SENTENCE ADMINISTRATION AMENDMENT (MULTIPLE MURDERERS) BILL 2018

Declaration as Urgent

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [4.09 pm] — without notice: In accordance with standing order 168(2), I move —

> That the bill be considered an urgent bill.

Notice was given to the opposition parties in my letter to them last Friday highlighting that I would be moving this motion for the Sentence Administration Amendment (Multiple Murderers) Bill 2018 to be considered an urgent bill to allow the house to consider this bill forthwith as part of the government orders of the day for today's sitting. I am sure the Attorney General may, if required, give a more detailed reason as to the urgency of this bill, but my understanding is that this bill needs to be passed by this place and the other place before Parliament adjourns this year in order to ensure that the Attorney General will have the capacity to issue a direction to the Prisoners Review Board to not consider a mass murderer for parole for six years as opposed to the current jurisdiction period. I understand that some people convicted of murder who are currently in prison would be eligible for consideration for parole next year. This bill will ensure that the Attorney General has the appropriate legislative framework to address the issue of these people being eligible for parole. I will sit down now. I am sure there will be a response, but I hope that the Attorney General will also be given an opportunity to give more detail about why this bill is to be considered urgent.

MR S.K. L'ESTRANGE (Churchlands) [4.12 pm]: The opposition is supportive of the government's notice that was given to it last week, but it would seek clarification through the Attorney General about why the urgency of this bill exists.

MR J.R. QUIGLEY (Butler — Attorney General) [4.12 pm]: I thank the member for Churchlands for giving me this opportunity. It was published on 19 April 2016 that a victim of the Birnies, Ms Kate Moir—who actually escaped from where she was detained by the Birnies as a 17-year-old, where she was terribly assaulted; I will not go into the graphic details—approached then Attorney General Mr Michael Mischin. It was reported on 19 April 2016 that Mr Mischin said at that time that he would give the matter some consideration. About the same time, Ms Moir approached the opposition to see what its position would be. The Labor opposition said that it would move to amend the laws so the Attorney General could direct the Prisoners Review Board not to review a person's consideration for parole for a number of years. At that time I said five years but, on advice, it will be six years. As I said, Ms Moir approached us in 2016. The changes were opposed by then Attorney General Hon Michael Mischin. Going into the state election campaign, the Labor Party promised to bring about this amendment. I will quote from *The West Australian* of 16 February 2017. This was after the writs had been issued and the election had been formally called and scheduled for 11 March 2017. Mr Mischin stated —

> "So far as limiting the three-year reviews, I have given (Ms Moir) an explanation on why, in the public interest, changing to no reviews in some cases was not practicable or desirable," …

I have been aware for some time that the first person to qualify under this bill, if passed into law, will be Catherine Birnie, who is due for consideration for parole in March 2019. She is the very person in respect of whom Kate Moir came to see the Labor Party. The bill provides, sensibly, that three months' notice be given to the Prisoners Review Board of a direction not to consider the prisoner at the statutory review period, which will be in March 2019. The government believes it is imperative that this matter be dealt with as a matter of expedition and urgency so that the bill, hopefully, can pass into law before we all rise and I will inform the house that I will issue an immediate direction to the chairman of the Prisoners Review Board not to commence Catherine Birnie's assessment for review for March 2019.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [4.17 pm]: The opposition will agree to the Sentence Administration Amendment (Multiple Murderers) Bill 2018 being declared urgent, but we draw the attention of this house and the community to the chaotic management of business by this government. Other bills have been brought to this place and declared urgent. One of them was the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 to do with putting protections in place for victims of domestic violence. It languished in the upper house after a big, mad rush to appease the retail-politics nature of the Attorney General. It was rushed through. It went to the other place and sat on the table in the other place for months, with no priority given to it. Then we had the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. Our Liberal colleagues in the Legislative Council were accused by this Attorney General of deliberately holding up the redress bill and preventing compensation actions for victims of child sex abuse. That is absolutely wrong. The bill was rushed through the Legislative Assembly with great fanfare so that this Attorney General could get great media coverage and, when it went to the other place, guess who sent it to the Standing Committee on Uniform Legislation and Statutes Review? The government! It was not the Liberal members in the Legislative Council; it was the government. It sent it to the uniform legislation committee, which suggested improvements to

it and that was the hold-up in the other place. Among this legislation was the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017, which capped the salaries of fat cats and members of Parliament and the judiciary. That was urgent, too. It went to the other place. It was not given priority in there. The same thing happened with the no body, no parole legislation—it got rushed through here and went to the Legislative Council, but apparently the leader of government business in the Legislative Council does not have the same priorities as the Attorney General, because that bill sat around up there for months without being debated. We had the same accusations with the strata laws and the community titles legislation. We will agree to this, but the Attorney General needs to speak to the leader of government business in the Legislative Council and tell her that his bill is urgent and to get her to put it on the notice paper so that it gets debated to his retail-politics time frame. Quite frankly, the Attorney General's contempt for Parliament and his utter inability to manage the legislative program is appalling.

Withdrawal of Remark

Mr J.R. QUIGLEY: She has impugned my character by alleging that I am in contempt of Parliament. I ask the member to withdraw.

The ACTING SPEAKER (Ms S.E. Winton): I do not think that is a point of order.

Debate Resumed

Mrs L.M. HARVEY: Thank you, Madam Acting Speaker. I point to the way in which the house has been managed. Here we are this week, a couple of months after being told by the Attorney General and this government that there are no resources in the Parliamentary Counsel's Office for the opposition anymore because it is inundated with work. We have no resources. We now have no ability to go to the Parliamentary Counsel's Office to have any private members' bills drafted, because the government has turned the tap off for the opposition. Then we get told that this legislation is urgent. We are apparently going to be sitting late tonight and late Wednesday night, like the government has said would happen nearly every week in this place. Then what happens? We run out of business on Tuesday night and go home early!

Mr D.A. Templeman interjected.

Mrs L.M. HARVEY: I point out to the Leader of the House that the government says that these bills are urgent. What happens is that we run out of business at eight o'clock or nine o'clock on a Tuesday night. We had the Premier's statement listed for debate last week because the government had run out of business! The government needs to get its act together, prioritise its legislative agenda and not —

Several members interjected.

Mrs L.M. HARVEY: Acting Speaker, your protection, please.

The ACTING SPEAKER: Thank you, members.

Several members interjected.

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Several members interjected.

Mrs L.M. HARVEY: Is everyone on their feet?

The ACTING SPEAKER: Thank you, members.

Mrs L.M. HARVEY: Thank you, Acting Speaker. The point I make is this: the Attorney General needs to speak to the leader of government business in the Legislative Council. He needs to say to Hon Sue Ellery, "This legislation is urgent. The Liberal and National opposition in the lower house expedited its passage because of its urgency, because we do not want these murderers released. Make it a priority and do not make a mockery of this Parliament."

MR P.A. KATSAMBANIS (Hillarys) [4.23 pm]: Just on the urgency motion before the house, as other speakers from the opposition have indicated, the opposition does not have any objection to treating the Sentence Administration Amendment (Multiple Murderers) Bill 2018 as urgent. The manager of opposition business sought an explanation from the Attorney General. To paraphrase the Attorney General's explanation, the government, when in opposition, had an ironclad commitment to do something in this area. Labor came up with a policy and took it to the election. Now it needs this bill to be declared urgent because, working backwards, in March 2019 one of the people who falls under this new regime is up for consideration. The Attorney General, under the new regime being introduced by the bill, needs to make a determination at least three months before March 2019, which is therefore December 2018, so we need to get it through both houses of Parliament. All that is well and good when we suspend belief, rip up calendars and ignore the fact that the election was 18 months ago. It was not a week ago. It was not a month ago. This ironclad commitment, this big tick, was given by the Attorney General to admittedly very seriously aggrieved victims. These people deserve our greatest sympathy, both the actual victims like

Kate Moir, and the secondary victims—the families of the victims. The Attorney General had given that commitment—good on him for doing that—but for 18 months he sat on his hands on this legislation. I understand that it is complex legislation.

Mr J.R. Quigley: The member for Dawesville said I am up to bill 26. I can't do them faster.

Mr P.A. KATSAMBANIS: It is always a matter of priorities, Attorney General. This is complex legislation. This is legislation of the nature that our High Court often wants to scrutinise in great detail. The High Court has on occasion—not in the same circumstances but in similar circumstances—actually ruled certain legislative provisions in other states to be unconstitutional. This legislation requires the utmost scrutiny simply to see if it is constitutionally valid. It requires proper consideration in this place—proper consideration in detail—and then also consideration by the house of review of not just the constitutional requirements, but also the other legitimate issues that we have raised and will also raise in debate. The Attorney General said in question time today that he would have no truck with any amendments whatsoever. That is really basically running roughshod through parliamentary procedure.

Had the Attorney General brought this bill to this place earlier, in a more timely manner, in the 18 months he has had to bring bills like this to the Parliament, knowing that there was a ticking clock on this one—there has not been a ticking clock on all legislation, but on this one there was—he would not have needed to move an urgency motion and we would not have this threat of, "If you try to consider it properly, if you try to scrutinise it properly, if you try to look at all the legal and constitutional implications, oh my goodness we're going to get to a problem with Catherine Birnie!" Well, yes we would, in the sense that this legislation may not apply if we did that, but we are not going to do that. Unlike the Attorney General, we do not like playing politics with this stuff. We want good legislation and good outcomes for all law-abiding Western Australians. But the fact remains that this bill is being rushed through for one reason and one reason only—that is, this government has no control of its legislative agenda. It has allowed this to slip through the cracks. It has brought it up at the last minute and said, "Oh my God! It needs to be urgent." This could have been done any time in the last 18 months. It is unfortunate that this government is not, 18 months into its term, any better at managing its legislative agenda than it was in March or April last year.

Question put and passed.

Second Reading

Resumed from 18 October.

MR P.A. KATSAMBANIS (Hillarys) [4.28 pm]: I rise as the lead speaker of the Liberal opposition on the Sentence Administration Amendment (Multiple Murderers) Bill 2018. This bill deals with extraordinarily difficult subject matter. As the title says, it deals with multiple murderers—people whom any sane Western Australian would consider to be amongst the worst possible criminal offenders in the history of this state. Underneath the people whom this bill actually deals with is a series of victims who have suffered gravely at the hands of these vile people. There are the initial victims—obviously, the people who have been murdered—and those like Kate Moir, who managed to escape the ultimate horror that I am sure the Birnies had planned for her but to this very day carries both the physical and emotional scars of what she was put through by two extraordinarily disgusting and vile individuals.

Then there are the families and friends of the victims, who think about their loved ones every single day. When issues such as the potential for parole come up or the case is mentioned again in the media or whatever the case may be, it brings back horrific memories and it triggers responses in those people that those of us who have not been in those circumstances could not possibly imagine. Then the impact trickles down even further. It trickles down to the first responders. There have been some horrific crimes in Western Australia recently and we have seen the impact on the first responders. That never goes away. Then there are the people in the community. I think some of my colleagues, including the member for Geraldton, will talk about the impact on his community of the horrific crimes that came to be known in Western Australia as the Greenough murders, committed by Mitchell. The impacts are broad and extend right across our community.

These horrible people have, rightfully, been sentenced to a term of imprisonment that in the old language was for the term of their natural life—life imprisonment. However, in every case that I know of, there has been a non-parole period. During that non-parole period, they stay in prison. As soon as the non-parole period expires, the Prisoners Review Board has to consider these people for parole and, in the case of murderers, make a recommendation to the Attorney General about whether these people should be released into our community on parole or should continue to serve their life sentence in prison. That review takes place every three years. It is understandable that in those circumstances both the primary victims and the secondary victims—all those other people, the family, the friends, the community members and the first responders who have been impacted by these murders—get concerned and worry. They worry, firstly, that the legacy of their loved ones will not be respected properly; and, secondly, that these murderers may walk back out on to the streets and put other

members of the community at risk of harm. Therefore, it is understandable that people such as Kate Moir have requested a better way.

As the Attorney General has indicated, in this government's opinion, which he is part of, this is the better way. This bill allows the minister of the day, the Attorney General, to direct that a particular designated prisoner must not be considered for parole or a resocialisation program. In the bill, a designated prisoner must be someone who has committed the offence of murder and has been convicted of that offence, or the old offence of wilful murder, and on top of that, they must fit one of two other criteria. They have to have been convicted of two or more relevant similar murders that were committed at any time or one other relevant offence, being a murder or similar, that was committed on a different day from the relevant first offence. To paraphrase that and to put it into English rather than legalese, the two groups of people to which this group will apply is people who have killed three or more people on one day, which the Attorney General liked to call "mass murderers" in his second reading speech, and people who have killed two or more people on different days. The Attorney General, as he likes to use this sort of language, has described those latter people as "serial killers".

Mr J.R. Quigley: I used the FBI definition.

Mr P.A. KATSAMBANIS: I do not take issue with the definition and I realise that there has been some literature around the FBI. As far as I am aware, the FBI does not have any legislative framework to designate a mass murderer or a serial killer. I understand from briefings that the Attorney General arranged that that is the sort of nomenclature that is used by the Federal Bureau of Investigation in America to describe mass murderers and serial killers. They are the only people who would fit into this program.

Once this bill has passed, the minister will be able to make a direction after he has received the first statutory report for parole consideration. That will happen. There will be a first report; I will discuss that in a minute. I think that is legally the wise thing to do, as the minister spelled out in his second reading speech. The first step is that the minister will receive the first report. Obviously, either the report will make a recommendation that no parole be given or it will recommend parole and the minister would consider that parole should not be granted irrespective of what the Prisoners Review Board says. There will be a determination at that point of no parole this time around. Rather than pass it on for three years, the minister can make a direction that the Prisoners Review Board does not consider this matter again for at least six years. There is also another step; three months before the expiry of the six-year direction, or any period up to six years, the relevant minister, being the Attorney General, can refresh the direction. The Attorney General will correct me if I am wrong, but essentially, a series of rolling directions —

Mr J.R. Quigley: Correct.

Mr P.A. KATSAMBANIS: — would effectively mean that the Prisoners Review Board would not consider this person for parole even at the end of six years if the Attorney General at the time were so predisposed to refresh that direction. Again, I personally do not take issue with that. I have some question marks around the six years and there are possibly some constitutional issues, but I point out that we are retrospectively dealing with trying to address an issue that was created when the parole period was set in the first place. A parole period has been set and then that triggers all the mechanisms around parole for any prisoner once a parole period is enlivened. These people, as we said, are the worst of the worst. No-one can argue that these people do not deserve to be in prison. In my case, anyway, I will say quite clearly that they ought to be in prison for the term of their natural lives—no doubt about that. An Attorney General, a shadow Attorney General, a member of Parliament or anyone else making these declarations—with a small "d"—that these people deserve to be in prison forever does not guarantee they will stay in there. That is why we need to have these alternative structures, and the Attorney General is proposing one here.

Of course, there are some safeguards, and that is important. I am going to come back to them later in my contribution. First, the Attorney General does not have to make that direction. Nothing compels the Attorney General to make that direction. Even once this bill is passed, the Attorney General of the time may firstly decide just to let the three-year time frame that currently exists continue. He can make a direction for a shorter period of time than six years or even, as I read, a shorter period of time than three years, because the Attorney General would have ultimate discretion. I have no doubt that we will get to that point in consideration in detail. The other safeguard is that the Attorney General can reverse that direction in the future. It could be either the Attorney General who made the direction or some other Attorney General in the future who could decide to do so for a number of reasons. I note that the Attorney General talks about exceptional cases in which parole may need to be considered—or if a new Attorney General thinks otherwise, that Attorney could make a better position than the previous Attorney General. Those safeguards are still there, which is important, and I will get back to that.

So far, so good. The Attorney General has provided some information to the opposition, for which we thank him and his office, that currently there are six prisoners in our prison system who meet the criteria in this bill of "designated prisoner". Not only are they people who have killed at least three people on the same day or two people on separate days, they have also had that first parole consideration, but are still in the prison system. One of them is Peter Maloney, who is described as a serial killer, who murdered two people in Esperance over an 11-month period, I think. He was sentenced to death and had his death sentence commuted to life imprisonment; I think at the time it was strict security life imprisonment. He has not been released since 1980. I think his first statutory reporting date was in 1985. Subsequently, he has never been considered for parole—never been recommended for parole.

Then there is Catherine Birnie who is in prison for four counts of wilful murder, one count of deprivation of liberty and one count of aggravated sexual assault—vile, disgusting crimes committed in conjunction with her husband, David John Birnie. It is just absolutely horrific to think about it. I think she had a minimum parole period of 20 years, so her first statutory reporting date was 2 March 2007. The next one, as the Attorney General spoke about during the urgency motion, is coming up on 2 March 2019. She has never been recommended for parole, and I hope that that never changes under any circumstances.

The third person is Douglas Crabbe. He is an interstate prisoner who was transferred to Western Australia. His circumstances are that he drove a 25-tonne Mack truck into a crowded bar of a motel in the Northern Territory at the base of Ayers Rock, or Uluru, back in 1983. He killed five people and seriously injured 16 people. He was imprisoned and, as I said, transferred to Western Australia. From memory, his non-parole period was 30 years, but, in any case, his statutory reporting date was August 2013, and he has another one coming up in August next year. He has been recommended for parole twice before. He was recommended for parole at his two previous statutory reporting dates, both in 2013 and 2016, by the Prisoners Review Board, and in each case the Attorney General at the time did not accept those recommendations and he remains in prison.

Then there is William Mitchell. William Mitchell is imprisoned for four counts of wilful murder, counts of indecently interfering with a corpse, robbery whilst armed, aggravated sexual assault and stealing. The four murders were of an innocent woman and her children in Greenough, which is in the midwest near Geraldton. He murdered 31-year-old Karen MacKenzie, as well as her son and her two daughters. That family was murdered in their home. Full details of that crime have never been released because they were deemed to be too gruesome. This vile individual committed the crime in 1993. His first statutory reporting date was October 2013. In his two previous statutory reviews he was not recommended for parole. His next review is later next year. Again, I think I speak for every Western Australian when I say that this man should never, ever be released.

There is the case of a David Masters. He is one of those people the Attorney General has described as a serial killer. He killed somebody, served his time and came out. The first person he murdered was in the Northern Territory. When he got out, whilst he was on parole for that matter, he committed another murder here in Western Australia. I think the person he murdered in Western Australia was a Victoria Clark who lived in Victoria Park. He basically broke into her flat whilst she was out of home. When she came home, he sexually assaulted her and then strangled her to death. His first statutory reporting period was in January 2006, so quite some time ago, but in his case the parole board has never recommended him for parole in all these years, and he is not up again for review until 2021.

The sixth case is the case of Mr James Tilbury, who, again, murdered two women. He murdered one woman in 1971 and he was sentenced to death. That was commuted. Then in 1989, whilst on parole in the community, he was again convicted of another wilful murder. It was a hitchhiker to whom he had offered a lift home, and he violently attacked and sexually assaulted her, and killed her. His first statutory review date was 2009. The Prisoners Review Board has never recommended him for parole, and he is not up for review again until 2020.

The Attorney General has not told us how many of the people currently in our prison system would meet the criteria under this legislation that he has introduced once they reach their first statutory reporting date and consideration for parole. Perhaps when the Attorney General sums up, or certainly in consideration in detail, he can enlighten us about who those people are, or at the very least how many there are, so that the public is aware. That is all well and good. I do not think anybody in Western Australia would comfortably say that people such as the six people I have just described should ever be released into our community. I would argue that that would include the government and the opposition, and not only every law-abiding citizen, but also people who may not necessarily be law abiding and are in our prison system at the moment. Obviously, we are all constrained by the law. The law says that these people have been granted non-parole periods and will then be considered for parole. We know what impact that consideration every three years has on the victims and their families. We all want to avoid that.

One question remains around the construction of the scheme proposed by the Attorney General. That is: why was the six-year period chosen? Yes, it is a multiple of three, so it increases the non-parole period. However, why did the Attorney General not choose nine years or 12 years? What advice did the Attorney General receive about the

constitutional validity of the scheme that he is introducing? What risks are inherent in that scheme, as the Attorney General outlined in his second reading speech? I do not want to put words into the Attorney General's mouth, so I will look for the quote. The Attorney General said that it —

> … therefore minimises the risk of constitutional challenge to the making of a direction.

That is wise. The Attorney General is not saying it eliminates the risk. He believes his scheme minimises the risk. As I said earlier, these matters tend to be kicked up to the High Court, and the High Court can take some rather interesting interpretations of these sorts of legislative schemes that essentially rewrite the rules around parole after a prisoner has been sentenced and has served their non-parole period. What was that advice? Was it on constitutional advice that the six-year period was chosen rather than any other period?

I have spoken just about the technical workings of the bill itself. We then get to the concept of "designated prisoner". That raises other questions. Why is a person who killed two people on separate days deemed to be a designated prisoner—a really bad person who should fall under this regime—but a person who killed two people on the same day is not deemed to fall into this category? Both those people killed two people in cold blood and were found to be murderers. The only difference is that one person killed two people on separate days and the other person killed two people on the same day. The person who killed two people on the same day is let off, because they killed only two people. That is irrespective of whether, on the facts of the case, they are just as bad, or perhaps even worse, than the person who murdered two people on two different days, and irrespective of the fact that perhaps they attempted to murder more than two people but out of sheer luck managed to murder only two people and seriously injure others. I go back to the circumstances that I read out of Douglas Crabbe, the person who drove that 25-tonne truck into the roadhouse at Uluru. He happened to kill five people and injured 16. If he had killed only two people and injured 19, he would not fall under this regime. Why? I think the public of Western Australia is entitled to ask that question. As a responsible opposition, we ask that question as well.

What would happen if two people are murdered, one at 11.58 pm and the other at 12.02 am? I know it sounds fanciful, but I know, and I know the Attorney General knows, because he is an expert in Western Australian criminal law, that sometimes we cannot determine the exact time of death, particularly in cases in which people have been held captive. I hate to talk about this, because I know that victims and secondary victims are listening to this debate and it reminds them of what may have happened in real-life situations, but sometimes people are held captive for long periods of time, and perhaps tortured, and eventually die. It may be difficult to determine whether a death happened at 11 o'clock at night or one o'clock in the morning. However, under this legislation, technically it is two different days. The Attorney General needs to explain why he has used the example of three murders that take place on the same day, and only two murders that take place on separate days. I understand there are two definitions floating around that are used by the FBI. But it is not good enough. It is an extremely artificial distinction. I would say that if we walked into any cafe or pub and asked the people at the table whether they think a person who has killed two people on the same day ought to be kept in prison indefinitely so that they can serve their life term, 99.9 per cent of people would say yes. In fact, they would probably use more colloquial language about throwing away keys and the like, and some might even want to go further than that. It makes little sense, other than it is some technical nuance about specific definitions that are used by the FBI for mass murderers and serial killers. I would suggest that the Attorney General needs to explain that.

The overriding question, and the one to which we have been trying to get some answers from this Attorney General, is: why use a number at all? Why not simply say one murderer, or perhaps include classes of single murderers whose offending is of such a horrific and vile nature that they ought never see the light of day again, such as child killers? In Western Australia, the person who springs to mind more than anyone else when it comes to child killers is Dante Arthurs, who assaulted and murdered an eight-year-old girl in a Canning Vale shopping centre back in June 2006. It was a heinous, vile and absolutely disgusting crime. Arthurs has been convicted of one murder only, but I understand his non-parole period is up next year. I hope and trust that in those circumstances, without fettering the Prisoners Review Board in any way, if it came to a determination to recommend his release, the Attorney General of the day would simply say, "No, thank you; not interested in that. This man remains behind bars." But just the consideration will enliven —

Mr J.R. Quigley: You have to give proper reasons.

Mr P.A. KATSAMBANIS: Of course reasons have to be given. The Prisoners Review Board also has to give reasons, and I think in its case it may not decide not to. I do not want to fetter its powers or determination, because the consideration is coming up. But I would expect that with someone as vile as Arthurs, an Attorney General of the day, whether this one or someone else—the previous Attorney General made those decisions in relation to Crabbe—would say, "No; Mr Arthurs does not come out." All well and good. But three years down the track there will be another consideration of parole. For members who do not think this is real, I refer to *The Sunday Times* article of 1 July by Kate Campbell, who interviewed the father of Sofia Rodriguez-Urrutia Shu, the unfortunate

victim of this horrible man, Dante Arthurs. The father said that his family did not harbour anger, but also did not want to see Arthurs walk free. The article then states, in relation to 2019 —

> He admits having to relive the ordeal every three years from next year—under law, those with a life jail term have a right to a statutory review every three years after their nonparole period ends—might eventually force his family to move from Perth.

Here is a secondary victim—the father of an innocent eight-year-old girl who was murdered in cold blood by this vicious killer—saying exactly what the families of other victims are saying—exactly what the family of Karen MacKenzie is saying. Her sister, Ms Clow, has very strongly made the case of the impact of this consideration every three years. It is the same with Kate Moir, who was a primary victim of the Birnies; she was the lucky one who survived. But in the same way, Mr Rodriguez and his family have to relive this horror every three years. Why is it good enough for multiple murderers to be not considered for at least six years, and hopefully forever under this scheme that I described before, but Mr Arthurs—I do not want to use that title for him; he does not deserve it; Dante Arthurs—can be considered every three years, making the family relive the horror every three years? Mr Gabriel Rodriguez has said that having to go through this consideration every three years may lead to the family moving from Perth eventually because they just do not want to relive it every three years. Under this legislative scheme, those secondary victims are not in any way protected.

I have asked the Attorney General why he has not considered child killers like Dante Arthurs. His explanation in question time today was, "Oh, because I don't want to get caught up in some unfortunate mother who at a difficult period in her life—an extraordinarily black and dark period—murdered her child." That is all well and good, but that is why this legislation has built-in discretions. If child murderers were included in this legislation, either this Attorney General or one in the future would still have the discretion about whether to make a direction to not consider parole for at least six years based on the facts and circumstances. That is what Attorneys General, courts and everybody else make on the facts of the case and the applicable law. Even if murderers who murdered one child were included in this regime, the built-in discretions would cover the obscure example of a mother who was perhaps having such a difficult time that she killed her child, served her time, had been a model prisoner and was up for parole. Those discretions already exist.

But at question time today the Attorney General was caught out. Despite having asked him about this before, he had not thought, "Oh, what am I going say when I'm asked why don't we include Dante Arthurs in this regime? That's it. I'll pluck out of the air mothers—I don't use the term 'innocent'—who have murdered their children and deserve a second chance after having served their time and done their penance, reconsidered their lives and got back on the straight and narrow. They will have served a significant time in jail, but we don't want to keep them in there forever." That again goes to show that this Attorney General sometimes errs on the side of making something up, rather than getting it right.

The discretion is built into this legislation. It is a choice of this government to not include vile murderers like Dante Arthurs in this legislation. To conflate and mix up Dante Arthurs with those facts and circumstances about a mother killing her child because things were really, really horrible is just an excuse. It does not stand up to scrutiny at all. Why has the government chosen to limit it only to these artificial constructs of more than two murders in one day, or two or more murders on separate days? If we were to consider a proper regime for keeping the most evil in our society in prison, we ought to go beyond mere numbers. I use the term "mere numbers" advisedly, because numbers might be important in some, but not all, cases. In what sort of world would we be living if the community thought that Dante Arthurs was in some way not as bad as someone who has killed two people, three people, five people or 10 people? He is evil. He is just one of them. I use him as an example because he has such a high profile. The family has been in the media recently. It is unfair to drag out other examples that will simply enliven these negative emotions in victims' families across the board. I note that even in July this year, the community's views were expressed in an online petition that was reported in an article I have from a Community News Group newspaper, the *Canning Times* of 3 July, saying that a petition to keep Dante Arthurs behind bars had already attracted 54 000 signatures. Western Australians have not forgotten. The petition was to the Attorney General, started by former police officer Paul Litherland. This person now visits schools to conduct stranger danger talks and to promote online safety. I do not know the man but that is the description in the article. He was aiming to achieve 75 000 signatures, but 54 000 signatures for an online petition is a big number about fact circumstances that very few people outside Western Australia would have any consciousness of. It is appealing to a small market, being our state, yet 54 000 people are prepared to say never release this man.

There is a lot of community anger out there still, nearly 13 years later—a hell of a lot of community anger. Yet we are introducing new legislation to keep murderers in jail for longer to make sure they are not considered for parole every three years, to make sure the families of the victims and the victims themselves do not get these negative emotions stirred up every three years. But this disgusting, vile individual, who is still in public consciousness and who the public are asking us to keep behind bars, is causing the family to relive this nightmare every three years

and will probably force them away from Perth eventually. No; these laws will not apply to this person or other people like him.

A few months ago when the Attorney General stood up in question time and said that he was the king of grandstanding or an expert at grandstanding —

Mr J.R. Quigley: You're not going to deny that are you?

Mr P.A. KATSAMBANIS: Here is exhibit A, B and C. If there were a medal for grandstanding, the Attorney General would have a bit of competition but he would be right up there. He would be in the photo finish.

Mr J.R. Quigley interjected.

Mr P.A. KATSAMBANIS: It is not a laughing matter. For the families of the victims of these vile murderers I described, Maloney, Birnie, Crabbe, Mitchell, Masters and Tilbury—or the Birnies' victim who managed to escape the ultimate plan that the Birnies evidently had for her—this is comfort. I appreciate that. That is why we are supporting this legislation. That is why we are supporting it being termed "urgent legislation". We are not saying do not pass this legislation; we are asking why the Attorney General will not make it the best legislation he can. Why will he not make it apply to as many vile and evil people as possible who are sitting in our prison system and, based on absolutely overwhelming community sentiment, should sit in that prison system and rot for the term of their natural life? Why is the Attorney General not doing that? It is because grandstanding is more important than getting it right, and that goes back to the points we raised about the urgency motion.

Had the Attorney General drafted this legislation and brought it in earlier, perhaps we could have had a discussion about making it better rather than what the Attorney General said in question time today when he said, basically, "No; we will not look at any amendments whatsoever. If you don't pass this bill exactly as it is, we don't know what we'll do." It was one of those veiled threats rather than a direct threat. We will not do that. We do not want to play with the emotions of the victims of these mass murderers, serial killers, evil, nasty people, any more than they have had to suffer already. We would like to see child murderers included in this. We know there are safeguards. The Attorney General has built in the safeguards to cater for the externality, to cater for the one or two cases for whom perhaps, despite all this, parole is a good idea. We know the Attorney General has done that. Not so long ago he released Arthur Greer, another murderer, because he was terminally ill so he could be deported to England or could go to England. I do not know whether he was actually deported or just got on the plane and left. I assume he was deported.

Mr J.R. Quigley: Yes, he was.

Mr P.A. KATSAMBANIS: Or escorted.

Mr J.R. Quigley: No, no; deported.

Mr P.A. KATSAMBANIS: Fair enough. He was going off to England to wait out the rest of his terminal illness. Lord knows when that will be. The Attorney General has done that and he can do it again. The discretion is built into the legislation. As I said, we will get less than perfect legislation in this place because, firstly, of the intransigence of the Attorney General and the government. They are the only ones with the good ideas! Nobody else has the right to come up with a good idea or perhaps a better idea or build on their good idea and make it even better. No; it is not allowed. We may as well not have Parliament, really, if that is the case. In 90 per cent of legislative cases here, we are in heated agreement. We just want to make it better. That is one of the reasons. The government did not think of the idea. The other reason is that the government delayed the introduction of this legislation. There may have been good reasons for its delay but I have not heard them yet. It was such a fundamental plank of the government's election policy that it sat on the shelf for 18 months! That is the other reason. This has to be rushed through. We do not have the time to properly consider any amendments or for the government to go away and bring up its own amendments that make it even better, having seen that the Liberal opposition is keen to not only support the legislation but to make it better, to cover more victims.

Mr J.R. Quigley: This is grandstanding, more grandstanding, nonetheless.

Mr P.A. KATSAMBANIS: Instead, the government is digging in its heels. It is mind-boggling that a person such as Dante Arthurs will be considered for parole next year. Stop to think about that for a moment: this is a man who lay in wait for an eight-year-old child in a toilet of a suburban shopping centre, vilely sexually assaulted that child and then murdered her. He was sentenced to life imprisonment with a non-parole period of—I want to put dot, dot, dot and go out in the community and circulate maybe one million pieces of paper saying, "Here are the fact circumstances of Dante Arthurs, sentenced to life imprisonment with a non-parole period of dot, dot, dot, please fill in the answer." I do not know whether one per cent of one million people would come up with the answer: a 13-year non-parole period. Irrespective of that, we cannot reverse it. That happened a long time ago. He got a 13-year non-parole period. Now, 13 years later, he will be considered for parole next year and then every three years after that. That

assumes of course—I think it is a fair assumption to make; I am not casting aspersions on anyone—that he is never recommended for parole or, even if he is recommended, the recommendation is not accepted by the Attorney General of the day, because that would be an even worse outcome. Imagine having that man out in the community, on parole or otherwise. When I read the rap sheet of the six people this will apply to, I saw that in at least two cases the second murder committed by these vile, vicious people was committed after they had been paroled for a first murder, which is just scary for everyone out there in the community.

Members can think about that. That was Dante Arthurs. He was sentenced to what average members of the community would consider to be an extraordinarily light touch—a non-parole sentence—and now, every three years, the family of the innocent victim, Sofia, will have to relive that horror when the time comes for parole. Meanwhile, we are bringing in a legislative scheme that theoretically could easily be applied to that family as it has been applied to other families. I have absolutely no qualms at all about applying it to the group of victims and secondary victims that this will apply to. We are just saying "extend it". We are asking questions such as: Why did the Attorney General arrive at three or more victims on the same day, but only two victims on different days? Why has the Attorney General put a number on it at all? Why has the six-year period been chosen? Does "up to six years" mean from zero to six, or only for the three to six years, keeping in mind that without a direction such as this the period would be three years until the next review? What constitutional legal advice has the Attorney General received about not only the validity of this scheme but also perhaps the question marks around other potential schemes that may have been considered, such as a longer period for the direction or some other legislative framework, as has been tried in some other states? I do not pay as much attention to what happens in other states, but the state of Victoria has grappled with mass murderer Julian Knight recently and I do not think it has fallen foul of the High Court yet. Were alternative schemes considered? What advice did the Attorney General receive about those schemes? More importantly, what we are seeking from the Attorney General today is: why only limit it to these individuals? The only reason the Attorney General has given for not including in this legislation child murderers—who killed only one child, but killed a child, like Dante Arthurs did—is, "We don't want to catch mothers who, unfortunately, murdered their children. They have served their time and it is universally accepted they probably should get a second chance and go back out in the community." That does not stand up to scrutiny because that protection is built in.

Even at this late stage, I ask the Attorney General to give serious consideration to including child murderers in this bill. He can draft the amendment, or I can draft it. I think the Attorney General knows me well enough by now to know that I do not like wasting Parliament's time on wild goose chases or things that will not happen. This should be bipartisan. The fact that we should extend this to Dante Arthurs and to the other people like him who murder young children is a self-evident truth. The Attorney General can do it. All the Attorney General needs to do is say, "Yes, we can make this even better." The Attorney General can take the credit—he is good at that; he loves that. He is the Attorney General. This is not a good job. Perhaps during consideration in detail we might speak about the technical operation of this bill and some of the constitutional issues. I understand the drafters had to grapple with this to get it as bulletproof as possible. The Attorney General even said, in his second reading speech, that it minimises the risk of constitutional challenge; it does not eliminate it.

It is good work. I am not criticising what the Attorney General has done, but why keep it so narrow when we know there are other people out there who should be caught by this new regime? There are families of victims publicly saying, "This is going to cause our family severe distress and we might have to move from Perth or from Western Australia just to avoid the three-year media circus that invariably builds up around these things." It is up to the Attorney General. We are not opposing this bill and we are not opposing it going through urgently. We understand this is a bill that will alleviate the pain of victims like Kate Moir, and secondary victims like the families of the victims who are no longer alive because of the actions of these horrible, nasty killers. We recognise that. We want to give this bill speedy passage. We are just asking the Attorney General to extend that same courtesy and that same extra bit of comfort to another group of victims, and to families of victims who are suffering and are calling for a similar regime to apply to the murderers of their family, their children and their loved ones. I know other opposition members want to make contributions, perhaps more personal contributions, but as I said we will leave the ball in the Attorney General's court. We just hope he comes up with the right and proper decision rather than the politically expedient one.

MR I.C. BLAYNEY (Geraldton) [5.28 pm]: The Sentence Administration Amendment (Multiple Murderers) Bill 2018 does of course have some impact in my electorate. The southern part of my electorate along the coast is the area of the Greenough Flats. It is a very peaceful area. It can be entered from the Shire of Irwin to the south. It is the second oldest farming area in Western Australia. It has good fishing along the coast. It was previously known, of course, for its beautiful, old stone buildings, and trees that grow horizontally along the ground because of the winds. What is known as the Greenough murders took away that reputation and it changed the area's reputation for decades. It is starting to fade now but for years it was known as the home of the Greenough murders. I refer to the axe murders of Karen MacKenzie, aged 33, and her three children—Daniel, 16; Amara, seven, and

Katrina, five—on 21 February 1993 at their property located on the front flats at Greenough. It has been called one of the worst crimes in Western Australia. Of course, the judge ordered the details of the murders to be kept secret, because they were considered to be too gruesome to be made public. We can look back at what happened on the day. Mitchell had spent the day consuming a mixture of cannabis, alcohol and amphetamines. We all see the impact of that in our community, particularly of amphetamines. Here is a rolled gold case of the impact. Probably more than anything, it was the amphetamines. The 16-year-old young man went out to see who it was. He was confronted by Mitchell, who was wielding an axe. Mitchell killed him and went into the house. He found Karen and killed her with an axe, and then he killed both the children. He was later also charged with sexual offences. Mitchell pleaded guilty to four counts of wilful murder and four counts of sexual assault. He was convicted of the murders in 1995 at the age of 24 and was sentenced to four concurrent terms of life imprisonment, with a non-parole period of 20 years. Due to an outcry against the sentence, a crown appeal ordered the non-parole period to be revoked. Then followed a series of Supreme and High Court appeals, including a ruling during that process that Mitchell never be released. An appeal overturned the non-release ruling and reinstated his 20-year non-parole period. He consequently became eligible for parole in 2013, with a three-year review in 2016. In September 2013, Mitchell was refused parole. The then Attorney General, Michael Mischin, stated that his decision to refuse parole was based on the gravity of the crime and the safety of the community. Mitchell became eligible for parole again in October 2016 and was again refused parole. As required by statute, his next review by the board is due in September 2019.

In the Greenough and Geraldton areas, this is one of those incidents in people's lives that they take with them for the rest of their lives. When Mitchell was first eligible for parole in 2013, I was approached by a childhood friend of one of the victims who asked what could be done to make sure Mitchell was not released. I suggested a petition, writing to the minister and then probably a grievance. My community gathered 1 493 signatures, which I presented to the house on 20 June 2013. I followed up in 2016 with a further petition of 2 527 petitioners on 7 April 2016, and a smaller group of petitions came in with 405 signatures on 12 June 2016. In the last lines of the petition, my petitioners requested that Mitchell never be released from jail. I have observed the concern of the community about the release of people like Mitchell. One hopes that most people in prison can be rehabilitated. However, I think nearly everyone in the community would agree that there is a category of prisoner, like Mitchell, who probably should never be released. It is a very sad thing that we put someone away for the rest of their life at the age of 24, never to be released; however, the risk to the community from some chance of reoffending has to be taken into account. I expect that in my community there would be 100 per cent support for the idea that some crimes are so bad that life genuinely does mean life. Having seen the impact on the community of the concerns about the probable release of people like Mitchell, I support the bill's intention to extend the review out to six years. However, having also seen the impact of these reviews on people in the community who knew the victims or lived close to that area, I do wonder why it is not 10 years. I suggest that 10 years would be a more appropriate length of time before the families and friends of victims have to endure having those memories brought up again.

MR S.K. L'ESTRANGE (Churchlands) [5.34 pm]: I rise to speak in support of the Sentence Administration Amendment (Multiple Murderers) Bill 2018. The opposition supports the urgency of the bill. Notwithstanding our support for the bill and its urgency, I draw to the attention of the chamber the fact that I am a little cynical about the way in which the Attorney General brought the urgency motion on the bill to this place. The Attorney General will get the opportunity to defend himself a little later, but I think he brought this bill on as urgent to try to draw the Liberal opposition into a trap. I think he was hoping that we would argue against the urgency of this bill, so that he could release a press release to say that the Liberal opposition does not support its urgency. We did not fall for the Attorney General's trap! We supported the urgency motion. We let it go through without a murmur. We are now straight into the second reading of his bill. I hope that the Attorney General did not pull the trigger on a media release at 3.00 pm or 4.00 pm today and throw out that we were not supporting the urgency of this bill, when he knows perfectly well that we came straight in here and supported the urgency motion on the bill and we are now going ahead with the debate. The Attorney General's stunt did not work. We support the urgency. We support the bill. We are here to make sure that the victims of these multiple murderers and their families are given more support. That is why we support the bill.

I draw to the attention of the chamber some of the things that have gone on with this bill, which the Attorney General says is urgent. I think the Attorney General was being a bit tricky and disingenuous with the people of Western Australia around the understanding of "urgency". We agree with the need for the changes that the Attorney General has proposed to support the victims of multiple murderers and their families—that is not in question. However, it needs to be on the record that the Attorney General is in government. He knows that. He has been in government now for 20 months. He also had eight and a half years in opposition to think about how he would craft this bill and how he would engage with the community and the people affected to make sure that they were all being looked after. No doubt the Attorney General was anticipating in question time that we would not

support the urgency motion on the bill. He even said that he came into government with a mandate to make this urgent, or words to that effect.

Mr J.R. Quigley: No, not to make it urgent; a mandate for this particular legislation.

Mr S.K. L'ESTRANGE: Okay. Fair enough. It was a mandate for this particular legislation, which the Attorney General deemed to be urgent today. We support that urgency. However, we question why we had to wait 20 months for this urgent bill to arrive.

Mr J.R. Quigley: Because you were pressing the urgency of lifting the statute of limitations. You were pressing me that the dangerous sex offender legislation was urgent. I've only got so many hours in the day and this chamber only sits so often.

Mr S.K. L'ESTRANGE: Anyway, we do question why the Attorney General waited 20 months and why he did not make this an urgent bill during the first session of Parliament back in 2017. We question that. Labor came out of the election saying that it had a mandate. We support the bill. The question we are asking is: why did the Attorney General not bring this on during the first session of Parliament in 2017 to look after the people whom the bill is supposed to be looking after? Whilst the Attorney General does not like to hear this and I know it is uncomfortable for him, I think he failed to make this an urgent bill by not bringing it on in the first session of 2017. I want that on the record because I think he could have done more. The prioritisation of bills by this government over the last 20 months, putting this particular bill to the back of the queue, puts into question whether the government is really dinkum about making this urgent.

Mr J.R. Quigley: It is not the back of the queue.

Mr S.K. L'ESTRANGE: I will just read some of them. The government put these bills ahead of it—the Animal Welfare Amendment Bill 2017, the Community Titles Amendment (Consistency of Charging) Bill 2018, the Community Titles Bill 2018, the Constitution Amendment (Demise of the Crown) Bill 2017, the Coroners Amendment Bill 2017, the Court Jurisdiction Legislation Amendment Bill 2017, the Courts Legislation Amendment Bill 2017, the Duties Amendment (Additional Duty for Foreign Persons) Bill 2018, the First Home Owner Grant Amendment Bill 2017, the Gaming and Wagering Legislation Amendment Bill 2018, the Heritage Bill 2017, the Industrial Hemp Amendment Bill 2018, the Liquor Control Amendment Bill 2018, the Local Government Amendment (Auditing) Bill 2017 and the Local Government Amendment (Suspension and Dismissal) Bill 2018. Those are just some of the bills—there are many more—that the government thought were more important and of greater priority than this bill by virtue of the fact that it was prepared to put them before this bill we are dealing with today. The government has come to this place, member for Kalamunda, saying that this legislation is urgent. We support the urgency of the legislation, but given this issue was a mandate that the Labor Party took to the election, why was the bill not brought on for debate in the first session of Parliament in 2017? I think that helps. I am a bit of a cynic, and I think the Attorney General has tried to trap us today. He tried to fix it to make out that we were not supporting —

Dr A.D. Buti: How about debating the contents of the bill?

Mr S.K. L'ESTRANGE: I am talking about the significance of the bill. I am dealing with —

Dr A.D. Buti: That's over with!

Mr S.K. L'ESTRANGE: That is okay; I am allowed to do so in the second reading debate, member for Armadale.

Dr A.D. Buti: You're a stickler for procedure.

Mr S.K. L'ESTRANGE: Can I continue with your permission, member for Armadale?

Dr A.D. Buti: I might give it to you.

The ACTING SPEAKER (Ms J.M. Freeman): Member for Armadale, I do not think you are on any calls yet, but you might want to shush. Are we all settled now? Do you want to take deep breath out?

Mr S.K. L'ESTRANGE: What will the bill actually do? The Attorney General stated in the second reading speech that the bill will go some way to addressing the trauma and emotional toll experienced by the family and friends of murder victims, who are referred to as secondary victims, and others impacted by the crimes, including surviving victims of serial killers and mass murderers. The Attorney General went on to say —

> By allowing an Attorney General to direct that a mass murderer or serial killer must not be considered for parole or a resocialisation program for a period of up to six years, …

The Attorney General referred in the second reading speech to a six-year period and mentioned that the bill introduces the concepts of "designated prisoner" and "relevant offence". He went on to say —

> These definitions cover prisoners who are serving life or indefinite imprisonment or who are Governor's pleasure detainees as listed under schedule 3 of the Sentence Administration Act 2003.

The Attorney General goes on to say —

> … a prisoner must have been convicted of two or more other relevant offences that were committed at any time, or have been convicted of another relevant offence, and that offence must have been committed on a different day from the first relevant offence.

The Attorney General clarifies that by saying —

> As such, ministerial directions can only be made regarding mass murderers, being someone who has killed three or more people on one day; and serial killers, being someone who has killed two or more people on different days.

We are quite clear about what the legislation deals with. I get that the families and the survivors who will be supported by the effects of this bill will be pleased to see the Liberal opposition also support the bill, so we support the legislation. We have dealt with the urgency of the legislation —

Mr J.R. Quigley: You didn't in 2016!

Mr S.K. L'ESTRANGE: This is the Attorney General's bill. He went to the electorate with this issue to get a mandate and he came into government in March 2017. The Attorney General said that the legislation was urgent legislation but he has waited 20 months to bring it to Parliament.

We know that the purpose of the bill is to support the people referred to in the Attorney General's second reading speech whom I outlined and clarified, but do the families and survivors think that this bill goes far enough? That is a really important question because a media release put out on 18 October 2018 around the announcement of this urgent legislation titled "Serial killer and mass murderer legislation to be introduced into State Parliament" contains four quite telling comments attributed to Premier Mark McGowan. As the Attorney General would know, the media could pick up any one of those comments if it wanted to and embed it in a story or an article on the government's legislation. I would maybe give the Attorney General this bit of advice: if he puts out comments like these in media releases, they can be taken to be factual. I will read the Premier's comments. The first one states —

> "Prior to the March 2017 State election —

Mr J.R. Quigley: Can I just ask you one question?

Mr S.K. L'ESTRANGE: Can I finish the quote?

Mr J.R. Quigley: If you can do it, you won't mind me quoting the media in my reply.

Mr S.K. L'ESTRANGE: How the Attorney General wishes to form his speech is entirely up to him, but if he wants me to edit his notes, he should feel free to come and talk to me before he gets to his feet. I am sure that the Attorney General will put together a speech that is accurate and will not impugn any members on this side of the chamber. I am sure the Attorney General will do that.

Let me start again. The first quote in the media release from Premier Mark McGowan and Attorney General Hon John Quigley is from the Premier and reads —

> "Prior to the March 2017 State election, WA Labor pledged to reform WA's parole laws to ensure that serial killers and mass murderers would not be considered for parole.

That is the quote. The next comment from the Premier reads —

> "The aim of this policy is to limit trauma to family and friends of murder victims and others impacted by the crimes, including surviving victims of serial killers and mass murderers, by suspending the consideration for parole or a re-socialisation program.

He did not say there will be a time limit; he just said it would be suspended—like it has stopped. If a victim read these first two comments, they would think that this is great and that these guys would never come up for parole. Then we get to the third quote from Premier Mark McGowan, which reads —

> "This is about putting victims and their families first, ahead of murderers.

It is only in the fourth and final quote that we read the fine print on this legislation, which says —

> "This suspension, should the Attorney General of the day determine to exercise it in a case that is captured by the proposed legislation —

It states "should the Attorney General". I thought it was "would", not "should", meaning that the Attorney General will do it. I think that fourth quote from the Premier in the media release needs to be clarified. The quote continues —

> would remain in place for a period of up to six years."

The fine print is the reference to six years. I get that the families and surviving victims will be very happy that a parole review that comes up every three years will be extended to every six years. We support that; that is

a bonus. But I question the way the government is marketing this legislation with its media spin, because I think it is marketing the legislation to be more than it is.

Mr P.A. Katsambanis: It's grandstanding, isn't it?

Mr S.K. L'ESTRANGE: It might be, member for Hillarys. It might be a bit of grandstanding. Given that we support this legislation, because it is supporting surviving victims and families by extending the parole review period from three to six years, is the government being up-front and really clear to those surviving victims and families that they will still have to face the anguish every six years?

Mr J.R. Quigley: I'll read from the victims' statements; don't worry about that.

Mr S.K. L'ESTRANGE: Very good; because I think that although surviving victims and families will be relieved that it will be more than three years between parole reviews, I worry that the government was spinning the issue to make them think that they would have no need to worry at all.

Mr J.R. Quigley: Why would you think an old Aquinian would do that? Never. Veritas Vincit!

Mr S.K. L'ESTRANGE: I was waiting for the Attorney General to say Veritas Vincit. The Attorney General knows that the motto of that great institution Aquinas College is "Truth Conquers". I am asking the Attorney General to be true to his school motto—Veritas Vincit. It is very important that he does so, and I hope that he will continue to do it today when he replies to our second reading contributions.

Given that Labor did not prioritise this legislation for 20 months and that it had eight and half years to critique its criteria for this bill, with more effort, more research and more community consultation, the Labor Party might have seen the need to expand what this bill captures to not only support the surviving victims and families whom the bill supports, but also look carefully at murderers of two people on one day, or multiple serial rapists who create enormous anguish and anxiety for those victims every time their parole comes up, or very dangerous paedophiles who are known to the community and create enormous anxiety, again, for the families and victims involved. With eight and a half years of opposition and the 20 months before this bill was brought to this place, could this legislation have captured more? I think maybe with a bit of hard work, research and effort the Attorney General probably could have captured more with this legislation. I think an opportunity might have been missed with this bill. It is succeeding at something, but it could have done a lot more. It could have done a lot more a lot sooner to support victims and the families of victims of those serious offenders. I will go to some examples of who could have been captured by this legislation. Let us look at an article dated 19 February 2013, titled "'Smorgasbord' of sex victims", which reads —

> Former hostel warden Dennis John McKenna treated the Katanning boarding house where he brazenly subjected 28 children to years of abuse as a "sexual smorgasbord" for his own gratification.

Mr M.J. Folkard: More than 28.

Mr S.K. L'ESTRANGE: There we go, member. Maybe more could have been done to capture those types of criminals in a bill such as the Sentence Administration Amendment (Multiple Murderers) Bill 2018, with regard to parole. I will give another example. This article was also in *The West Australian*, dated 6 October 2017, titled "Breach put serial rapist back in jail". It opens with —

> A violent serial rapist who assaulted four women is back in custody because he breached the conditions of his release less than a week after he was let out of jail.

Do we really think the victims of that violent serial rapist are happy about the parole set-up for them and how those sorts of criminals will be dealt with? I will move to another example, one which the member for Hillarys would have outlined in his speech, of course, which deals with the child killer Dante Arthurs. I heard the member for Hillarys mention that case.

Mr P.A. Katsambanis: I might have used that one a few times.

Mr S.K. L'ESTRANGE: Correct. I refer to a PerthNow article dated 1 July 2018, which states —

> THE public will never be ready for evil child killer Dante Arthurs to be released, according to a family friend of his schoolgirl victim who has launched a petition a year out from the murderer's first parole review.
>
> In a crime that shocked and shook the State, Arthurs, below, was jailed for life for murdering eight-year-old Sofia Rodriguez-Urrutia Shu, bottom right, in a Canning Vale shopping centre toilet on June 26, 2006.
>
> He was also handed a 13-year non-parole period, which ends on June 26 next year.

Those people are not captured by this bill.

[Member's time extended.]

Mr S.K. L'ESTRANGE: I will move to *The West Australian* dated 1 March 2012 and the article titled "'Ferocious' killer gets 32 years" —

> A double murderer will spend at least 32 years in jail for the "ferocious" and "motiveless" killing of two women he met hours earlier.
>
> Supreme Court … decided on a non-parole period of 32 years—one of WA's longest minimum terms.
>
> In December a jury found Kuzimski guilty of murdering Carlisle couple Melanie Carle, 26, and Kellie Maree Guyler, 32, and burning their bodies in a car fire to destroy evidence.

That sort of murderer is not captured by this bill. Before I move on, the final example is an article in *The West Australian* entitled "Premier rallies to under siege Quigley". It states —

> Premier Mark McGowan has been called on to defend Attorney-General John Quigley over his handling of the latest dangerous sex offender release scandal, which dominated State Parliament yesterday.
>
> A serial paedophile, who can only be referred to as DAL, is living somewhere in Perth …

Apparently, the Premier had to come out and look after the Attorney General on that. Maybe this bill could have been expanded to capture those situations so that the Attorney General did not need to be defended so heavily by his Premier.

Mr J.R. Quigley: That was another bill introduced.

Mr S.K. L'ESTRANGE: This one is dealing with parole.

Mr J.R. Quigley: He was defending me for going too far and too hard.

Mr S.K. L'ESTRANGE: Attorney General, do not get distracted too much. This is dealing with parole. Other examples that are not captured by clause 6, which inserts section 14B, involve many more killers who have killed more than one person, but not enough to be captured by the bill. An article in the ABC news titled "Man jailed for life for murdering mum and baby" states —

> The … Court heard Phillip James Gleeson killed 21-year-old Chantel Lee because he falsely believed she had given information about him to police.
>
> He told police he then murdered her daughter Amy because she no longer had a mother so she "had to go".

These are pretty horrific people, who could have been captured in this bill. This is another ABC news article. It is dated 15 April 2015 and it states —

> A man has been sentenced to a minimum of 32 years' jail after murdering a Perth mother and her 26-year-old daughter at their home in broad daylight.
>
> …
>
> Lesley Cameron pleaded guilty to charges of aggravated burglary and murder of Maureen Horstman and her daughter Tamara at their home in the northern Perth suburb of Warwick in December 2013.
>
> In sentencing, Justice Eric Heenan said it was "one of the worst types of murder one can imagine".

Again, that one is not captured. The final example I will give the Attorney General is in *The West Australian* dated 29 February 2012, titled "'Ferocious' murderer sentenced to 32 years jail". It states —

> A 37-year-old Perth man was sentenced to at least 32 years in jail today for the "ferocious" and "motiveless" murders of two women he had only met hours earlier.

That is Kuzimski; I mentioned that one already. They are examples of the sorts of murderers who are not captured by this bill. It is a real shame that they are not captured at all by this bill. This bill mainly deals with people who have done three murders or are serial killers with two murders on different days. We are missing these particular cases.

To conclude, I know that the Attorney General has enjoyed getting a bit of advice from me today on how to better his performance in this place as Attorney General, and how to better capture the needs of the community out there who are very poorly affected by these terrible criminals. We support the urgency of this bill, albeit 20 months late; it is a Labor government election commitment that the Labor Party had eight and a half years to prepare for.

Mr J.R. Quigley: You had eight and a half years to do something about it and you didn't do anything! I can't wait for my reply.

Mr S.K. L'ESTRANGE: Attorney General, the blame game does not cut it for the victims. The government took 20 months. He needs to get on with it. We support this bill dealing with multiple murderers, but we question why the Attorney General excluded other murderers. In particular, double murderers, serial rapists and dangerous paedophiles

are not captured. We support the relief offered by reducing the frequency of parole procedures being dealt with; instead of coming on every three years, they will be every six years. We support that. However, we question how the Attorney General has marketed it and how his spin has gone out to the community and probably given a bit of false hope to victims by not really outlining to them that they still face the anguish; it has just moved from three to six years.

Mr J.R. Quigley: I would never do that, member. Heaven forbid! I am an old Aquinian and I would not do that.

Mr S.K. L'ESTRANGE: I hope not, Attorney General. Because this is a very serious matter and that is why today we were not foiled into the Attorney General's trap of trying to argue against the urgency. We supported the urgency. We are supporting the passage of this bill through this place in a timely and quick fashion today, but we will make sure that we highlight to the government the opportunities missed, which we are doing in our second reading contributions. We will ensure that, under the leadership of the member for Hillarys, we will critique the legislation carefully during the consideration in detail stage to ensure that these points are fully understood so that those people who choose to go through the details of the speeches to get a better understanding of the bill will have the opportunity to do so.

MR K.M. O'DONNELL (Kalgoorlie) [5.57 pm]: I rise in support of this bill. I like the heading: Sentence Administration Amendment (Multiple Murderers) Bill 2018. I think that fits perfectly and I am in the Attorney General's corner, but I would like to have seen this apply to anybody who has done a minimum two murders. It does not matter whether it was last week, next week, today or tomorrow, but just the two so that we can forget about, as it says here, someone who has killed three or more people on one day, and a serial killer being someone who has killed two or more people on different days.

Dr A.D. Buti: You said you wanted two. You got two there.

Mr K.M. O'DONNELL: Yes, but we should just take that all out and leave it as "more than one".

Dr A.D. Buti: But more than one is two.

Mr K.M. O'DONNELL: Yes, it could be three. I do not mean to trivialise. I do not want it to sound like that. I am not trivialising it. I am not doing that. For example, I remember when I joined the police department and we were shown photos of a young couple killed in Mandurah, and that was shocking. That person committed two murders, but he would not fall under this scheme of multiple murders. Even though he has done multiple murders, he would not fall under this bill, and that is why I think it is like a loophole for some people. I think we should narrow it down so that someone who kills more than one person falls under this legislation.

I would also like to talk about trauma from a different point of view. Everybody handles trauma in different ways.

Sitting suspended from 6.00 to 7.00 pm

The DEPUTY SPEAKER: The member for Kalgoorlie.

Mr K.M. O'DONNELL: Greetings, Madam Deputy Speaker.

The DEPUTY SPEAKER: Greetings.

Mr K.M. O'DONNELL: In continuing my comments, I note that the member for Hillarys has been talking to the Attorney General about including child killers in this legislation. I can understand where he is coming from. I dare say that if that does not end up being included in this bill, as I doubt it will be, it provides food for thought for the future. I note also that members of the community are outraged about murder, and particularly the murder of children. I hope that further down the track, we can also look at postnatal depression. The Attorney General mentioned that a mother may kill her child because of postnatal depression. In some murder cases, the offender chops up the victim's body parts. Both those offenders are convicted of murder. Some people would say murder is murder. However, there is a huge difference between those two cases. I would like offenders who chop up their victims to be included in this legislation and not be eligible for parole for six years. Community expectations would certainly be in that direction. Sorry; I was just distracted by seeing the Premier wearing a lei!

I also want to talk about trauma. Families handle trauma and death in different ways. Victims of trauma handle things differently. I had seen that in my policing career. I had the terrible job of doing notifications—I dare say so did my friend the member for Burns Beach. As police officers, the particular jobs we hated doing were domestics, and notifications. We would knock on the door, and the person would open the door and see two policemen staring at them. It is not a good thing to do.

I will not go on and on. I thoroughly agree with the Sentence Administration Amendment (Multiple Murderers) Bill. I support it. However, rather than make the legislation so difficult, we should apply it to anyone who has murdered more than one person. We then would not have to worry about whether the person is a mass murderer

and killed more than one person on one day. That would narrow it right down. I commend the bill to the house and support it fully, as do the other members of the Liberal Party. Thank you.

DR M.D. NAHAN (Riverton — Leader of the Opposition) [7.04 pm]: I would like to add my comments to the second reading debate on the Sentence Administration Amendment (Multiple Murderers) Bill. The member for Hillarys, the lead speaker for the opposition on this bill, went through the bill in great detail, as is his wont and appropriate, and covered most of the issues. What I will say essentially reinforces the views put by the member for Hillarys.

The opposition supports the bill. It is essentially about trying to take the trauma away from people who are affected, whether individually or through their families or loved ones, at having to refresh their minds about a tragic event, in this case a multiple murder. Most of us have experienced tragedies in our families, maybe in a car accident, or the passing of a loved one. It plays on our minds forever. I can only imagine how much worse it would be if a loved one is taken through violent and vile means. This bill aims to put off the need for people to have to refresh their minds about events that have traumatised them by putting off the consideration of parole for three years.

Mr J.R. Quigley: It is an extra three years.

Dr M.D. NAHAN: Yes. We support that. We should have done that on our watch.

When we are dealing with a bill such as this and when there is necessity for the courts to consider the details of the case at hand, we must be careful not to generalise. The question we are asking in this bill is whether people who have committed the most heinous of crimes and been convicted of and sentenced for murder for the term of their natural life should be granted parole. We have raised the case of Dante Arthurs and child murderers. I would like the Attorney General when he responds, or in consideration in detail, to explain why he did not expand the remit of this bill to include people like Dante Arthurs. I can tell members that there is nothing more traumatic to a family than what happened to the victim in that case. I will not mention her or go through the details. It is every parent's worst nightmare. The victim's parents and family were so traumatised by that murder that they could not attend court and had their agent, who I think was a member of the police force, attend court to find out what happened. From the reports I heard, Mr Arthurs was being investigated for similar indecent assault and rape charges in the United Kingdom. Dante Arthurs was convicted and given a life sentence, and his consideration for parole will come up in 2019. That case left the people affected completely traumatised. I will not go through the particulars of that case, but I assure members that we could not come up with a more traumatic case than what happened to that young girl. So, why not include people like Dante Arthurs? The minister said that this legislation will apply whether it is classified as a child murderer or otherwise, and this was a child murder. This murderer was not a distraught mother who was suffering from severe distress. As the member for Hillarys indicated, the minister will have discretion to avoid applying it to people who have temporary madness or otherwise. However, I think the community is asking for this to be done in the Dante Arthurs case. The minister has received a petition with, I think, over 100 000 signatures from people associated with the victims that asks for Dante Arthurs not to be let out. I am sure that if they had a chance, that petition would also have asked that the family not be reminded of the trauma it went through. It is a very important issue. We are not grandstanding at all. This is an example of the community asking us to respond, as it does on the issue of multiple murderers. This case will come up for consideration by the minister next year at about the same time as the issue for which this bill was declared urgent. We need an explanation of why the Dante Arthurs case and its victims will not be treated the same as the others. I think the circumstances warrant it. They are very similar. Only one person was killed in that case, but the circumstances and the decisions of the court were similar.

I believe that when it first came up the Attorney General of the day changed laws to make sure that Mr Arthurs stayed in prison for the rest of his life because there was a risk that he would get less than a life sentence. That is how much this traumatised the community. The real issue is that the community does not want him out and the extended family should not have the trauma imposed on them of once again thinking about what happened to their daughter 13-odd years ago.

This bill is specifically designed to address circumstances like this. I admit that it has to be cauterised or limited somewhere, but the Dante Arthurs case fits this almost to a T, except for the multiple murder issue. As I think the member for Hillarys said, whether it is three people or one person, the magnitude and the pain of the trauma is not multiplied by three. The family of the young person who was killed by Mr Arthurs is large and its pain is deep and serious—just as much as anybody else's. If we look at the history of the case, there is no doubt that when Dante Arthurs comes up for parole, the pain that family feels will be significant. This bill should be expanded to consider circumstances such as that. It is the right thing to do because it is as serious as those multiple murder crimes. It was only one person, but that person's murder affected a very large family and the whole Western Australian community was traumatised significantly by it. I believe it needs to be considered in this bill.

I cannot say how many of those circumstances there are. However, I can say that we are considering legislation to diminish the trauma imposed on people by considering mass murderers for parole and reigniting the nightmare for victims and associated victims of those crimes. We need to avoid that for the victims of Dante Arthurs. Given the information he has received—he is the recipient of that petition—I think that the minister would be hard-pressed not to be sympathetic to it and also to see —

Mr J.R. Quigley: I'm sorry, the minister would be hard-pressed to —

Dr M.D. NAHAN: Be not sympathetic to the demands of the petition that he received from the people associated with the victims of Dante Arthurs.

I know that the Attorney General has indicated to the authors of that petition that he would do his best. I admit that the petition asked for him to not let Mr Arthurs out on parole. However, parole will have to be considered. As in this bill, my view is that that decision should be put off so that the pain of the family and loved ones of the victim of Dante Arthurs should not be rekindled. It is for the whole community. I remember when that happened very vividly, as I think many people in Western Australia can. It was a circumstance where you sit there and protect your young kids —

Mr J.R. Quigley: You think of your own kids.

Dr M.D. NAHAN: Yes. The young girl went to the bathroom and 10 minutes later —

Mr J.R. Quigley: Dead.

Dr M.D. NAHAN: Yes. It was a shopping centre not far from my electorate, by the way. It was just across the boundary. It traumatised me and it traumatised everybody. I think this bill is trying to address this type of case. A number of us have asked the Attorney General to expand it and explain why Dante Arthurs will not be included in the catchment of this bill.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [7.16 pm]: I, too, rise in support of the Sentence Administration Amendment (Multiple Murderers) Bill 2018. The opposition supports this legislation, but it seeks some clarification from the Attorney General about why he did not expand its remit. As I understand from the second reading speech and the explanatory memorandum, this legislation will allow the Attorney General to direct that a mass murderer or a serial killer must not be considered for parole or a resocialisation program for up to six years. It intends to moderate a driver of stress for secondary victims and survivors. It will allow for ministerial directions to be made about mass murderers and serial killers—a mass murderer being someone who has killed three or more people on one day, and a serial killer being someone who has killed two or more people on different days. We will need to interrogate further some areas in the legislation and in the second reading speech. I believe the shadow spokesperson, the member for Hillarys, has outlined some of those.

Mr J.R. Quigley: He's the spokesperson for the shadow?

Mrs L.M. HARVEY: I said the spokesperson for the Attorney General's portfolio.

Mr J.R. Quigley: You said the shadow. He should be the shadow, but that's another thing.

Mrs L.M. HARVEY: Shadow minister, shadow Attorney General, spokesperson—same thing!

However, we will seek information from the Attorney General about why this will apply to only mass murderers and serial killers. The opposition accepts that a petition was presented to us when we were in government and we did not take the steps that the Attorney General is taking at the moment with this legislation. However, in government we had a considered approach to make sure that we did not create unanticipated anomalies and anomalous situations for law and order issues. We were accused of creating an environment that could potentially be unacceptable and create anomalous outcomes when we introduced mandatory sentencing, the dangerous sex offender register and a range of other things. However, I believe that the legislation before us creates exactly that. The areas of the Criminal Code included as providing an opportunity for the Attorney General to require that the Prisoners Review Board not revisit the ability to provide a supervision order or an opportunity for parole for an offender for up to six years basically covers off on section 279 of the Criminal Code, "Murder". Taking someone's life is obviously a very serious thing. We find an interesting anomalous situation in this place in that we have just had a report handed down into the sanctioning of taking someone's life by way of voluntary euthanasia; however, the Sentence Administration Amendment (Multiple Murderers) Bill 2018 acknowledges that taking someone's life is one of the most heinous things that can occur in our society. We are now looking at legislation for someone who takes more than one life to be denied the opportunity for parole for up to six years. That is good.

Sexual offences covered under the Criminal Code include section 320, "Child under 13, sexual offences against", and section 325, "Sexual penetration without consent". We are talking about serious sexual offences, the victims

of which live with the consequences for the rest of their lives. Section 326, "Aggravated sexual penetration without consent", can carry up to 20 years' imprisonment. Section 328, "Aggravated sexual coercion", also makes the offender liable for up to 20 years' imprisonment. The victims of other horrific offences have to live with the trauma and a lifetime of dysfunctional sexual relationships and dysfunctional family relationships. If those offences occur within a household, family members carry the shame inflicted by the perpetrators. Those individuals will not be spared having to revisit those crimes and offences when their perpetrators come up for parole. They will still be subject to re-traumatisation every three years if this legislation goes through. I put to the Attorney General that the inclusion of those individuals in this legislation might have been appropriate.

The member for Hillarys outlined the case of Dante Arthurs. That was a horrific offence. Some information about the offence was put into the public domain. At his sentencing it was flagged that 23-year-old Dante Arthurs could spend the rest of his life behind bars. It emerged that when police raided his parents' home they found a dossier containing photographs of children who would be his next victims. The prosecutor, Sam Vandongen, said —

> "There was a bag with documents containing photographs and details of a number of young girls and female clothing in small sizes," …

Arthurs had collected personal details of potential victims, including their ages, addresses and directions to their homes. The bag also contained gloves, handcuffs, packing tape, a short length of rope and a small knife. I am reading from an article in *The Australian* of 8 November 2007. That article also talks of Sofia's brother, who was waiting near the toilets for 10 minutes and searching for her before discovering her body. I can only imagine how the brother of a victim like that would feel, discovering that the sister that he was supposed to be looking after had been murdered in a toilet, and having to revisit that traumatisation every three years. This legislation is an opportunity for the inclusion of these specific offenders in this legislation, if the Attorney General so desires.

Arthurs was sentenced to life imprisonment for that murder with a non-parole period of 13 years, and a two-year concurrent sentence for deprivation of liberty; time served was taken into consideration. Dante Arthurs will be eligible for parole in 2019. Under Western Australian law, the release of prisoners from life imprisonment must be signed off by the state's Attorney General. I am sure at the time the Attorney General will declare that there is no way he will release Dante Arthurs; we support that approach, given how shocking that crime was.

However, what is really disturbing is how Sofia's family members feel about the scenario. Firstly, they believe the sentence was too lenient and that the non-parole period should have been longer. To his credit, Sofia's father, Gabriel Rodriguez, has said that his family did not harbour anger, but that they also do not want to see Arthurs walk free. I quote from a *The Sunday Times* article that featured an interview with Gabriel Rodriguez. The article reads —

> He admits having to relive the ordeal every three years from next year—under law, those with a life jail term have a right to a statutory review every three years after their nonparole period ends—might eventually force his family to move from Perth.

The family may move away from Perth to prevent the re-traumatisation. This is an opportunity for us to prevent that, by including these heinous child murderers as part of this legislation.

There are some very disturbing occurrences in our society. During our term of government a number of inquiries occurred. A really disturbing one was Hon Peter Blaxell's special inquiry into the St Andrews Hostel, Katanning. The report states —

> The Inquiry has determined that a total of 48 individuals have disclosed allegations of sexual abuse which are said to have occurred while they were residing at St Andrew's Hostel. Of these alleged victims 38 have made complaints against Dennis McKenna, 7 against Neil McKenna and 2 against a third staff member. In addition, one individual, "B", alleges that Dennis and Neil were both perpetrators. The age of the individuals when the alleged abuse commenced is set out in the table below, with 13 and 14 years being the predominant ages.
>
> Many victims allege that the abuse occurred over consecutive years whilst they were at the Hostel.

We have heard the stories of those children who were brutalised by Dennis McKenna, his brother and the people he employed there who were also prolific offenders. There were multiple, multiple victims; 48 alleged victims, and only 38 were capable of taking those charges forward to the police because of the level of their traumatisation. One of them, victim B, who was never named because she said she wanted to move on with her life and did not want to be re-traumatised by recounting her story, alleged that Dennis McKenna took her from that hostel to a place in metropolitan Perth, where she was hideously brutalised by a number of men over a period of days, and endured the most horrific, horrific assaults. There will be a time when someone such as Dennis McKenna—admittedly, he is an older man now; he was 70 when he was sentenced in 2015—will be considered to be eligible for parole. What will that do to all those victims? There are so many—48 individuals. The families who put them into care must

have feelings of guilt and shame, thinking that they failed their children by allowing them to be brutalised in that way, perhaps not recognising the signs of abuse, the attempted suicides, the blaming of the victims for not being socially appropriate or whatever it might be. They are all still living with that. When we meet these people, we see that some of them are just broken. They are not being given the same consideration as the secondary victims of the serial killers and multiple murderers. However, I put it to the house that even though they have suffered ongoing traumatisation over their entire lives, failed relationships, substance abuse problems, difficulty forming relationships, difficulty forming appropriate relationships as parents and post-traumatic stress disorders, they will not be given the same consideration through that three-yearly re-traumatisation process that these multiple murderers will get.

When McKenna was found guilty of sexually abusing a boy, the victim in that case was not up to speaking to the media or even being present in court when the conviction was read out. One of his friends, Mr Kevin Brown, who was also abused by McKenna, said outside the court that the victim should now feel vindicated. A PerthNow article of 30 September 2015 stated —

> "If you carry a secret around with you for so long, I think it's probably a big relief for him, so he should be feeling much better about himself," he said.
>
> "I know what it's like to feel like you're the only one, so he did a pretty brave thing.
>
> …
>
> He is already behind bars for committing 44 sexual offences against 23 boys at the hostel.

Why should a convicted serial paedophile like that be considered for parole every three years and re-traumatise all those victims? We can be guaranteed that when an individual such as Dennis McKenna is reviewed for parole, it will be made public. Everybody in this state will know about it because he committed such scandalous, horrendous, prolonged incidents of serial paedophilia in this state. All those victims will know about it. They will all have to deal with it in their own way. Some of them may have the courage and the emotional fortitude to put forward a victim impact statement. However, the reality is that it was reported that McKenna showed no empathy or remorse. Mr Hilder, one of the victims, who was outside the court when McKenna was convicted of those additional offences, remarked on the fact that McKenna was able to serve the sentence for the additional offences concurrently with the existing 44 offences he was already serving.

[Member's time extended.]

Mrs L.M. HARVEY: He was reported as having said —

> "Although he got a guilty verdict, which in some way may satisfy the victim of this case, he'll still be disappointed that he [McKenna] didn't get any extra time,"...
>
> Mr Hilder said outside court there would never be any closure for the victims, who are the ones serving a life sentence.
>
> "You never get over it. You just can't," he said.
>
> There's been similarities made between the World War II victims in concentration camps, you never forget it."

That was a quote from ABC news on 13 November 2015.

I now turn to another horrific case that is a bit closer to home. Members will probably remember Edward John Herbert, who was jailed for 17 years. This individual had been using cannabis, amongst other things, excessively for a couple of weeks. PerthNow reported —

> A FATHER-of-three who doused two of his children in petrol and set one of them alight in her cot was jailed for 17 years for his ... crime.
>
> After weeks of alcohol and cannabis abuse, ... poured petrol over his three-year-old's head and set the toddler on fire in his Doubleview unit in August 2015.
>
> He then turned his attention to his seven-year-old daughter, who has significant disabilities and could not respond to the horror unfolding around her, and started dousing her in the accelerant.
>
> The girls were rescued by off-duty police officer Stephanie Bochorsky —

She received the inaugural national police bravery award for her efforts that day. Our first responders cannot be forgotten when it comes to reconsideration for parole for some of these dreadful people whom they lock up, because these first responders are re-traumatised too. They often have to recall the facts of those cases. They know

when these fellows, and sometimes women, they have locked up are coming up for parole review. They have to go through the blow-by-blow description, taking all those details of the offences from the victims, sitting with them as they go through that emotional release and often re-traumatisation as they recount their experiences. The police officers who are so dedicated to their job become traumatised during that process. That is an ongoing problem that WA police need to manage. When receiving the award, Stephanie Bochorsky said —

> "The smell of the petrol and the [burning] flesh is just something I can't put into words,"

The article continued —

> Insomnia began almost immediately for Senior Constable Bochorsky, followed over the coming months by flashbacks, nightmares and social withdrawal.
>
> Her response was to work harder, especially in cases involving violence against other children.
>
> "As [with] most coppers, I was in denial," she said.

She was suffering from post-traumatic stress disorder, which she has sought help for, and it has saved her career. However, I put it to members that her PTSD symptoms may well recur when this individual comes up for parole review. She will no doubt remember the sights, the smells, the sounds, the screams and the horror of that particular day—sadly, in my electorate, in Doubleview—when she responded to save the lives of those two children who had been set alight. The PerthNow article continues —

> Outside court —

When Herbert was sentenced —

> the children's great uncle Trevor Hayden said no sentence would ever be long enough for what Herbert did.
>
> Herbert was made eligible for parole and his sentence was backdated to August 2015.

That article appeared in 2017. Even though he was sentenced to 17 years, at that point there will be another 15 years to go and obviously an option for parole sometime ahead of that.

I can only imagine what his three-year-old child would feel, who at that stage will be 20 years old, after living her entire life with a significant disfigurement from those burns to her face and head. How will she feel when this monster—he happens to be her father, good heavens—comes up for parole? I do not know what that would be like for her mother, for her other siblings and for her extended family. As a mother myself, if that was my child, I think that would be a source of significant distress and anxiety. I do not think that would be something one would ever get over. We talk to families who have children suffering from long-term chronic terminal illnesses, for example, and they do not get over seeing their child trying to cope with that. They cannot cope with having to look at a child who, through no fault of their own, ended up being doused in petrol and set alight. They have had to cope with skin grafts, hospitalisation, rehabilitation and, no doubt, additional skin grafts to adjust the skin to her changing bone structure as she starts to grow. I fail to understand why those victims cannot be included in this legislation.

The opposition is not going to move amendments to the Sentence Administration Amendment (Multiple Murderers) Bill 2018. We understand that one of these multiple murderers is due for a parole hearing early next year. With the passage of legislation and the limitations we have for debate in this house and the other chamber between now and the end of the year, we understand that we might miss the time frame if we sought amendments to this bill and it went to an upper house parliamentary committee, for example, to look at whether the remit of the Attorney General's ability to deny parole for other offenders could be expanded. The opposition is not prepared to do that. We want the Attorney General to have the ability to push out the possibility for these perpetrators to be considered for parole. The Attorney General will need to explain why six years instead of three years is deemed appropriate. With some of these offenders, for example, dangerous sexual offenders who also come up for these review processes, we should consider that they never be released. If an offender has been in prison for 15 to 17 years and their psychopathic personality traits have not changed, why would we put ourselves through the cost, trauma and anxiety of having them reconsidered any time shy of 10 years?

Mr J.R. Quigley: Are you talking about people who are not murderers but other dangerous offenders?

Mrs L.M. HARVEY: Yes, I am.

Mr J.R. Quigley: Okay, I will deal with that; thank you.

Mrs L.M. HARVEY: Members of the opposition accept that we did not get to this legislation. We put in place a significant law and order agenda over the eight years that we were in government, including making changes to the very act that we are considering now to ensure that if a sexual assault was perpetrated in the course of an

aggravated home burglary, those offenders were put away for a mandatory minimum of 75 per cent of the maximum sentence that was available. That was deemed to be pretty harsh and we were certainly criticised when we put through that legislation, but we brought forward that legislation. We brought forward a range of legislation in the criminal justice space to cover off on better protections for police officers, for example, and ensuring that offenders received longer sentences if they tried to evade police. We did all sorts of things. We did not do this, but as I said, the opposition is pleased to support this legislation. However, we stand our ground in that, considering this bill over the past 19 months, there is a missed opportunity for this legislation to cover off on people like the perpetrator Dante Arthurs, and ensure that the family of his victim, Sofia Rodriguez-Urrutia Shu, is not re-traumatised on a three-year basis when he is due for parole. The victims of serial paedophiles could have been protected by this legislation if a more considered approach had been taken about who we really want to look after in these circumstances. There is some pretty sound evidence to prove that some of those serial sexual offenders do not reform and will always be a risk to the community. This legislation gives an opportunity to look after the victims in those cases, which has not been met.

I reiterate that the opposition supports this legislation but we feel it is a lost opportunity. We do not have the resources available to us via the Parliamentary Counsel's Office to have consideration given to drafting amendments or even our own private member's legislation that might visit the points we are making. We have no desire whatsoever to hold up this bill in Parliament at this time, knowing that a consideration for parole for one of the very offenders we want to keep behind bars is looming early next year. We will expedite the bill's passage through this place. I implore the Attorney General to ensure that the manager of government business in the Legislative Council feels the same level of urgency about this legislation passing through Parliament and prioritises it for debate in the other place because, if it is not prioritised by Hon Sue Ellery, it will not get through and all this rushing—declaring the bill urgent—and the cooperation of the Liberal opposition in the Legislative Assembly will have been for naught. That is not a situation we want to find ourselves in either. I commend the bill to the house and look forward to examining a little bit further the reasoning behind the Attorney General's decision-making on this legislation during the consideration in detail stage.

DR A.D. BUTI (Armadale) [7.46 pm]: I would like to make some comments on the Sentence Administration Amendment (Multiple Murderers) Bill 2018. In particular, I would like to make some comments on the opposition's contribution to this debate. The member for Scarborough just mentioned that opposition members do not have the resources in opposition, but they had the resources in government for eight and a half years to do something, but they did nothing. I want to repeat the comments made by the Attorney General when he introduced this bill. He said —

> This bill introduces very important reforms to the Sentence Administration Act 2003 so that an Attorney General, who is described as the "minister" in the bill, may direct that mass murderers and serial killers must not be considered for parole or a resocialisation program.
>
> …
>
> The proposed reforms are intended to go some way to address the trauma and emotional toll experienced by the family and friends of murder victims—also referred to as "secondary victims"—and others impacted by the crimes, including surviving victims of serial killers and mass murderers. The parole planning process can be a source of significant stress. This is due to the anticipation that these offenders may return to the community, the re-traumatisation from being periodically asked to share one's views about the potential release of the offender, and the heightened and often unwanted media and public attention associated with these cases. By allowing an Attorney General to direct that a mass murderer or serial killer must not be considered for parole or a resocialisation program for a period of up to six years, it is hoped that this bill will moderate one driver of stress for secondary victims and survivors.

That is the bill we have before the house. Members of the opposition made numerous comments about how they want the bill to go further. The member for Hillarys talked about the case of Dante Arthurs. The member for Scarborough went on about a lot of different examples and I wonder whether it would be constitutionally valid for some of those people to be caught up in this bill. I do not know; I just ask that question. We have to be careful when we seek to restrict a person's entitlement to be released after the normal sentencing process. There could be a constitutional challenge in that case, so the member for Scarborough has to be careful of using all the examples she used.

We often hear from members of the opposition, "When we were in government, we didn't do this; we didn't do that." That is right; they did not. They did not bring in changes to child sexual abuse via the Civil Liability Act. When the former member for Eyre introduced a private member's bill, the former government shut it down. They did not do anything for retired police officers who were injured. That was under the member for Scarborough's watch as Minister for Police. She did nothing in that space. Time after time when we sought to introduce Saori's law, which, as the member for Scarborough knows, was to increase the penalties for domestic violence

that led to death under the one-punch laws, the member opposed it. It took five years, after the introduction of two or three private members' bills, before the former government's enactor, the then Attorney General in the other place, finally passed Saori's law. The gall of the opposition to come before this house and complain that this bill does not go far enough is incredible. They had their chance.

The instigator for this bill was Kate Moir, who, as we all know, was possibly the next victim of the Birnies. She brought forward a petition seeking the changes in this legislation. The response of John Quigley, the then shadow Attorney General, was as follows —

> Thank you for making your voice heard on this important issue of parole reform for those serving life for mass murder or serial killing.
>
> Kate Moir, the surviving victim of the serial killers–David and Catherine Birnie, came to see Mr McGowan, the Opposition leader and myself, Shadow Attorney-General to explain that every three years when Catherine Birnie comes up for parole she is forced to relive the most horrific night of her life all over again.
>
> WA Labor is pleased to take a new policy to this election. Labor's policy is to amend the Sentencing Administration Act which governs parole and provide that an AG during their time of service can issue a notice to the Prisoners Review Board ordering them not to conduct a parole hearing for a mass murderer or a serial killer.
>
> As there is no intention of ever releasing these people to parole—because for these prisoners life should mean life —

[Quorum formed.]

Dr A.D. BUTI: They are all leaving!

The quote continues —

> as a Labor AG I would have no hesitation in directing the Prisoners Review Board not to consider Catherine Birnie in 2019 and thereby save Kate Moir from the trauma of having to relive the whole experience.
>
> For mass murderers, those who murder two or more people on the same day or serial killers, those who murder two or more people on different days. There should be a hard and fast rule LIFE MEANS LIFE and under a WA Labor Government that will be the rule.

Where was the then government? It had no comment—unless I missed it. When the then shadow Attorney General responded to Kate Moir's petition, stating what he would do and what a WA Labor government would do—that is, bring in this bill—where was the then government? Where was the then police minister, the member for Scarborough? Where was the then Attorney General, and the now member for Hillarys, who was then in the other house? What comment did the member for Hillarys make at the time? Member for Hillarys, did you make a comment at the time?

The DEPUTY SPEAKER: Member, do you wish to make an interjection? You are getting asked to make an interjection. No; the member does not want to interject.

Dr A.D. BUTI: He is silent, just as he was at the time when they were in government. They were silent on this matter in government and now have the gall to come into this house when the Attorney General is bringing into this house what he said he would do in opposition—what we went to the election with. We went to the election saying that we would bring in legislation to amend the Sentence Administration Act so that mass murders and serial killers would be caught up by this legislation. Where was the Deputy Leader of the Liberal Party, as the then Minister for Police? What did she say at the time? The lack of response from the member for Hillarys and the silence of the member for Scarborough replicates what they did in government. They did nothing in government—nothing! If they think that this legislation before the house should be expanded, why did they not comment while in government—in fact, why did they not introduce this legislation in government? The hypocrisy and gall of the opposition today in this debate has been appalling. Why can they just not champion this legislation, say it is a good piece of legislation and let us pass it and move it to the upper house. I think the silence of the members for Hillarys and Scarborough says it all.

MR J.R. QUIGLEY (Butler — Attorney General) [7.57 pm] — in reply: I thank the member for Armadale and other members for their comments on the Sentence Administration Amendment (Multiple Murderers) Bill 2018. I will go through those comments in a moment, but I will go through the development of this policy first. Members will remember that in April 2016 a picture of Kate Moir appeared in *The West Australian* alongside the then

Attorney General, Hon Michael Mischin. She had approached the former Attorney General over the three-year parole review. The then Attorney General's response to the entreaties by the victim Kate Moir was this —

> "I gave some thought to this some weeks ago when I was considering the (PRB) report on Catherine Birnie, and whether it was necessary to conduct a review. But I will take advice on that and look into how that system can be improved."

He was telling the victim Kate Moir on 19 April when she had approached him that he would look to see how the system could be improved. Then, a month later, on 1 May 2016, he is reported under the by-line of Joanna Robin as saying —

> "I am looking at further ways to improve the process including legislative amendments," …

That was after the then Labor opposition said that it would introduce a bill in the nature of the one that is before the house today. He had from April 2016, to May 2016 and right through to March 2017. He took advice, thought about it, and this is what the Attorney General said, and it is what the members for Scarborough, Churchlands and Hillarys, my strident critics this evening are supporting —

> "So far as limiting the three-year reviews, I have given (Ms Moir) an explanation on why, in the public interest, changing to no reviews in some cases was not practical or desirable,"

It was not in the public interest! I see the position the opposition is in this evening. The Barnett government, having thought about it for 10 months and having taken advice on Labor's propositions, through its Attorney General of the day, Hon Michael Mischin, and supported by the members for Scarborough, Hillarys and Churchlands, the government speakers this afternoon and this evening, said, "No change. It is not in the public interest to affect change." Now we have introduced the bill, suddenly the shadow Attorney General has come out and said that it does not go far enough.

He said that it should go further to include the murder by Dante Arthurs. Let us see how that was received. He is talking about the public interest. Until I introduced the bill, the Liberals were arguing that it was not in the public interest. That was their position. Then, on 19 October 2018, after I introduced the bill, the editorial in *The West Australian* stated, inter alia —

> Last year, before winning office, shadow attorney-general … pledged that if elected, a Labor government would amend existing laws that allowed even the worst killers to be considered for release every three years.
>
> …
>
> Mr Quigley should be congratulated for following through.

What was the reaction to the shadow Attorney General's position? It should be an embarrassment to everybody in the Liberal Party. On the same day as the publication of *The West Australian* editorial responding to the government's bill, in an editorial piece to air, Mr Gareth Parker, speaking of the opposition's position now that the bill does not go far enough, said, and I quote —

> This is from the 'why politicians give you the irrits department'. So the State Liberal Party and I thought the way that Gary Adshead put this in the paper this morning was spot on. The State Liberal Party which resisted changes to the timeframes around reviewing parole for serial killers and mass murderers when it was in government. So they opposed any change to the timeframes, they come up every three years currently even for the worst of the worst murderers. They've got rights, they can apply for parole every three years.
>
> John Quigley wants to change the law, we heard about it yesterday. And he wants to change the law so that the attorney-general of the day can order the Parole Board, alright no application for six years. And we heard from Evalyn Clow about what that would mean to her, not having to relive the horror of her sister Karen McKenzie's murder and her three kids from the Greenough massacre every three years. And she talked about how it's really an 18 months process. Takes you, you know, 18 months to sort of build up to the fight, and then another time to come down from it.
>
> So Quigley wants to change it every six years. Michael Mischin when he was attorney-general argued no you shouldn't do this. Now, and this is what drives you crazy, now they're in Opposition they say we're going to review these laws from Quigley, we don't think they go far enough.

Mr Parker went on —

> Particularly from this shadow attorney-general —

That is, Hon Michael Mischin —

> who is famous across the great state of Western Australia for his absolute attitude to doing nothing when he was in power. He was a useless attorney-general. Everyone in the legal fraternity knows it, everyone in Government knows it, and Government Departments know it. His colleagues know it.
>
> So I'm sorry Michael Mischin if this is news to you, but your colleagues say it about you all the time. They've expressed their frustration with how useless you were as an attorney-general. You did nothing when you were office, so don't come out grandstanding on this issue, because it's just bulldust.
>
> …
>
> Don't turn this into politics, just get it done, and get it done as quickly as possible – that's what I would say.

That is from an editorial piece to air on 19 October. I was at sixes and sevens about whether to read that into the *Hansard*, because the danger of reading it into the *Hansard* is that the Leader of the Opposition might wake up to Hon Michael Mischin, and I might lose him as my shadow. I would be absolutely mortified to lose Hon Michael Mischin as my shadow. I know that there are more able solicitors in this chamber and elsewhere, but I am going in against a shadow in respect of whom the public of Western Australia has been told by a regular commentator that his own colleagues—that is, members of the Liberal Party room—are telling Mr Gareth Parker how useless Mr Mischin is.

That is how this policy has developed, with absolute opposition to the proposition contained in this bill from the Liberal government of the day. Do not talk about the fact that we have had 20 months in government and now we have brought in the bill. The previous government had eight and a half years in which the Attorney General and the cabinet, in which the members for Scarborough, Churchlands and Nedlands sat, was opposed to these laws. It was opposed to these laws, and Mr Mischin made that absolutely clear. Let us go back. On 16 April he hears from Kate Moir; in May he says that he is taking advice to consider it; and then, 10 months later, he comes out and says that to defer parole in these sorts of cases is against the public interest. Then members opposite come in here with this false attack on the government that it does not know what it is doing, and is just rushing this through.

Dr D.J. Honey: Maybe you're just very convincing.

Mr J.R. QUIGLEY: Member for Cottesloe, I did not convince Mr Parker that Mr Mischin was a hopeless shadow Attorney General. Mr Parker said that he has had that put to him by members of the Liberal Party in this Parliament. It is not me being persuasive, it is the member's colleagues who have persuaded Mr Parker to this very dim, but totally justified, view of Mr Mischin. However, as I said, I would be mortified to lose him as my shadow.

I was asked by the member for Churchlands whether I had explained the real meaning of this bill to secondary victims. Do they realise that this bill provides that only the Attorney General of the day can put off the parole consideration for six years? To this I responded, veritas vincit, and he knows what that means. We will go back and examine whether the secondary victim was misled by the government that this bill creates some further delay to parole consideration than six years. I am reading from a transcript of an interview between Mr Gareth Parker and Evalyn Clow, the sister of the late Karen McKenzie, and aunt to her daughters, who were murdered in Geraldton. She said —

> So, 18 months I can rest and then 18 months I'm fighting. One fight to keep him in, another to get back up to where I should be. To me physically and all that sort of stuff. To have a space of six years —

She knows, member, exactly what I am talking about; there is no spin; this is truth conquering —

> what this law they're proposing is, it might not sound much to other people, but it would be so much less stress, not having to relive it over and over again so often.

She goes on in her interview —

> To be put through that every three years. One, it's a waste of money, if everyone says they're never going to get out, the judges say they're never to be released, and that's a toss it in itself. Especially when it's proven beyond doubt, he doesn't, and other people like Catherine Birnie do not deserve to ever get out. So why put us through the trauma …

Evalyn Clow goes on to say —

> When I was told yesterday —

I sent the press release to her as well as to all other media —

> the first thing I did was burst into tears. It is a very emotional thing as we have been battling for so long to have laws change. To have the opportunity for this to be presented to the Parliament, get enough people behind it, to encourage the politicians to say yes we're going to do this. I'll be over the moon, I was actually shaking when they told me. I actually have tears in my eyes.

She was speaking to the radio interviewer and political commentator Mr Parker. I am comfortable that there was no misleading, member for Churchlands. I remember my lessons, under Gordon on the Memorial Oval, to play it straight, and we played it absolutely straight with these victims. If there was any misleading, it was by the former Attorney General for the Liberal Party who, on May 16, said he was looking at ways to improve the process including legislative amendments, and then during the election campaign, said —

> … I have given (Ms Moir) an explanation on why, in the public interest, changing to no reviews in some cases was not practical or desirable."

I want to hear why the Liberal Party believes reform is not in the public interest.

I want to go to some further points raised by members. The case of Dante Arthurs was given some considerable attention by members of the opposition and they asked why it is not included. Mr Parker's opinion piece on the radio said it was just bulldust and grandstanding. He said that because we went to the people with an election promise saying that this is what we would do, and here we are doing it this evening. The Liberal Party said, "No, never. What you're proposing to do is not in the public interest." We then had to prepare legislation knowing that the Liberal Party —

Mr S.K. L'Estrange interjected.

Mr J.R. QUIGLEY: He shakes his head. I will read it out again, member. He is shaking his head in disbelief. This is what Hon Michael Mischin said —

> "So far as limiting the three-year reviews, I have given (Ms Moir) an explanation on why, in the public interest, changing to no reviews in some cases was not practical or desirable."

We had to come up with a policy, which we took to the people and which will take care of Evalyn Clow and Kate Moir's concerns. We went to the people. The opposition had its policy to not do it and said it would oppose this legislation. We took it to the people. The Liberal Party got smashed and we got elected. Just as *The West Australian* editorial writer notes, we are delivering on our promise. Now it is put to us that in some way we are being neglectful because we are introducing this bill, which has to be dealt with an on an urgent basis, at month 20. I was criticised in the same manner for not bringing forward the lifting of the statute of limitations. That had to be carefully drafted too. It was not just a matter of lifting the statute of limitations; we had to provide a pathway for plaintiffs to recover against the assets of churches and other non-government organisations. I was hammered in this house for not having done it: "Why aren't you giving this priority? You said you'd fix up dangerous sex offenders legislation. Why aren't you giving that priority?" As Mr Parker said, there was such neglect of the Attorney General's portfolio by my predecessor, who was the most useless non-active Attorney General in Western Australia's memory, that there were just so many things to do. There was a 2012 coroner's report from the Law Reform Commission; nothing happened on that. The Coroner's Court is clogged up. There was another big report on the Guardianship and Administration Act 1990; nothing happened on that. I am doing so much and working so hard. The member for Dawesville came over with a little chart the other day showing that I was up to 25 or 26 bills. I have the count wrong, member for Vasse, but he told me I will rack up another one today.

Dr D.J. Honey: You're carrying the whole team.

Mr J.R. QUIGLEY: I am trying to effect law reform that was neglected for eight and a half years.

I will not accept the criticism that bringing this in as an urgent bill at this stage is in any way a reflection on chaos; it is a reflection on action. It is a reflection on a government that is committed to law reform and wants to protect the community and victims within the community. That is why we are bringing this forward.

On that basis, the member for Scarborough posited a question in her speech to Parliament. She said that there are other dangerous people out there as well. I interjected and asked, "Are you talking about other dangerous criminals beyond murderers?" and the member for Scarborough said, "Yes." We will be bringing in further legislation that is also part of our election promise, to introduce for the first time in Western Australia a high-risk offenders board so that prisoners who could be described in the manner that the member for Scarborough described some offenders—as psychotic perverts or whatever with entrenched criminality who have shown no remorse or will to change—will go before the high-risk offenders board. They will not see freedom. That will be up to the high-risk offenders board. The high-risk offenders board will do the same as we do with dangerous sex offenders. In fact, dangerous sex offenders will go to the high-risk offenders board as well. We are looking right across the board at offending and the most dangerous offenders, and how they are released into this community. I will always remember Hon Christian Porter asking, "Who would you let out of prison, member for"—whatever I was back then, Mindarie or Innaloo—"Who would you let out?" The ones we are going to let out are the fine defaulters. The Ms Dhus of the world should not be in there. The poor people who cannot afford to pay their fines should be out working for the community, not clogging up our jails. We will have a system in which we will keep the worst of

the worst in prison, through the high-risk offenders board, but this evening we are dealing with our amendments for mass murderers and serial killers.

How did we get to this point? We are cognisant or mindful of a couple of things. I want to address a few issues, raised by the member for Hillarys. Firstly, why did we not include child murderers? As I said, we cannot include a category of child murderers because we would inadvertently catch in that cohort people who are not the worst of the worst. Is a woman suffering from depression after childbirth who murders a child to be regarded in the same way as Catherine Birnie? This is policy on the run that was made up since 19 October, with no thought at all, because until 19 October, the Liberal Party policy was to oppose this legislation and it went into the election opposing this policy. Since 19 October, it has said, "Hang on, the government is fair dinkum. We didn't do it. They are introducing the bill. We can't come out and oppose the bill, for heaven's sake. We can't come out and do what Hon Michael Mischin has told the public we're going to do, oppose the bill—that is dumb. We're going to have to find a different way to tackle the government, so we'll say it doesn't go far enough." That is what led to the spoken editorial by Mr Parker saying, "This is what gives me the irrits about politicians: they oppose it when they are in government and when they land in opposition, they completely change their position and say that we are not being tough enough." What a lot of absolute nonsense. It is so hypocritical it is embarrassing—absolutely embarrassing. We are not going to include or accept an amendment that includes child murderers. If the opposition wants to introduce a private member's bill naming this or that murderer, it can go and think about this, draft its bill and bring it back to the house, but we are not going to accede to an amendment that has not been examined and that could inadvertently trap people it was never meant for, as I said in my answer in question time today.

There are also other things in relation to this that the opposition has not thought of.

Several members interjected.

The ACTING SPEAKER: Thank you, members.

Mr J.R. QUIGLEY: In New South Wales legislation was introduced so if a person killed a police officer, they would not be released. There was a murderer who had killed a person who happened to be a police officer and was in prison. They appealed to the High Court and from my recollection—I will find the name of the case soon—the appeal was upheld because in the indictment it was not pleaded that the person was a police officer because it does not have to be pleaded, and the court did not sentence on the basis of an aggravating circumstance in the indictment, so the High Court held that it was not covered by the legislation, even though the person murdered a police officer. That just goes to demonstrate the care that must be taken in framing legislation. Of course, Victoria and New South Wales both have truth in sentencing laws to keep people in prison for longer, but I remind the opposition that in both New South Wales and Victoria the legislation that provides for people to spend longer in jail comes into play only after there has been a parole consideration—after the person has gone through their parole consideration. So, our law, the bill before the Assembly this evening, is the toughest in Australia. We are the only jurisdiction in Australia—the member for Hillarys can confirm this—where the Attorney General gets to decide whether a person is admitted to parole are not. That is not the situation in Victoria, as the member for Hillarys knows. It is only in our jurisdiction that the Attorney General is cast with the onerous task of deciding whether to accept the parole board's recommendation. This, pardon the pun, is a hangover from the 1980s when capital punishment was repealed, and under the capital punishment regime it was the executive, obviously acting on the advice the Attorney General, that decided whether to commute the death penalty to life imprisonment. When the reforms happened and capital punishment was extinguished from the statute book, the bargain was that the executive was still going to have its foot on the hose to decide which of those murderers gets paroled or not. We are the only state that has that. I am saying that in relation to mass murderers and serial killers the Attorney General of the day can put off the parole consideration for six years. I do not want to lose my treasured shadow, even though he is so harshly reviewed by the commentators of this city and by his own colleagues who tell the commentators he was the most useless Attorney General—that is what he said on the radio anyway. He has put to us why we do not go further and allow offenders never to be released. It is simple: if that is the attitude, the Attorney can just extend the six years to another six years and another six years. Every few elections there is a change of government and if the opposition thinks that Labor has been too hard keeping all these murderers away from the parole board and keeping them in jail, the opposition can win an election and release them if that is what it wants to do. We can keep these people in prison indefinitely. However, we have to stay within constitutional parameters. When a person is convicted, an independent court sets a non-parole period. I believe that to interfere with that court's decision would be unconstitutional and the High Court would strike that down.

Mr P.A. Katsambanis: Have I disagreed with you on that?

Mr J.R. QUIGLEY: Has the member for Hillarys disagreed with me? I do not want to be disrespectful, but it is not even the member for Hillarys' call. He is not even the shadow. If I can use common parlance, the member for

Hillarys is not the organ grinder; he is the monkey. I am not being disrespectful, but he is not the person who calls the tune; he dances for the person who calls the tune, who is Hon Michael Mischin. That is no problem for the government; we do not mind Hon Michael Mischin as the shadow Attorney General. Long may he remain the shadow. May he remain the shadow for the next three terms; that is what we say.

Another aspect of criticism is how we came up with a person killing three people one day or two or more on different days. In 2005 in the United States there was the Serial Murder Symposium. The United States passed—it was legislation—the Investigative Assistance for Violent Crimes Act 2012, which is section 455(2)(A) of the Code of Laws of United States of America. That said that mass killing means three or more people in a single incident. That is why we settled on more than two people in one day. More than two people in one day fitted within the United States definition. There is no definition in Western Australia and as far as I know there is no definition of serial and mass killing in Australia, so we relied on the US in settling upon the number; otherwise, we would not have relied on it. We were informed by the outcome of the Serial Murder Symposium of 2005 which led to the Investigative Assistance for Violent Crimes Act 2012. The Federal Bureau of Investigation in the US defines a serial murder as an unlawful killing of two or more victims by the same offender in separate events. So, we came up with, not unsurprisingly, something very similar—that is, two or more victims by the same offender on more than one day. It is the same; we have consistency there. I did not just look in the teacup, try to read the tea leaves and they said "two and three". We were informed by the legislation in the United States.

We are very concerned about all victims of crime. All victims of crime will be very pleased when we come to Parliament with our high-risk offenders board legislation. I know that members opposite will end up supporting that, as they will end up supporting this. I dare them! I double-dare them to vote against this legislation tonight and I dare them to vote against the high-risk offenders board legislation when we bring that in. All these things could have been done by the opposition were it not for the fact that, in the words of Mr Gareth Parker, it had the most useless Attorney General in Western Australia's living memory.

Several members interjected.

The ACTING SPEAKER: Thank you, members!

Several members interjected.

The ACTING SPEAKER: Thank you, members!

Mr J.R. QUIGLEY: I have to explain all this because the opposition came into Parliament this evening and said that this bill was the product of chaos. Far from it! This bill is the product of months of careful preparation and consideration, but not before the people of Western Australia had a vote on the very terms of this legislation. Talk about democracy!

Members opposite wanted to hear it again. Mr Parker stated —

> Particularly from this shadow attorney-general who is famous across the great state of Western Australia for his absolute attitude to doing nothing when he was in power. He was a useless attorney-general. Everyone in the legal fraternity knows it, …

I have a question for members opposite.

> everyone in the government knows it, and Government Departments know it. His colleagues know it.
>
> So I'm sorry Michael Mischin, if this is news for you —

Point of Order

Dr D.J. HONEY: Standing order 97—repetition or irrelevant debate.

The ACTING SPEAKER (Mr I.C. Blayney): I have enjoyed listening to the Attorney General in silence. I do not find what he is saying excessively repetitious. I would like to hear him out for the last nine minutes.

Debate Resumed

Mr J.R. QUIGLEY: Seeing as the member for Churchlands has been so vocal this evening, as has the member for Hillarys, I have a question to ask them to see whether they would be so courteous as to provide the chamber with an answer. My question is: given that Mr Parker says "Your colleagues say it about you—that is, that you are useless, Mr Mischin", was the member for Churchlands one of the colleagues who spoke to Mr Parker and told him that Hon Michael Mischin was useless?

Mr S.K. L'Estrange: I did not speak to Gareth Parker on the topic you refer to.

Mr J.R. QUIGLEY: Did the member for Hillarys?

Mr P.A. Katsambanis: Definitely not!

Mr J.R. QUIGLEY: Did the member for Scarborough? No! They want to remain secret sources!

We are pleased that the opposition will not, figuratively speaking, commit harakiri in front of the house this evening. We were pleased that we will not have the unedifying experience of the opposition cutting its guts out by voting against this bill. We will not have to look at that unseemly sight. We know that the opposition will fall into line and be part of the ayes when it comes to the vote. Even though, when we were in opposition it struck down our attempt to lift the statute of limitations, when we were in government, and push came to shove, it said aye. It might have been quietly, but it was not going to vote against it. When we introduced our no body, no parole laws in opposition, it voted against them. They were gutted by amendments moved by the member for Scarborough. When we brought that legislation into this house with Mr Don Spiers sitting in the chamber, opposition members said yes, then shook Mr Spiers' hand at the passage of the bill. Tonight, after having gone on with a bit of malarkey about why do we not do this and why do we not do that, when it is put to the vote, I know that the opposition will fall into line or it will be steamrolled by the public.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Mr P.A. KATSAMBANIS: The short title of the bill is the Sentence Administration Amendment (Multiple Murderers) Act 2018. We have been through some lengthy debate and I do not want to draw it out, but it was clearly identified that this bill will apply to those people the Attorney General has colloquially referred to as serial killers and mass murderers. It will not apply to all multiple murderers. It will not apply when someone has killed two people on the same day in the same incident. Why was this title—multiple murderers—chosen rather than some other title using, perhaps, words such as mass murderer or serial killer, which the Attorney General liberally used in his second reading speech?

Mr J.R. QUIGLEY: We like this title.

Mr P.A. KATSAMBANIS: Was consideration given to including those murderers who have murdered two people on the same day? What is the essential difference between someone who murders three people on one day and someone who, in very similar circumstances, murders only two people on one day and perhaps injures one or more other people with the intent to kill them, but it was just lucky for those people that they were not killed? It seems to be an extraordinarily arbitrary distinction. The Attorney General said that he was informed by some of the learnings from the United States of America, and perhaps it has had a bit more experience in this field, but why is it that someone who murders three people on one day will be subject to this regime but someone who murders only two people will not be subject to this regime? At very best, that person will be reviewed every three years, but the secondary victims and perhaps existing victims, like Kate Moir, who escaped the ultimate sacrifice, will have to relive their horror every three years. Why not include all multiple murderers irrespective of what day the murder was committed on?

Mr J.R. QUIGLEY: The starting point is that this is radical legislation that, as I said, the shadow Attorney General regarded as impracticable, unworkable and not in the public interest. That was the starting point of the Liberal government of the day—that is, that even if someone had committed 50 murders, the legislation was impracticable, undesirable and not in the public interest. I was paraphrasing there. The then Attorney General said —

> So far as limiting the three-year reviews, I have given (Ms Moir) an explanation on why, in the public interest, changing to no reviews in some cases was not practical or desirable …

That was the starting point. One side of the body politic in Western Australia is saying that it is not practicable or desirable, while we are saying that we are going to introduce the most radical legislation in Australia that takes away the consideration for parole.

As I recall the member said in his speech, there have to be some parameters to this sort of legislation, so where do we settle upon? What are those parameters to be? We had a look around the world, because our promise to the people was that mass murderers and serial killers would be subject to this radical legislation. I appreciate what the member is saying. We took our proposal to the people. We have settled on this because this is what the people voted for. They had a stark choice. They had a sitting government that said that it would not do this, but we gave them another choice and said that this is what we would do, and then they were given a democratic vote. I was humbled by an 18.5 per cent swing towards me. No doubt my promises to legislate no body, no parole, to do this

sort of legislation and to lift the statute of limitations fed into that swing, but I could go only by the result at the ballot box. We took this proposal to the people, this is what they voted for, and this is what we are delivering on. To get back to the short title of the bill, as I said, we like it.

Mr P.A. KATSAMBANIS: Did the Attorney General receive any legal advice indicating that if he included murderers who had killed only two people on one day, any such legislative scheme would in itself be unconstitutional? I ask that in the context of his previous answer when he said that this is what he took to the people. I accept that he had a policy and that there was public consciousness that he would find a way to keep these people out of the parole system for as long as possible. I do not necessarily think that the public consciousness was that he would have this three and two–type scenario. Irrespective, if it can be made better—yes, he has a mandate to go so far—and the Attorney General can go a little bit further, especially given the indication we have given him in this debate that we would be supportive of it going further, why would he not consider it going further, unless of course he has some advice that including the murder of two people on one day would be so dangerous as to expose this legislation to a risk constitutionally in the High Court, whereas the provision for the murder of three people on one day does not run the same risk?

Mr J.R. QUIGLEY: In answering, I can only ask the question rhetorically: when did he fall off the horse; when did the epiphany occur? There has been an epiphany here. The former Attorney General and government were diabolically opposed to this legislation. At some point between the election, when they were diabolically opposed to it, and 19 October 2018, they have had an epiphany. I realise it is not the member's; he is only the spokesperson here. Can he put a date on when this total change of heart by the shadow Attorney General came? Is he able to help us there?

Mr P.A. Katsambanis: You'd have to ask him.

Mr J.R. QUIGLEY: The member is saying, "Why don't we go a bit further? We're willing to help you." We do not know what you want, and you do not know what you want.

Mr P.A. Katsambanis: I do.

Mr J.R. QUIGLEY: Sorry—not you. I know what the member wants and I support him in what he wants. He wants to be the shadow Attorney General and, in Western Australia's interests, he should be. I want what he wants—that is, for him to be the shadow Attorney General. Selfishly, I want to hold on to my shadow up there in the other place, but that is not in the interests of Western Australia.

It is not as though generally the people knew what we were doing. No; we told the people exactly what we would be doing. There was no spinning. There was no fudging. We told them that we would be doing this in relation to mass murderers and serial killers as defined. That was a policy decision. It was a policy decision we put out in opposition and it was a policy decision overwhelmingly embraced by the public of Western Australia.

Clause put and passed.

Clause 2: Commencement —

Mr P.A. KATSAMBANIS: Clause 2 is the commencement clause. It is very traditional in that clauses 1 and 2 will come into effect on the day on which the legislation receives royal assent and, crucially, the rest of the legislation will come into effect on the day after that day. That is good. Earlier today the government spelt out the urgency of this legislation, so the last thing we would want to see is one of those clauses that says that the rest of the legislation will come into effect on a day to be proclaimed and various provisions can be proclaimed on various days and that sort of stuff. We do not see that here and that is well and good. The reason that the government highlighted that this legislation is urgent is the combination of the time frames incorporated in this legislation and the impending consideration for parole of Catherine Birnie, who is, I believe, due for her next review on 2 March or sometime in March next year.

Mr J.R. Quigley: Early March.

Mr P.A. KATSAMBANIS: Yes, early March next year; we will agree on that. Once this bill becomes law in Western Australia, it will enable the Attorney General at the time, at least three months before the date on which the review is due, to make one of these orders that parole not be considered for up to six years. Obviously, working backwards from early March, we get to early December and the Attorney General needs this bill to be passed by then in order to make that determination in relation to Catherine Birnie. That is understood. We accept that explanation. I have a couple of questions around that. I think the Attorney used the words "extraordinary" or "unique" when speaking about the powers of an Attorney General in Western Australia in relation to parole. I think both words fit—"extraordinary" in the context of Australian jurisdictions —

Mr J.R. Quigley: And the United Kingdom.

Mr P.A. KATSAMBANIS: Yes, although it has all sorts of other various things that may apply. But certainly the Attorney General has extraordinary powers already. Is there any fear or risk that if perchance, in the absence of

this legislation, the Attorney General were given a report from the Prisoners Review Board to suggest he approve parole for Ms Birnie, he would do so?

Mr J.R. QUIGLEY: I want to be very, very careful here because under case law, I have to give reasons for the decision. I cannot just refuse without giving reasons for the decision. If I fail to give reasons for the decision, I can be taken on judicial review. I do not want to expose any challenge to any decision I might make because I have made it in advance of hearing from the board. I am not trying to evade the member's question. Let me put it this way, hypothetically—I stress, for those who read *Hansard*, that I am speaking hypothetically—if I am minded to say "no parole" in a case, I do not want to compromise the integrity of that rejection by having announced it before I get to the point of considering it, otherwise I could be challenged as I am not making a bona fide decision; I have already announced it. It is a bit like Lewis Carroll's *Alice's Adventures in Wonderland*. I think the queen was explaining to the Mad Hatter or White Rabbit, "Down here, first we have the execution and then we have the trial", getting it the right way around. There are a couple of people I can think of whom I would not mind applying that to. I do not want to fall into that trap of saying no for the convenience of the argument and then having it challenged because I already announced the decision in the Assembly this evening.

Right up until the time that the board considers it, the Attorney General can give the direction. The three-month bit is that there is usually a period of months before that when the board starts working on it. That is what I want to stop. My decision would still be valid. My direction would still be valid if it was given a month before, but it would not get rid of the early consultation process by the board, and that is why I want to get it through.

Mr P.A. KATSAMBANIS: I accept the Attorney's explanation of not being seen or deemed in any way to have prejudged a matter before it was his place to judge it. That explanation reminds me, and I think reminds the public of Western Australia, that whether people are ministers, shadow ministers, Attorneys General, shadow Attorneys General or just plain spokesmen in one house or the other, or whether they sit on the government benches or the opposition benches sometimes determines what action they take on a particular matter and what they want to say and what they do not want to say. When these matters came up in the previous government, I recall that the previous Attorney General in particular—there were a couple of Attorneys General in the previous government—whom the present Attorney General has described in various terms tonight, when challenged on these matters, would invariably give an answer in his words but of exactly the same meaning and import as the Attorney General has given to me tonight—absolutely exactly. Then members of the then opposition would criticise him for it and tell us how much tougher they would be in government than the Attorney General at the time. I do not say that as a direct criticism of this Attorney General. It just goes to show that those people who come in here and profess not to play politics with things may not necessarily come here with clean hands, and that has happened in cases such as the ones that I am talking about. I am glad that, as the senior law officer of the state, the Attorney General, as opposed to someone in opposition, takes that approach because it is considered, it is worthy and it is befitting of the office of the Attorney General and minimises risk of judicial scrutiny that may not result in a good outcome for Western Australians. I think it is a salutary lesson. I will not pull out what this Attorney General said when he was in opposition. He is someone who enjoys that sort of verbal banter and he has said things in the past when he was not Attorney General that may have gone a bit further—when he was just a plain member of the opposition and shadow Attorney General and the like—than he has been prepared to go tonight.

Mr J.R. Quigley: The oath of office has a sobering effect.

Mr P.A. KATSAMBANIS: We can leave that to sit on the record that the oath of office does have a sobering effect. I have never held the office of minister so I cannot verify that that is the case. I will take the Attorney General's word for it.

It leads me to my next question around the commencement date. We have spoken about Catherine Birnie. The Attorney General has indicated what he would do in any case and that he can make these determinations under the legislation at any time up until the report is delivered to him, but to spare the Prisoners Review Board unnecessary work that will not result in anything, he would like to get the direction to it early. I point out to the Attorney General that based on information his office has provided the opposition, it appears that another person will be subject to this legislation as his review is coming up before Catherine Birnie's review—that is, Peter John Maloney, who is a mass murderer, having committed two murders. He has been in prison for a long time. He was originally sentenced to death but his sentence was commuted upon appeal to life imprisonment. He has been up for review on a number of occasions. His next review date is 15 December 2018—only a few weeks away. I assume that, in the absence of any direction, the Prisoners Review Board has started the process, as it does every three years, and that it is busy chugging along in its works so that it can deliver the report by the due date.

Mr S.K. L'ESTRANGE: I would like to hear some more from the member for Hillarys on this topic.

Mr P.A. KATSAMBANIS: Although Mr Maloney's crimes are what we would consider extraordinarily historic—they were committed a long time ago—I have spoken to people as recently as the last few days who clearly remember the case of the murders. Certainly one murder was in Esperance; I think both of them were. One of the victims was a 16-year-old. