

ATTORNEY GENERAL — NO CONFIDENCE

Standing Orders Suspension — Motion

MR J.R. QUIGLEY (Butler) [12.09 pm] — without notice: I move —

That so much of the standing orders be suspended to allow the following motion to be moved forthwith —

That this house has no confidence in the Attorney General and calls for his immediate removal due to his incompetent handling of the Ryan Clegg affair.

This is a very urgent matter. The matter has just been unfolding and this is the first opportunity that the opposition has had to raise this issue in support of community concerns. More information is coming out all the time. This morning it has come out that not only was Mr Clegg admitted to bail after he pleaded guilty to 61 child sexual offences, including four acts of sexual penetration of a girl who was approximately 11 years old, five acts of indecent dealing with that child and 46 counts of indecently videoing her, but also he was released on bail to live at the house where the offences occurred. That information has come out just this morning. The Attorney General has been saying for days that he could do nothing; he could not ring the Commissioner of Police to have this set to rights. We have also found out this morning that this situation is likely to be occurring in other areas that the government is keeping quiet about— for example, in Wanneroo. I had a call from the Labor candidate for Wanneroo, Sabine Winton, who drew my attention to a report that 35-year-old Mr Nicholas Beer went to court and pleaded guilty to 163 charges —

Point of Order

Mr J.H.D. DAY: It seems to me that the member is advancing the substantive argument for his motion as opposed to making the case for why standing orders should be suspended. For the member's information and the opposition's information, we will agree to 20 minutes debate for each side. If the member sits down, I will move the appropriate amendment.

The SPEAKER: Member.

Mr J.R. QUIGLEY: I agree with that, Mr Speaker.

The SPEAKER: Thank you.

Standing Orders Suspension — Amendment to Motion

MR J.H.D. DAY (Kalamunda — Leader of the House) [12.11 pm]: As I indicated, we will agree, with some reluctance, to add those words to the motion. I move —

To insert after “forthwith” —

, subject to the debate being limited to 20 minutes for government members and 20 minutes for non-government members

If that amendment is agreed to, we will support the motion.

Amendment put and passed.

Standing Orders Suspension — Motion, as Amended

The SPEAKER: Members, as this is a motion without notice to suspend standing orders, it will need an absolute majority in order to succeed. If I hear a dissenting voice, I will be required to divide the Assembly.

Question put and passed with an absolute majority.

Motion

MR J.R. QUIGLEY (Butler) [12.12 pm]: I move the motion.

This is a very serious motion that we bring forward this morning on behalf of the community of Western Australia because we are calling for the resignation or dismissal of the first law officer of Western Australia, and we do not take that step lightly. There are compelling reasons why Hon Michael Mischin should be discharged from the high office that he holds, either by resignation or by sacking.

This matter first came to our attention last Saturday evening when constituents of the Premier contacted me out of frustration. They contacted me on Saturday evening, having gone to the Premier's office on Friday once they had learned that paedophile Ryan Clegg, who had pleaded guilty to 61 charges of paedophilia, had been admitted to bail and was residing but three doorsteps from a childcare centre called the North Fremantle School of Early Learning. They had gone to the Premier's office on Friday and spoken to the Premier's electoral officer, a lady by the name of Nina Curtis. They explained to the Premier's electoral officer that Clegg was on bail and living in

circumstances in breach of his bail terms—that is, closer than 100 metres from a childcare centre. They asked what their local member, the Premier, was going to do about it. Ms Curtis explained to the constituent that the Liberal Party conference was on the following day and that the Premier was busy with the Prime Minister who had arrived in town, but gave an undertaking that she would immediately contact the Attorney General, the Minister for Police and the Minister for Education.

Mrs L.M. Harvey: When was this, sorry?

