CRIMINAL LAW AMENDMENT (HOME BURGLARY AND OTHER OFFENCES) BILL 2014

Second Reading

Resumed from 25 September 2014.

MR J.R. QUIGLEY (Butler) [4.20 pm]: I rise to address the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I want to get through it reasonably speedily as there is a lot of ground to cover. The first thing I want to observe is that this bill has not been brought to the Parliament by the Attorney General, the person responsible for the Criminal Code. On 21 March 2013, by His Excellency's proclamation, the Attorney General was assigned the Criminal Code Act Compilation Act and the agency principally assisting that is the Department of the Attorney General. We note from today's notice paper that this bill was not brought here before Parliament by the Attorney General or his representative, nor was it on the last occasion; instead it was brought by the Minister for Police. That is my first observation to make because this bill has been handed to the Minister for Police as a political exercise and not as one of thoughtful intelligent legislative preparation. It was a political exercise from the word go. I want to get it on the record that during the election campaign, after Metronet, or whatever it was called, was getting a lot of traction, the Premier came out and slandered 55 judges in Western Australia by saying that everybody knows that some judges are not doing the right thing; that is, everyone knows some judges are doing the wrong thing. The member for Balcatta is nodding. This is an outrageous slander by the Premier and I challenge him. He has not been in the house at all. This is the third time this bill has come on. It came on in March last year, it came on in September and it has come on today, and the Premier is absent from this chamber. I challenge the government and I challenge the Premier of Western Australia to come into this chamber and name the judges who are not doing the right thing—who are doing the wrong thing. This is a dreadful slander and it has just been said that the judges are doing the wrong thing without reference to those judges. He then sends in the Minister for Police. This is a strategy; this was not done by the Attorney General. Remember when sections 297 and 318 of the Criminal Code were amended at the urging of the member for Hillarys, in opposition and in the government—that is, mandatory sentences for assaults on public offices—to introduce them? Of course it was not the Minister for Police who introduced these significant amendments to the Criminal Code; it was the Attorney General—not someone who is so light on the law and, in fact, has no knowledge of the law, which I will come to in a moment.

The minister today answered a dorothy dixer. It was a surprising dorothy dixer because, first of all, she got asked the same dorothy dixer last year, so this is a government running out of steam. When it goes to "d" for dorothy, the same questions are pulled out and again handed to the minister. She does not dream up her own questions nor did she write the second reading speech for this legislation. I suspect that this second reading speech was written by Dixie Marshall or some political apparatchik, not by someone who understands the Criminal Code. I go to one of the comments the minister made today that exposed her lack of knowledge of the law, even at its most rudimentary level. She is a good political beast. She knows how to smile for the cameras, she is good for five seconds on Channel Seven, but if we scratch a bit deeper to find out what she knows and what she is telling this Parliament, it is zilch—she is a vacuum. Today she said that if the amendment on the notice paper in my name as the shadow Attorney General got up, it would give every methamphetamine addict a get-out-of-jail-free card. That is a load of nonsense on two bases. Firstly, mental impairment is defined in legislation—of all places—in the Criminal Law (Mentally Impaired Accused) Act. Does the minister know what year?

Mrs L.M. Harvey: That is not what your amendment does.

Mr J.R. QUIGLEY: Does the minister know the year of the act? The minister does not know the act. The amendment refers to those people who are mentally impaired as not being subject to the onerous provisions of this bill. The minister said it would be a get-out-of-jail-free card for methamphetamine addicts. I read the definition of mentally impaired in the Criminal Law (Mentally Impaired Accused) Act; it states —

> ***mental impairment*** means intellectual disability, mental illness, brain damage or senility;

There is no mention of intoxication by methamphetamine or any other drug—alcohol, morphine or whatever.

Mrs M.H. Roberts: It's a bit dangerous that the minister just makes things up like that, isn't it?

Mr J.R. QUIGLEY: As I said, when it comes to the law, she is a political beast. She is not across the law, but she has been given this task. When we look at the law on the matter, not only do we have mental impairment defined in legislation. I refer to paragraph 39 of the judgement of Thorn v State of Western Australia [2008] WA Supreme Court appeal case 36 delivered on 28 February 2008, which I do not think the Minister for Police is familiar with. She has not read it, but it was given to me by her office as one of the cases that she was referring to. Paragraph 39 of the judgement states —

> The critical feature which must be established before a psychiatric condition can mitigate punishment is a causal connection between the condition, on the one hand, and the commission of the offence, on the other, which reduces the offender's moral culpability in respect of the offence.

We will come to that later on. So on two counts the minister was wrong and misled this Parliament today. This amendment could never give a person intoxicated on methamphetamine or anything else a free card to get out of jail; nor would the court allow it because it has to establish a causal connection between the illness and the offence. So that is just poppycock.

I go back to some of the broader considerations this bill throws up. Firstly, as I pointed out, the Minister for Police is bringing this forward, and she has very seriously misled this Parliament—to a degree, I think, that the Procedure and Privileges Committee should have a look at her. The first thing she said was that it is proven that mandatory sentencing has been effective in reducing assaults on public officers. In that respect I would like to say two things. Firstly, I will read out the WA Police Union's own report on this. The report provides a table that I will seek leave to lay on the table for the rest of the day. It lists the number of offences for assaults on public officers in table 6 and that is broken down to metropolitan and regional figures, but I will only give the total because of the constraints of time today. In 2010, there were 884 assaults; in 2011, after the amendments kicked in, there were 825; and by 2012, it had risen to 960. I will give the percentile increases. For 2000 to 2011, after the legislation, assaults on public officers fell by 6.7 per cent. Then they rose the next year, 2011 to 2012, by 16.4 per cent, and from 2010 to 2012, there was an overall rise of 8.6 per cent. The police union noted this —

> The Minister's Office also provided us with a table (that can be viewed in Appendix A) outlining (what we believe are, as the title is somewhat ambiguous) assaults on Police Officers. The table serves to highlight the reduction in … assaults before (1346 assaults between September 2008 and August 2009) and after (974 assaults between September 2009 and August 2010) the introduction of the mandatory sentencing legislation. However, the table also serves to highlight the conflicting data we received from the various Agencies …

It then notes that the police department supplied it with these figures to show that there had been an overall increase in assaults on public officers. It gets worse for the minister, and she will have to answer this in consideration in detail. In June last year, the report on the amendments to sections 297 and 318 was tabled; has the minister read that report?

Mrs L.M. Harvey: Keep going; this is your time.

Mr J.R. QUIGLEY: No, she has not.

That report tabled in June 2014 was a statutory review of the operation and effectiveness of the 2009 amendments to sections 297 and 318 of the Criminal Code. They were the amendments to deal with mandatory sentencing on assaults on public officers. The police union considered the evidence and at the end quote the Commissioner of Police. The report states —

> In the circumstances, the Police Commissioner's suggestion that '[t]o determine if the legislation is achieving its intended objectives and meeting community expectations, it is likely that a formal longer term study and evaluation will be required' …

Not even the police commissioner himself in his submission to this Parliament's statutory review would say that the amendments had had the effect desired by the government. The Commissioner of Police said, "No, we need a longer term study; you can't decide that after five years on the figures available." In light of all the submissions received, is it any surprise that the Attorney General's report makes two recommendations? One is that the Department of the Attorney General investigate the feasibility of including an exemption—I will come to that in a moment—and that there be a further five-year review. The review by the Attorney General also stated —

> That the Department of the Attorney General investigate the feasibility of including an exemption for persons with a mental illness, cognitive impairment or disability in the relevant provisions of sections 297 and 318 of the Criminal Code so that a judicial decision maker would retain the discretion to consider any mental impairment an accused may have when imposing a sentence.

That is for a person who is facing a mandatory term. The Attorney General of the Barnett government states in his report to Parliament that consideration has to be given to making an exception where there is mental impairment. That is not what this minister told the chamber this afternoon; nor did this minister reveal to this chamber this afternoon that that is the government's position on the report on mandatory sentencing taken so far. The minister says she is waiting to see what the opposition's position on this is. That is further evidence that she is a political beast because she wants to see what the opposition will do. She will not worry about the legislation, and she cannot read or is too lazy to read it. This matter that she says is urgent was first brought on nearly

12 months ago and then adjourned, and then brought on on 25 September. I now refer to page 6975a of *Hansard*, where in the fourth line I repeated what the Leader of the Opposition said during the election campaign: Labor will not oppose this bill. Here is the minister today saying she cannot wait to find out what Labor is going to do. The government was told what Labor would do during the election campaign; this minister was told what Labor would do during the parliamentary debate on this on 25 September 2014, and here she is waiting in anxious expectation because she is hoping to wedge Labor. The Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 has nothing to do with public policy; it has everything to do with politics.

