SENTENCING LEGISLATION AMENDMENT BILL 2013

Second Reading

Resumed from 12 March.

MR J.R. QUIGLEY (Butler) [1.03 pm]: This Sentencing Legislation Amendment Bill is not opposed by the Labor opposition. We made our observations on the flawed aspects of this legislation during the debate on the amendments to sections 297 and 318 of the Criminal Code back in 2008 when they were brought before this Parliament and we subsequently made these observations in relation to section 59A of the Road Traffic Act—that is, failing to stop when called upon during pursuit. Of course, during the original debate in 2008 we moved amendments and those amendments were to the effect that there would be mandatory sentencing unless there were exceptional circumstances by which a shorter term of imprisonment should be imposed. Then there were five conjunctives: that community safety would not be imperilled, and that the offender was unlikely to reoffend. The emphasis was on the fact that the judge could find an exceptional circumstance only if community safety was not threatened or imperilled in any way and he then had to produce his reasons in writing. Because we moved those amendments we got hit with the false accusation that we were soft on crime. I sat there and watched the passage of the legislation thereafter go through. What the government will now seek to do is that which was patently obvious to it back then—that is, that a person sentenced to a term of imprisonment under the Sentencing Act be entitled to be considered eligible for parole. My one word emphasis to that is: duh. It has always been so. I sat watching this legislation going through thinking that in the fullness of time the penny would drop. It was not any part of my brief to point out to the government the obvious loopholes in its legislation. It had made all these expansive promises to Western Australia Police, which I said were hollow promises that would never be fulfilled. Once again, I will read into *Hansard* an extract from page 53 of the report on mandatory sentencing commissioned and published by the Western Australian Police Union of Workers. I read from the conclusion of that report —

> To make a public statement that "a very strong message" has been sent by the Government to the community, by way of a legislation that promises to send those to jail who "assault and cause bodily harm to a Police Officer ... No ifs, ands or buts", is an insult to the Police Officers who have experienced life-altering assaults and then watched as justice was not served.

That is not a Labor Party assertion; that is not a Labor Party opposition criticism of the government's legislation; this comes straight from the horse's mouth. This comes from the union that was encouraged to seek these amendments. The union says that what the Premier of Western Australia said is an insult to all serving police who have been assaulted and injured in the course of their duties.

This bill in its terms seeks to state that in relation to statutory minimum terms for offences against section 297 and 318 of the Criminal Code, which relate to serious assaults against public offices, and section 59A of the Road Traffic Act, which are mandatory terms of imprisonment for evading police pursuit, there will be no consideration for parole until the mandatory minimum term has been set. This is how hopeless the government is. It heralds these changes as the big new way—anyone who assaults a police officer will go to prison, no ifs and no buts, as the Premier says. How does the police union respond to the Premier? It says that that statement is an insult to police who have been assaulted and injured—it is just an insult by the Premier. These provisions, of course, came out of the tragic case arising in the member for Joondalup's electorate of Constable Butcher, who was injured. Of course, these provisions, when introduced, could not have applied to Constable Matt Butcher's situation because in that case all of the charged people were acquitted. This legislation, which was introduced to address the Butcher tragedy, had no application in that case because the people arrested were innocent of the offence. Although that might gall the government, that was the decision, not of a judge, but of 12 members of the community chosen at random. It was the jury's decision that the people who assaulted Matt Butcher were innocent. That legislation had no application to the Butcher case. I will tell members what it does have application to; it has application to the five or six officers in this report on mandatory sentencing produced by the WA Police Union; namely, Constable Bentink, Constable Jones, Constable James, Constable Saunders and Sergeant Godwin. All these people have suffered bodily harm, to one degree or another, as a result of an unlawful assault upon them in the course of their duty, and none of the offenders ever saw the inside of a prison, despite the Premier's bold boast, which the police union now regards as an insult. To emphasise the level of insult, I wonder, Madam Deputy Speaker, whether I could lay on the table for the rest of the day the photographs from the police union report of the injuries sustained by the constables for all members to see. For anyone reading that report and following this *Hansard* the photos are to be found on pages 60 and 61 of the report showing the bite wound to Sergeant Winton's forearm and the blackened swollen eye of Constable Gill after having been kicked in the face.

