CRIMINAL LAW (MENTALLY IMPAIRED ACCUSED) AMENDMENT BILL 2014

Second Reading

Resumed from 19 March.

MR D.J. KELLY (Bassendean) [4.15 pm]: I rise to speak on the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014.

The ACTING SPEAKER (Mr N.W. Morton): Members, could you please keep your conversations to a minimum, or take them outside. Hansard is trying to hear the member for Bassendean.

Mr D.J. KELLY: However, before I do that, can I just say I feel very privileged to have been in Parliament today to hear the speech that has just been given by the member for Kimberley. The prospect that this Parliament will for the first time recognise Aboriginal people as the first custodians of the land on which we meet I think is incredibly special. It is a genuine step towards reconciliation. I am constantly amazed at how generous Aboriginal people are in the way that they approach this subject, and I truly hope that this Parliament will see fit to pass the bill that has been introduced today.

I now want to make a few comments about the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014. My interest in this bill has been sparked by the government's decision to build two disability justice centres in the electorate of Bassendean, one on Lord Street in Lockridge, or Caversham, and the other on Altone Road in Kiara. Those centres are for people who have been charged with a criminal offence but who because of a mental impairment have been judged by a court to be incapable of understanding the court process. Under the current legislation, if a person is found to be in that situation, the court has limited options. If the court is of the view that the person presents no risk to the community, the court can simply give the person an unconditional release. I think that is appropriate. If a person because of a mental impairment is unable to go through the court process, and they pose no risk to the community, it is appropriate that they be released. However, unfortunately, when a court comes to the conclusion that an accused person cannot go through the court process but they pose some risk on release, the court has only two options available to it. One is to make a custodial order and require that the person be detained in a conventional prison. The other is to make an order that the person be detained in what is called a declared place. At the moment in Western Australia there are no declared places. Therefore, if a custodial order is made by the court, the person will end up in the conventional prison system. The government has decided that there needs to be declared places in Western Australia, and it has decided in its wisdom to put both of those places in my electorate.

When the government made the announcement—I think it was actually a year ago today—that both of those centres would be located in my electorate, I was not familiar with this issue. However, I soon became aware of the issue because I had residents in my electorate come to my office asking what these centres were all about. In the course of the discussions that I have had with residents in my electorate, people have been at pains to say that they are not opposed to these centres. In fact, they support the government putting in place reasonable measures to justly deal with people who come before our courts but who cannot plead and cannot therefore go through the process that any of us would expect to go through in a court.

One of the injustices that has become apparent through my becoming familiar with this process is that if a person is charged with a traffic offence or a minor theft, or some other minor crime, and incurs a custodial sentence, that custodial sentence would be relatively short. However, if a person who is charged with that type of offence is found to not be able to go through the court process, they will get a custodial order. A custodial order is indefinite. So someone who is charged with a minor offence and who is not fit to plead would then get a custodial order and end up being incarcerated in jail for an indefinite length of time that bears no relation to the crime that he or she is accused of committing. To me, that is a glaring injustice. If someone is unable to plead to a charge and poses some threat to the community, and as a result a custodial order is imposed, it seems to me patently unjust that the custodial order could be for a period much longer than the sentence the person would have received had he or she been found guilty.

The government in its wisdom, when considering how to deal with these people who find themselves in these circumstances, has decided to build some declared places in Western Australia. So rather than have these people incarcerated in a conventional jail, they can be held in a centre, which it believes is more appropriate to enable these people to get treatment—for want of a better word—to deal with their underlying impairment. I think, yes, that is a good and a sensible thing, provided of course that a proper process is undertaken to determine where those centres should be. In the case of my electorate, the government certainly has not done this. It will place such people, contrary to its own criteria, near schools, in residential areas and in areas where there is no local government approval. I have been very critical of the government for handling the location of those sites in that way, but my community supports these centres being in existence, provided they are located correctly.

This bill seeks to ask the government to go one step further; namely, rather than simply incarcerate people in declared places, it could in fact—if it really wants to treat these people with some justice—put a finite term on their period of incarceration. It is patently unjust to have someone charged with a minor offence, one that may not even, if found guilty, end up with a custodial sentence and yet because of his or her intellectual impairment, end up with an indefinite custodial order. Through this private member's bill we are asking that the government go one step further; that is, to amend the relevant legislation so that if a custodial order is required, the court would limit, or be required to limit, the length of that custodial order to a period of relevance to the offence for which the person has been charged. In my view, that may have a knock-on effect of not only treating the person more fairly, but also potentially not requiring as many declared places to be declared, because at the moment there are people who have been in the system for years for offences whereby if they had been found guilty, they would have served their time and now moved on. That is the principal reason why the opposition is supporting this bill; it is a basic matter of fairness. It is a proposition that WA Chief Justice Wayne Martin has given support to. In *The Australian* of 20 March 2014, there is an article that talks about this, and I quote —

> The Labor opposition in WA, where 17 mentally impaired men and women were in jail without trial at June 30 last year, yesterday introduced a bill for finite terms for any mentally unfit person accused of a crime.
>
> The proposal follows calls from WA Chief Justice Wayne Martin for amendments to ensure no brain-damaged person could be held in jail without a trial for longer than the sentence they would have received if they were found guilty.

Now, that article was printed after the case of Ms Roseanne Fulton was given prominence by the *Lateline* program this year. My understanding is that she is an Indigenous woman suffering from foetal alcohol syndrome. Since that time, she has been jailed without trial for the past 18 months on traffic offences. I was actually home that night watching *Lateline* when that story came on. Obviously, because of the campaign that has been running in my electorate, my ears pricked up immediately and I watched it. It was a terrible story of a woman who really, through no fault of her own, has ended up indefinitely detained in WA prisons for no other reason than she has an intellectual impairment. It just seemed to me glaringly obvious that the legislation needs to be amended so that people in Roseanne Fulton's circumstances are not detained indefinitely.

I am always surprised when I look at an issue to understand why it has not been dealt with earlier. I am surprised that the legislation in Western Australia has continued to allow this to happen. I think it is glaringly obvious that if someone goes before a court charged with a crime and is unable to plead to it, but as a result ends up with a custodial order, that custodial order should be limited to a maximum of no more than the sentence received, if the court found the person guilty. The logic of that is undeniable. I am grateful to the shadow Attorney General for putting this private member's bill together to deal with a very unjust situation with, in fact, a very simple bill.

