

SENTENCE ADMINISTRATION AMENDMENT BILL 2016

Second Reading

Resumed from 16 March.

MR S.K. L'ESTRANGE (Churchlands — Minister for Mines and Petroleum) [4.12 pm]: It has been a couple of months since I was on my feet on this topic. As a minister of the government, I am not the lead speaker on this topic; I am continuing my speech from two months ago. As we all know, two months is a long time in politics. This issue is one that I take very seriously, and I want to continue my speech and conclude it for the benefit of all of us in this house. My speech is to do with the Sentence Administration Amendment Bill 2016. I want to put on the record very clearly, as I did before, that I support the idea of no body, no parole, but will this bill that is before us today deliver on this outcome? Unfortunately, it will not. It is deeply flawed and I will continue now to explain my rationale for believing it is deeply flawed. I refer members to the explanatory memorandum, which states, in part —

Clause 6 also mandates that the Board must take into account any report tendered to the Board from the Commissioner of Police evaluating a prisoner's co-operation including the extent of the prisoner's co-operation, the timeliness, truthfulness, completeness and reliability of the information and the significance of usefulness of the prisoner's cooperation with the investigation of the victim's remains.

The explanatory memorandum refers to the victim's remains, which is in line with this notion of no body, no parole—if they tell us where the remains are, parole can be considered. I understand the concept, but my real concern is with the bill itself. The bill is a four-page document, but essentially everything is contained within page 3 of that document. If we want to get to the heart of this private member's bill, we go to page 3 of the bill. Nowhere in the bill is there any reference whatsoever to the remains of a body. That phrase does not exist in the bill. I think that is a real shame because there are families out there who are deeply grieving the loss of their loved ones, some of whom have been wanting the person who was charged with the murder of their loved one to tell the family where the body is. That must be incredibly hard for the families. Certainly I, and I believe all members of the Liberal-National government, would want nothing more than to be able to force a prisoner, by way of a piece of legislation, to give up the location of the remains of the deceased, their loved one. But, as I say, this bill does not refer anywhere to locating the remains—nowhere. The bill does refer to “cooperation”.

The issue I have is that there has been a lot in the media around this bill and it worries me that the focus of this bill has been more about generating public anxiety and public support for the notion of no body, no parole without delivering on the outcome itself. That is a real shame, and I think that more effort and more work should have been done by the member for Butler in drafting this bill so that, at the very least, it could have referred to the location of remains. Unfortunately, this bill does not do that.

I also refer members to some special cases. When we think about the notion of cooperation of a prisoner, or even somebody charged with an offence, I expect the cooperation that we would seek from them would be during the process of them being arrested and interviewed. That is when we would want them to tell us the location of the remains of the body. If people are left to wait 20 years—that is, at the end of the prisoner's sentence when they are coming up for parole—for the parole board to say, “We will consider parole if you now tell us where the remains are”, how is that an incentive to help a family who has been waiting 20 years to find out? How is that helpful? Again, this bill does not make that clear and does not support the families of the person who has been murdered. I will read from clause 6 of the bill, “Section 12B inserted”. Proposed section 12B(2) states —

A report given under section 12 or 12A must not make a release recommendation in relation to a prisoner unless the Board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the murder —

This is the part I want members to focus on —

(whether the cooperation occurred before or after the prisoner was sentenced to imprisonment).

If it were a family member of mine, I would want that prisoner to tell the police where the remains were as soon as possible. This bill does not refer to remains; it just refers to cooperation and does not define what that cooperation is. All it says is, “Well, you can cooperate at the end of your sentence and then be considered for parole.” How is that helping the families? That is a really serious concern, and it should be a concern of all of us in this place. If the opposition is going to the trouble of debating a bill, a possible new piece of legislation, a new law, for goodness sake, do the right thing by the community and make sure that the bill is robust and that it will try to deliver on the outcome that the opposition purports in the media it will deliver. The opposition cannot go out there saying that it has 30 000 signatures on a petition supporting no body, no parole and that it has a bill that will do that when it will not do that. It will not do that! Frankly, it is a disgrace that we have emotional families

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out there in the community who are being led to believe that this will solve their problem. This bill will not solve their problem. This bill will build more anxiety and create more confusion. Frankly, it will create a situation that pitches Labor against the Liberal–Nationals on an issue without providing any substance to support the bill, and with people in the community, some of whom, dare I say it, having been hoodwinked into believing that the government is against the intent of this bill.

The Liberal–National government is absolutely not opposed to trying to find a piece of legislation that will encourage a prisoner to give up, as early as possible, the location of the remains of somebody they have murdered. But the Liberal–National government is opposed to what looks to me to be, frankly, some sort of media effort rather than a real attempt to solve the problem. It disappoints me greatly that I have to allude to that particular view.

We could discuss many cases to demonstrate the difficulties with this bill. What about someone who says, “I will now at the end of my sentence tell you where the body is”? The police might think that is fantastic and they go to find the body but it is not there. What happens if the body has been moved by someone else? What about another example —

Mr P.B. Watson: You’ve got fairies coming in.

Mr S.K. L’ESTRANGE: Member for Albany, I am not being lighthearted here.

Mr P.B. Watson: You are.

Mr S.K. L’ESTRANGE: This is serious.

Mr P.B. Watson: You are being lighthearted.

Mr S.K. L’ESTRANGE: No; the member for Albany is making light of an issue in which families are distressed. This is serious.

Mr P.B. Watson: At least we’re trying to do something. You’ve sat on your backsides for years and done nothing.

Mr S.K. L’ESTRANGE: All the member for Albany is doing —

Mr P.B. Watson: You have done nothing over there.

Mr S.K. L’ESTRANGE: Let me finish, because I am going to have to sit down shortly. What about the prisoner who says, “I took the body out on the back of a 15-foot boat and discarded it two kilometres off the back of Rottnest Island”? They have cooperated. Where does this bill address the serious issues of intent? They are not being addressed. It is literally a one-page document. Nowhere in this document does it refer to the remains of the deceased—nowhere.

MR R.F. JOHNSON (Hillarys) [4.22 pm]: I am very pleased to be on this side of the house at the moment in a seat that nobody has ever sat in. I do it with great honour as the new Independent member of this chamber. Can I say that I totally disagree with my former colleague who is sitting over there. He has been told by the Attorney General what to say. I know that the Attorney General opposes this bill. He would not say the things that the member for Churchlands has said; he would say that we do not need it. He would say that the Prisoners Review Board takes into account whether there has been cooperation and not do it and that it would simply delay the parole or not accept it. That is not good enough.

The Sentence Administration Amendment Bill 2016 is a very simple bill. I am very pleased that the member for Butler has brought it to the house. The member for Churchlands can go on as much as he likes, but nobody on that side of the house—the Attorney General in particular—has brought in a bill to match this one, which is what the government or the Attorney General would do if they thought there was some merit to it. The member for Churchlands said that it is a great idea—prisoners should not get parole if they do not tell the police or the Director of Public Prosecutions where a body is buried. Very often people will not even admit to killing a person, even though there is massive evidence to show that that person has been murdered by Mr X or Mr Y. They simply want to keep the facade going so that they do not have to admit that they have killed somebody in the hope that they will get parole anyway, even if they are charged and then convicted.

There is no need for this situation. The government could have brought in a bill. In the time since this matter was mooted by the member for Butler, the government could have brought in a bill. It does not want to. That is the honest truth. The Attorney General is on record as saying that it is not necessary. The Prisoners Review Board will deny parole if the prisoner has not cooperated and will not reveal where the body is. There is no evidence to say that at all—none whatsoever. I know for a fact that those parents—the one in particular we have been talking about—must be devastated not knowing where their children are and where their bodies are buried. That is not the only case. There are other cases also. We have seen some dreadful cases over east, but I am more interested

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in what happens in Western Australia. Quite frankly, it is the government that brings in bills. It brought in bills under the previous Attorney General to deal with bikies, yet what has happened? Nothing has happened in seven years. Bikies are out there, shooting and killing each other, as they did in the northern suburbs in the last week or two, and it is continuing to happen. What is happening with organised crime? We are worried about methamphetamine, prostitution, people trafficking and all the rest of it. Everybody knows who is guilty of perpetrating those crimes. It is bikies. But we have done nothing. The government introduced legislation under the previous Attorney General, Christian Porter, who is probably more a politician than the present Attorney General. The present Attorney General is very strictly a lawyer; he is not so much a politician as a lawyer, and I do not say that to degrade him in any way. I think that it is a good thing because he tries to stick to the facts of the law and that is it. He is quite hard in his rulings on those things. But I think in this instance he is wrong. I think the public has every right to know what this Parliament is going to do about those murderers who will not disclose where the deceased person is. I know that if it were one of my children or any one of my family, I would want to know where they are so that I could lay them to rest properly in the correct way—in the Christian way, if I might put it that way. Those people who do not are cruel and wicked; they are all the dreadful things you want to say about somebody. They are the epitome of evil because they are depriving the deceased person's loved ones the ability to lay their loved one to rest and to be able to pay their respects as many times as they want to. Some people pay respects every month and some people go once a year if they know where their deceased relatives are. That is under normal circumstances, but in this circumstance, those people have no idea where their relatives are buried. The member for Churchlands asked what would happen if they have been dumped at sea. Let the person cooperate with the police and tell them that he or she dumped the body at sea. That would be cooperation. That would probably be covered under this bill, I would suggest. There would be a job retrieving the body if they have dumped it at sea, but at least they have admitted it. If they have admitted that they killed that person and they dumped them overboard, at least the relatives would know what had happened. That person would then be considered for parole. They might not be considered for parole quite as soon as other people, but they might get some parole.

The member for Churchlands said that we cannot do that after somebody has served 20 years. They would not serve 20 years. If a prisoner is to get parole, it normally is stipulated when the sentence is given. The court would say that it is going to sentence a person to 20 years, with parole after 15 years, or something like that. Very few people ever get that sort of sentence. A life sentence should be a life sentence. That is what members of the public want. They want these really nasty people who murder other people to go to prison for the rest of their lives. That is why I think the member for Butler has done the right thing by bringing this particular bill into the house.