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

Mr J.R. QUIGLEY: These officers sustained bodily harm during an assault that they were victims of in the course of their duties. Is it any wonder the police union concludes that the Premier's assertions were an insult. But it goes beyond that, does it not? Any second-year law student—sorry, I take that back; I correct that to be any first-year law student, which is when they study crime as part of the curriculum—will know that when an offender goes to prison they will be eligible at some point for consideration for parole. It is obvious. When this mandatory sentencing legislation was introduced into Parliament, it was obvious they were talking about a mandatory minimum. But it was not a mandatory minimum at all because the period a person is eligible to spend in the community on parole is to be deducted from the mandatory sentence. The government wants to say, "Whoops", like Peter and the leaking dyke, "We'll put our finger in it and bring back into this Assembly an amendment to the Sentencing Act to plug that hole. This is not the end of it because another raft of mandatory sentencing will be introduced. I am looking forward to debating that bill later this week, hopefully, today or perhaps tomorrow, I am told. I am sure that after that goes through the system the government will be rushing back in here to effect amendments because this government is about a headline. It got great headlines out of the bill it introduced. But it really insulted the police union. It is not that I just picked up this report on the internet, the police union sent representatives—in my case the deputy president of the police union—out to the offices of all members who had expressed concern about the bill, asking us to go back into the Assembly and amend the bill; to go and fix up the government's mush. That is how I got this document. The police union travelled all the way up to Clarkson to ask me to bring amendments into this Parliament to fix up the hash the government had made. It is not my brief to make good the government's legislative shortcomings.

Remember what brought this matter on. It was the New Year's Eve assault in 2010, I believe, by a woman in Northbridge, heavily under the influence of alcohol, using her handbag initially and then her nails to assault a please officer from behind whilst he was dealing with another offender at the rear of a police van. The whole incident was captured on closed-circuit television. The vision published during that treatment showing the brazenness with which this hussy acted, took one's breath away. There was the crowd, half a dozen police officers and a young woman aged maybe 21 or 22. I had never seen the likes of it. Then again, at my age, I spend Saturday nights at home and not on the streets of Northbridge. She was attacking the police officer from behind, delivering blow after blow and injuring him. At the trial, of course, she pleaded not guilty. We will come to that in the other debate. Of course, everyone facing mandatory imprisonment will plead not guilty; "Give it a run; I can't be worse off." And that is what is happening. More and more of these cases are going to trial. Even though she was captured on TV, faced with the certain prospect of imprisonment upon conviction, she pleaded not guilty. It held up all those officers in court yada, yada, yada, and after a few short months she was released. The police asked: how could this be? The government just made a hash of it because it knew those people would get consideration for parole. In fairness, the current Minister for Corrective Services was not then in the ministry. He may have realised that and just sat quietly on his hands, but it was obvious to everyone that a person who got six months or more imprisonment would be given consideration for early release. The government knew that but it ignored it, chasing the headlines. When the woman was released after about four and a half months of being inside, a photo was published in the paper and the article was rerun.