I do not intend to speak any longer on this. I commend the bill to the house, but I will say one thing, and I fear the response we might get from government members is, "Well, we're not going to support this bill because we're currently reviewing the substantive legislation." I think it would be a shame if the government does not pick up this private member's bill to make this change now because it is currently reviewing the substantive legislation, and there might be other changes that it makes as a result of that review. I think that would be a cop-out for the government. We all know government is a funny thing. Government institutes reviews into legislation all the time, and many times those reviews take months, if not years, and at the end of it, the recommendations from those reviews sit on shelves, gather dust and are not implemented because the government's agenda does not allow it. Therefore, the moment in time is lost. If members of the government stand up to vote against this legislation purely on the basis that it is conducting a review, and that it would be inappropriate for it to make this amendment given a substantive review of the legislation is in the pipeline, I think that would be a great shame.

We have an opportunity to remedy an injustice that is currently imposed by the legislation on some of the most vulnerable people in our community. The amendments put forward in this bill by the shadow Attorney General are very simple, straightforward and deal with the issue. We should seize this opportunity and remedy this injustice now, rather than shove the bill into the too-hard basket with an argument, a hope, a dream or an aspiration that a complete review of the legislation will produce some other amendments down the track. I therefore urge the government and the house to support the bill.

MR M. McGOWAN (Rockingham — Leader of the Opposition) [4.30 pm]: I intend to speak only briefly on the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014. I first of all congratulate the shadow Attorney General and member for Butler, the caucus and the shadow cabinet for bringing forward this legislation.

This legislation will remedy a fundamental injustice in our court system and in our prison system. It is fundamentally unjust and wrong for people to be kept in prison longer than they otherwise would be kept because of incapacity to plead or because of a finding that they were mentally unfit at the time of trial. How can someone

remain in prison for longer than they would have remained had they been of sound mind at the time of trial merely because they had some mental incapacity at that time? We have seen the cases of Marlon Noble and Roseanne Fulton. Right-thinking Australians would have to say that keeping people in prison for long periods, often for offences at a low level, is wrong and unjust; and, what is more, it is a waste of money considering the cost of imprisonment. This legislation is therefore designed to fix that fundamental injustice.

It takes a bit of courage to bring in laws that will, in effect, let people out of prison, given the way these things are perceived these days: there is a pro-imprisonment mentality in the press and among many members of the general public. This legislation challenges that. It challenges it on the basis that many people who are in prison should not be in prison. Often they are people who have the least capacity to defend themselves and the least resources to provide a defence for themselves. We should provide the legislative and sentencing capacity for the courts to ensure that those people are not kept in prison for a longer period than they otherwise would be kept merely because they have a mental incapacity. I just cannot see how anyone who is right thinking, with a modicum of justice running through their veins, could think that there is any problem with what is going on here with what the shadow Attorney General is putting forward.

Last Friday the member for Warnbro and 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. I met a number of prisoners on remand there—some for years—and had a conversation with a number of them. It is a tough environment to live in. All sorts of regimes are put in place to manage people who might be particularly vulnerable or sensitive, might have some sort of illness or mental incapacity or might be engaged in conflict with others. It is really quite an amazing experience. 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. It is not somewhere that anybody would really want to be if they did not have to be there; and if they are there, they would not want to be there a minute longer than they absolutely have to be. The idea that someone is in jail for years beyond the maximum penalty had they been convicted of the offence with which they were charged is abhorrent. It is abhorrent and that is why these laws that have been talked about for many years should be passed. With this bill we are trying to fix a fundamental injustice.

The member for Kimberley earlier brought forward legislation that acknowledges a past injustice. I hope that the government will support this bill rather than push it off and say that it is doing a review or that it will look at the legislation at some time in the future, as often these sorts of reviews take years. Just remember, while the government is doing those sorts of reviews, people may well be in prison. They will not be going home tonight. They will not be having a weekend down south. They will not be playing with their children. They will actually be in prison awaiting the passing of this legislation. For every month or year that this legislation is delayed, further injustices will be done against Western Australians. Just remember that. If the government decides to go down that course, every one of those people, whom the government will never meet or see, will be living their life inside places such as Hakea Prison where I went on Friday. Their life is not very nice and not very pleasant, and it is unfair if they are in there when they would not have been otherwise but for their mental incapacity. Prison is an unpleasant place for someone with a mental incapacity or a personality disorder or the like that makes it impossible for them to plead or to stand trial when they otherwise would not be in prison. Those people who are vulnerable may not stand up too well to the rigours of prison life. Trying to get those people out of that environment when they should not be there is therefore an admirable and reasonable thing that we are doing here.

I therefore congratulate the shadow Attorney General for bringing forward this legislation. I hope that government members will see the justice in what he is doing. This bill has sat on the notice paper for some considerable period; it is therefore not as though they have not had a chance to consider it. I ask them to support the shadow Attorney General in what he is trying to do as it is a fundamental matter of justice.

DR G.G. JACOBS (Eyre) [4.38 pm]: I acknowledge the impassioned speech of the Leader of the Opposition on the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014. I thank you, Mr Acting Speaker (Mr N.W. Morton), for the opportunity to speak to a very important and quite complex matter.

We as a community, on whichever side of Parliament we sit, would all acknowledge that the treatment of people with a condition that affects their cognitive function—a brain injury, an acquired brain injury, foetal alcohol spectrum disorder or a mental illness—and therefore their behaviour when they become involved with the law has not been ideal. I have concerns about the lack of acknowledgement of the complexity and the differences in handling people in this unfortunate situation, and the differences between punishment and deterrence, which is a criminal matter, and care and rehabilitation, which is a civil concern. I have been in a position to be involved with people who have some deficiencies in their cognitive functions, acquired brain injury, brain injury at birth, foetal alcohol spectrum disorder and mental illness, as I have mentioned previously. Of course, we must make the distinction between that and mental illness. The mentally impaired accused situation is complex. The results of that complex injury are impossible to predict.

I understand that this bill, on its surface, seeks to limit the term of custody orders by reference to a term of imprisonment that a person might have received had they been convicted. I see one problem as a key problem in that this approach fails to recognise the differences between a criminal custodial sentence, which is imposed on conviction of a criminally culpable offender, and a civil detention order such as a custody order under the Criminal Law (Mentally Impaired Accused) Act. We must recognise that a sentence of a term of imprisonment imposed following conviction is usually, as I have said, focused on a punishment and deterrent, whereas a civil detention custody order is focused upon the care and rehabilitation of the offender. I think that we really must recognise that. That is an individual thing for not only the person's protection, but also the protection of the community. I put to the house that sometimes those things, because of their complexity, do not line up. I have heard what opposition members have said. On the surface, it is an injustice, but if we look at the differences in what is being achieved, it is about the safety of the person and the safety of the community. The length of a sentence of imprisonment might not line up with the length of rehabilitation, if you like, and care and the final goal of getting someone back, if possible, into the community to lead as normal a life as possible.

