

CRIMINAL LAW (UNLAWFUL CONSORTING AND PROHIBITED INSIGNIA) BILL 2021

747. Ms M.M. QUIRK to the Attorney General:

I refer to the McGowan Labor government's commitment to keeping Western Australia safe, which includes implementing the toughest and most comprehensive reforms to combat organised crime in the country.

- (1) Can the Attorney General outline to the house how the Criminal Law (Unlawful Consorting and Prohibited Insignia) Bill will improve the system of consorting notices for sex offenders compared with the current system?
- (2) Can the Attorney General advise the house whether he is aware of anyone who does not understand the bill or is misleading the community about what it will do?

Several members interjected.

Mr J.R. QUIGLEY replied:

Here's a lollipop!

- (1)–(2) I thank the member for her question. She is not the only person, of course, who thinks that these laws and the Criminal Law (Unlawful Consorting and Prohibited Insignia) Bill that we have before the chamber at the moment are a vast improvement on the current system. Legislation was introduced, firstly, in the fortieth Parliament. It passed this chamber and was before the Legislative Council before prorogation. The then shadow Attorney General, Hon Michael Mischin, who is an experienced prosecutor, said of these laws that the proposed changes will go much further than the existing laws and “correct some of the problems with the current regime”. He noted, “The regime that is proposed by the government seems to be a sensible one”, noting the expanded scope of people in the new consorting offence. Mr Mischin said, “The legislation potentially will have very broad operation.”

Whilst the bill was being considered in the other place, Hon Nick Goiran also praised the bill and raised none of the criticisms that had been raised in the Liberal Party's press release, dated 9 June this year, which is no more than a tableau of lies. I will take members through some of those lies. On page 2, the press release says —

“Effectively under WA Labor, Child Sex Offenders will go from not being allowed to consort at all ...

That is not true; that is a lie. Under the existing system—section 557K(4) of the Criminal Code—firstly, the policeman has to give a sex offender a warning that the other person is a sex offender and can proceed to a consorting notice only when that person habitually consorts with the other person, with there being no definition of “habitually”. Far from what the Liberal Party says, which is that under the current scheme, they cannot consort at all, the police officer has to show that they have been consorting habitually before they can invoke the legislation! That is not so under our new scheme. Under our new scheme, if the police believe that a child sex offender or other relevant offender, including a bikie, is in the company of—just the company of—another relevant offender, a consorting notice can be issued. That will be much easier than under the old scheme.

Secondly, in the tableau of lies, the Liberal Party says that a police officer can issue the consorting notice only if they are, and I quote —

... engaging in conduct constituting an indictable offence.

That is a lie. In fact, in clause 9 of the bill, if the person is in the company of another person who has committed an indictable offence, and if the officer thinks it is appropriate to issue the consorting notice—if the officer thinks it is merely appropriate—he can issue the consorting notice. There does not have to be proof of an indictable offence at all. It is outrageous what the Liberal Party is doing to try to undermine public confidence in this bill.

Thirdly, there is no definition of consorting in the old legislation, so we just have to say, “What is consorting—association?” But the world has moved on. Does it include WhatsApp? Does it include Facebook? Does it include retweeting somebody? All this has been made clear in our new bill, which has a definition of consorting, which is communication by electronic means—by any other means. So, what the government is presenting is far stronger.

Finally, we are upping the maximum penalty from two years to five years on indictment. The reason for upping the maximum penalty to five years on indictment is that it invokes the section of the Criminal Investigation Act that allows a policeman who sees people consorting in defiance of a notice to effect an arrest without a warrant. They do not have to go away with their evidence, see a justice, give evidence and

ask for a warrant. If they see two child sex offenders, two bikies or any other organised criminals together in defiance of an anti-consorting notice, they do not have to go and see a justice. They can collar them and take them off the street immediately. Labor is introducing, as the member for Landsdale has described, the toughest anti-consorting laws in the nation, and they are recognised to be so by none other than former shadow Attorney General Hon Michael Mischin. They were not criticised at all by Hon Nick Goiran in the last Parliament, but he now comes out with this tableau of lies to try to undermine public confidence in the best anti-consorting laws in the nation.