The police union goes back to its old statement that this mandatory legislation is an insult to police in the way it has been framed. The Minister for Corrective Services has just come in. I take him back to the reference I made on page 53 of the police union's report to make a public statement that a very strong message has been sent to the government by the community by way of legislation to promise to send those to jail who "assault and cause bodily harm to any officer … No ifs, ands or buts". The union says in relation to that, that it is an insult to police officers who have experienced life-altering assaults and then watched as justice was not served. They then thought they were further insulted when they saw that what was always going to happen did happen—people were being considered for parole. That is what will happen under the new mandatory sentencing regime. There will be more controversy and more people saying that it is not right and we will be back in here with sentencing amendment bill 2015 as the government tries to do something else with the Sentencing Act, as it tries to bend the law to its own will to little effect. I note that the Minister for Police comes into this chamber and says there has been a big drop in assaults on police where bodily harm is involved, and that generally there has been a big drop in the number of assaults on police. Pages 17 to 23 of this WA Police Union report should be required reading for everyone sitting in this chamber. The police union states that when it goes to the Director of Public Prosecutions, WA Police and the minister's office, it cannot get solid figures on the number of people convicted and imprisoned for assaults on police, and that the statistics are kept by all these agencies in different forms, with some agencies not differentiating between assaults on police and assaults on public officers. How about this bit with the heading "Statements from the Minister's office" on page 22? The report reads —

> Since its enactment, there have been three Ministerial media statements —

She is good at that —

reporting the efficacy of the amended legislation. The first, made in conjunction with then-Attorney General Christian Porter on 22 September 2009, announced the new law. Mr Porter not only asserted that "about 80 per cent of assaults on public officers are committed against Police Officers" but also sought to clarify the definition of 'bodily harm':

> "Inherent in the legal definition of bodily harm is the necessity that the bodily injury be something more than a mere sensation of pain ... It cannot be an injury that is insignificant or trifling or trivial."

The second Ministerial media statement was released a year later, on 22 September 2010. In it, Mr Porter stated:

> "... we have seen ... a rapid and remarkable reduction in the number of assaults against Police and other officers that coincide with the introduction of mandatory sentencing last year."

Dr K.D. Hames: I am sure you are making things very hard for Hansard, reading that fast.

Mr J.R. QUIGLEY: They will have a copy of it. I just did not want to use up all my time.

Dr K.D. Hames: You have plenty of time.

Mr J.R. QUIGLEY: But Hansard will have a copy of it.

The report continues —

> The media statement referred to assaults generally and noted that assaults against public officers were down by almost 30 per cent from the previous year. Mr Johnson noted that "... since the legislation came into effect, reported assaults against Police Officers are now lower than at any point in the past five years". Reflecting on the year that had been, the statement proceeded to detail information about the five offenders who had been found guilty of, or pleaded guilty to, charges of Assault Public Officer (Prescribed Circumstances) …. Mr Johnson reminded the media that in those 12 months, 37 cases had been considered for charging under the mandatory sentencing legislation, yet only 12 cases met the required criteria. He believed this indicated to the general public that the legislation was being applied "soberly, carefully and in accordance with the State Government's expectations".
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> On 23 June 2011, the last recorded Ministerial media statement regarding the mandatory sentencing legislation was issued, again in conjunction with Mr Porter. The media statement referred generally to assaults when highlighting recent figures indicating a 13 per cent decrease in assaults in the first five months of the year and Mr Porter made the assertion that this was a result of the mandatory sentencing legislation. When praising the cautious and appropriate application of the Police prosecutorial guidelines, Mr Porter used the following information to highlight his claim:
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> > "... Police have only sought a mandatory penalty on 43 occasions and of the 19 matters finalised, 13 have resulted in a conviction and mandatory jail term".

The report also notes that —

> The document poses the question about jail sentences that have been given for assaulting a Police Officer and observes that:
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> > "Based on the nature of being convicted or pleading guilty for assaulting a Police Officer under prescribed circumstances, it could be assumed 20 of the above would have received terms of imprisonment for this offence. Others being convicted or pleading guilty to alternative charges may have also received a term of imprisonment but this cannot be determined based on the information available."

The police union set out that —

> In a confidential document obtained from the DPP and WAPOL, it was noted that as there is "no charge for Assault Police Officer, the charge is Assault Public Officer which covers a range of occupations as per the definition of 'Public Officer'." It was further noted that Police Prosecuting —

This is very important in view of the minister's statements —

> did "not keep statistics on Assaults on Public Officers across the board," but did maintain a data base for Assaults on Public Officer (Prescribed Circumstances) and this included assaults on Police where there were 'Prescribed Circumstances'.