Mr J.R. Quigley: Could I ask the good doctor a question on that?

Dr G.G. JACOBS: I might take it a little later as I develop the theme, if I may, member for Butler.

I put to the house a scenario. As I said, I have had unfortunate patients, as I will call them, with a brain injury who by some indiscretion get in trouble with the law and are not fit to plead but still need some form of intervention and care. As I said earlier, we all recognise that we have not done well in this area and that the situation has not been ideal. Obviously, both sides of Parliament are concerned about the indeterminate presence in prison of people with a cognitive brain injury. That is never ideal. I suppose that is why this government recognised that there has to be another place—a designated place. We have heard the legal eagle, Wayne Martin, talk about the 17 people in prison in Western Australia who have some cognitive dysfunction. They need some form of care. Some of them need care indefinitely; others need care whereby they are monitored, and then they have leave of absence when they are, if you like, transitioned and monitored in the way in which they can reintegrate into society. That might be the length of time for the conviction if they were fit to plead, but it might not be. I think it is really important that if it is longer than that, we should recognise that. That does not necessarily mean that they are in prison and we throw away the key. That is why this government has recognised the concept of a designated place.

I note that the member for Butler acknowledged in his second reading speech what could happen should limiting terms be introduced as proposed in the bill. If a person who is not fit to plead were to get six months' imprisonment, the timing of the custody order should be only six months. However, we also recognise that the person may still not be fit to live independently within the community. If limiting terms, as proposed in the bill, were introduced, there is the potential that a person who is a serious danger to themselves or the public would be released into the community and expected to be independent. The member for Butler claimed that this risk would be managed by the provisions under the Mental Health Act and that the person could go to an authorised hospital as an involuntary patient. There is a problem here because we are talking about cognitive impaired brain function; we are not talking about mental illness. The mental illness involuntary patient is recognised in the Mental Health Act and catered for in an authorised hospital. We are talking about two different conditions, and that is why I made this point early in my comments. Yes, on the surface a piecemeal, one-size-fits-all approach sounds good, but we need to look at what we have to do for people, and that is the critical bit. We must have designated places and the ability to take people there and care for them. If they do not have the ability to truly live independently in the community, they must be cared for and/or rehabilitated. They might have leave of absence. Basically, we should tailor their care to what they need, because this is a particularly complex issue and it is impossible to predict necessarily the behaviours of such unfortunate people.

I think it is important to recognise that at the moment the system is supervised by the Mentally Impaired Accused Review Board. People often have highly complex needs, and the court may not be able to predict how the mentally impaired accused would respond to treatment and rehabilitative efforts at the time of making a custody order. That is important, and I think that is why we have the Mentally Impaired Accused Review Board to tailor that care and what should happen to that person with a complex illness.

Mr P. Papalia: It didn't help Marlon Noble.

Dr G.G. JACOBS: As I have said in my remarks, both sides of this house now recognise that the care in some of the cases that have been explained is not ideal.

I propose that we look at these issues, but it is important also that we look at past results and that people who may have committed a criminal act and are not fit to plead have an appropriate place to go and receive the appropriate treatment. Members opposite might criticise me for this, but the Liberal–National government was aware of the concerns about the Criminal Law (Mentally Impaired Accused) Amendment Act 1996 when it went to the last election, with a view to conducting a review. The Leader of the Opposition and other people said we should just

do it, and we have moved on the issue of designated places, but I will not talk about the location of the place because that is not relevant here. This is about how we look after people and the concept of a place, and we all agree on the need for that.

The review will commence later this year and a public discussion document will be released as part of the review process. That has been indicated in the Legislative Council. The Department of the Attorney General conducted a targeted consultation. Later this year, a public consultation phase will run for 12 weeks. Advertisements will be placed in the media and every effort will be made to engage all stakeholders. The review process will also include the examination of a range of reports, including the issue of criminal justice responses to mentally impaired accused. I can confirm that the discussion paper will also canvass the legislative issues raised in that report. Before I sit down, the member for Butler wished to make a point or ask a question.

Mr J.R. Quigley: I will respond to you.

Dr G.G. JACOBS: He will respond later. I thank him. We are very supportive of all measures that make life better for people in this unfortunate situation. We have already made some moves in this regard and this legislation is up for review. We have proceeded on that path to review it and we recognise that we need to do the appropriate thing for people in this situation. The criminal and custodial parts of the law are separate: one is about punishment and deterrence, and the other is about rehabilitation and care, and we need to do what is appropriate for the individual.

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [4.53 pm]: I rise as the lead speaker for the government on the member for Butler's private member's bill, but I can assure members that I will not use the full time available to me. I will make a couple of comments on matters that have already been raised and I will reassure the opposition that in no way does this government take this matter lightly. This government does not just react to a change that might come forward and has taken the issue of mentally impaired accused—people with disabilities who have found themselves in unfortunate positions—so seriously that we have put in place many provisions to assist people who may find themselves in that position. We all know of some cases of which none of us are proud and would never want to see happen again. It is absolutely essential that both sides recognise that things must be done. The member for Eyre raised a number of points that I will also reinforce, but it is very important that we handle this process holistically. We must not delay it, but do it effectively and well, without wasting time. We must make sure that other things occur throughout this period so that we can give greater attention to people who have found themselves in a difficult position from which previously there was no way out for them. The important thing that the member Eyre raised and which I will reinforce is that —

The ACTING SPEAKER (Mr N.W. Morton): Leader of the Opposition and member for West Swan, I understand that you are having a conversation but I can hear what you are talking about from here, which makes it difficult for Hansard.