As I said, I formally challenge the Premier of Western Australia, who has sought to slander the judiciary of this city, to come into this chamber and name the judges and cases in which the judges were not doing the right thing. I challenge him to. He sent in this ditzy Minister for Police and she referred to three cases in her second reading speech. She said that these judges are not doing the right thing and they are not coming up to expectation. Page 3 of her second reading speech states—I am not reading from *Hansard*, but from the second reading speech circulated in this Parliament —

> However, it is arguable that the punishments imposed by the courts for home burglaries and for offences committed in the course of home burglaries, are limited as they are by long-standing court established sentencing tariffs and precedents, and Court of Appeal judgments, are out of step with community expectations.
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> By way of example, I refer firstly to a case where an offender with a lengthy record broke into a house after disconnecting the victim's home telephone. He entered the victim's bedroom where she was asleep with her four year old daughter and sexually assaulted the victim while her daughter slept beside her. The burglary alone was punishable by 20 years imprisonment, —

Wrong —

> as was the sexual assault.

Wrong —

> He was sentenced to seven and a half years.

I wrote to the minister asking her to provide the case citation for that example. I did not get a response, so I wrote to her at her electoral office and her ministerial office. I wrote to her, I think, four times, and I eventually let her office know that I would be taking the refusal to name these cases to the media. Mr Gary Hambley wrote back to me, after I had written on 14, 25 and 27 March, and informed me of the cases. If members read the case referred to by the minister and if this is a case of the judges doing the wrong thing, I say it is the minister doing the wrong thing. This case is an example given of these judges doing the wrong thing. This sentence was struck a decade ago. It came up before Judge John Wisbey. Anyone who knows Judge Wisbey—it is not relevant to current judges; this judge has long retired—knows that when he was on the bench, he was one of the strict ones; one of the real stiff ones. He was not a bleeding heart criminal lawyer; he was the lawyer for the Insurance Commission of WA and he used to give plaintiffs a really hard time. However, 10 years ago when he was passing the sentence—the minister did not tell the Parliament this; she has misled the Parliament—he was passing a sentence for a series of crimes committed 10 years before that. Then the judge, when sentencing, as required by law, had to inflict a sentence that was apposite for 1995, for heaven's sake, in the second year of Richard Court's government. The law has changed plenty of times since then, and I will come to those changes in a moment. But the minister kept from this Parliament what she knew: that this had no relevance to what is happening in the courts today. It was an offence 20 years ago —

Mrs M.H. Roberts: Either that, or she deliberately misled the Parliament.

Mr J.R. QUIGLEY: I am going to seek leave to lay this on the table today, so that when she responds she cannot plead pig ignorance. She has to say, "I know the law now. You've read it out and it's on the table; I got it wrong."

The minister then referred to the judgement of Judge Buss—he is still there; the minister has defamed him. He is still a very senior judge on the Court of Appeal—and Their Honours Judges Wheeler and Miller. The minister should read the judgements of Geoffrey Miller, QC. I will give the minister the tip: he was no slouch on sentencing! I know Mr Miller well, and in the Court of Appeal he was very tough. They both agreed with His Honour Judge Buss when they said, at paragraph 41, to help the minister —

> Clause 2(1) of Sch 1 of the *Sentencing Act 1995* (WA), which is part of the transitional provisions introduced by the *Sentencing Amendment and Repeal Act 2003* (WA) (the *Amendment and Repeal Act*), requires that a court which has decided to sentence an offender to a fixed term of imprisonment must

> impose a fixed term that is two-thirds of the fixed term that would have been imposed under the law as it stood prior to the *Amendment and Repeal Act*.

Paragraph 42 reads —

> So, for example, the maximum sentence which may now be imposed for sexual penetration … in circumstances of aggravation, contrary to s 326 of the *Criminal Code*, is 13 years and 4 months.

In her words, the minister misleadingly put to this Parliament that these judges were doing the wrong thing and coming up with sentences. She said —

> … by long-standing court established sentencing tariffs and precedents, and Court of Appeal judgments, are out of step with community expectations.

The court had its hands tied by this Parliament! If it thought the maximum penalty was 20 years, the real maximum it could start to consider is 13 years and four months. That is the starting point. So if he could not give the maximum from the get-go, it had to be something less than 13 years and four months, and we came up with seven years and six months. But to couch this as the fault of the judiciary is cowardice. It is political populism. Call it for what it is. That is why we are not opposing it. But to blame the judges for their grab for the vote on populism is dishonest. The government should say, "Look, Dixie Marshall and Ben Morton have come up with a terrific idea to wedge Labor in the middle of the campaign. We'll promise mandatory sentencing, and they never will, so we'll have wedged them and taken the votes that they might have got for Metronet." The truth is that it was politics, not policy, that drove this, and that is why the Premier will not show his face in this chamber, I predict, for the entirety of the debate. If he does, he will be called upon to name the judges that he disgracefully slandered on Channel Seven and in all the media by saying that they are not doing the right thing.

I will now come to the second case, and I will take the minister through these cases in detail during consideration in detail.

The ACTING SPEAKER (Ms J.M. Freeman): Member, did you want to lay the first one on the table?

Mr J.R. QUIGLEY: I will do so at the end of this. Thank you.

The second case that the minister noted was a dreadful burglary and rape. Let us go through it. This sentence was imposed, as I recall—I might be wrong—by Judge O'Neal. I am now referring to the second of the cases that the minister referred us to, or Mr Hambley referred us to—I doubt that the minister has ever read this—The State of Western Australia v Miller [2005] WASCA 53 (24 March 2005). In that case the person was, I believe, given a sentence of six years' imprisonment. Again, I will go back to the minister's second reading speech, in which she said the following, as reported in *Hansard* —

> In a second example, the offender smashed a window to gain entry to a unit in a senior citizens' complex —

This is the third case. I am sorry; I have marked them wrongly —

> and confronted the resident, a 78-year-old woman.

We welcome the Premier back. Is he going to tell us who the judges are who are doing the wrong thing? Is he going to name them?

Mr C.J. Barnett: What are you on about?

Mr J.R. QUIGLEY: The Premier said on television that he knows that some of the judges are not doing the right thing. I want to find out which judges he is saying are not doing the right thing. What are their names? What are the cases? The Premier sits there in mute silence.

The Minister for Police came into this chamber and cited the second case; that is, a 78-year-old woman in a senior citizens' home was confronted by a person who sexually assaulted her. I am not even going to read into the transcript here the filth and deprivation that this 78-year-old woman was subjected to. It was gross; it was shocking; and it involved numerous sexual acts that she had never been subjected to in her 78 years on this earth—the poor woman. The minister said that the offender was sentenced to 11 years' imprisonment, and she is quite right. This was the worst sort of sexual assault that anyone could think of. I do not even want to mention the details here. Anyone who is interested in that sordid detail can read it in the report. The offender was 18 years and nine months old at the time of the offence. This is the case of Ugle v The State of Western Australia [2012] WASCA 104 (10 May 2012). This is to show that the minister got it wrong—I will come to this later—when she said that the judges are not listening to the Parliament or the public.

The judge gave the offender 11 years. The minister said that it had to be 15 years' imprisonment. Let us work this out. The judge gave the offender 11 years after he, the judge, was required by law of the Barnett government to give effect to a 25 per cent discount for a plea of guilty. We know that this is the law of the Barnett government. It was an amendment to section 9AA of the Sentencing Act. It applies to everyone who pleads guilty. It applied to Troy Buswell when he pleaded guilty. Do members not remember? He went before the Chief Magistrate—there had been a lot of talk about his mental impairment before that—and pleaded guilty. The Chief Magistrate when striking his penalty said, "This is the penalty I am giving you after the 25 per cent discount, as required by law"—because a lot of people thought that that was a bit light—"because your plea of guilty saves all those victims of your crime out there in Subiaco who had their cars smashed up having to take time off work, get ready for trial and come along and be cross-examined." There was no complaint by this government, by this police minister or by this Premier that the judge was too soft in giving Mr Buswell a 25 per cent discount, as required by law enacted by the Barnett government. Here we had a judge who was sentencing an 18-year-old—hello—on a plea of guilty, so he had to give a 25 per cent discount.