Mr J.R. QUIGLEY: It was on Friday. The Premier's electoral officer said that she would contact the Minister for Police, the Minister for Education and the Attorney General. Indeed, Ms Curtis dispatched an email to the constituent. I hope everyone protects that constituent's privacy. These people do not want their names published, and I hope that the government appreciates that. The constituent received an email from Ms Curtis stating that she had emailed the Attorney General with the constituent's concerns, and she subsequently rang the constituent to say that they had telephoned the Minister for Police's office and the Minister for Education's office. At this stage they were expecting a response to their concerns. Here is a paedophile, in breach of his bail conditions, living in a house where I believe he committed the offences, just 60 metres from a childcare centre and directly opposite a little shopping centre that has a deli and a surf shop that are frequented by children, and a liquor store. Mr Clegg had been seen in the liquor store hiding behind cartons when he was recognised. He had been seen in the coffee shop. The parents were petrified for their children, and when they could not get a satisfactory response from their local member, Hon Colin Barnett, and they did not hear from the Minister for Police, the Attorney General or the Minister for Education, in desperation, on the Saturday night, they rang me, the member for Butler, and asked whether I could come and assist them. I said that if the government was failing them, of course I would come and assist. I went down there on Sunday morning, and I was horrified to see the proximity of the buildings. I stepped out the distance between the house where he was residing and the school. I found that it is just 60 of my steps between the two. That was videoed, and I think that it was played in the media.

I called for the revocation of this person's bail because he was in violation of the terms of agreement of the bail order. What happened then? The Attorney General went public and said that there was nothing he could do and that we have to respect the decision of the court. He kept on repeating that it would be improper for him to ring the Commissioner of Police. What happened on the bail application? On the bail application, the case was prosecuted by a police prosecutor, which comes under the portfolio of the Deputy Premier. The prosecution did not raise one word of objection to the release of this paedophile to this house that is 60 metres from the childcare centre—not one word of objection! What was the magistrate to do? Then, on Tuesday, the Attorney General went on the ABC Radio *Drive* program and defended the paedophile. Unbelievably, he defended the paedophile! He said this to Jane Marwick —

Mrs L.M. Harvey interjected.

The SPEAKER: Deputy Premier, I call you to order for the first time. You will get a turn to talk; okay.

Mr J.R. QUIGLEY: She hit me on the head with a wet lettuce leaf on the weekend at the Liberal Party conference. Can the Speaker disarm her of the little bit of cabbage she is throwing at me?

The Attorney General said on the Jane Marwick show that there was a technicality here. Because he was ordered to live there, it was the court's fault; because the court required him to live there, inadvertently he was living there. What had happened—the Attorney General knows this from his experience in court—was that a serious deception was practised against the court. He applied for bail and the court made it a condition of bail that he not be within 100 metres of a school. He took it around the corner—the Speaker knows this because he has been to those courts, and during his lengthy legal experience I saw him at the central law courts—to where he signed his surety, and the nominated address he gave was his father's address, the surety's address.

Neither of them—neither Clegg nor his father, the surety—revealed to the court that this was all within three doorsteps of a school. They practised a deception on the court, and what did the Attorney General do? He said, "Poor Mr Clegg was caught between a rock and a hard place. He was complying with a court order; it was the court's fault"! What a disgraceful thing to say, to attack the judiciary and defend Clegg for breaking his bail. There is more behind this. If the Attorney General does not resign, the Deputy Premier can get up and defend him for all she wants, but she will not be able to go into this election campaign saying that the government is tough on law and order and that it has a law and order campaign. If the government votes against this motion, it surrenders any claim to be the party of law and order. It absolutely capitulates that claim, because look at what has happened. Another offender, Nicholas Beer of Wanneroo, aged 35, appeared in court and pleaded guilty to 163 charges including sexual penetration of a child. The magistrate agreed to close the court for 10 minutes while an application was made to change Mr Beer's listed address for bail. He was released. We want to find out, when the Deputy Premier gets to her feet, what the police prosecutor did in Beer's case. Did the police again

consent to him being released and agree that the court be closed to keep his address secret? What has the member for Wanneroo said about all of this? Nothing at all. The only reason I got onto this is that the Labor candidate Sabine Winton is out there working hard knocking on doors and this was raised —

Mr P.T. Miles: That's a lie.