I am sure that other members feel the same as I do. I know this must worry the government because this bill, this theme and this scenario would be very popular with the general public. The public wants to see an eye for an eye and a tooth for a tooth. People want to know that if somebody is murdered, their relatives, their loved ones, will know where to find them at some stage. Why would we want to afford that pleasure to a murderer who is simply being perverse, sadistic, narcissistic and the rest of it by not disclosing where the person that they have murdered is laying or buried—whatever has happened to them? Murderers do very often get pleasure from not revealing where the person they have murdered is buried.

I do not want to speak for very long, because I think we will probably like to vote on this bill tonight. I will certainly be voting with the opposition on this bill, because I think it is a worthy one. If the government does not think it is the best bill and it thinks that there are some shortcomings in it and it wants to tidy it up, it can do that easily. But we know how the system works. This bill will not get past the second reading stage in this house and there will be no message from the Governor. I would also suggest that it will be killed off at the conclusion of the second reading stage and that will be it. But at least the message will be out there. The public will know who cares about people who have been murdered and the families who are left behind. It is the families left behind who have the heartache for the rest of their lives. It would make a great change, but I do not think it will happen. For the government to agree to a bill like this and to support it, it would show support for not only the people who have lost their loved ones, but also the people of Western Australia and show that members of Parliament care about those families who have lost loved ones by violence. It is violence. Those people have been murdered—there is no other way to put it—and they deserve the respect that this Parliament should give them, and we should allow them the opportunity. Whether it would make a great deal of difference, I cannot say, but it would make some difference. It would give them some comfort and it would give some incentive to those wicked and evil people who take the life of an innocent person. It would give the families a lot of comfort to know that that person will not get out of prison and will not get any parole whatsoever, unless they own up and admit where they have laid the body, so the families can treat their loved one with respect, lay them to rest and pay their respects. I support the bill.

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MR M. MCGOWAN (Rockingham — Leader of the Opposition) [4.31 pm]: I support the legislation brought forward by the member for Butler, the Sentence Administration Amendment Bill 2016, which deals with a gap that currently exists in the law and in the criminal justice system. It does so in a way that is reasonable and sensible and tries to take account of the numerous circumstances that might exist in a situation such as this. The reason this legislation has been brought forward is twofold. The member for Mandurah had contact from Mr and Mrs Dodd, the parents of Hayley Dodd, who has been missing since 1999. Mr and Mrs Dodd clearly remain distraught by the fate of their daughter and remain vigilant and continue to engage in efforts to try to find her location today, while accepting that something untoward has happened to her. They launched a petition online, which acquired more than 20 000 signatures, calling for a change of this nature to the law. They based their petition on their observation of laws that were introduced in South Australia, which I think were identical to the legislation that the opposition has introduced in this place. Each state has its history. The South Australian government introduced those laws because over the years a range of murders have occurred in that state and in some cases the bodies have not been found. Each state has examples of someone being found guilty of murder and the location of the deceased's body never being revealed by the person convicted. That person then sat in jail awaiting a potential parole date and there was no incentive for that person to reveal the location of the body. It is very difficult for the families involved. As we read often in the newspapers, they have a life sentence because their son or daughter, brother or sister, wife or husband or mother or father has been murdered, yet the person convicted of that murder will most probably be released from prison at some point. In these special cases—I admit they are few—they do not find out the location of the body of their family member. It helps with the grieving process and with whatever closure one can acquire when a family member has been murdered to be able to provide some sort of ceremony, whether it is a burial or a cremation, for their loved one. It provides also some certainty in relation to their faith.

Mrs Dodd brought this issue to us. The member for Mandurah and I met with Mrs Dodd. Fortunately, the member for Butler saw the injustice of these cases and took up the matter; hence, here we are today debating this bill. Mrs Dodd is passionate about these issues. Matters are currently before the court so I cannot go into detail, but she desperately wants to know the location of her daughter. I support her in that. There are not many cases like this, but there are cases.

We all know about the case of Mr Mansell and Mr Puddy: Mr Mansell was convicted of the murder of Mr Puddy. The location of Mr Puddy's body has never been revealed by Mr Mansell, who is currently in prison. Mr Puddy's family would love to know the location of the body of their son and brother, but Mr Mansell has never revealed that, yet there was sufficient evidence before the court to allow a jury to convict him. There was enough evidence to convict him beyond reasonable doubt without a body. He has been convicted and is now in prison for whatever term of imprisonment he has, but he could still be released and Mr Puddy's family might never know the location of his body. Mr Puddy's father is ageing; I am not sure how old he is, but he is elderly. I do not know how old Mrs Dodd is, but I would expect —

Mr D.A. Templeman: She's just had her sixtieth birthday.

Mr M. MCGOWAN: I would have said that she was in her 50s; she has just turned 60. If anyone is ever convicted of Miss Hayley Dodd's murder, Mr and Mrs Dodd may still never know where their daughter's body is. The South Australian government came up with a solution involving a condition of parole for someone convicted of murder. Australia is different from the United States. Normally in Australia, when someone has been in prison for 20 years or so after being convicted of murder, they are released; in the United States, they are executed after 20 years in prison. Australia is engaging in an incentive-driven approach, which is that if people want to get parole, they need to cooperate with the police in a range of areas. The second reading speech of the member for Butler is very clear: it is about revealing the location of the body, and the legislation is clearly directed towards that. If the convicted person reveals the location of the body, the Commissioner of Police will provide a certificate to the parole board showing that cooperation. The parole board will then use that in its recommendation to the minister as to whether the person is eligible for parole. The reason the language is not absolutely specific—"You must say the location of the body or else you won't be released"—is in the member for Butler's speech; that is, circumstances can impinge on that hardline provision. It is very straightforward. He said this: two or more people may be involved in a murder. One of the individuals may well have been involved in the murder but then left the scene and does not know where the body is because the other individual disposed of the body. Those circumstances must be taken into account by the Commissioner of Police in the recommendation to the parole board, which then makes its recommendation to the minister. It is very simple; it is a practical situation that must be dealt with.

The other point that the member for Butler made was that the opposition wants it to be broader than just "no body, no parole". Let us say that more than one individual was involved in a murder. The police know that there was more than one person, but the person they have—they have enough evidence to get a conviction

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against them—will not reveal who the other people were. That person's lack of cooperation therefore means that they will not get parole either. It broadens the legislation; it makes it stronger and better in circumstances in which someone is murdered by more than one person. The police commissioner can take that into account in making the recommendation to the parole board and then on to the minister as to whether the person gets parole. Did they cooperate in advising who the other people involved in the murder were? It seems to me pretty sensible that we would allow for those individual circumstances to be taken into account. Do they provide information on where the body is? Do they provide information on who else was involved? If they do not, they do not get parole; that is the intent of the bill. To me, that is a gap in the law that should have been fixed before now. I will tell members why it is important. It is important because it helps with a few things. First, it helps with closure for the families. As I said, families want to know the location of their loved one and they want to know before they die. They do not want to go to their grave not knowing what happened; they want to know. That is the advice I have received from Mr and Mrs Dodd. They want to know. I expect that is the case all over the country for people in these horrible circumstances. They want to know. Second, it helps with the investigation. The police can advise an alleged perpetrator, who is probably not aware of the nuances of the law, that if they do not tell them the location of the body, this is the law as it stands and if they are convicted, they will not be released. I would have thought it was a pretty good incentive for the perpetrator to advise the police of the location of their victim. It is also a good incentive to do it early in their period of imprisonment. I heard the member for Churchlands say that a time frame should be put on it. Let us imagine that we put a five-year time frame on it. If a person is convicted of murder, they will have to tell the police the location of the body within five years or they will not be eligible for parole.

I have never been to jail and I have never been convicted of murder but I imagine that those who have been were probably not in a good frame of mind. All these emotions might be going through these people's minds, whether it is anger at what has occurred to them, anger at the person whom they committed the offence against or that person's family and friends or they are under a code of silence because they might be a member of some sort of outlaw gang, and they are determined they are not going to say anything. That might go on for a few years. Once they have been in prison for 10 or 15 years, perhaps that anger, that sense of being part of a gang or motorcycle group or whatever will dissipate and the code of silence will disappear, because the incentive of getting out after 20 or 25 years if they are cooperative might kick in more strongly. Of course, we cannot put a time frame on it. If someone is in such a frame of mind, they will never reveal the body because there will be no incentive for them to do so if, as was suggested by the member for Churchlands, we put a time frame on it.

Mr S.K. L'Estrange: I didn't suggest a time frame.

Mr M. McGOWAN: The member did in his speech on 24 February.

There are reasons the laws are constructed the way they are. They are based on the South Australian example. I understand that the Victorian government is following suit. Those laws are reasonable and sensible. Today we want to get this bill to a vote. Today we want to see where members stand. These things should not drag on forever. I think the families involved need some advice from the Parliament about its intentions. We want the government to support these laws. We think they are sensible and reasonable. I have heard two arguments from the government against them. The first argument was put by the Attorney General, who said in his rather disparaging remarks about Mrs Dodd that these laws are not necessary because he would never let anyone out in that circumstance, as though he will be the Attorney General for the next 1 000 years. Clearly, he will not be. He may not even be the Attorney General 10 months from now. We are saying that this law would apply and bind future Attorneys General, whoever they may be. The second argument against it was put by the member for Churchlands when he said, "We support the intent but the wording is all wrong", which is always the classic line from a government not to support an opposition's bill. The government rolls it out every single time: "Oh, it's all there. We support the intent but we found a problem in the wording." Any one of us can do that with every single bill that comes before this house if we want to. We can find a hole in the wording of every single bill and ask, "What does this mean?" or "What does that mean?" and tie the minister in knots about the wording if we want to.

I think members clearly understand that this bill is based on the wording of the South Australian bill. It takes into account the circumstances that might arise. It allows for no parole and allows for a case in which there may be more than one perpetrator or an offender who was caught cooperating with the police in identifying other offenders. It also provides an incentive for convicted murderers to provide the location of the deceased. That is what it does. There is no trickery or anything of that nature. It is basically based upon a grieving mother who lives in the member for Mandurah's electorate, who launched a petition. She approached her member of Parliament and brought this forward to Parliament based on what another state has done. That is what it is. It is up to the government how it votes. I advise it to vote for the legislation because it fixes a hole in the law and it gives some comfort to families who are dealing with significant grief. It provides an incentive for one individual

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in particular in prison in Western Australia today who has not revealed the location of the body of the person he is convicted of murdering. If this law is passed, it will certainly provide some comfort for this family and encourage that individual to provide the location of Mr Puddy's body. That is what it is about. There is no trickery in it. It is just a decent thing to do.