Let us do the maths on that for a moment. Eleven years equals 132 months. If 132 months equals three-quarters of the sentence, we must add to that 44 months. That was the discount that the judge was required to give under Barnett government law. That brings it to 176 months, so that was his head sentence—176 months or 14 years and eight months. The judge arrived at that conclusion prior to any of this announcement by the Premier that some judges were doing the wrong thing. Thus far the Premier has refused to name those judges in this Parliament. He will get his opportunity. The judge came up with 14 years and eight months—four months in between. In a sentence that is nearly 15 years long, would anyone in this chamber say that 16 weeks is a material difference? It is poppycock. That is not a lone case of course.

When the amendments to section 9AA were introduced, the Attorney General informed the Parliament of this. Perhaps I can pick up the Attorney General's exact words on this, but he said words to the effect—I have the *Hansard* with me, and I will come to it later as we go through all this in consideration in detail—that there are many benefits in a person pleading guilty. It saves the community a lot of money in court expenses and it saves the police department a lot of time with all the forensic evidence and preparing for court et cetera. He went through all the virtues of having a person plead guilty and said, "That's why the Barnett government is legislating section 9AA of the Sentencing Act to give statutory effect to the 25 per cent discount, so that the judge can consider the 25 per cent discount when the person pleads guilty." That is what the Attorney General said. Where has this judge gone wrong? Where has he done the wrong thing? He looked at the sentence. We had finished with the transitional provisions that in those two earlier cases the minister cited suppressed sentencing. They were fixed by Mr Porter in 2009, and the sentences went up dramatically to a head sentence of 14 years and eight months. As I said, this legislation was introduced by the Minister for Police, not by the Attorney General, so she is at odds with the Attorney General on this, because the Attorney General says that there is a virtue in giving a discount for an early plea of guilty.

I return to the instant case—the case of the 78-year-old woman. The experience with assault causing bodily harm on public officers has been seen on television. We see the vision of a woman thumping a police officer in Northbridge, who then goes down—and what does the woman do? She pleads not guilty, because no-one wants to plead guilty to a mandatory offence; that is obvious. We see it on television all the time. They are all pleading not guilty hoping to avoid the mandatory term.

I turn to the case of the 78-year-old woman—I will not go into the filthy detail, but it included cunnilingus, fellatio, sodomy and other sexual intercourse. I will not go on. It was just the grossest thing. Any 78-year-old woman will be told under this police minister's legislation that the likelihood of this guy pleading guilty is infinitesimal. The woman is 78 years old. He will plead not guilty and the woman might not live until trial because it will be in another two years. The woman has to prepare herself for 18 months of interviews by the police, reinterviews by the police and attending at the Office of the Director of Public Prosecutions to tell her whole horrid story. I cannot imagine how bad it was for that poor lady. She would have to recount all that to a strange prosecutor, and then, to top it all off, when she is about 80 years of age, she will be required to go to the Supreme Court and recount all of this in public and be cross-examined on her recollections. That was the very thing that the Attorney General, Mr Mischin, said that amendments to section 9 of the Sentencing Act were designed to avoid. I want to find out what conversations the Minister for Police had with the 78-year-old victim and what she thinks about this—or what conversation the Minister for Police and the Premier had with the Commissioner for Victims of Crime and what she thinks about this. What I cannot get over—I say "woman" and "female", but not in a sexist way—is that a female police minister would be hell-bent on subjecting women to secondary victimisation in having to recount all this in public and be cross-examined. The Attorney General, Hon Michael Mischin, said in the upper house that that is the evil that the government was trying to avoid with section 9 of the Sentencing Act.

I have not spoken to the 78-year-old woman. I doubt whether the Minister for Police has, but we will ask her what feedback she got from the 78-year-old lady. We have some insight to the thinking of the 78-year-old victim, who was quoted in an article under the by-line of Luke Eliot and Amanda Banks on 26 April 2001. The article states —

> Last week, the woman said she was relieved the matter was over and she could move on with her life.

That is exactly what Mr Mischin said was the object of section 9A of the Sentencing Act. It continues —

> I just hope he finds a good place in life and changes his ways".

Outside the Court, Detective Senior Constable Travis Healy said the case ranked in the top one per cent of the worst sexual assaults. I agree, but the reason his sentence was not announced as 14 years and eight months' imprisonment is because the Barnett government legislated that the judge had to consider giving him a 25 per cent discount if he pleaded guilty because of the cost he would be saving the community—but most of all, it avoids secondary victimisation of women who have to tell all this.

In a very similar vein, another case was referred to in an article entitled "Brutal rapist 'showed no mercy'". A 22-year-old man was sentenced to 11 years in jail for the brutal rape of a woman in her home. He left his victim with no choice; she had to submit to his demands to protect her children. This was a tragic case in which the children of the woman were sleeping in another room. The man went in with a weapon and demanded money. He threatened to kill her before raping her and indecently assaulting her. He then forced her to drive to an ATM to withdraw cash. Judge Chris Stevenson, a very decent and noble man, who, no doubt, the Premier would characterise as one of the judges who does not do the right thing, sentenced him to 11 years' imprisonment following the other case that had been approved by the Court of Appeal. Eleven years' imprisonment after a plea of guilty means a head sentence of 14 years and eight months—the minister has not said that. She does not say that these people end up with 11 years because of what the government decided some time ago, in the virtue of offering an inducement to rapists to plead guilty early so the women could get on with their lives and not relive the crime over and over again, as I have already detailed.

The Barnett government is not concerned about victims; it is not concerned about looking after the welfare of victims. The Barnett government is concerned about harvesting votes. Well, we are not mugs; we can play that game, too! There is no public policy behind this. Rather, this is contrary to public policy. We said that we would not oppose the government: "You do it!" We said it during the election campaign and we said it in Parliament in September last year, and still today the minister said that she could not wait to find out what Labor will do. I will tell members what Labor will do. The next time a victim of burglary and sexual assault has to go to the Supreme Court and to be examined and cross-examined on the worst experience of her life, and not just be examined and cross-examined, but to do so in public in front of a public gallery and with the press present, we will remind them that the secondary victimisation is theirs as a gift from the Barnett government. It is the trade-off: "You women who have to go through all this again, which the Attorney General tried to protect them from, because we wanted votes; we do not care about your welfare." We will not oppose the government if that is its sort of thinking. That is the government. The government got a mandate and we respect that mandate. We do not oppose the government. It is only the Barnett government that trashes mandates. We have gone through the many broken promises—Metro Area Express light rail, Yanchep District High School, the northern rail extension—the whole lot! It will trash any mandate that will cost it money. It will turn any mandate that suits it to trash. It thinks this one is the big vote winner. The government can go to the next election and say that it will do mandatory sentencing for this.

The Attorney General is not so in favour of that. The Attorney General and I impart from the same page. I will look at what the Attorney General was quoted as saying in the media. He said that campaigns based on individual cases do not lead to good law. I rather gather he has been shanghaied into the position of having to vote with the government. Before I move on, I seek leave to lay on the table for the rest of the day the cases that I referred to, because I would hate it if the minister misled the house again and have the defence of ignorance available to her!

[The paper was tabled for the information of members.]

Mr J.R. QUIGLEY: We now know that as we go into the next election, the government will say that it will double the sentences on everything—and we will say, "Okay; we'll not oppose you. We are not going to be wedged on this. There is a bigger issue at stake." We could see that the Barnett government was going to trash the Western Australian economy. We could see that if re-elected the Barnett government would inflict pain on all working families in the state. There is a better way to do this, which I will come to now. I will read the Attorney General's words as reported on page 4 of *The Sunday Times* on 2 March 2014. The article states —

> Attorney-General Michael Mischin acknowledged that "the risk of injustice is increased by rigidity", and high-profile campaigns based on particular cases did not enable a measured consideration of sentencing.

The opposition is at one with the Attorney General on this matter. The Attorney General was responding to the Chief Judge of the District Court that any reduction in sentencing increases injustice rather than decreases it. The Chief Judge is quoted as saying —

> "Experience has shown rigidity increases, rather than decreases, injustice."

That is right.