Withdrawal of Remark

The SPEAKER: Just withdraw that please, member for Wanneroo.

Mr P.T. Miles: What—the rubbish?

The SPEAKER: No. You said, "That's a lie."

Mr P.T. MILES: I do withdraw that line.

The SPEAKER: Thank you. I call you to order for the first time.

Mr P.T. Miles: It is a lie.

The SPEAKER: Stand up, please. Withdraw that again.

Mr P.T. MILES: I withdraw.

The SPEAKER: I call you to order for the second time.

Debate Resumed

Mr J.R. QUIGLEY: The only reason I found out about Beer was that Sabine Winton rang me this morning whilst I was at the school teaching the kiddies their four times tables. When the Deputy Premier rises to her feet, she has to tell us the status of Beer. But it gets worse than that; there is a further reason. It is not over one instance that a person should lose such high office, but this is a repetition of non-performance.

Let us look at dangerous sex offenders for a moment. We all remember that when Ugle was released, the court noted he had a very high cannabis reading after smoking 10 or 12 bonges a day in prison because he was nervous about the forthcoming hearing. Members will remember that I addressed this during the DSO debate. He was released even though he had broken his supervision order. The victim, Angela Johnston, was out on the steps of this Parliament—not Labor; the victim Angela Johnston—saying this has to be corrected and that there has to be an appeal. What was the Attorney General's response? "I can't appeal. Once the decision has been made, I can't appeal." In the Legislative Council—I quote from page 1498b—the Attorney General stated —

No Attorney General, to my mind, could sensibly exercise the power in a way inconsistent with a decision of the Director of Public Prosecutions of the day.

That is, if the Director of Public Prosecutions had decided not to appeal a decision to release a sex offender, the Attorney General is saying that it cannot be done under the act. We were talking about section 6 of the act, which amends the applications being brought in the name of the DPP to the state of Western Australia. But the truth came out in this chamber when I asked the Deputy Premier, who was sitting at the table with a ministerial adviser, this question —

If the Director of Public Prosecutions elects not to bring an appeal—that is his decision if he elects not to bring an appeal—can the Attorney General nonetheless bring an appeal under section 6?

The minister replied, "Yes." We discussed this for a little while. That was at complete odds with the Attorney General. Her answer is right, of course, because it is a specific power in the act. But once again the Attorney General turned away from the victims, including Angela Johnston, and said, "There's nothing I can do." The Liberal Party has surrendered its claim on law and order. It has surrendered and gone down the gurgler. There is one way it can redeem itself. It is not as though we are trying to strip the government of having an effective Attorney General. It has twice the lawyer in the other house in Hon Nick Goiran. He could do the job twice as well as the incumbent. At least he is an activist and he would be twice as good. It is not as though we are trying to strip the government of all capacity to have an effective Attorney General, we just want an Attorney General.

The other day my wife texted me to say I had to listen to Hit 92.9 because the Attorney General was on. Every time the Attorney General was asked on radio, "What can you do?", he said, "I can't; I can't; I can't." He has abrogated his responsibility entirely. Yesterday he misled the media by saying that if he were to ring the Commissioner of Police to express concern that a paedophile was living in breach of bail orders and should be brought to account before the court that that would somehow be interfering with the course of justice. The media put that back to me and I said, "What a lot of nonsense." All we propose is that the Attorney General do his job and give adequate help and direction to the prosecutors, the Minister for Police and the Premier. It was

Nina Curtis who rightly said to Mr Barnett's constituent, "The Premier is busy today but I will get straight onto the Attorney General, the Minister for Police and the Minister for Education." Ms Curtis confirmed that by email on Friday, and what happened? Zilch. The Attorney General did nothing and he must go. It is not just me having a rant. Members only had to listen to the Gary Adshead radio show this morning to know that a number of people rang up demanding exactly this. The case is made. The government can stick with it if it wants, but this will come back and back again. The best way is for the government to cut its losses at this point. As they say, Mr Premier, the best thing to do when you're in a hole is stop digging.