Ms A.R. MITCHELL: Thank you, Mr Acting Speaker. It is important to recognise that this is not a simplistic sentence, or a custodial service or civil detention order, but that there is quite a differentiation between those two things, which makes a significant difference to how the process goes from there. Of course, the criminal custodial sentence is imposed on the conviction of a criminally culpable offender, yet a civil detention order such as a custody order under the Criminal Law (Mentally Impaired Accused) Act does not apply in that case. The two are quite different; one is about punishment and deterrence, whereas the civil detention order, which we will probably focus on more throughout the next part of this process, is focused on not only the care and the rehabilitation of the individual, but also, as we have said throughout this debate, the protection of the community. Those two things must go together; one is not less important than the other. We must consider both sides of the matter quite responsibly. The length of time that a person may have found themselves in jail previously is a matter that has been raised a number of times, and there should be a limit to that length of time. Most people agree with that, member for Butler but, at the same time, we want to make sure that when someone is ready to be released or the time is right for them to be released, they are actually ready to go out. What we believe in or are working towards is a little different from what the member is working towards. In a simple case that will probably not be an issue, but it may be in some more complex cases. Let us face it, some of these people have some very complex needs and we certainly hope that they will not be in prison for any longer than they would have been had they been given a criminal sentence. However, if it is necessary and to the benefit of that person and the community, we have a responsibility to ensure that the person has gone through a process and is ready for release. In many ways, people with a cognitive impairment or who are mentally impaired are probably easier to work with than a hardened criminal, who may not necessarily get the services and the support that a mentally impaired accused may get, but we must recognise their complex needs. For the court to determine what period of time a mentally impaired person must be detained may actually be quite difficult. We need to recognise as well that it is not —

Mr P. Papalia: It would be whatever penalty they would have got if they had not been impaired.

Ms A.R. MITCHELL: Sorry, member, can I finish before we go back to that issue? It is important to recognise that sometimes the needs of a person are not evident when a decision is made about the length of time they will be detained. There is no doubt that the Liberal–National government has no intention of keeping people in any form of detention longer than is necessary, and we are very proud that what we are putting in place now does not need to wait until the end of a review period or for a piece of legislation to be passed, because we are doing things along the way.

Another thing that is very important and of which we are proud is that the Mentally Impaired Accused Review Board applies a graduated approach to the release and supervision of the mentally impaired accused—that is happening now. Sometimes a process can go a few steps forward and a couple of steps back, but the board allows for a leave of absence. Hopefully those periods or leave of absences for the accused get a little longer each time, and that, along with the training and support given to that person, will make them more capable of re-entering into the community and maintaining a satisfactory life and community involvement. This part of the rehabilitation process is very important because the behaviour of the accused during these periods of community access or community leave is one of the factors taken into account by the board when determining whether the accused person is ready to be reintegrated back into the community with the required support. The board also takes into account reports from service providers, expert opinions from forensic psychologists, and other relevant professional and victim submissions that become part of the whole decision process. I understand that this approach is quite different from that taken with a person who is ready to be released from a punishment and detention–type order. That is when I would probably question whether the appropriateness of using a criminal sentence to set the maximum term of a custody order is the best way to go.

As I have said, we recognise that the member for Butler is trying to achieve something that we all agree has some merit, but we just think the bill is a bit too short on what it is trying to achieve when we want to look at the whole component. The member said that the community does not need to be put at risk. It will be a rare circumstance, we hope, when a person takes longer to be rehabilitated and get support and training so that they can be reintegrated into the community. It would be inappropriate for us to put them in a position, if they are not ready, in which they are not able to take on a fully integrated role in the community and therefore put the community at risk. We do not believe that is fair to the person or to the community. With the amount of support and the other things that we can put in place, I expect it would be very rare, but we need to make sure that we do the very best for the person and for the community to keep everyone safe and able to live comfortably within their environment. The member for Butler recognised that that risk could be managed under the Mental Health Act and the person could be detained as an involuntary patient. I know that the member for Eyre spoke to that issue, so I will not go into it. We must remember that someone with a mental illness may be different from a person who is mentally impaired.

Mr J.R. Quigley: Just on that, can you clarify that point? Having regard to the definition of "mental impairment" in section 8 of the act, what point are you making about mental illness?

Ms A.R. MITCHELL: I think the member said that people with a mental illness could go to an authorised hospital, but the appropriate place for those with a cognitive disability or mental impairment would be an authorised mental health hospital, so there would be an alternative way to go.

Mr J.R. Quigley interjected.

The DEPUTY SPEAKER: Order, member for Butler! We will deal with that at the next stage.

Ms A.R. MITCHELL: I am talking about the review of the Criminal Law (Mentally Impaired Accused) Act. I know that the member for Bassendean did not want me to say that we will not be doing anything just because we are reviewing an act. We are doing things, but I want to talk about the review of the CLMIA act, because it is an important piece of legislation. We said at the 2013 election that we would look into it, and we are looking into it. There are a couple of things going on. We know that, as at 4 June 2014, 18 adults were held within a prison under the CLMIA act. It is not something that we will push away lightly and not take a serious approach to. The review process started in 2013 with a targeted approach of consultation. Later this year, a public document will be released for discussion, and the review process will then be well underway. Some of the consultation that occurred in that targeted approach was with health professionals and others who provide direct services to people with mental health issues so that they could look at the policies and the operational issues. The document will be released later this year; I cannot give the member an exact date for that yet, but the public consultation phase will run for a period of 12 weeks. During that time, advertisements will be placed in the media and there will be a lot of engagement with other stakeholders that were not involved in the targeted consultation in the first instance. I assure the member for Butler that a number of us will pursue the Attorney General to ensure that it is not delayed any longer than necessary. A number of reports that have been released will be reviewed. One report was released only this week by the Inspector of Custodial Services titled "Mentally impaired accused on 'custody orders': Not guilty, but incarcerated indefinitely". That is why we are holding up a couple of things. However, as I have said, I assure the

member that the public consultation part of the discussion paper will encourage that to occur as quickly as possible. That discussion paper will also canvass some legislative issues, including increasing the options available to the courts, alternatives to indefinite sentencing and the difference in the way that the courts are required to treat persons who are deemed unfit for trial and those who are considered of unsound mind.

I will also touch briefly on the disability justice centres. I am pleased that there was support in this chamber for the concept of a disability justice centre or a declared place. The details of those other aspects that tend to come forward are not part of this discussion. It is very important that we have an alternative option for the courts for those people who may need to be placed in such a facility. In the meantime, the disability justice service also operates a prison in-reach program. It supports people who are in custody but are really under a detention order. Members have mentioned one person in prison who came to our notice recently, and this in-reach prison program assisted her. She was held in Kalgoorlie, but a transfer back to her home is being facilitated and will happen as soon as possible.