MRS L.M. HARVEY (Scarborough — Minister for Police) [4.45 pm]: I rise on behalf of the government to make my remarks on the Sentence Administration Amendment Bill 2016. I do not think anyone in this Parliament or anyone in our community opposes the intent of this legislation. I think this government has been very clear from day one that we support victims, not offenders. We get criticised for that. That is why we introduced the very first Commissioner for Victims of Crime in this state to be an advocate and a voice for victims of crime. In these circumstances described by other members, "victims of crime" would obviously extend to people who have died in a violent fashion. It is based on a concept that the government supports and has sympathy with; that is, families need to find some sort of closure, as difficult as that may be, if they have lost a loved one in a violent way.

Dr A.D. Buti: How do you get closure if you can't find the body?

Mrs L.M. HARVEY: I would like to go back to —

Dr A.D. Buti: Answer the question. How do they have closure if they can't find the body?

The ACTING SPEAKER (Mr P. Abetz): Member for Armadale, it is not question time. If the minister does not take the interjection, she is not obligated to.

Mrs L.M. HARVEY: Mr Acting Speaker, I will address this one interjection. There cannot be any closure if the body cannot be found. The government does not disagree with that sentiment. Members on this side have said that they support the intent of this legislation.

I go back to what families go through. I am not going to quote which remaining family member of which victim this relates to but I want to read part of an interview with a victim who lost their sister to a violent crime. It states —

Every time they find a body, on TV or anything, I always just hope that it is. People say, "Why do you hope it's your sister? "Don't you want her to come home?" But I know she's not coming home, so for her body to be found is more important.

...

It's a pain that you can't discuss—Unless you've been through the pain yourself, you can't describe it. No-one else can say, "I can feel what you're going through," unless they've gone through it themselves. They can try and imagine what the pain is like, but they can't imagine what that is, living day in, day out not knowing where she is, not knowing what she's been doing, what she would be doing now if she was here. Would she be married and have children, or would she be going to school, or would she be going to uni or have a job? What would she be doing? Would she be travelling round Australia? You wonder all the time.

I cannot imagine what it must be like to live with that. As a mother, as a sister and as a friend of many people, it must be an indescribable horror to not know where the remains of a family member who has been murdered lie. It would be a horror for any family member not to be able to have some ceremony to say goodbye to them and lay them to rest in an appropriate fashion.

We understand and absolutely support the intent of this bill. However, I think it is very important that we give some context to what exists and why the government has taken the position that it has. The Sentence Administration Act 2003 governs all aspects of release on parole and conditions on which parole may be granted. The overriding consideration of parole is set out at section 5B of the act—the safety of the community. Section 5A contains 11 release considerations that must be taken into account when considering parole. I will not read through all of them, but one of them is —

- (d) issues for any victim of an offence for which the prisoner is in custody if the prisoner is released, including any matter raised in a victim's submission;

Further down it states —

- (k) any other consideration that is or may be relevant to whether the prisoner should be released.

Sections 5A(d) and 5A(k) are of particular relevance to the Sentence Administration Amendment Bill 2016. There is a legislative basis for the Prisoners Review Board to receive and consider victims' submissions

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regarding the release of a prisoner prior to a prisoner completing the full term of their sentence, as outlined in section 5C of the act. As part of its deliberations about a prisoner's application for early release, the board is required to take into consideration —

issues for any victim of an offence for which the prisoner is in custody if the prisoner is released, including any matter raised in a victim's submission;

That is section 5A(d) of the act. It is important to note that when an offence resulted in death, the victim is defined in section 4 of the act as "any member of the immediate family of the deceased".

The Victims of Crime Act 1994 provides guidelines to protect and support victims of crime. These guidelines apply to all state government agencies and staff, including the board. One of the guidelines under the Victims of Crime Act is that a victim's views and concerns may be considered when a decision is being made about whether to release the offender from custody, unless the prisoner has completed the full term of the sentence. Sections 12 and 12A of the Sentence Administration Act deal with reports that must be made by the board to the Attorney General. These reports must deal with the release considerations relating to the prisoner, and in cases in which a prisoner is serving a sentence of life or indefinite imprisonment for murder, they may recommend whether the Governor should be advised to release such a person on parole.

This is important: under the existing regime, a prisoner's refusal to reveal the whereabouts of the victim's body would be a release consideration, particularly if it is an issue for the family of the deceased. I cannot imagine any circumstance in which it would not be an issue for the family of the deceased. This also goes towards a consideration of whether there is generally an acknowledgement of guilt and responsibility for the offending and whether the safety of the community is affected. Once again, we go back to the paramount consideration of the Prisoners Review Board with respect to community safety.

Much has been said about comparing Western Australia's regime with those in other states. They are not the same. Western Australia differs in that the Attorney General receives a recommendation from the board. In other states such as Victoria, the Parole Board makes the decision about whether to release the prisoner. Western Australia's sentencing regime is different from that in Victoria. In Western Australia, the court must either set a non-parole period or order the offender never to be released. In Victoria, life imprisonment is not mandatory for murder, and murderers usually receive a fixed head sentence as well as a non-parole period. We can see why in Victoria it may be important to be very specific and give specific legislative requirements and a framework around the Prisoners Review Board because it is the decision-making authority for the release of those offenders prior to the completion of their sentence.

South Australia has a similar regime to that of Western Australia in that life imprisonment for murder is mandatory and the court may decline to fix a non-parole period. However, the Attorney General in South Australia considers the recommendation of the board, applies his mind to the matter and then provides advice to the Governor. The Attorney General therefore has an opportunity to consider various factors, including whether the prisoner revealed the location of the deceased's body. To date there has not been a case in which the board has recommended the release on parole of a murderer when the body of the deceased victim has not been disclosed despite the accused knowing its whereabouts.

This bill seeks to introduce a new section 12B in the act in accordance with which the board may recommend only that the Governor should be advised that a prisoner ought to be released on parole if the board is satisfied that the prisoner has satisfactorily cooperated with the investigation of the murder, as held in proposed section 12B(2). Proposed section 12B(3) provides that the board must take into account any report tendered by the Commissioner of Police evaluating the prisoner's cooperation in the investigation of the murder. The proposed new section will apply only to prisoners serving life imprisonment or indefinite imprisonment for murder, which is the definition of "prisoner" under a new section 12B(1). The bill sets out a non-exclusive list of information—section 12B(3)(a) to (d)—that may be included in the Commissioner of Police's report, being —

- (a) the nature and extent of the prisoner's cooperation; and
- (b) the timeliness of the prisoner's cooperation; and
- (c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and
- (d) the significance and usefulness of the prisoner's cooperation.

This bill thus introduces a new concept into legislation, the issue of satisfactorily cooperating in the investigation of the murder, which is not listed as a release consideration under section 5A of the act but is elevated to a factor that overrides all release considerations. The Attorney General has said that he believes this amending bill is unworkable in its format in some specific cases. I will outline a couple of specific cases that highlight the

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proposed difficulties with this bill. Allan David Thompson is a 1999 case in which Thompson was charged with wilful murder. When interviewed, he claimed that 10 years earlier he and another offender disposed of the body of 18-year-old Gavin Stubbs in a mine shaft. He told various versions of how Stubbs was killed, including that his throat was cut and he was fed Ratsak. Thompson took the police out to the location where he thought the body had been placed and appeared genuinely to be trying to identify the mine shaft, but there are hundreds of mine shafts in the scrub outside Kalgoorlie. Police used earthmoving equipment to excavate a few but never found any evidence of a body.

Another case is Brent Donald Mack, who is a severely impaired young man who lived with his mother. He was charged with murdering his mother in 2008 and faced trial on that charge in 2012. The state alleged that he killed his mother and disposed of her body, thereafter stealing her assets and bank funds. Shortly prior to his trial he took police to where he said that he had disposed of the body—a marsh location. Despite police attempting to locate signs of a body, they were unable to do so. There was no suggestion that he was not doing his best to identify the location of the body. In those two circumstances in which prisoners cooperated, we still have no bodies and no closure for the families of the people who have been murdered and whose remains have not been recovered.

To reiterate the government's position, we support the intent behind this bill; that is, the whereabouts of the deceased's remains is an important issue that ought to be taken into account by the Prisoners Review Board when considering release, no matter the offence for which the prisoner was convicted. The government does not agree with the way in which this important policy is introduced through the current structure of the bill. The parole structure in Western Australia is working well and is clearly understood. The paramount release consideration is the safety of the community, although the board must consider all release considerations set out in the act. The introduction of the concept of cooperation with the investigation of the murder as proposed in the bill is problematic for a number of reasons. Firstly, it will have the effect of fettering the board when considering parole. The bill elevates cooperation with a murder investigation above existing release considerations. It removes the board's discretion that is applied when weighing up all issues that affect the possible release of a prisoner. It could be argued that the final say in the recommendation of parole in the circumstances set out in the bill would not be with the board but with the police commissioner. It would be difficult for the board to justify a report in which it confirms that it is satisfied that a prisoner has satisfactorily cooperated in the face of a report of the police commissioner saying that the prisoner has not. It contradicts the overriding consideration of parole set out at section 5B of the act—the safety of the community. It may create an inducement or pressure to give the police information or make admissions and cooperate in accordance with the wishes of the police at the price of their own freedom, well beyond the alleged objective of revealing the location of the remains of their victim. Such pressure in place prior to charge or trial could be used to argue that admissions are involuntary, improperly or unfairly obtained and/or that other crucial evidence is inadmissible. Not only does it suggest an uncontrolled exception to the right against self-incrimination, but it takes consideration of suitability for parole out of the hands of the board. It fails to take into account the differences between South Australia and Victoria, where the parole boards make decisions, and Western Australia, where the board makes recommendations to be considered by the Attorney General in formulating advice to the Governor. The government is of the opinion that it is relevant whether a prisoner has assisted in the location of the deceased victim's remains. However, we believe the bill in its current form does not articulate that. In light of this, and although the current release considerations cover this issue, the government is prepared to support an amendment to the bill to provide for an additional release consideration in terms of which the Prisoners Review Board must consider the extent to which the prisoner has assisted in the location of the deceased victim's remains.