MRS L.M. HARVEY (Scarborough — Minister for Police) [12.27 pm]: I rise obviously to oppose this motion.

Opposition members: Why?

The SPEAKER: Thank you!

Mrs L.M. HARVEY: I am pleased that members opposite want to know why and I will articulate my case. For starters, we need to go back to when the "Evil 8" were processed by police and brought before the court. Police opposed bail for each and every one of those offenders for these particular offences. The defence for each offender objected to the opposition to bail. In the circumstances of Mr Clegg, the magistrate said that he should go out on bail. At that point there was no point in police continuing to oppose bail or objecting to bail because the magistrate had made a ruling. Let us just be clear about that.

This offender has subsequently pleaded guilty. Upon the guilty plea, the magistrate at that point again made a decision to release Mr Clegg on bail pending an appearance in court on 30 September for sentencing. If we look at what has happened during this process, this offender changed address several times throughout his period of bail. The bail conditions, however, have remained the same, with the exception of changing the residential address. We have been made aware of an inconsistency in the bail conditions that were set by the court.

The Premier's office was called on Friday afternoon. The Premier's office contacted the Attorney General's office. The Premier did not become aware of where Mr Clegg was living until Saturday and that address was in North Fremantle. My office was contacted by the media on Friday afternoon and subsequently by the Attorney General's office. We made inquiries of police about what had occurred and police informed me that there was not a complaint; there had not been one complaint to police about a breach of bail conditions for this offender.

Several members interjected.

The SPEAKER: Members!

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, I call you to order for the first time.

Mrs L.M. HARVEY: Mr Speaker, once again, there had not been a complaint to police.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, I call you to order for the second time. We heard the member for Butler in reasonable silence and I expect the same courtesy to go the other way.

Mrs L.M. HARVEY: I received advice from police that there had not been a complaint to police about a breach of bail conditions. It has been identified that basically the system failed. The offender was set —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen!

Mrs L.M. HARVEY: The offender was set bail conditions that were incompatible. Some of the bail conditions were that the offender was not to have any contact with or unsupervised access to any child under 16 years old and that he was not to live within or be within 100 metres of a childcare facility or a school. However, the court also put on a bail condition that he was to reside at an address in North Fremantle. That particular address is within 100 metres of a school and a childcare centre, so the bail conditions were incompatible. When police were made aware of that, they went into action immediately; they applied to the court to have the bail conditions reviewed on Friday afternoon —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen!

Mrs L.M. HARVEY: — and the court set a hearing date for the first opportunity to have the matter heard, which I believe was to be tomorrow, 18 August, but I might not have that date correct. In the interim, after all the

publicity, surety for Mr Clegg was withdrawn. That is the bail bond to ensure that Mr Clegg complies with his bail conditions; it was withdrawn. At that point, a warrant was issued for Mr Clegg and police served that warrant. He is now back in custody as a result of the surety being withdrawn. Those are the facts. It is not technically a breach of bail because the court set incompatible conditions for bail.

Mr J.R. Quigley interjected.

The SPEAKER: Member for Butler!

Mrs L.M. HARVEY: What are we going to do about it?

Mr P. Papalia: He's done the right thing, has he?

Mrs L.M. HARVEY: I am not saying that this paedophile has done the right thing in any way, shape or form, and neither did the Attorney General.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, you have been here for only a few minutes and I do not want you to take an early rest. Just let the minister finish.

Mrs L.M. HARVEY: Thank you, Mr Speaker. The assertion that in some way, shape or form the Attorney General is defending a paedophile is utter nonsense—complete and utter nonsense. He has never gone in to bat for Mr Clegg. He has tried to determine the facts of this situation.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale!