I want to touch on two matters in the last 10 minutes. Let us go back to the preposterous proposition made by the Minister for Police this afternoon when she said if the proposed amendment on the notice paper standing in my name were successful this would be a free get-of-jail card for methamphetamine addicts. I have already dealt with that. That is absolute errant nonsense spoken by an airhead. We are talking about people with serious mental impairments. Did I just dream this up? Did I just say, "This would be a good idea"? Foetal alcohol spectrum disorder is rife in the Fitzroy Valley. FASD is a mental impairment. I have already read out the definition of "mental impairment". These people say, "What happens?" Let us say that an 18-year-old kid with FASD, with a cognitive ability of about a 12-year-old, is approached by a 24-year-old who says "Over in Quigs' house there's a carton of Peroni beer"—that is my taste; probably not theirs—"let's go and pinch it." They burgle the house and pinch the carton. On the way out they are confronted by the home owner. The 24-year-old then thumps the home owner right in the face and breaks his jaw. What does that constitute? We know from the Marley Williams case in Albany and the Newman case—the Collingwood and West Coast Eagles footballers—that a broken jaw equals grievous bodily harm. This was not the plan of the 18-year-old kid with FASD. We also know about parties to an offence under section 7 of the Criminal Code—that is from memory; I have not looked at it for a while—so that 18-year-old is also prosecuted and gets a 10-year mandatory term of imprisonment. It is said that people with FASD are easily manipulated. An older offender says to an 18-year-old kid with FASD, who has a cognitive ability of a 12-year-old and the social skills of an eight-year-old, "Come with me while we steal this carton of booze." When the older guy punches the home owner in the face and breaks his jaw, the 18-year-old kid, who is a party to the offence, faces 10 years' imprisonment. Where is the justice in this? Am I just dreaming it up that this is unjust? No, I am relying on no less —

Mr J. Norberger interjected.

Mr D.A. Templeman: You only just walked in!

Mr J.R. QUIGLEY: The member only just walked in. We are playing politics with the government; this has nothing to do —

Mr J. Norberger interjected.

Mr J.R. QUIGLEY: He will have his say.

The ACTING SPEAKER: Member for Joondalup! The member for Butler is not taking interjections, and I ask members to respect that.

Mr J.R. QUIGLEY: Where did I get this idea that I need to move an amendment? It was from the Premier of Western Australia! From what higher authority can I get it? During a recorded interview with Yasmine Phillips published on PerthNow on 24 July 2014—after the Minister for Police introduced this bill—the Premier of Western Australia was asked —

> Perth Magistrate Catherine Crawford recently said that she believes Foetal Alcohol Syndrome should be considered a disability and a mitigating factor when you're sentencing young offenders in the Children's Court. What do you think of that?

Here is the Premier's response, which leads straight to our amendment. Member for Joondalup, here is your boss's response —

> Well I think it is. Foetal Alcohol Syndrome, which can result in a severe mental impairment, and therefore that mental impairment is considered by judges and magistrates in sentencing. It is treated no differently—it is basically a disability, probably one of the saddest disabilities you can imagine that a child is damaged before even being born.

The Labor Party's amendment gives air to the Premier's statement. For the Premier to vote against our amendment exposes chicanery with the media. Member for Joondalup, stand and say, "He was wrong; he should never have said that to PerthNow; the Premier is a goose!" The member for Joondalup can get up and say that—good luck to him. That is the first area.

As I said, I will only speak through the Chair. We have an amendment on the notice paper. We will be relying on the Premier to stand by his word in relation to "severe mental impairment". I will be voting for that amendment. Those members who do not give a whit about people with mental disability will vote to strike it down because when we go back to the Criminal Law (Mentally Impaired Accused) Act, what does it include? It includes senility. Do government members think that elderly people are offenders! Let us say that a person in a rest home enters another person's room and commits the offence of burglary. That person is suffering from Alzheimer's, a mental impairment—senility. Under the mentally impaired accused act, that is mandatory imprisonment. What a disgrace. I agree with the Premier of Western Australia that the magistrate should be able to take that into account in striking a sentence. That is why I will move the amendment.

I now move onto the three strikes aspect of this bill, which will take up a lot more time in consideration in detail. This whole debate kicked off on 23 April 2012, before the last state election, in an opinion piece written by none other than the Commissioner of Police. He said —

> The law states that a circumstance of aggravation includes being armed with a dangerous weapon, being in company with others, threatening people in the house or causing harm.
>
> It should come as no surprise that the majority of burglaries and other offences committed by juveniles in WA are, at the very least, committed in company with others.

In writing this article, the commissioner said —

> The documents provided to me referred to juvenile offenders … who had between 50 and 114 court charges …
>
> He said they had not been sent to jail—and nor will they go to jail under the police minister's legislation. The Commissioner of Police was looking at the record of a 15-year-old. These people are not captured by the new legislation. Who comprises the bulk of these offenders? It is young Indigenous people. If members go out to Banksia Hill and look in there, 85 per cent of prisoners in Banksia Hill are young Indigenous people on burglary offences. They are all in there; they are stuffed. The commissioner will be left short; they will not go to jail under this legislation because they are not captured by it. What did the police commissioner go on to say? On radio later that morning, the commissioner wanted to soften his stance a bit. He said — We want to try to get these repeat offender kids into detention. It is an opportunity to get these kids into schooling to get them away from negative influences. If they are a little older than going get some sort of trade qualifications. It is not about locking them up and throwing away the key. Could construct a detention type place on a farm somewhere, not necessarily jail. They just need to be taken off the streets to some kind of care.

That is what the Commissioner of Police said on Mr Hutchinson's program on 720 ABC radio in the morning. That is not what this government is about—building some place they can go, perhaps on a farm somewhere or elsewhere, and be taught a trade. That is not what this government is about. It is about stuffing them into an institution that is already packed to the rafters, to coin a phrase. As I say, the minister's legislation will not address these cases that were put before the public by the police commissioner because it does not even cover those people. What will happen under this legislation is exactly what the commissioner said should not happen—that is, put them in there and throw away the key. Of course that is what the government is going to do with 16-year-olds who commit offences. They will get the mandatory term. While everyone is bending over backwards to try to prevent them from becoming entrenched offenders, this government is running contrary to not only the suggestions of lawyers but also its own Commissioner of Police. It is breathtaking.

The minister has already said—we will come back to this in consideration in detail—that no economic modelling has been done about the cost to the community of this legislation. In a briefing the other day with the sentencing manager of the Department of Corrective Services, he estimated that there will be between 350 and 400 extra prisoners. The minister says she does not know how much this will cost. Sooner or later, the community will be looking for another way. The minister is pushed out there to look tough, but let us never forget that Attorney General in short pants from Queensland, Jarrod Bleijie, who brought in the toughest laws in Australia. However, when the election campaign came around, the community was so affronted by his slandering attack on the judiciary, that he had to be locked in a cupboard during the whole campaign. It was not tough on crime. They had to lock the Attorney General away because he was so out of favour with the electorate.

Mr J. Norberger interjected.

The ACTING SPEAKER (Mr P. Abetz): Member for Joondalup, I call you to order for the first time.

Mr J.R. QUIGLEY: Zero, zero—I wish I could get that at the casino on the first go.

The ACTING SPEAKER: The member's time has expired.

Mr J.R. QUIGLEY: Can I hand the Parliament its documents back, and have them tabled?

[The paper was tabled for the information of members.]

MR N.W. MORTON (Forrestfield) [5.13 pm]: What is Parliament if not the battleground of ideals? The people of Western Australia will have a clear point of difference come 2017—a Liberal Party that is tough on law and order and community safety, or a Labor Party that is as soft as butter. I do not say these things lightly. I want to start my remarks on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 with some quotes from *Hansard* by the member for Butler. I was in the chair at the time, so I remember this from the middle of last year when the member for Butler —

Mrs M.H. Roberts: You can't even remember the question you asked last year; you asked it again today!

Mr N.W. MORTON: I will get to the member for Midland. The member for Butler said —

> Some of these backbench members of the government … shout slogans; that is all they are—slogans. "Liberals are tougher on law and order than Labor; always have been and always will be."

I think he was referring to me, because I have made that statement in this chamber. It is not just a slogan, and I will spend the next little while articulating the argument of why it is not just a slogan. Any day of any week of any month, the Liberal–National government will always be tougher on law and order and crime in this state. That is why we toughened the cannabis laws and the hoon laws, introduced legislation on assaults on public officers, and that is why we have introduced this legislation—to make sure we introduced the toughest home invasion legislation and fixed three-strike laws. The Liberal–National government will always be on the side of the victims and will always be working to ensure that fewer Western Australians become victims of crime in this state.