There have been a number of contributions made in this place about this amending legislation. I do not believe there is any member in this place who does not sympathise with its intent. Everybody would like closure for the families whose names have been mentioned—Margaret and Ray Dodd and their remaining children, and the Puddys. Much has been said about the Attorney General's assessment of this issue. My understanding is that the Attorney General, after his opening remarks in response to the no body, no parole legislation, has been in touch with Margaret and Ray Dodd personally and has apologised for any offence that may have been caused by his remarks. We believe that it is important that everything is done to try to have offenders in custody convicted of homicide offences linked to a crime in which a victim's remains are not recovered cooperate with the authorities to try to find those remains in order to give closure to their families. It is very important. It is taken into consideration at present, and the Attorney General has said that he would not release any person on parole if they had not revealed where the remains of the victims were for the sake of the family. As I said, we will support this legislation—we support its intent—but we will move some amendments to clarify it. Our amendments, which I will circulate during consideration in detail, specifically address the consideration, which the member for Churchlands highlighted perfectly, that there is no reference in this amending bill before the house to the location of the person's remains. We think it is important that that is in the legislation, so our amendments will

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make specific reference, if a prisoner is in custody for events relating to the death of a person, to the extent, if any, to which the prisoner has assisted in the location of the person's remains. This will be a specific reference, as a consideration of the parole board, to the cooperation of the offender in locating the person's remains. We think it is important that that is articulated as a consideration of the parole board in keeping with the intent of the legislation and also in keeping with the expectations of those victims' families and the people who signed the petition who want no body, no parole laws that make a reference to the offender assisting authorities to locate the deceased person's remains in the interests of the family members finding some closure. I thank members who have contributed to this debate. I thank the member for Butler for highlighting the issue. Clearly, with over 20 000 people supporting the intent of the legislation, it is an issue that the community is concerned about and that is why the government will support the bill, but with amendments.

MR J.E. McGRATH (South Perth — Parliamentary Secretary) [5.05 pm]: The debate on the Sentence Administration Amendment Bill 2016 is not closed and I have to say a few words because I know Laurie Puddy. He contacted me when the member for Butler first brought this bill into the house. I have had to agonise over it, and I am very happy to hear the Minister for Police saying that the government supports the intent of the bill and will support it with certain amendments, which I will be very interested to hear about as we go through consideration in detail.

Dr A.D. Buti: Didn't you discuss it in the party room? Have you just found that out?

Mr J.E. McGRATH: We did discuss it in the party room. We said in the party room—not that I need to tell the member what we said in the party room!—that we would look at this bill put forward by the member for Butler in the full context of what it meant to the community, the victims and their families.

Getting back to Laurie Puddy, I met him some years ago when I was a sportswriter. He was chairman of the Western Reds when they were in the rugby league competition. He is a very decent individual and the Puddys are a fine family. He now lives in Sydney. Because he knew me, he contacted me at the time and made some points about the fact that he felt that we as a government should support this bill that has been put before the house. In an email to me he made the following point —

The Attorney General tells us he would not approve any such bail release without having details of body whereabouts.. Well, why wait another 13 years before the guilty one has to consider his position.

I think that is the nub of this whole debate we have been having. I think that if this bill becomes legislation, with the amendment that the Minister for Police has already indicated the government will move, it would be a good outcome for all concerned—for the many families that have found themselves in the situation of having lost loved ones and never having been able to come to closure. I do not know the Dodd family, but the Western Australian community, and the Australian community, are very well aware of that case. I guess none of us can really understand the trauma and the grieving that families go through when they are put into these situations. I told Laurie Puddy that I would speak in this debate and that I would support the legislation. When we discussed it in the party room, there was a general feeling among members of the government that we could not ignore it and that is why I am glad tonight that the government will support it, albeit with amendments. I think even with the amendments the legislation will still produce the outcome that the member for Butler and the families of the victims are looking for.

MR J.R. QUIGLEY (Butler) [5.10 pm] — in reply: I thank members for their contributions, and I would like to comment on some of them. We are pleased the government has indicated that it will support the Sentence Administration Amendment Bill 2016, but that it will move an amendment.

I will deal with the difference between the Western Australian situation and that of other states. The table under section 12A of the Western Australian Sentence Administration Act states that someone who receives life imprisonment for murder when a minimum period has been set under section 90(1)(a) of the Sentencing Act 1995 will be considered for parole at the end of the minimum term, and every three years thereafter. What has attracted some controversy is that at the end of the expiration of the minimum term and at each three-year interval the board must provide a written report to the Attorney General. The case of Catherine Birnie has attracted some controversy because the one survivor and the other families are re-traumatised every three years and there is the whole question as to whether it should be raised every three years; I put that aside. Section 12A(2) of the Sentence Administration Act reads —

The Board must give the Minister a written report about a prisoner at the times stated in columns 2 and 3 of the Table to this section, whether or not it has given the Minister a report about the prisoner under section 12.

The Sentence Administration Act states that at the end of the minimum term, or every three years after if parole is denied at the end of the minimum term, a report will be prepared for the Attorney General. Ultimately in

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Western Australia, it is the Governor, on the advice of the Attorney General, who decides whether or not to admit the person to parole.

The Attorney General's first position on the bill we brought forward—perhaps his first reaction before the matter had been considered by all government members—was that the bill was not necessary because he would never release a convicted murderer who had failed to disclose the whereabouts of the remains of the deceased. The minister representing the Attorney General in this place—the Minister for Police—said that the Attorney General had been in direct contact with Mrs Dodd, who was one of the promoters of this amendment. According to my notes, the letter dated 4 May from the Attorney General reads —

I also noted that Judge Cock, Chair of the Prisoners Review Board of Western Australia, would be prepared to meet with you to discuss the approach of the board to matters of parole in order to allay the concerns you may have. This offer remains should you wish to avail yourself of it.

I sought to assure you that I would not be inclined to advise the Governor of a release of a murderer on parole who has not disclosed the whereabouts of the body of the deceased victim.

“I would not be inclined”; that is something less than an outright statement that “In all circumstances I shall refuse”. What the Deputy Premier representing the Attorney General said is true in that this bill, to a certain degree, takes away some of the discretion from the Prisoners Review Board and the Attorney General him or herself—we have had distinguished female Attorneys General.

Mrs L.M. Harvey: Hon Cheryl Edwardes.

Mr J.R. QUIGLEY: I refer to Hon Cheryl Edwardes—a well-regarded Attorney General.

This bill introduces proposed new section 12B, “Board not to recommend release unless prisoner serving sentence for murder has cooperated”. The proposed new section will delimit the board's ability to consider all matters set out in the objects of the act and says, “You will not make a recommendation to the Attorney General unless there is a certificate of cooperation from the Commissioner of Police.” The member for Churchlands sought to criticise the bill and me personally by saying, “You people don't trust the Commissioner of Police, but here you are putting forward legislation that entrusts the responsibility to the Commissioner of Police to evaluate the cooperation.” I suggest that there is no better person to evaluate the cooperation of a suspect than the Commissioner of Police and his officers. Of course we trust them in that regard. Of course the police department makes mistakes from time to time; there is no doubt about that. People have raised, in the media and elsewhere, the case of Mallard that I was involved in, but of course parole was never intended as a hedge against wrongful conviction. People should not look at parole as a safety net for someone who has been wrongfully convicted, because parole might never be recommended. No, if people are wrongly convicted, they have recourse firstly under the Criminal Code for an appeal to the Court of Appeal, and if that is refused and new evidence comes to light, they can petition the Attorney General to make a reference back to the Court of Appeal under the Sentencing Act. There is a process.

The speeches of the member for Churchlands and the Minister for Police, although we welcome their support, echoed the concerns of the Criminal Lawyers' Association of Western Australia and other criminal lawyers' associations around Australia. It was a little odd to hear the government advocating the position of the criminal lawyers' associations here and elsewhere, although at the end of the speech the Minister for Police, representing the Attorney General, indicated that the government would offer support for the bill, but that it would move an amendment. I have not seen the amendment. It is not on the notice paper, so I have not had any opportunity at this stage to consider that amendment. No doubt I will during consideration in detail, as I understand the second reading stage will be supported.

As to the actual wording of the legislation, I said in my second reading speech that the considerations in proposed new section 12B(3)(a) to (d), replicate the position in South Australia's amending legislation. I note that shortly after the publicity was afforded to this bill, the Attorney-General for the Northern Territory said that it, too, would replicate the South Australian legislation, and that the Attorney-General, Mr Elferink, would introduce that bill to the Northern Territory Parliament. Of course, that was met with howls of protest by the Criminal Lawyers Association of the Northern Territory because it would apply to one convicted person in the Northern Territory at the moment, Bradley John Murdoch, who was convicted of the murder of Peter Falconio—a very high-profile case. They said it would be unfair to Murdoch. A good friend of mine, with whom I went to law school, and who is now the president of the Criminal Lawyers Association up there, criticised this proposal, because they are looking at it from the aspect of the convicted murderer, as the Criminal Lawyers' Association of Western Australia is approaching this situation from the standpoint or aspect of its members' clients—the convicted murderers. The Attorney General's first response was that it would not make any difference because no-one in those circumstances would ever be released, but that has

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been watered down somewhat in his correspondence with Mrs Dodd, in which he states that he is not inclined to release anyone in those circumstances. We say that is a far weaker position than what is contained in this bill.

As I said in my second reading speech in introducing this bill, I discussed the legislation with senior police officers at the major crime squad. I did this in this context, not that I was ringing up for advice, but to disclose to them that shortly after introducing this bill I received at my electorate office correspondence from Cameron Mansell, the convicted murderer of Craig Puddy, inviting me to come to the prison in which he is held to have a discussion with me. He said that he is now a Christian, and the discussion he wanted to have with me could be helpful to Mr Puddy's family. Of course, as a member of Parliament, I would not accept that invitation without speaking to the police and doing whatever the police wanted me to do, because I was aware that, during the course of the investigation, Mr Mansell did not cooperate in the police interview at all and, during the nine and a half weeks of his trial, he sat mute in the dock. He was subsequently convicted. After Mr Mansell's conviction, Mr Puddy senior, the father of the victim, told me that he had attended at the prison in the hope of speaking with Mr Mansell to get some clue to the whereabouts of the remains of his beloved son. Mr Mansell, as was his right, refused to accept Mr Puddy as a visitor. In those circumstances, I rang Western Australia Police to see what I should do or how I should respond. They told me they had a list of questions they would like to give to me, and that I should attend at the prison and see Mr Mansell. Then there was a page 3 article in the newspaper, shortly after this bill was introduced, centring on the plight of Mr Puddy and the Puddy family. After that, I received another curt correspondence from Mr Mansell saying that he did not want to see me at this stage. He wanted to consider his position. He knows something—he has something to consider. I contacted the major crime squad again to convey that information to them.