Mrs L.M. HARVEY: The important question is: what are we going to do about it? Clearly, the Bail Act needs to be amended.

Several members interjected.

The SPEAKER: Members!

Mrs L.M. HARVEY: Back in 2008, the former Labor government removed the presumption in the legislation that those likely to be imprisoned for their crimes should be remanded in custody. If a person was charged and convicted of an offence, the presumption was changed —

Several members interjected.

The SPEAKER: Member for Armadale, I call you to order for the first time. Let the minister finish, then somebody else can respond.

Mrs L.M. HARVEY: To repeat: for offenders who were likely to be imprisoned for their crimes, the legislation was changed to remove the presumption that they should be remanded in custody. We are going to fix that.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale, I call you to order for the second time.

Mrs L.M. HARVEY: The Attorney General currently has the Bail Legislation Amendment Bill before Parliament. He is moving immediately to add further amendments to the Bail Legislation Amendment Bill. Those amendments will further strengthen the Bail Act to ensure that there is a presumption for offenders who are charged with serious sexual offences to be remanded in custody until sentencing. The Attorney General will change the legislation to include a presumption for those offenders. For those who are charged with an offence, the legislation will require the courts to assume the presumption that those offenders should be remanded in custody until sentencing. A number of sexual offences will fall under this amendment, including sexual penetration of a child under 16 years old and aggravated sexual penetration of a child under 16 years old, and there may be others. The Attorney General is working swiftly to add those amendments to the notice paper so that they can be debated as part of the Bail Legislation Amendment Bill 2016.

Several members interjected.

The SPEAKER: Minister.

Mrs L.M. HARVEY: Given the hoo-ha that has been created in the community about this issue, I expect the full support of every single member opposite when that legislation comes to Parliament.

MR M. McGOWAN (Rockingham — Leader of the Opposition) [12.36 pm]: The opposition has put forward a serious matter and I want to explain why we think that the Attorney General should be sacked. Firstly, the

Attorney General admitted on Friday that he knew about Mr Clegg living in proximity to the childcare centre. He knew that it was a breach of the bail condition, but he said —

... “it would be improper for me to interfere with individual cases”.

He knew that there was a problem. He knew that the community in North Fremantle was at risk and he elected to do nothing. That is the issue. The Attorney General of Western Australia knew about it and nothing was done when a dangerous sex offender was living in proximity to a childcare centre in breach of his bail conditions. Therein is the issue of why he needs to be sacked.

I note the government’s defence. I note that the Premier was on radio this morning and he had this to say: the system failed. The Premier said that no one individual is to blame. I disagree! On this side at least, we all agree that Mr Clegg should never have been bailed in these circumstances. I have every expectation that he will be jailed for a significant time. I do not think that he should have been released for one last period of fun to drink beer and coffee in North Fremantle prior to his jailing. We all think that, but none of us on this side of the house knew what had happened until the Saturday night or Sunday. Then the shadow Attorney General brought it to public attention to the best of his ability. However, the government knew and it elected to do nothing. The Attorney General knew and he elected to do nothing. He said a few times, why would he, as Attorney General of Western Australia, take action? He also said —

“If you’re suggesting that I should have come out and started to panic people by saying that there is someone who has been convicted of a sex offence or a number of sex offences in the neighbourhood, then no, I don’t think that would have been the appropriate way to go,” ...

“It’s a police responsibility ...

No, it is not. If the Attorney General finds out that a dangerous sex offender has breached his bail conditions, he has a responsibility to act. The Attorney General did not act—case closed. That is the end of the matter. The Premier cannot blame the system. He cannot say that no one individual is to blame, because the Attorney General knew. He knew, and he is the Attorney General of Western Australia.