I support this legislation because when I get around my community and talk to people, I find that people have been genuinely affected by the impacts of home invasions and criminal and antisocial activity. I will not mention this lady's name, but I was chatting to her in her house last year some stage—she lives in High Wycombe—and she told me she awoke to find a man standing at the end of her bed with several of her household effects, her purse and those sorts of things. She lives in a small block of apartments, and only her bloodcurdling screams scared the offender off. Thank God for that; we know it could have worked out far worse. Another retired couple contacted me and said that they had been broken into for a second time, and in the process their dog had been hurt and the woman's wedding rings were stolen. All members would understand the sentimental value of those sorts of items that cannot be replaced. Another lady who lives on Stretton Way in Kenwick has been broken into five times, as at the last time I spoke to her. She has gone to putting barbed wire around the front of her house to try to prevent people from getting in, which is a very extreme measure for someone living on the streets of suburbia to have to go to.

People should not have to live in fear, particularly in the sanctity of their own homes. That is why we have introduced this legislation. I will talk briefly about some of the measures it will address. The legislation mandates minimum jail terms of 75 per cent of the maximum available for an adult offender who commits a serious physical or sexual assault during the course of a home burglary. This means that an offender who breaks into a house and violently rapes someone will face a minimum of 15 years' jail. It also means that an offender who breaks into a house and seriously physically assaults someone will face a minimum of seven years and six months' jail. An offender who breaks into a house and seriously indecently assaults someone in aggravated circumstances will face a minimum of five years and three months' jail. It also means a three-year mandatory minimum period of detention will apply to juveniles aged 16 and over who commit serious offences of physical or sexual violence in the course of the home invasion, and it will also address the three-strikes laws so that a series of offences is not bundled into one strike. An offence actually means one strike.

During last year the Minister for Police came out to my electorate. We met in Kenwick, and met with a number of residents. When we talked through the legislation we were bringing forward into this Parliament to address these issues, there certainly was not anyone saying, "No, don't do it." Everyone was in strong support of a strong stance against these kinds of offenders within our community—and rightly so.

The Labor Party has always been soft on law and order and community safety. I was sitting in here late last year listening to the Deputy Leader of the Opposition. I have his speech here somewhere. This is the man who, in a Labor government, would be the Deputy Premier of Western Australia. In his speech, he said that the Labor Party was soft on cannabis laws a decade ago because no-one knew it was harmful. A decade ago, I was working in schools teaching teenagers about the harmful effects of marijuana and other drugs. I am not sure that that would be the policy that we are implementing in our public education system, yet the Labor Party was on planet cuckoo when it came to the harmful effects of marijuana. However, we should not be surprised. Let us go on and have a look at the person who would call himself the Attorney General in a Labor government. We have

heard plenty from him—the member for Butler. I think we need to get some oxygen readings from that side of the chamber. When referring to mandatory sentencing, he purports that he supports it and says that the Labor Party supports it, yet when he is out of this place and he thinks no-one is watching, he goes on to say, "Mandatory sentencing is bull…." We all have a big enough imagination to work out what the dots stand for, so I will not say that for the purposes of Hansard. That is really what the alternative Attorney General of Western Australia thinks about mandatory sentencing in this state. It is good to know that the alternative Attorney General—the person who wants to be the Attorney General of Western Australia—has got the backs of our men and women in blue, who put their lives on the line to make sure that the member for Butler can go to sleep safely at night along with his family—yet if police officers are harmed in conducting the business of making sure our streets are safe, he is missing in action. Missing in action! It is a disgrace; an absolute disgrace. In fact it is a sham that he can stand here and pretend to support it, when really out there, he is white-anting and undermining the measures that we are taking and putting in place to ensure that the people who support and serve our community on the frontline are safe and have measures in place to protect them if people decide to take violent action against them. Of course, we should not be surprised by this because being soft on law and order and community safety is in the Labor Party's DNA. I say that because I did a little bit of research.

Mr P.B. Watson: That'd be a first.

Mr N.W. MORTON: I did a little bit of research. The member for Albany might want to listen.

In doing so I obtained some documents under freedom of information. They refer to Labor cabinet documents and it makes for some very interesting reading. I am going to refer to these documents, and it is a strategy for reducing the rate and cost of imprisonment and it is a quote. The recommendation was that the Labor cabinet "endorse the overall strategy outlined in this submission". I am going to go into some detail of this submission, as I said it makes for some very interesting reading. There were three components to what the Labor Party was trying to do when it comes to this initiative—remember it was endorsed by cabinet. The first aspect was the exercise of the royal prerogative of mercy, and for members who do not know, this is a measure that is held by the Governor of the day, and is applied to the early release of prisoners in exceptional circumstances or on compassionate grounds. That is what it is there for. I will repeat that: the release of prisoners in exceptional circumstances on compassionate grounds. However, and it is right here in black and white that in the Labor Party's own cabinet document they say they wanted to roll this royal prerogative of mercy out across the entire prison population. We are starting to get a gist of how tough they are on law and order and community safety. People who have committed crimes, these are not people who have just been caught with their hand in the cookie jar, these are people who have committed crimes and been sentenced. The Labor Party wanted to remit their sentences to the tune of 30 days and release them to freedom. It went on to state —

- all prisoners who become eligible for parole within a specified 12 month period be made eligible for parole release 30 days earlier …

Thirty days early. It then went on to state —

- the sentences of those received within a specified 12 month period who have been sentenced to a term of imprisonment of 6 months or less and have served 50% of their sentence, including those sentenced for driving offences be remitted and the prisoners released to freedom.

That is three months off for some certain offenders. It is interesting when we go through and we read some remarks from the Leader of the Opposition with regards to spending time behind bars in prison. This is an extract from *Hansard* of Wednesday, 11 June 2014. The Leader of the Opposition, who is so scared of prison —

> … I spent a couple of hours touring through the various cell blocks and parts of Hakea Prison. I spent two hours there. The thought that I might spend longer than that is an appalling thought.

Yes, he is starting to catch on. He goes on to say —

> To actually go and see the prison up close in operation has been one of the more interesting things I have done recently. I realised when I went there that it is neither a nice place to be nor a good place to be.

You don't say! —

> It is not somewhere that anybody would really want to be if they did not have to be there; —

You don't say! —

> and if they are there, they would not want to be there a minute longer than they absolutely have to be.

Of course—it is a deterrent. We put penalties in place so that people do not commit the crime. If they do commit the crime, then they know what is going to happen to them. Here we have in black in white—

Mr J.R. Quigley interjected.

Mr N.W. MORTON: We have heard enough from you, member!

Then we go on to read that they are releasing them for 30 days across the entire prison population, or in some cases, if they are really generous, three months. It goes on to state, on the same page of this cabinet submission —

> ***Risks**:* Government could be criticised for using the Royal Prerogative of Mercy in the way proposed since it is usually only applied to the early release of prisoners in exceptional circumstances on compassionate grounds.

It goes on to state —

> Some released prisoners could re-offend, perhaps seriously.

But let us not let that get in the way. The second part of this cabinet submission related to administrative change. This makes for some very interesting reading, too. They wanted to introduce —

> … discretion by supervising Community Based Services … to reduce the number of parolees returned to prison for non-compliance with the conditions of their orders …

I sit here and listen to the —

Point of Order

Mr W.J. JOHNSTON: I was just trying to ascertain whether the member is misleading the house. He says that he has obtained a document under FOI, he then says that it is a cabinet submission. My understanding of FOI laws is that one cannot get cabinet submissions under FOI.

The ACTING SPEAKER (Mr P. Abetz): I do not think that is a point of order.

Several members interjected.

The ACTING SPEAKER: Members, points of order are to be heard in silence. Member for Cannington, my advice is that it is not a point of order.

Debate Resumed

Mr N.W. MORTON: Just to educate the member about that, cabinet documents older than 10 years are accessible under FOI, so do your homework first, champ.

Getting onto the administrative change —

Point of Order

Mr W.J. JOHNSTON: I am seeking to understand how the cabinet submission from 10 years ago relates to the debate on the particular provision. Perhaps the member can explain to the house whether this matter relates to the substance of the matter that we are debating, which is respect of home burglaries, or whether the document that he claims to have got from FOI relates to a matter that is not related to —

The ACTING SPEAKER: Member, that is not a point of order. He has already indicated the context.

Mr W.J. JOHNSTON: What I have asked, Mr Acting Speaker, is whether the document he is quoting from relates to the question of home burglaries and perhaps the member could let us know that.

The ACTING SPEAKER: Member, I have said that it is not a point of order. I expect you to respect that.

Debate Resumed

Mr N.W. MORTON: Thank you, Mr Acting Speaker. I will continue.