During these conversations with the major crime squad, its officers expressed to me their total support for the concept behind this bill. They believe that it would make a huge difference to their investigations if, during the time of interview, they could point out to an accused that if he does not disclose the whereabouts of the body—it is up to him; he has the right to silence—he is choosing to run the risk of what is contained in proposed section 12B, that there will never be a report to the Prisoners Review Board unless he cooperates. The Deputy Premier, in her response on behalf of the government, said that this bill diminishes the rights of an accused murderer to remain silent, and could put pressure on an accused person to reveal information. That stands somewhat in contradiction to what the government is now proposing, in saying that it supports the bill subject to an amendment. We will have to wait and see what that amendment is. However, as far as the police are concerned, they believe that this bill has weight and merit for their investigations. It is interesting that the government would say that one of its concerns about this bill is that it somehow impinges upon or diminishes the accused's right to silence.

Mrs L.M. HARVEY: I did qualify that, in that, if it impinges on the accused's right to silence, it could end up with the evidence so obtained being inadmissible as part of the court process. You can't take those words out of context, member for Butler, because they were placed in context, in that we don't want to diminish the evidence of an investigation.

Mr J.R. QUIGLEY: I thank the Deputy Premier for that interjection. The rules concerning the admissibility of admissions made against a person's interest outside of court, which would ordinarily be regarded as hearsay, but an admission made outside of court, turn upon this proposition: was the admission made of the person's own free will, without threat or inducement? The existence of statute law could not —

[Quorum formed.]

Mr J.R. QUIGLEY: We do not accept that as a situation that would preclude or weigh against this amendment to the act. We welcome the government's support for the bill, and we understand that during consideration in detail an amendment will be moved.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 3 put and passed.

The ACTING SPEAKER (Mr I.M. Britza): The question is that clause 4 stand agreed.

New clause 3A —

Mr Sean L'Estrange; Mr Rob Johnson; Mr Mark McGowan; Mrs Liza Harvey; Mr John McGrath; Mr John Quigley; Mr David Templeman; Mr Bill Johnston; Acting Speaker; Mrs Michelle Roberts

Mrs L.M. HARVEY: I move a new clause 3A. I move —

Page 2, after line 9 — To insert —

3A. Section 5A amended

After section 5A(c) insert:

(ca) if the prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person's remains;

I have given a copy to the Clerk.

The ACTING SPEAKER: Minister, we need to wait for the amendment to come.

Mr D.A. TEMPLEMAN: Can I seek some clarification? My understanding is that we are now debating clause 3 and there is a proposal for an amendment we have not yet seen but which I understand has been circulated.

The ACTING SPEAKER: Excuse me; I thought we had already passed clause 3.

Mr D.A. TEMPLEMAN: I am speaking at the moment to proposed new clause 3A. I just want to seek some clarification. The minister has circulated to us an amendment that will sit after clause 3, "Act amended". I am asking whether we should be voting on clause 3 as it is presented in the bill. The minister proposes to amend clause 3. What I am interested in, as I read the clause that has been presented as an amendment to section 5A, is that after section 5A(c), the amendment is to insert proposed paragraph (ca) as follows —

if the prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person's remains;

If we go to section 5A(c) in the act, we see that the minister's amendment will be an addition to the existing bill. I am not sure whether the shadow Attorney General has had time to consider the amendment at this stage, but I am interested in his response, if he has had a chance — look at it, or, indeed, the minister might explain her amendment a little further.

Point of Order

Mr W.J. JOHNSTON: I have a point of order. I am not quite sure. Where is this to be inserted?

The ACTING SPEAKER: We have agreed on clauses 1, 2 and 3, and before we bring in clause 4, proposed new clause 3A is being inserted. Is that correct, minister?

Mrs L.M. Harvey: Yes.

The ACTING SPEAKER: It is on page 2, after line 9.

Mrs L.M. HARVEY: By way of explanation for those members who might be unsure of what this does, section 5A of the Sentence Administration Act 2003 —

Mr W.J. JOHNSTON: I have a point of order. I am asking something different from what the minister is talking about. The minister's amendment does not tell us where it is inserted. I have frequently moved amendments and what happens is that we write in "page 7, line 6" to insert whatever, but this does not do that. The amendment does not describe where in the bill it is to be inserted. I wonder whether, before the minister explains her intention—it may well be that we agree with her intentions—an amendment could be moved in a form that is capable of being considered by the chamber, because this amendment is not capable of being considered by the chamber as it does not describe what needs to happen to the bill. Do you see the point I am making, Mr Acting Speaker? It does not tell us where the bill is to be amended, and that is the obligation of the person moving an amendment.

The ACTING SPEAKER: The minister is inserting a new clause 3A.

Mr W.J. JOHNSTON: But where?

The ACTING SPEAKER: On page 2.

Mr W.J. JOHNSTON: The amendment does not say that. I will read out the circulated amendment. It states —

New clause 3A

Minister for Police — To move:

To insert:

Mr Sean L'Estrange; Mr Rob Johnson; Mr Mark McGowan; Mrs Liza Harvey; Mr John McGrath; Mr John Quigley; Mr David Templeman; Mr Bill Johnston; Acting Speaker; Mrs Michelle Roberts

3A. Section 5A amended

After section 5A(c) insert:

(ca) if the prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person's remains;

I am still on my point of order. I am not at all discussing the merits of the matter that has been moved. I am asking why we are considering an amendment that does not describe what has to happen here in the chamber, which is what the amendment is expected to achieve in respect of the bill. That is why I am seeking an understanding from you, Mr Acting Speaker, because at the moment the amendment is not in proper order.

The ACTING SPEAKER: Member, it is a technical thing, but this is the way the Parliamentary Counsel's Office has drafted it.

Mr W.J. JOHNSTON: But that does not help us.

The ACTING SPEAKER: I am just telling the member that the PCO has drafted it this way. Section 5A comes before section 12, and that is why it is coming in at proposed new clause 3A.

Mr W.J. JOHNSTON: Further to that point of order, Mr Acting Speaker, I am not arguing about any of those issues. I am indebted to the member for Girrawheen for handing me the notice paper. I draw Mr Acting Speaker's attention to page 17 of the notice paper, where you will see an amendment standing in the name of the member for Gosnells, which says, "Page 21, after line 17 — To insert" and the insertion follows. The problem I have is that no-one in this chamber knows where this matter is to be inserted. Why are we debating it at this moment? Why would we not debate it prior to the debate on clause 6? The amendment does not tell us what is to be done by the chamber—not by the act. As I said, these might be the most meritorious words to be inserted in the act, but we are not dealing with the act; we are dealing with the Sentence Administration Amendment Bill 2016, and this amendment is not in proper order and the chamber cannot deal with it until it is withdrawn and submitted to the chamber in order.

The ACTING SPEAKER: The parliamentary staff insert where they need to as they are drafting, but in this draft, which is normal, the insertion by the minister is quite in order to put it in before section 12, which would be proposed new clause 3A.

Mr W.J. JOHNSTON: Further to this point of order, I am still confused because absolutely nothing in this amendment mentions section 12. As I understand it, you have called clauses 1, 2 and 3 of the bill and you put the question that clause 4 be agreed, and then the minister moved an amendment. The question before the chamber is that clause 4 be agreed.

Several members interjected.

Mr W.J. JOHNSTON: No; clause 3 has already been agreed to, as I understand. The only thing before the chamber, as I understand, is that the Acting Speaker proposed that clause 4 be agreed. As I said, this is not a debate about the merit, but nothing in this amendment directs the chamber to where this matter is to be inserted.

The ACTING SPEAKER (Mr I.M. Britza): It is new clause 3A.

Mr W.J. JOHNSTON: Where is it going to be inserted, Mr Acting Speaker?

Several members interjected.

Mr W.J. JOHNSTON: I am sorry!

The ACTING SPEAKER: Members! It is being inserted. The only place new clause 3A can be inserted is before clause 4, because clause 4 deals with proposed section 12B. It has to come before then.

Mr W.J. JOHNSTON: But, Mr Acting Speaker, you have proposed that clause 4 be agreed.

Mr P. Abetz: No.

Mr W.J. JOHNSTON: Go back. Mr Acting Speaker, you called clauses 1, 2 and 3 and then you proposed clause 4.

The ACTING SPEAKER: I did propose that, and the minister got up before it was even put to the vote.

Mr W.J. JOHNSTON: I know. I am not saying that the vote has been taken; but we are debating clause 4.

Mr P. Abetz: No, we are not.

Mr W.J. JOHNSTON: Yes, we are, because the Acting Speaker put it to us.

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Several members interjected.

Mr W.J. JOHNSTON: I have no trouble with the content of the clause. I am just asking. The fact is that the Acting Speaker proposed that clause 4 be consented to. That is what happened. This does not make any sense; clause 3 has been agreed to.

The ACTING SPEAKER: Member, it is my discretion to say, yes, it is true that I did call for clause 4. There was no response, but the minister got up to add new clause 3A, which I am accepting.

Mr W.J. Johnston: So where is it going?

The ACTING SPEAKER: It is going before clause 4. So it was clause 3 and now it is new clause 3A.

Mr W.J. Johnston: Can we get the amendment corrected so that it reads what it should where the insertion is to be made. It would not be very difficult for the minister to write “page 1, after line 9, insert” and then we would be proceeding in proper order.

The ACTING SPEAKER: Members! I suggested in the beginning, and I accept what you are saying, member, that it is being inserted on page 2, after line 9, “3A”.

Mr W.J. Johnston: If the minister could just fix that up, then we can proceed.

The ACTING SPEAKER: Minister, can I confirm that what I have said is correct; that is your intention?

Mrs L.M. HARVEY: I thought it was quite clear that we have moved from clause 3 and before clause 4, to insert a new clause 3A. That is what my amendment proposed.