WA Police was saying at that stage that it did not have separate and discrete figures for assaults against police; it is assaults against public officers. The minister comes into this place and says, "This is how many fewer assaults there are on police as a result of this legislation." What a bowl of tripe! The police union's own report points out at length the difficulties of getting any certain figures on assaults on police in prescribed circumstances, as

opposed to assaults on public officers, which is the charge—that is, people are not charged with assaulting police, they are charged with assaulting a public officer.

The report continues —

> The Minister's Office also provided us with a table (that can be viewed in Appendix A) outlining (what we believe are, as the title is somewhat ambiguous) assaults on Police Officers.

The table is for assaults on public officers and the number of offences. Whether they are going up or down, there is no discrete column or category for assaults on police in the information provided by the minister's office to the police union. There is assaults on police with the number of incidents for 2010, 2011 and 2012, and it states that in the metropolitan area from 2010–11 the number was down 8.3 per cent; it does not say anything about whether that is against police, prison officers, train guards or any other people. In the regional area for that year it was down 12.7 per cent; for the whole of the state it was down 10.2 per cent. That was in the first year after the legislation was introduced. Thereafter, the figures started to rise again, and so any ground made has been given away again because in the metropolitan area for 2011–12 assaults on public officers went up by 11.5 per cent, and in the regional areas it went up a whacking 25.7 per cent. For the whole of the state for the year 2011-12, it went up 17.4 per cent!

Mr M.J. Cowper: Does it say how many actual assaults as opposed to a percentage?

Mr J.R. QUIGLEY: How many actual assaults?

Mr M.J. Cowper: Yes.

Mr J.R. QUIGLEY: Yes, it is in the police union report, member.

Mr M.J. Cowper: I am just saying that it can distort by going down by 10 per cent and up by 20 per cent.

Mr J.R. QUIGLEY: It is all in the police union's report, and it is to be found on page 21 in the table provided to the union by the minister. Although there was an initial dip, the minister never came into this place and said, "In the figures I have, in the following year there was a 17.5 per cent increase."

The first chart I spoke about was for the number of incidents; the chart immediately below is the number of offences, as opposed to the number of incidents. In the first year after the legislation came into effect, there was a decrease in the number of charges of minus 3.4 per cent in the metropolitan area; in the regional area, member, it was minus 11 per cent. In the first year after mandatory sentencing, over the whole of the state there was a 6.7 per cent decrease in the number of offences of assault on a public officer; however, in the following year in the metro area the number of offences increased by 10.5 per cent, and in the regional area it increased by a whacking 28.4 per cent. Statewide, the number of offences has rocketed by 16.4 per cent, but the Minister for Police comes in here and crows about the success of this legislation. This legislation might have been successful in getting front-page headlines, but in terms of stemming the number of assaults on police, it has taken us backwards, because the government has not embraced what the Commissioner of Police has—I do not think I am humiliating him in saying this—pleaded for, which is for the government to at least turn down, if not turn off, the flow of alcohol in the entertainment areas, because that is the big driver of these assault figures, and everyone knows it. What does Commissioner O'Callaghan say? He says that he is sending his officers out into war zones, where people are fuelled on alcohol. It is exacerbated, member for Peel—sorry, Murray–Wellington! I nearly said "Murray", but then I thought I would call him by his Christian name and get whacked by Madam Deputy Speaker! I know the member for Murray–Wellington has an interest in these matters. Ministers come into this chamber and say, "Look what we've got out of mandatory sentencing—this great big decrease", but they do not hold up in the WA Police Union report, which includes the chart they got from the minister and refers to a 16.4 per cent increase. It got them wonderful headlines; I will not dispute that. It also got them a wonderful protest outside, but this is a very cynical and shallow approach to forging public policy in one of the most important areas—the protection of victims by the application of criminal law.