The second part goes on to talk about administrative change and I said they wanted to introduce discretion by supervising community based services to reduce the number of parolees returned to prison for noncompliance with conditions of their orders, and I sit here and listen to the member for Warnbro bang on and on about TJD and how appalled he is, and yet his own party wanted to release them, and in fact it went on to say a —

> … (broader interpretation of term “minimum risk” may need legislative change …

Their own risk statement —

Several members interjected.

The ACTING SPEAKER: Members, I am on my feet.

Mr W.J. Johnston interjected.

The ACTING SPEAKER: Member for Cannington, I am on my feet and I expect you to be silent, and everyone else as well. I have to call you next time.

Withdrawal of Remark

Mr J. NORBERGER: The member for Cannington repeatedly accused the member for Forrestfield of lying. I ask him to withdraw that unparliamentary language.

The ACTING SPEAKER: Member for Cannington, if that is what you said I ask you to withdraw.

Mr W.J. JOHNSTON: I withdraw.

Debate Resumed

Mr N.W. MORTON: It goes on to state for the implementation of this that their broader interpretation of the term "minimum risk" may need legislative change. Again, in their own risk statement it went on to state —

> The number of breaches of early release orders could increase thereby drawing adverse community comment.

Again they are demonstrating their tough approach to law and order and community safety. The third part of the document goes on to talk about legislative change, specifically to target offenders who currently would receive a sentence of imprisonment of less than two years. We have already established that the Leader of the Opposition is scared of spending a second longer than he needs to behind bars and yet the Labor Party was pushing to target offenders who currently receive a sentence of imprisonment of less than two years, specifically with regard to traffic offences: "Provide for management in the community of these offenders". I challenge the Labor Party that they come out to my electorate and they speak to Deb and Graham Harris, who had a drunk-driver smash through the front of his home over the Australia Day long weekend two Australia Days ago, and come out and tell him that it is okay for that guy to walk scot-free without being held to account.

Point of Order

Mr J.R. QUIGLEY: Mr Acting Speaker, driving has nothing to do with any clause of this bill—drunk or reckless, or any other form of driving—otherwise we could have had a good examination of Mr Buswell, in detail. I would have liked to have done that, but it is not relevant to the bill. What does crashing a car into a house have to do with this bill?

The ACTING SPEAKER: Member for Butler, the second reading allows for a fairly broad canvassing of the issues. The member for Forrestfield is canvassing the whole issue of being tough on crime. I simply rule that this is an issue that is related to that.

Debate Resumed

Mr J.R. Quigley: Broad and shallow!

Mr N.W. MORTON: A bit like the member! They do not like the truth, Mr Acting Speaker!

The only thing that I would suggest is probably more un-Australian than the fact that members opposite would let drink-drivers go free is perhaps this cabinet submission in the first place. The submission goes on to state that the Labor Party would enable the court to impose —

> … an order of suspended imprisonment.

Several members interjected.

Mr N.W. MORTON: Keep rabbiting on! They do not like it when they hear the truth! It continues —

> Given this option, courts may be willing to order suspended imprisonment where they currently imprison for 24 months or less.

Their own risk statement goes on to state —

> The police and community may question the appropriateness of the proposal relating to driving offences.

I went on to look at the sorts of offences that draw a sentence of two years or less, and the sorts of people who, if Labor were in charge, would not be in jail but would be walking our streets. I want to take a few moments to go through this, because it makes for compelling reading. I looked at the Australian Bureau of Statistics figures for length of custody in a correctional institution in Western Australia last financial year. There is a range of categories, and I will go through them. For homicide and related offences—the people we would take home to

meet our mum—six people were put behind bars. Under Labor, these people would be walking the streets. For acts intended to cause injury, 754 people were put behind bars. Under Labor, they would be walking the streets. For sexual assault and related offences, 83 people were put behind bars. Under Labor, they would be walking the streets. For dangerous or negligent acts endangering persons, 233 people were put behind bars. Under Labor, they would be walking the streets. For abduction, harassment or other offences against a person, 50 people were put behind bars. Under Labor, they would be walking the streets. For robbery, extortion or related offences—these are stand-up individuals—127 people were put behind bars. Under Labor, they would be walking the streets. For unlawful entry with intent—which perhaps is the most closely related to this legislation—530 people were put behind bars. If Labor were in control, these people would be walking the streets. For theft and related offences, 184 people were put behind bars. Under Labor, they would be walking the streets.

[Member's time extended.]

Mr N.W. MORTON: For fraud, deception and related offences, 95 people were put behind bars. Under Labor, they would be walking the streets. For illicit drug offences, 176 people were put behind bars. Under Labor, they would be walking the streets. For prohibited and regulated weapons and explosives offences—that is very creative—26 people were put behind bars. Under Labor, they would be walking the streets. For property damage and environmental pollution—I am sure the member for Gosnells would be heartbroken by these figures—64 people were put behind bars. Under Labor, they would be walking the streets. For public order offences, 34 people were put behind bars. Under Labor, they would be walking the streets. For traffic and vehicle regulatory offences, 314 people were put behind bars. Under Labor, they would be walking the streets. For offences against justice, 160 people were put behind bars. Under Labor, they would be walking the streets.

Mrs M.H. Roberts interjected.

Mr N.W. MORTON: I will get to the member for Midland in a minute.

For miscellaneous offences—apparently these offences do not fit within any of the other categories—six people were put behind bars. Under Labor, they would be walking the streets. The total number of people who received sentences of two years, or less, was 2 842. That is the Labor Party's stance on being tough on law and order and community safety. That is a disgrace. Possibly the most telling part of this entire cabinet document is that the Minister for Police at the time was none other than the member for Midland—the person who would call herself the police minister under a Labor government—yet the member for Midland comes into this place and tries to get —

Point of Order

Mrs M.H. ROBERTS: Mr Acting Speaker, the member for Forrestfield has said that he has an official document that he got under freedom of information. I call on him to lay that document on the table for the remainder of this day's sitting so that we can see what he is referring to, because it is certainly not a document authored by myself, if that is what he is now intending to imply.

Mr N.W. MORTON: I will consider it. It is at my discretion whether I do that.

Mrs M.H. Roberts interjected.

The ACTING SPEAKER: Members, it is at the discretion of the member as to whether he wishes to lay it on the table.

Debate Resumed

Mr N.W. MORTON: The shadow police minister at the time was the member for Midland.

Mrs M.H. Roberts interjected.

Mr N.W. MORTON: The member for Midland is finding her voice now! The member for Midland would actually make a good case study in how to turn a safe Labor seat into one of the most marginal in the Southern Hemisphere! She is like a cling-on! Does she know that her own staff —

Mrs M.H. Roberts interjected.

Point of Order

Mr W.J. JOHNSTON: Mr Acting Speaker, I understood what you were saying previously, and I am not seeking to canvass any of those matters. But I am not quite sure what the ridiculous comments of the member for Forrestfield have to do with the bill, and I would appreciate if you could ensure that the member for Forrestfield adheres to the standing orders by making his remarks relate to the bill.

The ACTING SPEAKER: Member for Forrestfield, I would encourage you to get back to the bill.

Debate Resumed

Mr N.W. MORTON: Mr Acting Speaker, I am just giving a historical account here. The fact is that members opposite come in here and pretend to be tough on law and order, yet the person who wants to be police minister in this state was the police minister at the time and sat in that cabinet room. When they think no-one is listening, and when they are behind the closed doors of cabinet, their true colours come out, and now, 10 years later, we can see it in black and white. It is a disgrace.

Mrs M.H. Roberts interjected.

Mr N.W. MORTON: You are a disgrace! You have no credibility!

Point of Order

Mrs M.H. ROBERTS: Mr Acting Speaker, the member in question is making an unsubstantiated attack on my integrity. I would call upon him to table whatever document he is referring to. Let us see what the document is.

Mr N.W. Morton: I cannot table it, member. I can lay it on the table.

Mrs M.H. ROBERTS: Lay it on the table for the remainder of today's sitting.

The ACTING SPEAKER: Member, that is not a point of order.

Mrs M.H. ROBERTS: I am not the subject of this bill, Mr Acting Speaker, so I fail to see how the member for Forrestfield's comments are remotely pertinent to the bill, other than by way of personal insult to me.

The ACTING SPEAKER: Member for Midland, that is not a point of order. People variously attack the integrity of members and so on. That is part of the cut and thrust of the debate.

Mr W.J. JOHNSTON: Mr Acting Speaker, I draw your attention to the use of the term "You are a disgrace" by the member for Forrestfield to the member for Midland. That is clearly —

Mr P.B. Watson interjected.