Several members interjected.

The ACTING SPEAKER: Excuse me, members. The member for Cannington is right. I did say clause 4. But then you, minister, got up and said that you needed to insert new clause 3A. So I am using my discretion to say that we are going to accept new clause 3A. That is what we are doing now.

Mrs L.M. HARVEY: Thank you, Mr Acting Speaker. The advice I was given in moving this amendment was that straight after clause 3 had been voted on and before clause 4 was put that I needed to move my amendment to insert new clause 3A, which is what I have done.

Debate Resumed

The ACTING SPEAKER: So the question is that new clause 3A be agreed to.

A member interjected.

The ACTING SPEAKER: You are in the wrong seat, member for Midland.

Mrs M.H. ROBERTS: Excuse me. I believe that my colleague the member for Butler wanted to talk on this.

Mr J.R. QUIGLEY: The opposition cannot accept this amendment because it seriously weakens the objects of the amending legislation. It inserts into section 5A of the Sentencing Administration Act 2003, at “Release considerations about people in custody” —

(ca) if the prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person’s remains;

It is one of the considerations; it is not a prohibition on granting parole. They can consider it. I have already read to the chamber the letter that the Attorney General wrote to Mrs Dodd, saying that he would not be inclined in these sorts of circumstances, where remains have not been recovered, to recommend parole.

We say that the bill, as proposed by the opposition and currently before the chamber, in proposed section 12B places a prohibition upon the Prisoners Review Board from even considering the question of parole without a certificate of cooperation being issued by the Commissioner of Police. We oppose this new clause. However, I foreshadow that if the government were to move in relation to proposed section 12(B)(3)(a) through to paragraph (d), for example in proposed section 12B(3)(a) “the nature and extent of the prisoner’s cooperation in locating the deceased’s remains”, and similarly in paragraph (b) “the timeliness of the prisoner’s cooperation in locating the deceased’s remains”, in paragraph (c) “the truthfulness, completeness and reliability of any information or evidence provided by the prisoner in locating the deceased’s remains”, and, finally, in paragraph (d) “the significance and usefulness of the prisoner’s cooperation in locating the deceased’s remains”, we would accept those amendments to proposed section 12B(3). But as it stands the notice of amendment that we have before us just adds a consideration that can be taken into account. Then I note on the amendments that have been put to us, although these have not yet been moved, it is foreshadowed that the rest of the bill—clauses 4, 5 and 6—will be deleted. In other words, this bill will be gutted and replaced with this far weaker

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position, that it only expresses a consideration that is to be taken into account. It does not propose any bar to parole where the prisoner's remains have not been located. I take on board both the speeches previously made by the member for Churchlands and by the minister and say, fair enough, if they want the words "prisoner's remains" to be included, then they should be included in clause 6 in proposed section 12B(3)(a) through to paragraph (d).

Mr S.K. L'Estrange: You said "prisoner's remains".

Mr J.R. QUIGLEY: I think I corrected myself and said the "deceased's remains". I think that *Hansard* will show that I mean the "deceased's remains" could be included as the words. I read it out correctly: "the nature and extent of the prisoner's cooperation in locating the deceased's remains", and then the same words to be used in paragraphs (b), (c) and (d). What is being proposed here is a serious weakening of this bill so as to render it a much weakened proposition. For that reason the opposition will not accept this proposed new clause.

Mrs M.H. ROBERTS: I concur with the comments of the member for Butler. It makes me question whether or not the government is genuine about supporting this bill, because if we weaken a bill so much that we reduce its actual effect, it is not really support for the bill. It is clear that the government has been embarrassed into supporting this initiative of the opposition, so it wants to pretend that it supports the initiative that we have taken. But in seeking to move this amendment and in seeking to remove other clauses of the bill, it is significantly weakening it so that it significantly reduces the impact of this bill.

Mr R.F. JOHNSON: I concur with the member for Butler, who has carriage of the bill. I concur with the manager of opposition business. This amendment does nothing but neuter this bill. It does nothing to enhance it whatsoever. It weakens it enormously. If this amendment is agreed to—the government probably has the numbers for it to be agreed to, although I would very disappointed if it did because I think the member for South Perth would be very disappointed after his conversation with Mr Puddy—it will do nothing. It will simply give those vicious, vile, wicked murderers an opportunity to try to gain some sort of benefit of parole by simply saying, "I will cooperate; I think that body is down that mine shaft there" and when the police try to find that body, they cannot find it. That person who has been convicted of the murder can justify it and say, "I did try to help." It does nothing whatsoever.

I think the government is embarrassed by this bill before us in the house because it has enormous community support. I have spoken to many people in my electorate and they agree with it wholeheartedly. No body, no parole. They want to see justice in this state. We have not seen an awful lot lately. We have seen the crime rate go up by over 20 per cent in the last year or two, and people are sick to death of it. We have seen more murders and more vicious, violent acts. I will not agree with this new clause; I think it weakens the bill. I think the government should have the courtesy and the courage to say, "We got this wrong. The opposition has done a good job on this particular bill and we should support it as it is." To neuter it simply diminishes the right and the memory of those people who have been murdered by these vicious people.

Mrs L.M. HARVEY: This amendment seeks to amend section 5A of the act, which contains 11 release considerations that "must" be taken into account when considering parole, not "can" as the member for Butler says. This amendment specifically inserts the words —

if the prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person's remains;

The member for Butler made reference to other clauses in the bill that make reference to a person's remains. I would appreciate it if he could please point me to the page and line number in which the words "person's remains" or "victim's remains" appear in his bill. I have not been able to find it, which is why the government is proposing this amendment that makes a specific reference to the prisoner assisting in the location of the person's remains.

Mr J.R. QUIGLEY: Certainly. As I explained, if the government were to move an amendment to clause 6—I am foreshadowing this—so that proposed section 12B(3)(a), for example, would read, "the nature and extent of the prisoner's cooperation in locating the deceased's remains", we would accept that amendment. That is what I said. I did not say those words were in the bill. If the government wanted to amend the bill by amending proposed subsection 3B so that it reads "the timeliness of the prisoner's cooperation in locating the deceased's remains", we would accept that amendment, as we would accept a similar amendment to proposed section 12B(3)(c) and (d). I did not say that those words were already in the bill; I said we would accept that.

At the moment the government is putting forward an amendment to gut this bill by deleting everything after clause 3 and inserting its proposed new clause 3A, which we oppose. In other words, have the title of the bill, have the commencement date of the bill and scrap the rest of it because the rest of it is a prohibition on the Prisoners Review Board. The board cannot even consider parole because it first has to receive a report from the

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Commissioner of Police. If he does not give a certificate of cooperation, which could include those amendments that I have foreshadowed, which would satisfy the government by putting the words “the deceased’s remains” in proposed section 12B(3)(a) through to (d), that is fine because there will be a prohibition on the Prisoners Review Board making a parole recommendation to the Attorney General. What is being proposed in the government’s amendment, which we oppose—new clause 3A—is to insert into section 5A release considerations about people in custody, not a prohibition. If the government’s amendment goes through tonight, it is not a case of no body, no parole; it will have gutted the bill. That is why we oppose it. Section 5A of the act states —

a reference to the *release considerations* relating to a prisoner is a reference to these considerations

In other words, the Prisoners Review Board can consider the release and weigh it in the balance, amongst the many other things to be weighed in the balance, but it does not operate and will not operate as a prohibition to parole when the convicted murderer has refused to cooperate about the location of the deceased’s remains. That is why the opposition opposes this amendment.

Division

New clause put and a division taken, the Acting Speaker (Mr I.M. Britza) casting his vote with the ayes, with the following result —

Ayes (32)

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

Noes (21)

Ms L.L. Baker	Mr W.J. Johnston	Mr J.R. Quigley	Mr P.B. Watson
Dr A.D. Buti	Mr D.J. Kelly	Ms M.M. Quirk	Mr B.S. Wyatt
Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	
Ms J.M. Freeman	Ms S.F. McGurk	Mr C.J. Tallentire	
Mr R.F. Johnson	Mr M.P. Murray	Mr P.C. Tinley	

Pair

Mr B.J. Grylls

Mr P. Papalia

New clause thus passed.

Clause 4: Section 12 amended —

Mrs L.M. HARVEY: I have a question for the member for Butler. What does proposed section 12B, referred in clause 4, seek to remedy? Could the member for Butler please explain how it will give effect to the reassurances that he has given the community about how we can locate a body?

Mr J.R. QUIGLEY: Section 12A legislates that the board must report to the Attorney General about people serving a life term for murder as set out in the table in section 12A, which provides that the Prisoners Review Board’s report on a person who is serving “life imprisonment for murder where the minimum period has been set under section 91A of the Sentencing Act” will be made at the expiration of the minimum term and every three years after that. This bill provides that that report will not happen “Except as provided in section 12B”, which provides “where a person is serving a sentence of life imprisonment for murder where a minimum period has been set” or a person is serving a period of “indefinite imprisonment” where the nominal sentence defined under the Sentencing Act was imposed for murder; then the considerations come into play. We are more than happy to accept an amendment, if that is what the government wants, to proposed section 12B(3)(a), (b), (c) and (d) that says “in relation to the location of the deceased’s remains”, which would reflect the consideration that

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the government has just voted for through introducing new clause 3A and would go further and act as a prohibition to a report being forwarded without the Commissioner of Police's certificate of cooperation.

Mrs L.M. HARVEY: From what the member for Butler is saying, it sounds as though he intends that proposed section 12B would be a paramount consideration of the board when making a recommendation for release. Could the member please articulate whether that is his intention with that clause?

Mr J.R. QUIGLEY: It will be more than a consideration because the board will not be able to consider parole for a person who has been sentenced to life imprisonment under section 91A of the Sentencing Act when a certificate has not been provided by the Commissioner of Police evidencing the murderer's cooperation in locating the deceased's remains. It will override all the other considerations in section 12A to act as a prohibition because clause 5 amends section 12A. It deletes "a report" in 12A(5) and inserts "Except as provided in section 12B", so it gives primacy to 12B.

Mrs L.M. HARVEY: The government will oppose clauses 4, 5 and 6, because the explanation the member has given makes everything that follows on from our new clause 3A unworkable. That is the government's view. Those clauses make this bill an unworkable piece of legislation and we cannot support it.