It is certainly hoped that the official type of disability justice centre will be operational by mid-2015. The placement of people into a disability justice centre and their exit from a disability justice centre will be determined by the Mentally Impaired Accused Review Board. A number of criteria will determine who can be considered. Firstly, they must be 16 years of age, they must have a disability recognised under the definition of "disability" in the Disability Services Act and the predominant reason for the person's mental impairment must not be a mental illness. Of course, specialist staff will be employed based on their experience of working with people so that the right staff work with those people to get the best outcomes and reintegrate them into the community. They will work on programs that encourage positive behaviour, particularly social development—those sorts of things are critical—and respectful interactions with others. It is more likely that that outcome will be achieved when people work in a positive area. There is no doubt that if people mix in an area that is not necessarily positive, they will not get a positive outcome. A change of system and a change of location should result in a marked improvement in these people's behaviour. As I said, we are not looking for a short-term fix; we are looking for long-term change in their behaviour so that they do not find themselves in those unfortunate circumstances again. Of course, as I think I mentioned in the estimates hearing, the process of evaluation will take place after both the in-reach prison program and the disability justice centres have been operating for a number of years to make sure that we keep up with current practice and also improve what we do all the time and do not just say that we are going to do this and that is how it is going to be.

I would also like to briefly talk about forensic mental health. Once again, this relates to people in the justice system who are experiencing mental health issues, including mentally impaired accused. Certainly, the Stokes report outlined the need to develop a contemporary model for forensic mental care, and the Mental Health Commission, in conjunction with the Department of Health and the Drug and Alcohol Office, is currently developing a mental health services plan. That plan will hopefully see us through with a vision heading towards 2025. That will also give us a much better idea of the future investment we will need to put into that system.

Also, as part of the plan, the Department of Corrective Services is currently exploring the possibility of having a health unit within Casuarina Prison for prisoners diagnosed with mental health issues, so once again it is on site and right there. That precinct would be staffed with mental health professionals, not prison officers, and they would serve to not only improve the care of the mental health of prisoners, but also assist with the difficult transition back into the community on release.

I would like to conclude by saying that the government will not support the private member's bill from the member for Butler. Although we recognise that the intent is positive, we believe there is a broader aspect we need to cover and that the review currently being undertaken, which will see change, will make a huge difference. I look forward to having that come to the house so we can move on it as quickly as we can with support from both sides of the house.

MR J.R. QUIGLEY (Butler) [5.12 pm] — in reply: I rise to be the last speaker for the opposition in this debate on the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014. What the government is proposing here is another talkfest and, quite frankly, Western Australia is sick of the government's talkfests. The parliamentary secretary pointed out to this chamber that the government went to the election with an unspecified proposal to do something about mentally impaired offenders; it was unspecified, but the government was going to attend to it. Nothing has happened yet at all, but that is not surprising because four years previous to that, the Liberal Party went to the election with a promise to close down brothels operating in the suburbs next to my constituents' houses. What has happened in the six years since that promise was made? Nothing but yap, yap, yap, and then dead silence. The government said it would consult with the community, that it would put a green paper out on prostitution and that it would yap, yap, yap, until everyone got sick of the issue and it hoped it would disappear into the ether,

which largely it has. To the chagrin of my constituents, they still have brothels operating out of houses next to them because they were deceived by this government.

What is being proposed with this bill is minimalist change that will not in any way impede any talkfest that the government wants to conduct for the next year or two—it will not impede that at all. It is responding to the public's demand for change and the Chief Justice's call for change of exactly the nature we are proposing with this bill. Firstly, at the moment if a person is declared to be under such mental impairment as to be unfit for trial and a detention order is made, it is of indefinite duration. The member for Eyre says that we are talking about two separate things here—punishment and rehabilitation. I heard him yap down there, but what did the member for Eyre do for Marlon Noble in the 10 years he was rotting in prison without any care? What one word did the member for Eyre utter in this chamber after the circumstances of Marlon Noble were revealed; that is, he had been left rotting for nearly 10 years on an allegation of indecent assault? Bear this in mind, members: the victims of that indecent assault had gone to the police and said that they had got the wrong uncle, but that did not stop the system. This is how these people are cared for, member for Eyre. It was not until a prison officer approached a visiting solicitor at Greenough Regional Prison and asked him to please do something for this prisoner who had been forgotten and abandoned. It was only because that solicitor had his attention drawn to Noble by a prison officer, who the member for Eyre would have this chamber believe was interested in that prisoner's rehabilitation—tommyrot! The parliamentary secretary and the member for Eyre want to point out that there is a difference between a sentence and a civil custodial order made under this circumstance. Walk down the corridor at the prison and show me the difference; they are all the same, prisoner one, two, three or four, except for the poor person who is suffering from mental illness. He does not have any light at the end of the tunnel of when he is going to get out of prison; he is forgotten. Marlon Noble was forgotten.

Then we turn to the case of Roseanne Fulton who was held on traffic charges, not dissimilar to those that the member for Vasse was on, and found to be mentally impaired by reason of foetal alcohol syndrome. It is important to stress that Rosie Fulton did not go to a wedding or corroboree and fill herself up with liquor and then commit a number of traffic offences; she was labouring under foetal alcohol syndrome because unfortunately her mother apparently consumed alcohol while she was pregnant. Roseanne Fulton was a victim twice over, firstly by being a baby born mentally impaired because of the conduct of her mother—not like the member for Vasse who went and drank a bellyful—and who then, while labouring under this mental impairment, came to Western Australia and committed some traffic offences. What happened when *Lateline* got on to this story and broadcast it? It brought shame on the justice system in Western Australia. If we do not have a good, sound, robust justice system, we have a crap democracy. As soon as the story was broadcast, an online petition was started on change.org that in 24 hours got 110 000 petitioners signing up from around Australia, with change.org saying it was the largest petition it had ever had, and it all happened in 24 hours. It happened because what gets up Aussies' noses so badly is to see gross injustice; to see their institutions, the people's Parliament—it is not the government's Parliament—and the people's court system dish out injustice. When I eventually exposed the injustice in the Mallard case, I can remember the floods of emails I got and the stories on TV, because it so riled people that their whole system had been used to crush an individual, just like it has been used to crush Roseanne Fulton. When her case was exposed on television, as I said, the Australian public demanded a change. She did not get out of Kalgoorlie prison, member for Eyre, because someone decided she was now rehabilitated—get real! She had foetal alcohol syndrome from which we know there is no recovery; the damage is permanent. She got out of Eastern Goldfields Regional Prison because Western Australia was rightly shamed into releasing her because *Lateline* said it would keep broadcasting the story and keep people up to date about what was happening in Hicksville in the deep west. That is why Roseanne got out. Marlon Noble was released, not because someone said he had recovered. He will never recover. He suffered a tragic event at his birth, which the good doctor knows leads to permanent brain damage.