The ACTING SPEAKER: Member for Albany, we hear points of order in silence.

Mr W.J. JOHNSTON: Indeed, Mr Acting Speaker; I am very happy to be heard in silence. That comment by the member for Forrestfield is clearly unparliamentary, and in accordance with the standing orders I ask you to enforce the standing orders and make him withdraw.

Mrs M.H. Roberts: And there is also a standing order on adverse reflection, in case you are unaware of that.

The ACTING SPEAKER: Members, my recollection is that the words "You are a disgrace" are bandied around this place very frequently.

Debate Resumed

Mr N.W. MORTON: Mr Acting Speaker, if it helps the sensitivities of members opposite, I will say, "The actions of members opposite were a disgrace." Anyway, I think I have made the point that the wannabe police minister presided over this disgraceful document —

Point of Order

Mrs M.H. ROBERTS: Mr Acting Speaker, the member has again accused me of presiding over this document. I have asked him whether I am the author of it. I have asked him whether he is prepared to lay it on the table. I do not think you can let him continue to impugn my character in this way without him substantiating it with the actual document.

Mr J.R. Quigley: He's a coward! He won't put it on the table!

The ACTING SPEAKER: Member for Butler, we hear points of order in silence, thank you. Member for Midland, I do not believe that is a point of order.

Debate Resumed

Mr N.W. MORTON: Thank you, Mr Acting Speaker. It is interesting to hear the member for Butler refer to me as a coward, when out of this chamber he refers to mandatory sentencing as "bull-dot-dot-dot-dot"! Interesting! And I loved the member for Butler's misogynistic and sexist comments last week!

I think it is very clear that when there are no cameras and no media, and they think there is no public scrutiny, the true colours of the Western Australian Labor Party come to the fore and we see how insipid they are, how soft on law and order they are, and how they are always angling for the criminal vote. But that should come as no surprise when we look at some of the people who have held Labor membership, like former Labor Premier Brian Burke, who also has in his curriculum vitae "former inmate at Wooroloo Prison".

Point of Order

Mrs M.H. ROBERTS: I have a point of order.

Mr J.R. Quigley interjected.

The ACTING SPEAKER: Member for Butler! The member for Midland is on her feet for a point of order.

Mrs M.H. ROBERTS: I seek your ruling on whether it is parliamentary for the member for Forrestfield to say that we are always angling for the criminal vote and whether that is acceptable to you presiding as Acting Speaker of this house.

The ACTING SPEAKER: It is an opinion that the member has expressed. I do not believe that is a point of order.

Debate Resumed

Mr N.W. MORTON: Maybe members opposite, rather than listen to the faceless union officials, should listen to the people of Western Australia and stand up for the vast majority of law-abiding mums and dads who go about their business day in, day out, doing the right thing. Members opposite are as soft as butter when it comes to law and order and community safety.

I will conclude my remarks by saying this: I fully support this legislation that targets criminals. I want Western Australians to feel safe in their houses whether in my electorate or across the state. That is why, when I speak to families —

[Interruption.]

The ACTING SPEAKER: What is that noise?

[Interruption.]

Mr N.W. MORTON: When I get around and listen to my constituents, they tell me about some of the things that concern them. I want to be here and represent them in Parliament to make sure that this legislation is passed and that we introduce these measures to protect people in their homes. That is why I commend this legislation to the house.

MR W.J. JOHNSTON (Cannington) [5.40 pm]: I remember talking to former member of this Parliament Alannah MacTiernan. Sometimes she would do the mobile booth at the prison in the southern suburbs. She used to point out to me that prisoners would take how-to-vote cards, but there was one group of prisoners who only ever took the Liberal how-to-vote cards. That was the rock spiders. They never voted Labor. The rock spiders always voted Liberal.

Several members interjected.

Point of Order

Mrs L.M. HARVEY: Mr Acting Speaker, I ask the member to verify that accusation. He has made an offensive slur against every Liberal supporter in Western Australia.

Several members interjected.

The ACTING SPEAKER: Members, we hear points of order in silence!

Mr J.R. Quigley interjected.

The ACTING SPEAKER: Member for Butler, I call you for the first time. When I am on my feet, I expect silence. Minister, I do not believe that is a point of order. There would be lots of points of order if we asked people to verify what they were saying.

Debate Resumed

Mr W.J. JOHNSTON: As I said, Hon Alannah MacTiernan used to always point out to me that the rock spiders all voted Liberal. That is the sort of party that is lecturing me about my position on law and order.

That was an embarrassing contribution from the temporary member for Forrestfield. He told me the other day that he will not win his seat at the next election. I am happy for him to tell me why he thinks he will not win his seat.

Mr N.W. Morton interjected.

Mr W.J. JOHNSTON: That is what he said. He accused me of having said that the Liberal Party is going to win and he said that that is not right; he did not say that the Liberal Party would win.

Point of Order

Mr N.W. MORTON: The member for Cannington is again in cloud-cuckoo-land. I never said that. He should correct the record.

The ACTING SPEAKER: That is not a point of order.

Debate Resumed

Mr W.J. JOHNSTON: Last week the member for Forrestfield started a speech by saying he had never claimed that the Liberal Party would win the election, and now he says that the Liberal Party will win the election. He has to make up his mind.

Let us make a couple of things clear. The fact that that member is too scared to table the document and provide it to the opposition shows that it is worthless. I bet members that there is no stamp on that document stating "released under FOI". The member should come and show us that document and the stamp that states "released under FOI", because if there is no such stamp on that document, the member has deliberately misled Parliament. I would love to know what is on that document because I do not know whether he has deliberately misled Parliament, but he can solve that problem by giving us a copy of the document because every single page will be stamped "released under FOI". I bet members that that document was not released to him under a freedom of information application. We have to ask: what would the FOI application have looked like? I will tell members something: I will make a FOI application to the Premier's department for the member's letter requesting the document. I will FOI the Premier's department and ask for any FOI request by the member for Forrestfield. It will be interesting to see what I get back, because if there is no letter in there dated some time last year—because that is how long FOIs take to get to us—that member has deliberately misled Parliament. He thinks he is a very clever man. Sadly, he is not. Sadly, he is a no-hope Liberal backbencher, which is very common in this chamber.

Mr D.A. Templeman: He's left the chamber now.

Mr W.J. JOHNSTON: Of course he has left the chamber because he does not want to be here to be held account for his behaviour. He has snuck off.

I would also like to know—the minister could probably help us later in this debate—what legislation was amended following that cabinet submission, if that cabinet submission is true? The minister should tell us what legislation was amended. That member said all those people are running the streets, so when did the government change that legislation? When were those changes reversed? Let us understand what is being said. The member for Forrestfield is saying that those legal changes have led to prisoners escaping and people who should be in jail running the streets, but the government has been in for six and a half years. Has it changed that piece of legislation, whatever it was? No, it has not. The member for Forrestfield should not come in here, puffing up his chest and pretending that somehow he is interested in law and order, rather than interested in running a campaign in the community about law and order.

Let us look at the facts. The Minister for Police has failed to deliver the number of police promised at the 2008 election and at the 2013 election. The government came in here and changed its promise retrospectively. Having promised at the time of the 2008 election extra police, we got in here to find that it did not mean extra police; it meant extra auxiliary police officers.

Point of Order

Mr J. NORBERGER: Having been lectured relentlessly by members opposite on relevance, I think it is hypocritical that they talk about whatever they want.

Several members interjected.

The ACTING SPEAKER: Points of order should be heard in silence.

Mr W.J. JOHNSTON: On the point of order, as you explained to me, this is the second reading debate and we are allowed to roam freely across the broad issues. All I am doing is exactly what you told me to do, Mr Acting Speaker.

The ACTING SPEAKER: I did not say "freely". I said "widely". There is a slight difference. There is no point of order.

Debate Resumed

Mr W.J. JOHNSTON: That is the sort of Liberal Party that we have; the Liberal Party is interested in slogans and not outcomes. As the member for Forrestfield said, if we go into the community and ask people whether they feel safer since the Liberal Party has been in power, the answer is no. That is exactly what the Minister for Police said at the time of the 2013 election. She said that we need these new laws to toughen sentences because people did not feel safe under her government. That is what she said at the time of the election and that is why this

legislation has been brought in. Of course, it is two years late. She promised it two years ago and now she is bringing it in, but she said that crime was a problem under her watch as Minister for Police. The Minister for Police's position was that crime was a problem and she was the minister and responsible for that crime. We all know that crime rates in the community are increasing, clean-up rates are falling and fewer people are being found guilty of crime under this minister. That is what has happened in our community.

