional decision making, Tourism South West determines how much funding is provided to each tourist bureau in the region. Prior to the implementation of the agreements, tourist bureaus were required to provide their support for this initiative. As decisions in relation to the financial allocations rest with Tourism South West, it is inappropriate for the Western Australian Tourism Commission to provide these figures.

SCHOOLS, COMPUTER SOFTWARE COSTS

1243. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

- (1) Will the Minister for Education confirm that Western Australian government schools which access school information software from RM Australasia Pty Ltd will not be required to meet the cost of such software from their school budgets?
- (2) If such schools are required to meet the cost of such software, what is the arrangement by which the cost will be charged to individual schools?
- (3) Will schools which access school information software from companies other than RM Australasia Pty Ltd be required to meet the cost of that software from their school budgets?
- (4) If not, how will the cost of such software be met?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(2) Yes. The licences for the RM software have been purchased by the Education Department on behalf of the schools and will not be charged back to the individual schools.
- (3) Yes, as education practitioners have selected RM software as the product that best met the department's requirements.
- (4) Not applicable.

PORT KENNEDY RESORTS

1244. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

- (1) Is the minister aware that Port Kennedy Resorts has for the second time sought permission to use land at Port Kennedy for permanent residential use? Is this linked to the developers having insufficient funds to complete the project?

- (2) Did the Parliament require the developer to have sufficient funding to complete the project before approval was given by the Port Kennedy Development Agreement Act?
- (3) Is the minister satisfied that Port Kennedy Resorts now has sufficient funding to complete the resort development as required by the Port Kennedy Development Agreement Act.
- (4) Has the minister written to the Rockingham City Council regarding the proposal to use land for permanent residential use?
 - (a) If so, what was the minister's advice to the council?
 - (b) Will he table that correspondence?
 - (c) Will he allow permanent residential use in direct contravention to the intention of the Port Kennedy Development Agreement Act?

Hon PETER FOSS replied:

- (1)-(4) I thank the member for some notice of this question. Due to technical problems at the Ministry for Planning, it could not provide an answer in time for question time. Therefore, I ask that this question be placed on notice. I inquired about the technical problems and apparently all the telephone systems were down, therefore communication was difficult.

HEALTH, REFUSAL OF TREATMENT CERTIFICATES

1245. Hon NORM KELLY to the minister representing the Minister for Health:

- (1) Does the minister intend to introduce legislation to provide for refusal of treatment certificates and an enduring power of attorney for medical treatment?
- (2) If so, at what stage is draft legislation and when will it be introduced?
- (3) If not, what action is the minister taking to clarify legal uncertainties for medical practitioners who are responding to patients' requests for the withdrawal or refusal of treatment?

Hon MAX EVANS replied:

I am waiting for the answer to that question to come through.

[See paper No 1084.]

VACATION SWIMMING PROGRAM

1246. Hon RAY HALLIGAN to the Leader of the House representing the Minister for Education:

- (1) Can the minister outline to the House the changes that the Government will be introducing to vacation swimming classes?
- (2) Can the minister confirm that the high quality of swimming lessons that has existed in the past will be continued into the future, in particular those swimming lessons in regional areas?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Royal Life Saving Society of Western Australia has been awarded the contract to manage and operate the 1999-2000 Vacswim program. The RLSS proposal outlines a number of improvements in administration, marketing and community linkages that will be made to the delivery of the program. The aim is to improve the quality of the program and to increase the level of participation. Enrolments in Vacswim have declined from 80 000 in 1989 to 63 000 in 1998. In addition, the outsourcing of the Vacswim program will not result in higher enrolment costs for parents. Under the conditions of the contract, any future increase in the enrolment fee must first be approved by the Education Department.
- (2) The Education Department will continue to own and oversee the program and has included a rigorous evaluation process within the contract against which the performance of the RLSS will be monitored and evaluated. This process includes a number of key performance indicators in each of the critical areas of program safety, access and quality. Program quality will be further safeguarded by ensuring that the preferred qualification for swimming teachers applying for positions in the Vacswim program continues to be the AUSTSWIM Teacher of Swimming and Water Safety Certificate. Access to classes in regional areas remains a priority under the conditions of the contract. The contract stipulates that access to classes must be maintained or enhanced. A schedule attached to the contract lists a range of key performance indicators which will specifically evaluate the contractor's success in enhancing access to classes.

PUBLIC TRANSPORT SYSTEM, PUBLIC CONFIDENCE

1247. Hon TOM STEPHENS to the Minister for Transport:

- (1) Does the minister accept responsibility for the halving of public confidence in the State's public transport system, as has been recently revealed in the Government's own polling?

- (2) Will the Government accept that, in view of that polling, the privatisation of Perth's bus lines has been an abject failure?

Hon M.J. CRIDDLE replied:

- (1)-(2) I do not know where the member got the idea that public acceptability of our bus systems has halved.

Hon N.D. Griffiths: From your own polling.

Hon Ljiljanna Ravlich: You know they are not roadworthy.