A former Chief Justice, Sir Francis Burt—I think the second Chief Justice to have held the office after I began legal practice, and he went on to become Governor—was a World War II hero, having flown many missions over France with the Royal Australian Air Force, and he came home after the war and did a law degree, as many service people did. He went on to become a Queen's Counsel and was involved in notable cases, such as the Eric Edgar Cooke case, and others. The John Button case was one of his last big cases before he went to the bench. He was one of the wisest judges I have ever appeared before, perhaps because there was such an age difference between us at the time. I looked to him as a font of wisdom. He said that those who expect the Criminal Code to fix society's ills are expecting far too much from that document, and the document cannot deliver that. If we look at burglaries, for example—I look forward to debating that soon—we know that there were 27 000 in 2011–12, and we know from the Australian Productivity Commission's figures, after extensive research, that the sanction rate in the metropolitan area was 8.3 per cent, so we know that the Criminal Code is dealing with fewer

than one in 10 offenders. How do we stop this river? When members go doorknocking, people very tentatively open their doors because they do not know who is there, and they are fearful for their safety in their own homes. We all know that; those of us in the lower house who go out doorknocking get that sort of blowback all the time, but the Criminal Code cannot fix that; there have to be other solutions.

The member for Murray–Wellington was a very experienced police officer before he entered this chamber—why he is wasted on the back bench is beyond me but that is probably politics and has nothing to do with me—and he nods in assent that the Criminal Code cannot fix all these ills. Sir Francis Burt, the former Chief Justice and Governor, was right: to expect that book of laws to fix all these ills is to expect far too much. However, the government can get some headlines by talking around it and saying that it is going to be tough; the problem is that it does not deliver. The people who go around saying these things invariably do not, and cannot, deliver, because delivery would require big dollars. The problems are big, and they require big dollars to fix. The Commissioner of Police published in 2012 an article that I will read during the debate on mandatory sentencing, and more recently an article in which he said that a lot of society's ills are brought about by the environments in which many of these hapless children find themselves. He gave a graphic account about how some of his officers executed a warrant on a house at which young children were present, and there were on the table in the lounge room, amongst the kids' toys, ice-smoking pipes—little glass pipes for smoking methamphetamine. The parents did not work and had a string of convictions, and their own lives were laid waste by addiction to methamphetamine. The commissioner said that we have to separate these children from these sorts of environments; we have to take them into another environment where we can educate them and get them job-ready, otherwise these problems are just going to keep on multiplying and multiplying.

Can members imagine what it would cost to give effect to what the commissioner has identified as the solution? It would be massive amounts. We would have to build a new institution. He proposes one on a farm somewhere; he does not want them in jail, but in a nice outdoor environment with good teachers and supervisors. He does not want people going to prison at a very young age; this is what Commissioner O'Callaghan is proposing, and it is a sensible suggestion, but it will cost money. On the other hand, to put out a headline to the effect that anyone who offends by assaulting a police officer will go to jail, to paraphrase the Premier, "no ifs, no buts", is regarded by the police union as an insult to all officers who have been injured, and nothing has happened as a result. Plugging this hole, which is as plain —

Dr K.D. Hames: I don't understand why the police union thinks it's an insult.

Mr J.R. QUIGLEY: The minister should read the union's report and have a look at the two pictures, which are laying on the table, of officers who have sustained bodily injury during the course of an assault for which the assailants were never imprisoned. They were never imprisoned because prosecutorial guidelines were introduced that gave the greatest leeway in the world, without any transparency or accountability, to prosecutors to reduce or alter the charge to avoid the mandatory term. The first photo is of the female officer; that nasty injury to her eye is a result of her being kicked in the face. The second photo is of the bite on the forearm of Sergeant Winton. These are the sorts of injuries for which the Premier said people would go to jail—no ifs, no buts. Instead, what has happened is that prosecutors say, "Well, it's going to cost us too much to bring the witnesses." They say it will cost too much to prosecute the case, so they cut a deal with the defence. They say, "If your client pleads guilty to simple assault, we'll drop the aggravating circumstance. Your client will not get mandatory imprisonment and we can wrap this up this morning." That is done without reference to the victim. That is what the Western Australian Police Union of Workers is complaining about. The police union cited *Hansard* and pointed out how right Mr Kobelke was. I am reading from the police union's report, which cites Mr Kobelke's speech in the Legislative Assembly on 17 March 2009. The report states that Mr Kobelke showed caution when he said, in reference to the charging of offenders —