Mr J.R. QUIGLEY: With respect, it does not make it unworkable. New clause 3A amends section 5A by inserting a new subsection (ca), which states —

One of the considerations to be taken into account if a prisoner is in custody for an offence relating to the death of a person, the extent (if any) to which the prisoner has assisted in the location of the person's remains;

How do we assess that? We go further into the legislation and find that proposed section 12B strengthens that consideration to make it impossible for the board to consider a recommendation of release without the commissioner's recommendation. We say the government's proposed amendments to clauses 4, 5 and 6—that is, scrapping them—will seriously weaken the opposition's bill and render nugatory the proposition of "no body, no parole". We agree that the amendment passed by the chamber introduces a new consideration, but it does not operate as "no body, no parole". It strengthens the legislation somewhat, but it can no longer be regarded as "no body, no parole", because proposed section 5A(ca) is to be weighed amongst all the other considerations; it does not act as a roadblock to parole in circumstances in which a murderer has refused to disclose the location of the body. It will be one of the things to be considered. Obviously, the government must have had some difficulty with this legislation because the Attorney General's first response was that it is not needed. Now the government is saying that it will support the bill once it has gutted it and made it considerably weaker, and that is why we oppose deleting clause 4.

Mr R.F. JOHNSON: I am astounded that the Minister for Police and this government would oppose this particular bill and would actually be seen to some extent siding with the criminals—siding with murderers. I find that absolutely appalling. I would have thought that any Minister for Police would welcome a bill like this, because the job of the police is to put these people behind bars—to charge them with murder and to make sure they get a conviction. What the minister has put forward in a tricky way on behalf of the Attorney General and the slick lawyers who put these amendments together has gutted the bill. They have castrated the bill; they have neutered it in every single way. This bill will be absolutely worthless after tonight because the government has got the numbers, but it has no conviction when it comes to upholding law and order—not in this particular instance, absolutely not. I feel ashamed that I was once a minister on that side of the house who would be standing there having to try to justify something against the opposition. But I am not ashamed; in fact, I am proud to be able to stand here and say it is a disgrace that the government would try to gut this bill completely, to side with murderers and not the victims' families. The victims' families want to know where their loved one's bodies are. By the time this bill is finished tonight, if it is finished tonight, and it could well be, it will be worthless. I tell members what, I will absolutely talk to my constituents, and I am sure every member on this side of the house will be talking to their constituents. Once and for all they will do away with the furphy that the Liberal Party is strong on law and order. As I have said, it has done nothing with the bikie legislation after seven years. Murders are still being committed out there as are all sorts of other crimes, and the government has done nothing. Yet, here we have a very simple bill that really protects the families of the victims of murder—vicious murders—and we want to try to bring some sort of comfort to them. With the amendment that has been put forward so far, and by gutting the rest of this bill, the government is doing nothing but siding with those who commit these crimes to make it easier for them to get parole without even having to tell where the bodies are. I find it deplorable and I would like the Minister for Police to try to justify in some way how she can hold that position and hold her head up high while putting forward stupid furphy amendments that obviously the Attorney General has had a word in—he has obviously had something to do with it—because he does not want to see this bill happen. He wants things to stay exactly as they are. That is not good enough and the public will

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not stand for that. Are there 20 000 signatures on the petition? That is 20 000 people—a lot of people in a lot of electorates.

Mr W.J. Johnston interjected.

Mr R.F. JOHNSON: It is 40 000—I stand corrected; 40 000 people. That could change the face of the next election, quite frankly. On something like this I know where public sympathy lies. It does not lie with the hardline approach of our Attorney General, which I totally disagree with, by which he will not admit that this bill could help those families who need to find their loved ones. I feel absolutely ashamed for the government; government members should hang their heads in shame.

Mrs M.H. ROBERTS: What has been perpetrated here this afternoon is nothing other than an attempt at a slick con. I thought it was good news when I heard that the government was finally going to change its view and support this legislation brought forward by my colleague the member for Butler.

Mr R.F. Johnson: They are not being truthful.

Mrs M.H. ROBERTS: I accept that interjection, member for Hillarys. The government has not been truthful here. Even I, as disappointed as I am with the government, took it at face value when I first heard this afternoon that it would support the bill. I thought the government would do that because it recognised that there were hundreds of thousands of people in this state who wanted to see the bill supported. We all know that if there are 40 000 signatures on a petition, there is probably 10 times that amount of people, if not more, who would have the sentiment to sign a petition.

This bill makes sense. It beggars belief that the government has been saying week in and week out that it would oppose the bill. I thought that sooner or later the government would wake up to itself, and that surely it was not a sustainable position for the government to take to the election or to the community. Today I even had my hopes up and I thought that this government had finally seen the writing on the wall and listened to the community and it was going to do the right thing here. But I came into the chamber only to see that these amendments to the bill had been put forward. The minister will not con anyone; the Liberal Party will not con anyone. We will make sure that no-one is conned. The minister might have conned her own backbench and she may indeed even have conned the National Party. I will look to see how those people vote and how they stand on this issue, because this is nothing but a con. It is a kind of Clayton's support so the government can go out there and say that it, too, supports no body, no parole legislation. Through her actions today the Minister for Police has shown that she does not support no body, no parole legislation. She is not supporting the families who have lost their loved ones and do not know where they have been buried or where they are. I would not have thought that that was too much to ask and I would have thought that most people in the community could not care less whether the perpetrators of those crimes wasted the rest of their lives in jail. That is what I would like to see happen if they do not even have the dignity to advise those families where the remains of their loved ones are.

This bill has widespread community support. We have seen this minister bring forward a few little clever tricks before, and today she thinks she is especially clever because she has had some clever legal advice from the Attorney General and those lawyers who work in state government who have provided advice on how this bill could be let through, but with it effectively gutted so it has no relevance and does not deliver the intent for which it has been brought forward. I do not intend to speak much longer on this, but between now and the election we will not shut up about the fact that this government has gutted the bill, that it has not delivered and that it has not supported it. We will continue to push this. I am in no doubt that this is an issue that we will take through to the next election. Should we be elected at the next election, we will deliver on this legislation and it will become law in this state, despite the Liberal Party's tricky efforts at a con here. We will continue to campaign on this issue and we will continue to fight for those families that have not only suffered the loss of a loved one, but do not even know where the remains of their loved ones are.

Mr D.A. TEMPLEMAN: I will carry on from the words of the member for Midland. This is a very disappointing situation we find ourselves in tonight. I texted Margaret Dodd, who is the mother of Hayley Dodd. Last year, she introduced through a Facebook site a proposal that the WA government should introduce legislation on no body, no parole. Margaret and Ray Dodd have lived a nightmare since 1999 when their daughter Hayley disappeared. They are but one of a number of families who have lived and continue to live a nightmare because the loved one, whom it is presumed was murdered—in some of these cases of course we know that they were murdered—and the body of their loved one has not been found. Margaret and Ray Dodd and many, many people in Western Australia supported an online petition. I presented the initial half of it to this place when it contained 20 000-plus signatures. Since that online petition with 20 000 signatures was presented, another 20 000 people have signed that petition and there are also some hardcopy petitions that have been signed as well. They will be presented by me and other members, particularly of the Labor Party and probably the member for Hillarys, to this place. The argument for this piece of legislation is that it determines that if

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a convicted murderer does not divulge the whereabouts of the deceased, he or she should not at all be expected to be granted parole. That is the simplicity of the bill before us that was introduced by the member for Butler.

My text of this afternoon to Margaret Dodd reads —

Hi Margaret. Just an update —

I spoke to Margaret this morning as well —

The Libs have now indicated they will support our No Body No Parole Bill but will be moving some amendments. We have not seen these Amendments yet. I will keep you up to date. Cheers DT

She wrote back, “Good news thanks”. I am going to have to ring Margaret Dodd and her husband, Ray, tonight and say that the Liberal government, supported by the National Party, has decided that it is going to totally gut this bill and treat the bill and its intent with disdain. That is a disgrace! The government did not have the decency to support the bill as it indicated it would even an hour or so ago; now the government wants to move amendments. It has already gutted one bit of the bill by deleting the clause that we opposed the deletion of earlier, and now the government has listed on the notice paper three more amendments that seek to delete some other clauses. What a gutless effort! You gutless members of the government! After this bill was introduced, and after we saw the petition I presented on behalf of Margaret Dodd and her family, the first initial response by the Attorney General was to say this was only a kneejerk reaction by a grieving family. That was how this government—this Barnett Liberal-National Party government—decided to respond initially. Since this bill was introduced and the member for Butler read his second reading speech and comment was made, we see—it is evidenced by the amendments the minister has presented—that back in March 2016 the government was deciding how it might concoct to gut this amendment bill.

The ACTING SPEAKER (Ms J.M. Freeman): Member, I understand how emotional this is. I pointed out to you at the beginning that we are on clause 4. Clause 6 is a good place to think about a more —

Mr D.A. TEMPLEMAN: And we are opposing it.

The ACTING SPEAKER: It is up for debate. We have to keep to the substance of the amendment. Keep going, but just keep that in mind.

Mr D.A. TEMPLEMAN: The amendment is a gutting of the legislation!

Several members interjected.

Mr D.A. TEMPLEMAN: It is a disgraceful experience now! Government members on the other side—you government members! You National Party members!—need to understand the significance of what exactly they have done to this bill this evening.

Mr W.J. JOHNSTON: I would like to hear further from the member for Mandurah.

The ACTING SPEAKER: Thank you, member for Mandurah. I just note that clause 6 is also somewhere you could canvass what you are discussing at the moment.

Mr D.A. TEMPLEMAN: We know, as I outlined earlier, that in the presentation of this bill the intent was made very clear right from the beginning by the member for Butler. It has significant support from the community of Western Australia. Over 40 000 people signed an online petition. If members visit the Facebook site that has been operated by Margaret Dodd and many, many others, they will see that it has wide support from across the Western Australian community. Why is it that Western Australia is one of last states considering this legislation? It is already happening and has happened in South Australia, New South Wales, Queensland and Victoria! Why are we the last state, it seems, to understand the community concern? The Minister for Police, as the mouthpiece of the Attorney General, has destroyed the simple intent of this bill, and she has thrown back into the faces of people such as Margaret and Ray Dodd, the Puddy family and others a hope that she would not play politics, that she would not be embarrassed by what she has seen, and that she would actually say, “This is a sensible piece of legislation, we are going to support it and it is important to get through. It is an opposition bill, but we will demonstrate fairness and equity.” The government has not done that this afternoon; it has gutted this bill and it is on its head. I tell members what: wait until we go into the next election because this will be a big one we will take to the election, and members opposite better watch out!