What makes it worse is that the Premier’s office was informed. The Premier’s office was informed on Friday. The Minister for Police’s office was also informed on Friday. The Premier admitted in Parliament yesterday that he was aware of reports on this issue on Friday and that he was aware of the location on Saturday. Contrary to what has been printed today, the Premier was aware of what was going on last week. Despite that, the Premier’s first law officer was still out there saying that nothing would be done when he was asked about this issue. The Premier’s first law officer was out there saying that nothing would be done because, and I repeat, “It would be inappropriate for him to intervene on an individual case.” I disagree. The Attorney General should have intervened; he should have done something. This Attorney General has a history of doing nothing—of sitting in his office doing nothing. What is he being paid for? Report after report and review after review in his portfolios of commerce and Attorney General have piled up on his desk and he does nothing about them. Dangerous sex offenders have been an issue now for years. The Attorney General has done nothing about it. This issue was urgent.

I have met some of the concerned families out the front of Parliament House. They are reasonable people. They took the issue to the Premier’s electorate office, and then to the police, I understand, on Saturday morning. That is contrary to what the police minister said in this house. And still nothing was done. It took the shadow Attorney General and the Labor Party to get some action on this.

We are saying to the government that it needs to take action because this Attorney General has been negligent in his duties. It is time that the sloth-like, indolent, slow Attorney General, who does not take responsibility for his portfolio, was removed from his portfolio, otherwise the Premier is condoning this horrible inaction in relation to this paedophile. Every Western Australian deserves better than that.

MR C.J. BARNETT (Cottesloe — Premier) [12.42 pm]: The Deputy Premier; Minister for Police explained—although obviously no-one opposite listened—that we became aware this paedophile offender was living in proximity to the childcare centre on the Friday. A member of that community came to my electorate office. My electorate officer immediately contacted the Premier’s office. They immediately contacted the Attorney General, and immediately the Attorney General contacted the Minister for Police. The police had already begun to act to make sure that the bail conditions were corrected and that he could be taken back into custody, which is what happened. He was taken back into custody. For the Leader of the Opposition to get up in here and say that the Attorney General did not act —

Several members interjected.

Mr C.J. BARNETT: I do not care what the Leader of the Opposition said.

Several members interjected.

Mr C.J. BARNETT: Stop being so shrill!

Several members interjected.

The SPEAKER: Members!

Mr C.J. BARNETT: The Leader of the Opposition claims that the Attorney General did nothing. As soon as he —

Several members interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the first time; member for Cannington, for the first time; and Leader of the Opposition for the first time. I want to hear the Premier.

Mr C.J. BARNETT: I repeat: the presence of this offender in North Fremantle became known to my electorate office on Friday afternoon. My electorate officer contacted the Premier's office, which immediately drew the issue to the attention of the Attorney General, who then contacted the police minister to see what the police were doing. The police minister immediately spoke to police. They had already begun action to ensure that the bail conditions could be amended, if that was what was required, so that he could be taken back into custody. And he was taken back into custody. For the Leader of the Opposition to suggest that the Attorney General did nothing is wrong; for him to try to imply that the police minister did nothing is wrong; and for him to suggest that nothing changed is wrong. He was taken back into custody, where he needs to be. That is what happened.

The Leader of the Opposition comes in here and tries to create blame on an individual. The Leader of the Opposition has failed to follow the process through. I think the bail system failed—yes, it did. He should not have been released, and he should not have been given bail conditions that were inconsistent. That should not have happened.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen!

Mr C.J. BARNETT: The system did fail. The Leader of the Opposition should be a little bit more circumspect when he looks at issues like this. As for the shrill comments and the conduct of the shadow Attorney General, that can be seen for what it is.

Question put and a division taken with the following result —

Ayes (18)

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

Noes (33)

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

Pairs

Ms L.L. Baker	Mr J.M. Francis
Ms S.F. McGurk	Ms W.M. Duncan
Ms J. Farrer	Mr N.W. Morton

Question thus negated.