> … it will leave it to the prosecution guidelines and to the prosecutors to make the decision as to whether an assault on a police officer should result in charges being laid. It will leave it to the judicial system to deal with the matter, and, if a conviction is obtained, the person will be sentenced to serve a minimum period in jail … We do not want to see a situation in which, because of the prosecution guidelines, people are getting a lighter penalty than they should be getting … I do not want people who should be going through the court system and who should have serious penalties awarded against them to get off more lightly because the prosecution guidelines will be the gatekeeper and will be determining whether heavier or lighter penalties are imposed.

That is what Mr Kobelke warned would happen and that is what has happened. That is what the police union is complaining about and why it has cited the former Minister for Police's speech in its report. What happens is that when an offender comes in, and the prosecutor looks at the photograph and sees that bite to the forearm, they know there will be a trial. The member for Murray–Wellington knows how it goes. It could be that one of their members is away on leave or has just come in from nightshift and is not available for court that morning

and they say, "Hang it all. You plead guilty to assault of the police officer and we'll read out in court as part of the facts what happened, but we won't plead on the complaint the aggravating circumstance." For example, they might say that Sergeant Winton was assaulted, his forearm was bitten and he sustained an injury. When the magistrate reads the charge sheet, it is not pleading the aggravated circumstance because a deal has been done behind closed doors, which does not involve the victim, so the offender gets a fine and says goodbye! That is what the police union is complaining about. The headline was very effective, and the police ran a very effective campaign on the front steps of Parliament House. The union even tried to intimidate members of the Labor Party by saying, "We know where you live!"—whatever that was meant to mean! They do not know where the member for Vasse lives!

Mr M.J. Cowper: You were going all right up to now.

Mr J.R. QUIGLEY: That is what members of the police union said! They do not know where the member for Vasse lives because he is a princeling of the Liberal Party, but they made an intimidatory statement that they know where all the Labor members live! When the vice president of the police union came out to my office to see me, I said that I would see him, but I told him it was very intemperate to have asked where I was hiding and why I was not on the front steps of Parliament House. I said that because the debate was on, I was in the chamber trying to address some of the shortcomings that he was complaining about. The opposition understands the situation. We think that if the government wants this boilerplate approach to sentencing, the real amendment to the Sentencing Act should be to make the provisions the same as those contained in the Criminal Code. Let us look at the most serious crime on the criminal calendar, which is murder. Section 279(4) of the Criminal Code states —

> A person, other than a child, who is guilty of murder must be sentenced to life imprisonment unless —

Even the code, in the most serious case, says "unless" —

> (a) that sentence would be clearly unjust given the circumstances of the offence and the person;
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> (b) the person is unlikely to be a threat to the safety of the community when released from imprisonment, in which case the person is liable to imprisonment for 20 years.

Even on the most serious charge, the Criminal Code provides an out from mandatory life imprisonment, and rightly so. We have seen from time to time tragic cases, such as the 83-year-old husband watching his wife in terminal decline going through agony and who then helps administer an overdose of opiate tablets to relieve her suffering. It is not something that I condone, but one can see what could give rise to the exception from strict life imprisonment—that is, it would be unjust having regard to the circumstances. This 83-year-old's wife had been begging for help in suicide and he assisted, which is murder, and the exception kicks in. That would not occur in the case of assaulting a police officer or a public officer.