Mr R.F. JOHNSON: The piece of paper that has been circulated by the Minister for Police does not actually contain amendments.

Mrs L.M. Harvey: No, they are not.

Mr R.F. JOHNSON: She just wants to oppose the clause. Rather than getting too distressed over this, member for Mandurah, I would just simply let the Minister for Police vote against these clauses, which is what the intent

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is for the next three clauses. It will be quite clear to the public then that the government does not support this bill and the main thrust of this bill. I would just let them vote against it; I would not even enter into any debate. I think the debate has been enough now and I think everybody knows where we are coming from. I will certainly tell my constituents what the situation is; I am sure the member for Mandurah and everybody else will do the same. My suggestion to the member for Mandurah—I understand it is very, very close to the member's heart, he is very, very sensitive to it and I do not blame him for that—is that we need to simply put the clauses, the minister will simply say the government will oppose the clause, and let them oppose it. Let us show the government up for what it is.

Mrs L.M. HARVEY: If the member for Butler could please articulate. The government's concern with clauses 4, 5 and 6 is that we believe they make this entire piece of legislation, once amended, should the amendments go through, unworkable. The government's belief is that the paramount consideration always needs to be the safety of the community. That is why we are opposing clauses 4, 5 and 6. We are not proposing amendments to clauses 4, 5 and 6, we are proposing to oppose them because the advice that the Attorney General has provided to me is that our previous amendment—the insertion of clause 3A—fulfils the “no body, no parole” intention. That is the government's advice, and that is why we have put that amendment on the notice paper. It has been accepted as part of this amending bill. Our advice is that clauses 4, 5 and 6 make that intention unworkable; that is why we are opposing clauses 4, 5 and 6. That is our best advice. I do not propose to go into any further debate on it. I think we have articulated our position quite clearly, unless the member for Butler can articulate how, for example, “satisfactory cooperation” and some of these other ambiguous terms will be articulated if they are not defined in the bill.

Mr J.R. QUIGLEY: I have two points. Firstly, that the government says, curiously, that a bill that provides “no body, no parole”—a bill that provides that a murderer who has not disclosed the whereabouts of the deceased's remains will remain in prison—compromises the community safety is errant nonsense! How can community safety be compromised if the murderer remains for the rest of his life in prison? This is just errant nonsense. The minister said that is the government's best advice. In view of that, we just cannot take the minister at her word. Could we see the advice please, minister? Could the minister table the advice or lay it on the table so that the chamber can see that advice?

Mrs L.M. Harvey: It's not my bill.

Several members interjected.

Mr J.R. QUIGLEY: The minister said she had advice!

Mr M. McGOWAN: I think the point made by the member for Butler was this: clearly, the member for Butler is managing a piece of legislation without any advisers, without all the benefit of government, and yet the minister, just a moment ago, said the analysis the government conducted had showed that the legislation put forward by the member for Butler had some flaws in it. She claimed she had some analysis. He is saying, “For us to be able to take the minister's position seriously, we need to see the analysis.” We are asking the minister to table the analysis she is claiming shows that the legislation is flawed.

Mrs L.M. HARVEY: I think the member needs to go back and check what I said. I said that the advice the Attorney General has given me —

Mr J.R. Quigley: You didn't say that. You didn't say that at all.

Mrs L.M. HARVEY: Yes, I did say that. I said that the advice the Attorney General has given me—and I articulated this in my second reading contribution—is that the bill elevates cooperation in a murder investigation above existing release considerations. We believe that our amendment fulfils the no body, no parole intention and strengthens the considerations that the parole board must consider prior to recommending the release of a prisoner, and that clauses 4, 5 and 6 will create ambiguity, and potentially make the Sentence Administration Act unworkable. That is why the government will not support them.

Mr W.J. JOHNSTON: I will just very briefly point out to the minister the furphy that she is perpetrating. This is a government that loves secrecy. It has been criticised in the media regularly for the fact that it loves secrecy. The minister says that there is advice that would assist the chamber in making a decision about this legislation, but she will not release that advice to the chamber for everyone to benefit from.

Dr A.D. Buti interjected.

Mr W.J. JOHNSTON: That is an unreasonable position, and the member for Armadale, whose interjection I accept, is right, because we had the argument that it was advice to the government, and then it was advice from the Attorney General, which are two different things.

Mrs L.M. Harvey: I corrected that; it was the advice of the Attorney General.

Extract from Hansard
[ASSEMBLY — Wednesday, 11 May 2016]
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Mr W.J. JOHNSTON: I am sorry; did the minister apologise and correct that? I missed that.

No one would expect the minister to think that any member of this chamber will accept advice that we have not seen. It is time for the minister to be honest with the chamber.

Division

Clause put and a division taken, the Acting Speaker (Ms J.M. Freeman) casting her vote with the ayes, with the following result —

Ayes (21)

Ms L.L. Baker	Mr W.J. Johnston	Mr J.R. Quigley	Mr P.B. Watson
Dr A.D. Buti	Mr D.J. Kelly	Ms M.M. Quirk	Mr B.S. Wyatt
Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	
Ms J.M. Freeman	Ms S.F. McGurk	Mr C.J. Tallentire	
Mr R.F. Johnson	Mr M.P. Murray	Mr P.C. Tinley	

Noes (32)

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

Pair

Mr P. Papalia

Mr B.J. Grylls

Clause thus negated.

Clause 5: Section 12A amended —

Division

Clause put and a division taken, the Acting Speaker (Ms J.M. Freeman) casting her vote with the ayes, with the following result —

Ayes (21)

Ms L.L. Baker	Mr W.J. Johnston	Mr J.R. Quigley	Mr P.B. Watson
Dr A.D. Buti	Mr D.J. Kelly	Ms M.M. Quirk	Mr B.S. Wyatt
Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	
Ms J.M. Freeman	Ms S.F. McGurk	Mr C.J. Tallentire	
Mr R.F. Johnson	Mr M.P. Murray	Mr P.C. Tinley	

Noes (31)

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

Pair

Mr P. Papalia

Mr B.J. Grylls

Clause thus negatived.

Clause 6: Section 12B inserted —

Mr J.R. QUIGLEY: This clause gives embodiment to the proposition of there being no body, no parole. The government had said that the bill does not talk about the deceased's remains. The opposition has voted to maintain the bill in its current form. However, as I said before, we would accept an amendment to this clause to the effect that proposed section 12B(3)(a) reads —

the nature and extent of the prisoner's cooperation in locating the deceased's remains;

We do not think it is necessary to put those words in and certainly in South Australia, where this has passed the Parliament with the support of both parties, they had no difficulty understanding this bill as this government does, saying that it will render the whole system unworkable and will compromise community safety. I have never heard such a nonsense proposition that adherence to the requirements of proposed section 12B would compromise community safety. The government has not offered one word of explanation as to how keeping a convicted murderer in prison would compromise community safety. Community safety may be compromised if an unrepentant murderer who has not expressed one murmur of contrition, evidenced by locating or pointing the police to where the deceased's remains are, is released back into the community. Keeping a murderer in prison for the rest of his life does not compromise community safety. The government has got its logic back to front because it is doing this three-card trick of saying it supports the intent of the legislation. It has not. It has gutted the legislation and it is the government's intent to oppose clause 6 to make sure that this legislation is skinned, gutted and rendered nugatory with the weak expression that it is something that can be taken into consideration with other things. We know how this works. We have seen it with dangerous sex offenders under this government's administration when the community has expressed its utmost disgust and concern that prisoners who are adjudged by a psychiatrist to present an ongoing real danger of further offending, are released into the community without this government or this Attorney General appealing the decision to release them under the serious sex offenders legislation. That will compromise community safety, but keeping a murderer in prison for the rest of his life when he has shown no contrition for his woeful and murderous acts cannot compromise community safety. We would be very pleased to hear the government articulate how keeping a murderer in prison presents a danger to and compromises the safety of this community. It is absolute nonsense. Make no mistake, all those petitioners and the local newspapers will get correspondence explaining what the government has done this evening. This government has gutted the no body, no parole bill.

Division

Clause put and a division taken, the Acting Speaker (Ms J.M. Freeman) casting her vote with the ayes, with the following result —

Ayes (21)

Ms L.L. Baker
Dr A.D. Buti
Mr R.H. Cook
Ms J. Farrer
Ms J.M. Freeman
Mr R.F. Johnson

Mr W.J. Johnston
Mr D.J. Kelly
Mr F.M. Logan
Mr M. McGowan
Ms S.F. McGurk
Mr M.P. Murray

Mr J.R. Quigley
Ms M.M. Quirk
Mrs M.H. Roberts
Ms R. Saffioti
Mr C.J. Tallentire
Mr P.C. Tinley

Mr P.B. Watson
Mr B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Extract from *Hansard*
[ASSEMBLY — Wednesday, 11 May 2016]
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Mr Sean L'Estrange; Mr Rob Johnson; Mr Mark McGowan; Mrs Liza Harvey; Mr John McGrath; Mr John Quigley; Mr David Templeman; Mr Bill Johnston; Acting Speaker; Mrs Michelle Roberts

Noes (30)

Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr I.M. Britza
Mr G.M. Castrilli
Mr V.A. Catania
Mr M.J. Cowper
Ms M.J. Davies

Mr J.H.D. Day
Ms W.M. Duncan
Mr J.M. Francis
Mrs G.J. Godfrey
Mrs L.M. Harvey
Mr C.D. Hatton
Mr A.P. Jacob
Dr G.G. Jacobs

Mr S.K. L'Estrange
Mr R.S. Love
Mr W.R. Marmion
Mr J.E. McGrath
Ms L. Mettam
Mr P.T. Miles
Ms A.R. Mitchell
Mr N.W. Morton

Dr M.D. Nahan
Mr D.C. Nalder
Mr A.J. Simpson
Mr M.H. Taylor
Mr T.K. Waldron
Mr A. Krsticevic (*Teller*)

Pair

Mr P. Papalia

Mr B.J. Grylls

Clause thus negatived.

Title put and passed.