Dr G.G. Jacobs interjected.

Mr J.R. QUIGLEY: Marlon Noble was not released, as the good doctor the member for Eyre says, because he was rehabilitated. He was released because the government was shamed into it because the —

Dr G.G. Jacobs interjected

Mr J.R. QUIGLEY: I did not interject on you! You would not take questions. Shut your fat mouth. I take that back—shut your thin mouth.

Withdrawal of Remark

The DEPUTY SPEAKER: Order, member for Butler. That language is not acceptable.

Mr J.R. QUIGLEY: I withdraw it.

Debate Resumed

The DEPUTY SPEAKER: Member for Eyre, the member for Butler does not want to take interjections, so I would like to hear him in silence.

Mr J.R. QUIGLEY: Thank you, Madam Deputy Speaker.

Dr G.G. Jacobs interjected.

The DEPUTY SPEAKER: Member for Eyre, please allow the member for Butler to speak.

Mr J.R. QUIGLEY: We know that Marlon Noble was not released because he was rehabilitated; he was released because *The West Australian* newspaper was unrelenting in putting his case before the public, and eventually the government said that it would come up with some conditions and get him out of there. The department dealt with Marlon Noble so badly that when they let him out on weekend release to an approved carer—who gave him cold and flu tablets—upon his readmission to prison his weekend release was permanently cancelled. That was not because his condition deteriorated, but because they had a dud drug test result. How do I know it was a dud drug test result? Mr Robert Cock, QC, who is a commissioner looking for public sector corruption and all that, said that the whole testing was up the pole. Marlon Noble was released because of the efforts of *The West Australian* newspaper. Roseanne Fulton was released, not because someone said that she had been rehabilitated; Roseanne Fulton was released because *Lateline* would not let go of her story and held this state up to shame. What was the further reaction, beyond the reaction of the public, with the biggest petition ever created in Australia in 24 hours? It was the reaction of the Chief Justice. We all know the Chief Justice, because he came to this chamber and sat in the chair that Madam Deputy Speaker now occupies and swore us all in at the last Parliament. Who will ever forget the speech in which he invoked us all to put our collective minds together, because if we put our collective minds together in good faith we could come up with laws for the good of all Western Australians? What did the Chief Justice do when he heard about Roseanne Fulton's case? He came out and pleaded that the law be amended to put a finite length on the term of a custodial order. That is what the Chief Justice called for. This bill that I bring before the chamber does no more and goes no further than respond to His Honour's request of this Parliament. I know that the Liberal–National government does not have any regard for the judiciary of this city. I know that this government has for years run down the judiciary. Who will ever forget the Premier's disgraceful performance on television during the election campaign when he was talking about sentencing and came out and said, "We all know that some judges don't do the right thing." I thought, here's a go. He is going to name the judges who do not do the right thing. There are only about 20 judges in the Supreme Court and 25 in the District Court. We are talking about 45 men only, but the Premier slurred them all in a cowardly attack by not saying which judges.

I cannot wait for the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 to come back on because the Minister for Police has misled the Parliament about the judiciary. I cannot wait for that debate to come on, because the minister was dishonest about what the judges were doing. I will take members through that bill line by line, chapter and verse. The minister did not name the cases during debate. It was only after I pressed and pressed her by correspondence that she fessed up to which cases she was referring to. I cannot wait for that debate on mandatory sentencing to expose the dishonesty of the argument of the Premier and the minister. They have no regard for the judiciary. They see running down the judiciary as a chance to garner some more votes. They are not interested in sound public policy when it comes to criminal justice in Western Australia.

This bill is not radical. This bill does not go to a whole lot of other issues about appeals against these sorts of orders. All this bill does is respond to the request of His Honour the Chief Justice. No-one could call the Chief Justice some namby-pamby radical. He comes out of the golden triangle down the member for Nedlands' way—as do all of those justices; they are not radical socialists from the eastern suburbs. The most conservative, sound and most intelligent of the judges, the Chief Justice, comes out and asks for a law that limits the term for mentally impaired prisoners. That is all that this bill seeks to do. I did not want to persist with an interjection from the member for Eyre because he sought to flip me away by saying that the Mental Health Act —

Dr G.G. Jacobs interjected.

Mr J.R. QUIGLEY: He is interjecting again, Madam Deputy Speaker. Do you think you could help me? He is a friend of yours, is he not?

The DEPUTY SPEAKER: Continue, member for Butler; and whether I am a friend of members in the house is not important to you.

Mr J.R. QUIGLEY: He provokes me, Madam Deputy Speaker, and I do not want to be provoked. He got it all wrong.

Dr G.G. Jacobs interjected.

The DEPUTY SPEAKER: Order, member for Eyre. I have asked you to allow the member for Butler to speak. I will call you next time you interject.

Mr J.R. QUIGLEY: The member for Eyre said that I got it all wrong in my second reading speech on this bill, and that what we are talking about in this bill is different from mental illness under the Mental Health Act.

Dr G.G. Jacobs interjected.

The DEPUTY SPEAKER: Member for Eyre, I call you.

Mr J.R. QUIGLEY: Have another pill; settle down and have a Bex! Obviously, the member for Eyre has not read the existing legislation, the Criminal Law (Mentally Impaired Accused) Act 1996, which states —

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

The act also defines mental illness as "an underlying pathological infirmity of the mind, whether of short or long duration and whether permanent or temporary". This can all be covered under the Mental Health Act. The parliamentary secretary who responded to this bill is the same parliamentary secretary who had carriage of the Mental Health Act in this chamber, so she knows that in the case of a suspected offender who has been charged with an offence and is the subject of a custodial order that is of finite duration, the state has plenty of time to assess a person who is mentally ill and is presenting a danger to themselves. The state can make them an involuntary patient as the circumstances require and they will be under the auspices of the Mental Health Review Board, checked on by doctors and not left to rot like Marlon Noble in Greenough Prison or like Roseanne Fulton in Kalgoorlie Prison. I ask members to bear with me for a moment while I find a clipping—I do not have the report in front of me—from today's newspaper that reports on the Inspector of Custodial Services' report of yesterday. The article states —

> … Professor Morgan highlighted the case of a man who has spent —

This will make members weep if they read it —

> the last 5½ years behind bars after being found unfit to stand trial on charges of —

Let us look at the charges —

> Damage —

The member for Vasse has been convicted of several of those charges —

> street drinking and obscene acts in public.

The member for Vasse has done that, too. We know that because we have seen it in the Speaker's room. But this man has spent five and a half years in jail for damage, street drinking and an obscene act. He is still there! Why did he rot in prison for five and a half years? Because he was unfit to plead. This is the point the Chief Justice makes. In so many cases, lawyers, knowing of their client's infirmity, keep —

The DEPUTY SPEAKER: Order, members! There is too much conversation in the back. Hold it down, please.

Mr J.R. QUIGLEY: We know that lawyers keep quiet about their clients' mental infirmity because they know if this guy had pleaded guilty to damage, street drinking and obscene acts in public, and no-one raised his mental infirmity, he probably would not have been in prison, and certainly not for longer than six months, for that sort of conduct. But he spends five and a half years there! Let us look at the cost to the community. At $115 000 per prisoner per year, taxpayers have paid nearly $600 000 to keep this person there. What a disgrace.

I go back to what the member for Eyre said about mental impairment. I pointed out that it covers mental illness. Most of the people we are talking about are Indigenous and most of the people on these orders, as the Inspector of Custodial Services has pointed out, are Indigenous and are not well represented before the courts because of the withdrawal of the Aboriginal Legal Service and Legal Aid. Let us compare it with the case of the member for Vasse. We are told by the Premier and the Deputy Premier, who himself is a medical practitioner, that some hours after Vince Salpietro's wedding, the member for Vasse slumped into a situation of mental infirmity that meant he could not recall what happened that night at all and certainly was, out of his lawyer's mouth, "in no state to report the matter to police". He was so mentally infirm that he could not inform police of being involved in traffic accidents. That follows from the fact that he was so mentally infirm he could not even recall the accidents. Can members imagine what would have happened if he had been arrested and taken before the court?

Point of Order

Dr G.G. JACOBS: The case of the member for Vasse has no relevance to this bill.

The DEPUTY SPEAKER: Member for Butler, can you direct yourself to the bill?

Debate Resumed

Mr J.R. QUIGLEY: I am directing myself to the bill and its outcomes. If the member for Vasse had appeared before the court in those two or three weeks, the court would have had no alternative but to jail him indefinitely because he was mentally infirm! The Premier said it would be un-Australian to talk about him because he was so sick, as did the Deputy Premier, who is a doctor. That would have been a tragedy and something that I would have railed against. Bloggers in *The Sunday Times* and *The West Australian* probably would have rejoiced at the member for Vasse's indefinite jailing. It would have been demonstrably wrong. What is the difference between his conduct whilst he was mentally infirm and the conduct of, say, Roseanne Fulton who was mentally infirm? The difference is —

Dr G.G. Jacobs interjected.

Mr J.R. QUIGLEY: He is doing it again. Does the Deputy Speaker have her pen?

The DEPUTY SPEAKER: Member for Butler, I will decide when I call someone, thank you. That is my job in this chair. Member for Eyre, will you please allow the member for Butler to speak. Member for Butler, will you direct yourself to the bill, please.

Mr J.R. QUIGLEY: The difference between the two sets of conduct of the member for Vasse and Roseanne Fulton is that one in his press conference said, "I got the best available medical treatment in Sydney and I am very blessed for that." I hope that he has a full recovery. I am grateful and glad that the medical profession were able to assist him. But poor Indigenous people out in the sticks do not get that sort of support. Secondly, the member for Vasse was able to afford a very expensive and good private solicitor, Laura Timpano, who represented him from day one. It was all handled very professionally, and a fine of $1 300 was imposed. I juxtapose that with an Indigenous woman from Kalgoorlie who did not go drinking at a corroboree, who did not go drinking at a funeral and who did not go —

Dr G.G. Jacobs interjected.

Mr J.R. QUIGLEY: That is not air I hear, is it, Madam Deputy Speaker?

The DEPUTY SPEAKER: It is certainly air that I hear! I call the member for Eyre for the second time.

Mr J.R. QUIGLEY: Roseanne Fulton, the Indigenous woman from the eastern goldfields, does not have the best psychiatrist in Sydney assisting her. Roseanne Fulton does not have an expensive private lawyer to represent her. She just goes along to court and is given a detention order. The producers of the *Lateline* program somehow, God bless their hearts, got a sniff of it and it was aired around Australia that she is still in jail 18 months later. She is not now, because Western Australia was hung up to dry by *Lateline* for showing what a sham our justice system is when we take innocent people, who have never been convicted of an offence, and jail them indefinitely.

What does this bill say? Is this bill so earth-shattering? I gave instructions to parliamentary draftsmen, as I said in my second reading speech, that the bill's terms should respond directly to the Chief Justice's request that the legislation be amended to provide finite terms. The Chief Justice is not a radical socialist; he is at the peak of our legal hierarchy in Western Australia. I can remember the gibber in the courtyard after drinks when we were all sworn in and I can remember the call across this chamber: "Wasn't the Chief Justice's speech magnificent?" I know that Madam Deputy Speaker remembers it. Was not his speech magnificent when he asked us to rise above political imbroglio? He expressed confidence that if we applied ourselves with goodwill and used our intelligence, we could make good laws for the people of this state. Here members opposite are slapping him down! This is not Quigley's bill. This is not a Labor bill. This is a bill that responds to the Chief Justice, and the government slaps His Honour down. What a disgrace!

I cannot wait for the home burglary bill to be introduced so I can put before this chamber the absolute dishonesty with which the judiciary has been misrepresented. I have the judgements; do not worry about that, member for Belmont. I have underlined them. It lays bare the thin spread of intelligence that the Minister for Police was given by God—very thin; like putting the butter on because you do not want to get too fat! We will come to that when we bring that bill on, hopefully next week.

The Liberal government shows scant regard for the judiciary of this city. It has been coming here for years saying that judges cannot be trusted to do the right thing. That is why it brought in mandatory sentencing for police—because the judges could not be trusted to do the right thing. When the government was put to the sword when being asked to name the judges, the then Attorney General, Christian Porter, could not name one. Nor has the

Minister for Police, in the home burglary bill, and nor has the Premier. The Premier has just said that "we all know" in this general slander of the judiciary. In some ways, whilst I am bitterly disappointed on behalf of all Western Australians that the government has decided to reject the Chief Justice's request, I am in no way surprised.

When we have cases such as that which Professor Morgan has reported on, saying a person can rot for five and a half years for damage, obscene behaviour and street drinking, where is the rehabilitation in that? Zero. Where was the rehabilitation for Noble? Zero. Where was the rehabilitation of Roseanne Fulton? Zero. As I said in my second reading speech, I can remember a case involving Mr Peter Michael Eades, who is now retired, who was a magistrate. Before he was a magistrate, he was an Aboriginal Legal Service of Western Australia lawyer. Before that, he used to live in the golden triangle, but that is another point. I can always remember the case in which an Indigenous person was charged with damaging a parking meter in town. He pleaded not guilty so the DP put him to a jury trial. All these witnesses saw him damaging the parking meter. I will never forget seeing him up in the dock making all these guttural sounds—that is the best way to describe it—of a person who was not all there. Peter used to wear a fob watch. When he was fiddling with his fob watch, I said to him that given the condition of his client in the dock, why did he not plead not guilty on the grounds of insanity? He said, "Do you think I'm mad? That will end up with the accused getting an indefinite term. If I put him up in the dock and plead not guilty, even though he is mad, he is going to be found guilty because I have to raise insanity and I will not." He got a fine. Mr Michael Eades was very astute. No wonder he went on to become a judge and I a member of Parliament!

That is what the Chief Justice is saying. There are so many people out there whom the lawyers are keeping quiet about who do not get rehabilitation because we dare not raise the true condition of a client because they may get an indefinite term. If they plead not guilty and are found guilty, what would this man have got for street drinking, indecent behaviour and damage?

Mr F.M. Logan: A fine.

Mr J.R. QUIGLEY: He would have got a fine. Instead, he gets five and a half years at $115 000 a year to the taxpayer.

I was not putting down the member for Vasse, nor was I trying to embarrass him in any way. What was said about his illness hit a nerve with me because if he ended up before the court in that condition, the magistrate would have had no alternative but to give him an indefinite term of imprisonment because the member for Vasse would have been mentally impaired. How do we know? Because the Premier said he was mentally impaired. We all agree with that, and so does the Liberal Party. All its members agree that the member for Vasse is mentally impaired, a condition from which we all hope and occasionally pray he fully recovers. I do not want to see anyone spend one day longer under any sort of illness; good Lord, I have suffered enough myself. I do not want to see anyone suffer any illness for one day longer than is necessary. I only raise it to juxtaposition how this society is unfair. If someone can afford a Sydney psychiatrist and a St Georges Terrace lawyer whilst mentally insane or impaired, nothing much is going to happen to that person. But if one is struggling, as one of the, dare I say it, underclass—what I mean by that is homeless, no income and labouring under a mental impairment—God help that person. They will receive an indefinite term.

Who in this chamber would not agree that the Chief Justice's request is not reasonable? I will tell members who. It is the government. The government is undermining the judiciary. It wants to slap down the Chief Justice, and it will when a division is called this afternoon. Members are not voting against Labor when they come to this side of the house to vote no; they are voting against the Chief Justice and the judiciary on their reasonable request. They work amongst it every day. They see these cases every day. But this Parliament refuses to respond other than by doing what it did with the prostitution bill; that is, propose another talkfest. The member for Eyre knows what I am talking about. The government was long on promises. It was going to get prostitutes away from my constituents' houses. It promised that when it first came to government. What has happened? Diddly squat. Prostitution is the word that should not be mentioned in this chamber because it upsets the government, which was long on promises. We know that in Western Australia there are no laws against prostitution because all the government promised was inquiry upon inquiry upon inquiry. Now what is it doing about this tragic situation? It is promising a further inquiry. Do members not realise that as we sit here in the comfort of our leather chairs waiting for six o'clock when the dining room will open, when we go and repair with a nice little sirloin steak and a glass of shiraz, the key has already turned again on the cell doors of innocent, ill people who have never been convicted of anything? They have already had their gruel at four o'clock and they are being locked away. They cannot even go into their cell and pick up a bit of charcoal and cross another day off until their ultimate expected day of release because they are on an indefinite sentence.

All of Australia knows what a disgrace it is here in Western Australia under this law. What is being proposed in this amendment simply reflects the situation in other states—what it is in New South Wales. I agree that the other states go further in giving mentally impaired accused wider rights of appeal and reconsideration. As the opposition, we have not gone that extra half a mile; we have not tried to overreach. We could have brought in a bill that replicated the situation in New South Wales. We chose not to. We chose the minimalist approach, nothing further, so that it could be said that there is nothing in this bill that goes beyond what His Honour, the Chief Justice of Western Australia, has recommended to the public and requested of this Parliament by his public utterances that will enhance justice in Western Australia.

I will resume my seat now. A division can be called. Those opposite can change sides and vote the Chief Justice down.

Division

Question put and a division taken, the Deputy Speaker (Ms W.M. Duncan) casting her vote with the noes, with the following result —

Ayes (17)

Ms L.L. Baker	Mr F.M. Logan	Ms M.M. Quirk	Mr B.S. Wyatt
Dr A.D. Buti	Mr M. McGowan	Mrs M.H. Roberts	Mr D.A. Templeman *(Teller)*
Mr R.H. Cook	Mr M.P. Murray	Ms R. Saffioti	
Ms J.M. Freeman	Mr P. Papalia	Mr C.J. Tallentire	
Mr D.J. Kelly	Mr J.R. Quigley	Mr P.B. Watson	

Noes (32)

Mr P. Abetz	Ms M.J. Davies	Mr C.D. Hatton	Ms A.R. Mitchell
Mr F.A. Alban	Mr J.H.D. Day	Mr A.P. Jacob	Mr N.W. Morton
Mr C.J. Barnett	Ms W.M. Duncan	Dr G.G. Jacobs	Dr M.D. Nahan
Mr I.C. Blayney	Ms E. Evangel	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr I.M. Britza	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr G.M. Castrilli	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr V.A. Catania	Dr K.D. Hames	Mr J.E. McGrath	Mr T.K. Waldron
Mr M.J. Cowper	Mrs L.M. Harvey	Mr P.T. Miles	Mr A. Krsticevic *(Teller)*

Pairs

Ms S.F. McGurk	Mr J. Norberger
Mr W.J. Johnston	Mr M.H. Taylor
Mr P.C. Tinley	Mr R.F. Johnson
Ms J. Farrer	Mr B.J. Grylls

Question thus negatived.

Bill defeated.