The opposition does not oppose these amendments to the Sentencing Act. I will finally wrap up the debate by saying that I hope—I suspect it is a forlorn hope—that this is the last we will hear out of the mouth of the Minister for Police about the dramatic fall in assaults on public officers since the introduction of this legislation. Unless I am being misled by the police union's published report, the chart that the union has got from the authority gives the lie to the minister's proposition. We had only one year in which there was a drop in crime, and since then, as I said, in 2011 to 2012 we have had a whacking 17.4 per cent increase. I note that clause 4 of the legislation that is before the chamber defines "mandatory minimum sentence" as applying only to sections 297 and 318 of the Criminal Code and section 59 of the Road Traffic Act. It does not apply to any of those offences in the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 that the Minister for Police will soon bring before the chamber for the second reading debate, and the Sentencing Act will remain as is with the parole provisions for that—but watch this space!

MR P. PAPALIA (Warnbro) [1.48 pm]: I rise briefly in support of the member for Butler. The member's contribution reminded me of the time when a few of us were on the front steps of Parliament House and some us were in this chamber engaging in the debate early in the Barnett government's first term when some outrageous claims were made by the government on law and order and some clearly false promises were made to the Western Australian Police Union of Workers. Also some ridiculous, intimidatory and inappropriate threats were made—they were nothing less—by the then president of the police union. The member for Butler referred to those threats as well. I spoke to the president of the police union about those statements and made it very clear that I thought he was completely out of order. This legislation completely vindicates everything that the member for Butler said in this house at the time about the drafting of the legislation. Many members of the Labor Party spoke about the folly and the stupidity of implementing legislation that deprives the judiciary of discretion, and how it was inappropriate and would ultimately be self-defeating. That was one thing. The member for Butler, bringing to bear his vast experience in the law, drew to the attention of a fairly pompous and very inexperienced

former Attorney General the flaws that he had executed in delivering the legislation at that time. The Attorney General said it would not do what the Labor Party claimed it would do. The former Attorney General told the member for Butler that. The now absent Hon Christian Porter refused to acknowledge that he might not be correct. So certain was he that he was right in all things, including his social experimentation, he was determined to change society by locking up all the crims; they would all learn their lesson and immediately stop and that was why he was bumping up all the penalties and reducing the opportunities for parole. That is why he ultimately increased the cost of the prison system by $90 million recurrent in 18 months. He overcrowded the prison system and completely undermined juvenile detention. As a consequence, it has made the state of Western Australia incredibly less safe. At that time we were not seeing mobs of 15-year-olds running around murdering people. We were not seeing the massive rate of violence that we are seeing at the moment.

Mr J.R. Quigley: Or 50 people invading a wedding and assaulting everyone.

Mr P. PAPALIA: And people assaulting others in the Singleton social club on the Australia Day long weekend.

Mr J.R. Quigley: The genius who was the Attorney General said that his antisocial behaviour orders would cease all that behaviour.

Mr P. PAPALIA: The former Attorney General said it would all stop. He said the imprisonment of criminals would stop crime in its tracks. What he stopped was any capacity within the prison system to do its job. He was responsible for the leap in fine defaulters clogging our prison system. Now we have the ridiculous situation in which one in seven prisoners are incarcerated for fine default alone. That achieves nothing. It pays back nothing to society and no-one learns any lessons. It undermines the capacity of the prison system to do its job. All we get out of this government is another stunt. It is delivering exactly the same type of political stunt without any of the skill and articulate nature of debates that the former member for Bateman was able to bring to the argument. Unfortunately what we have is all stunt without any style!

I will not let the moment pass without making the observation that Hon Christian Porter should have been called the Neville Chamberlain of Western Australian law and order—peace in our time, he promised! He would diminish the prison population over time by increasing it in the near term. All the prisoners would learn a lesson and they would never offend again. That is what he promised.

Mrs L.M. Harvey: He did not promise that.

Mr P. PAPALIA: No; he declared victory. Within 18 months, he declared victory. He said crime was on the way down; violent crime was diminishing. As we have heard, he claimed victory against violent assaults on police. Neville Chamberlain would have been proud! There was Hon Christian Porter waving about the bits of legislation, confirming to the people of Western Australia that the Barnett government was, and is, and for as long as it remains in power for the next three years—until it is finally removed from office—will be driven entirely by the desire to achieve an easy headline through a political stunt. We have a publicity stunt–driven government. That is what this legislation confirms, because it was a sham. It was a failed sham when it was introduced. That fact was pointed out to the former Attorney General but he was too arrogant and too conceited to take any advice from someone who had had far more legal experience than he had. As a consequence, here we are all these years later, with the Minister for Police finally conceding that the law did not do what it claimed it would do. The law was a complete failure. The government now needs to do what the member for Butler told it to do in the first place. It is extraordinary "vindication"—that word has been thrown around a bit of late—for the member for Butler and for the Labor Party which told the government it had not put the hard yards in. It was running out there in a desperate bid to try to benefit from that ridiculous rally on the front steps of Parliament House. That was another political stunt for internal police union politics, led by the then police union president. It had no other intended consequence for police officers. There was no benefit to police officers out of all of that—in fact quite the contrary. Instead of this government doing things to benefit police officers who had been injured in the line of duty or who were suffering from things like post-traumatic stress disorder, those police officers are being thrown onto the scrap heap while this government engages in cheap political stunts by introducing more and more legislation. The legislation will not fix the problem with crime—resources, strategies and intelligent thought will. If the Minister for Police wants to do one thing to clarify the situation in Western Australia and make things a bit better, why does she not consider establishing what New South Wales has; that is, an independent Bureau of Crime Statistics and Research so that we do not have to rely on the minister's fudged figures or the department's fudged figures, or the Department of Corrective Services' fudged figures, and can actually see what is really happening? As the minister responsible for policing, through analysis of an independent authority's data and research she can determine whether what we are doing works or fails. We can then stop doing what is failing instead of continually rolling out political stunts of this nature and using fudged data as justification.

DR K.D. HAMES (Dawesville — Deputy Premier) [1.57 pm] — in reply: I thought the member for Warnbro would go through until question time started. It is my job now to reply to the second reading responses to the Sentencing Legislation Amendment Bill 2013, although clearly I have only four minutes to do so. In fact I have already told staff who are here ready to contribute that they could leave if they wanted to, but I am pleased to see they are still in the Speaker's gallery, if only for a moment.

We have heard a lot from the opposition about this legislation and what it does, and what government should or should not have done. The reality is this bill was introduced for a purpose. There are two components to that purpose: one is to try to deter people from assaulting public officers; the other is to deter people in vehicles fleeing from police officers. It is clearly a desired aim of any government to achieve those two tasks. There is a second task that is just as important, and that task is to make sure that those who commit offences against public officers by assaulting them in a manner determined to be severe, or those in fact who flee from police officers and create potential to cause death on our roads, suffer an appropriate penalty. The reason this legislation was amended previously is that even though magistrates had the ability to determine punishment for crimes in the past, it was the view of the public and the view of the Liberal Party in opposition that the sentences being handed down by magistrates for serious assaults on officers causing serious injuries were not adequate. Hence, we brought in legislation to ensure there was a mandatory minimum sentence for severe injuries.

The documents tabled by the opposition comprise pictures of two officers: one with a black eye and one with a significant bruise on the arm caused by what is obviously quite a forceful bite. For the injuries depicted in those two pictures, an offender would have been prosecuted under the previous legislation that gave the magistrate discretion as to the punishment to be imposed. It is not necessarily those issues that we want the legislation to deal with but, rather, severe injuries that are caused to a police officer. I cannot understand the argument of either the member for Warnbro or the shadow Attorney General. They have two components to their argument. One is their opposition to the legislation because in the first place we should not bring in mandatory sentencing but leave sentencing to a magistrate. On the other hand, they say we have failed these two people because they did not come under the mandatory sentencing provisions.

Debate interrupted, pursuant to standing orders.

[Continued on page 2405.]