Hon M.J. CRIDDLE: In fact, the acceptance of the bus services is similar to what it has been recently. The overall satisfaction with the frequency in services has in fact increased significantly during peak times. There is a slight problem because of a lower acceptance in off-peak times. However, right across the board the satisfaction with the ferries is about 97 per cent; trains, 92 per cent; and buses, 71 per cent. The acceptance there is very good. In recent times the Government has implemented five new rail car sets.

Hon Ljiljanna Ravlich: We are talking about buses.

Hon M.J. CRIDDLE: If the member wants to get on to buses I will explain that the circle route which we implemented and which commenced in January has been very successful.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich continues to interject, she will not be getting a question today.

Hon M.J. CRIDDLE: The circle route has been successful in that we expected a take-up of about 30 000 a week and in fact it is up to about 50 000 a week. It links up people around the suburbs; it is a 15-minute service both ways; it services 133 stations; it links up the universities, the hospitals and other significant institutions around Perth; and it allows people to traverse Perth rather than coming into the city, saving a great deal of passenger travel.

With the bringing on board of the new bus fleet, we will have 848 new buses during the next 12 years. I just opened a Volgren plant at Malaga which will bring an extra 50 new jobs into Western Australia. The bodies will be built and the buses assembled in Western Australia, which is yet another plus for our public transport system. People are generally starting to accept the fact that our public transport system is a very good one.

WOOROLOO SOUTH PRISON

1248. Hon JOHN HALDEN to the Minister for Justice:

I refer to the proposed Wooroloo South Prison.

- (1) Under what title is the land held?
- (2) Does the minister intend to grant the freehold or lease over that land to the prison operators?
- (3) If not, does the minister intend to grant the freehold or lease to another person or company?
- (4) If the answer to (2) or (3) is yes, who is that company or person?
- (5) If the answer is no to any of the above, what land holding arrangement does the minister intend to put in place?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The land is crown land currently vested with the Ministry of Justice for prison use.
- (2) Depending on the final outcome of negotiations, it may be a 20-year lease to the consortium. A lease if granted will be granted by the Minister for Lands.
- (3) No.
- (4)-(5) See (2) above.

CONCESSION FARES, PERTH BUS LINES

1249. Hon KIM CHANCE to the Minister for Transport:

- (1) Is the minister aware that the cost of concession fares on Perth bus lines has risen 200 per cent since the Court Government came to office?
- (2) If so, how much money has been diverted from making our public transport system better into the hands of profit-making private operators?

Hon M.J. CRIDDLE replied:

- (1)-(2) I cannot identify the exact amount that the State has paid in that regard. That would require an extensive itemisation of the situation. However, I can assure members that the bus operations are providing a very efficient and effective service, to the extent that there are about two million more passenger travel opportunities. The bus

system is well and truly accepted in the community. I explained earlier, for instance, about the number of people who use the circle route. We are also instituting transit ways which will bring people from Rockingham to Fremantle. Generally, with the initiatives that we are implementing across the board we will have a very good bus system. Everybody has well and truly accepted the fact that currently we have a very good train system in place.

HOME AND COMMUNITY CARE, SAFEGUARDS FEE STRUCTURE

1250. Hon CHERYL DAVENPORT to the minister representing the Minister for Health:

Does the Minister for Health consider it will be administratively possible for home and community care funded agencies which do not currently collect fees to bring all their clients under the new safeguards fee structure by 1 July 1999?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

The arrangements have been foreshadowed for a long time. A forum for providers to discuss fees was held in December 1997. As soon as Cabinet endorsed the working group's recommendations, the providers were informed. Providers have four months in which to get ready for the implementation of the new fee structure. From 1 July, agencies not already collecting fees, as they take on new clients or visit existing clients, will start using the income assessment process and collecting fees according to the new arrangements. Agencies already collecting fees will have up to 1 January 2000 to bring all their clients into the new arrangements. Training has been conducted statewide for providers, and a comprehensive information package has been distributed.

SPEED CAMERA REVENUE

1251. Hon BOB THOMAS to the Minister for Transport:

On 20 October 1998 the minister claimed that speed camera revenue for 1999-2000 would fall from \$35.8m to \$29.7m based on a reduction in the number of vehicles triggering the cameras.

- (1) How does the minister reconcile his estimate with the new budget estimate of speed camera revenue in 1999-2000 of \$54m?
- (2) Did the minister mislead the Parliament in October 1998 when he predicted less revenue from speed cameras when in fact there will be almost 50 per cent more revenue?
- (3) Is it the case that the minister is using speed cameras to raise revenue for the Government rather than to reduce the road toll?

Hon M.J. CRIDDLE replied:

(1)-(3) This is a very serious issue. We are out in the community trying to save lives on the road.

Hon Tom Stephens: Put the cameras where they should be.

The PRESIDENT: Order!

Hon Bob Thomas: Put them in the black spots.

Hon Ljiljana Ravlich: They are on Canning Highway and that is a straight road.

Hon M.J. CRIDDLE: The Auditor General found that the guidelines for setting the cameras were well and truly justified. That is well known.

Hon Kim Chance: From a financial point of view, that is the Auditor General's role.

Hon M.J. CRIDDLE: This is not at all about raising money, but about saving lives, and it is about time the Opposition understood that. The Government has a problem when people are either killed or injured on the roads; it costs the State \$1b a year. It is a shame that the Opposition talks about the money that we raise by using speed cameras, which is infinitesimal compared with the amount of money that it costs us in deaths and injuries on the roads. The road toll in Western Australia is about 12.35 deaths per 100 000 people. In Victoria, which has speed cameras, the road toll is down to 8.37. We must realise also that in the Northern Territory, which has an open speed limit, the figure is up around 36.

Several members interjected.

The PRESIDENT: Order! If members want to debate the question of where speed cameras should or should not be put there are procedures available to allow them to do so. The first thing members must do is give notice of a motion. This is not a debate. Hon Bob Thomas has sought information from the Minister for Transport and the minister is giving him that information. If the member does not like what is being said, he should not ask questions.

Hon M.J. CRIDDLE: Speed cameras slow down drivers. The proportion of drivers speeding past cameras has dropped in WA from 68 per cent in 1992 to 22 per cent last year. Cameras clearly have an effect on speeding, which is a significant contributor to road fatalities along with alcohol and the non-wearing of seatbelts. Unfortunately, about half of the people who died on the roads last year were not wearing seatbelts at the time of the accidents. We have taken up that issue in Weststar Rules advertising. I attended a related function at a local football match on the weekend. People should learn about the way in which lives can be saved by people wearing seatbelts. Also, the number of deaths on roads in Victoria

dropped by 51 per cent in the six years between 1990 and 1996, and serious injuries dropped by 36 per cent. People need to be aware of this message.

SPORTS STADIUM, FUNDING

1252. Hon TOM STEPHENS to the Minister for Sport and Recreation:

- (1) Will the minister confirm that \$40m has not been included in the 1999-2000 state budget for a purpose-built soccer and rugby stadium in Perth?
- (2) Did the minister mislead the House when he claimed on 11 June last year that "Over the past few years, up to \$40m was allocated in the forward estimates for a new sports stadium"?

Hon N.F. MOORE replied:

- (1)-(2) I thank the member for some notice of this question, which I thought would have come up earlier. The \$40m is not included in the published forward estimates -

Hon N.D. Griffiths: How many sets do you have?

Hon Tom Stephens: We want the secret books!

The PRESIDENT: Order!

Hon N.F. MOORE: As members who understand these things will be aware, projects are in the system -

Hon Tom Stephens: In the toilet cistern!

The PRESIDENT: Order! If the Leader of the Opposition wants to be smart and defy my rulings, I assure him that I will use the standing orders against him. If members do not want to listen to the answer, I suggest that the minister seek to resume the business of the House.

Hon N.F. MOORE: I want to answer this important question, Mr President. It would be helpful if members listened for a couple of seconds so they know the facts.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: The member should not blame me for not getting to ask a question; her colleagues asked questions.

The published forward estimates contain \$3m for planning for a soccer stadium. It is correct that \$40m was allocated in the 1997-98 budget's forward estimates. As members would be aware, subsequent to that budget, the Government has called for expressions of interest for a convention-exhibition centre, which the Opposition vehemently opposes, along with the employment it will generate. Part of the expressions of interest process is seeking from proponents consideration of including a soccer stadium in that development. One of the sites for a convention centre identified in a study earlier this decade was the same site as that recommended in an inquiry I had undertaken for a soccer stadium and a convention centre. In many parts of the world, convention centres are joined to soccer stadiums; I have visited a number of such facilities. Therefore, it made sense to the Government to call for expressions of interest for the development of a convention-exhibition centre. One of the sites under consideration was the Wellington Street site which was also recommended as a soccer stadium site. We said that we would like developers to contemplate incorporating a stadium in the proposal. We are undertaking the process of evaluating the proposals. We will make a decision in the next couple of months on which proponent will go forward to see whether it will build the convention-exhibition centre. It is prudent within that process to see whether a stadium will be provided by a private developer, bearing in mind that the Government will provide an incentive of up to \$100m for the convention-exhibition centre. I would rather wait and see whether a private developer, who is developing a convention-exhibition centre, might deliver a soccer stadium at the same time. If the Opposition would rather that the taxpayer pay for the stadium, members opposite should say so, instead of whingeing to the newspapers. The Opposition would have the State pay for a stadium in addition to the convention-exhibition centre. The Government will see whether the private sector, using an incentive from the Government, will deliver a soccer stadium in the context of a convention-exhibition centre. If a soccer stadium is provided in this way, so much the better for the taxpayers of WA. If private developers do not provide a stadium, the Government will assess the situation when it is known. In the event that a soccer stadium is to be built, funds will be provided.