Government members come in here and lecture us and pretend to have a document that they do not have. They pretend they got it through an FOI application when they did not. That is the sort stuff this government does. It is not about outcomes; it is about three-word slogans. The minister should be better than that and should be interested in doing her job. Is it not amazing that the member for Forrestfield comes in here and lectures us about being soft as butter on law and order while crime rates in his own community are going up, while crime is not being solved in my electorate and the rate of conviction for offences has fallen? And they lecture us—my God! What sort of people are these people on the other side? Do they not have any respect for the community? Why do they not tell it the truth? For example, the Minister for Police has not told the public that nobody will be jailed for raping a person during a home burglary for any longer than they are now. She cannot point to a single sentence that has gone up for somebody who has committed a rape during a home burglary—not once; not a single occasion. The minister smirks there and she might jump up during this second reading debate and provide one case, but why did she not do that two years ago? Why did she not do that when the bill was introduced? Why was that information not included in the explanatory memorandum? Why, up to this very moment, has the minister not told us of a single time that one person will go to jail for one day extra for raping somebody during a home burglary? Having a minimum sentence does not automatically increase the amount of time a person spends in jail. People always get jailed for longer periods than the minimum anyway. That is good because the Liberal Party can go to the media and say, "We're being tough; we're bringing a 10-year minimum", but everybody gets more than that anyway. As I say, to this very second, on not one occasion has the minister ever told anybody of an example of when a person has not got 10 years for committing a rape during a home burglary. It is good for the media, but come on, minister—tell the truth in the chamber. No wonder the member for Forrestfield slinks out of this chamber. He had a choice. He knew I was going to talk about him, because I started talking about him while he was still here, but he is not prepared to defend any of his comments. As I have said here before, my father fought for Australia in World War II and he died in 1965 due to the illnesses he obtained while he was serving. I will not be lectured by anyone about my patriotism—not by anyone. The weasel at the back of the chamber who pretends to be the member for Forrestfield can say what he likes —

Withdrawal of Remark

Dr G.G. JACOBS: The member for Cannington used an unparliamentary word and I ask him to withdraw.

Mrs M.H. ROBERTS: Further to the point of order, Mr Acting Speaker, given the standards that you have been upholding during this debate, I would think that that was entirely acceptable.

The ACTING SPEAKER (Mr P. Abetz): I do not consider the term "weasel" parliamentary, and I ask the member to withdraw.

Mr W.J. JOHNSTON: I withdraw.

The ACTING SPEAKER: Thank you.

Debate Resumed

Mr W.J. JOHNSTON: Perhaps, I could think of another word to describe the member for Forrestfield.

Mrs M.H. Roberts: Say he is weasel-like.

Mr W.J. JOHNSTON: Weasel-like—he is the weasel-like temporary member for Forrestfield. The man with no guts. The man who is not prepared to stand up for the words he used in the chamber.

Mr M.P. Murray: He has got guts; he hasn't got courage.

Mr W.J. JOHNSTON: Yes, very true. He is a man with no courage. I have no idea what the election result will be in this state in two years' time—no-one knows. A Liberal government may well be returned, but on the performance of the member for Forrestfield, this government does not deserve to be returned. It does not deserve to be returned when there is that type of behaviour. Who gave that member that document? As I say, if it was truly released to him under freedom of information, he would give it to us so that we could see the stamp that says "released under FOI". I bet the proverbial $64 that he will not do that. I bet he does not come back into this place tomorrow and cross the chamber to give it to me. I bet he does not do that because I bet it is not true that the document was released to him under freedom of information. I bet it was given to him by somebody in government. On Friday when my research officer is at work, she will prepare an FOI request. I will attach a $30 cheque and I will sign the letter and send it to the Department of the Premier and Cabinet. That FOI request

will be for the application letter from the member for Forrestfield for the FOI document; it will be for every FOI request he has ever made. Watch what I get back. How would he have known what document to ask for? The member is not here because he has slunk back to his office or is doing something else. Why will he not tell us how he knew what document to ask for? How did he actually know that there was a document available on this topic? What legislation was being discussed in that document? What was the context of the discussion? These are questions that the member is not prepared to answer.

Let us go back and look at what has happened in Western Australia. Sure, there are more people in jail: fine defaulters. That is the reason that there are so many people in jail in Western Australia. Often they are women from poor backgrounds. I commend the hardworking member for Warnbro who, unlike his Liberal colleagues, has actually done some work in opposition with no resources. He has not had resources provided to him by somebody from the Department of the Premier and Cabinet but off his own bat has actually done some research and written an excellent paper on the question of women, in particular, being jailed for fine default. As we know, that has led to deaths in custody that are not being dealt with in accordance with the recommendations of the royal commission into Aboriginal deaths in custody.

Where is this government going? The government winds up the member for Forrestfield and sends him into the chamber because the Minister for Police is not prepared to say the things that the member for Forrestfield has said. The minister will not bring that document into the chamber because she knows that the minute she stands up, we will ask her to table it.

Mrs L.M. Harvey: I haven't seen the document, member.

Mr W.J. JOHNSTON: Who knows? I bet the minister is not prepared to read out those words, is she? She is not prepared to say the same things; it is a disgrace. The government winds up the man with no courage, down the back of the chamber—the expendable one; the temporary member for Forrestfield—because the minister will not come in here and make these stupid allegations. That is left to the expendables down the back. What a disgrace. That is the type of government we have to put up with in this state. No wonder the current Premier is the most unpopular Premier in the history of Western Australia, and the equal most unpopular Premier in the history of the entire nation; only one other Premier has ever been as unpopular as this man.

Mr F.A. Alban: Is this another rerun from last week?

Mr W.J. JOHNSTON: The member is on the list; he should stand up and speak. He should stand up and tell us whether he wants the current Premier to remain Premier. Does he? See? Even the member for Swan Hills will not endorse the current Premier; that is how unpopular he is! He has had his chance. That is how unpopular the current Premier is—the member for Swan Hills will not say that he wants him to stay. He has had his chance. He could say it if he wanted to, but he will not do it!

Several members interjected.

The ACTING SPEAKER: Members, I am on my feet! Let us have some order in this place. The member for Cannington has the floor, and I encourage him to head back towards the bill.

Mr W.J. JOHNSTON: I am just highlighting the hypocrisy that we have had to put up with here tonight. All I am doing is answering exactly what the Acting Speaker allowed the member for Forrestfield to say. I have not deviated from my intention to answer the comments of the member for Forrestfield.

I look forward to the member for Forrestfield providing us with copies of the documents he read from so that we can see the context of what he was saying.

Mrs M.H. Roberts: He won't do that.

Mr W.J. JOHNSTON: He has a test here; it is a big test for a new member of Parliament. He has been in this place for only two years. Does he have the respect of this chamber or not? Is he prepared to come in here and make outlandish allegations without backing them up? That is something that the Premier always complains about: do not make allegations unless you can back them up. Let us see what the member for Forrestfield is capable of doing. Let us see the documents stamped "Released under FOI". He is probably right now running back to the Department of the Premier and Cabinet to get something stamped "Released under FOI"! That is probably why he is not in the chamber, although I could not speculate. Perhaps that is why he is not in the chamber.

This has been a disgraceful incident for the Liberal Party. Although it is not unexpected, it is just a disgrace. The Labor Party is proud of its law-and-order agenda. Do not forget, we were the ones who introduced mandatory sentencing in Western Australia. Members on the other side run around saying, "Oh, well, you don't support mandatory sentencing." We brought it in, during the Lawrence government. The bill the minister intends to amend tonight was introduced during the Lawrence government.

Mrs L.M. Harvey: Because it's not working.

Mr W.J. JOHNSTON: Six years in, and now the minister says it is not working.

Mrs L.M. Harvey: It's your legislation.

Mr W.J. JOHNSTON: Was it working when the minister was Minister for Police in the last Parliament? I cannot hear the minister.

The ACTING SPEAKER: Member, please speak through the Chair.

Mrs L.M. Harvey: That's why this legislation's here now.

Mr W.J. JOHNSTON: So what was the minister doing during the last Parliament?

Mrs L.M. Harvey: I was —

Mr W.J. JOHNSTON: "I've got to think of something, I've got to think of something." What an embarrassment. The minister never delivered her police promise, and she knows it, so she should not come in here and tell me that.

Sitting suspended from 6.00 to 7.00 pm

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.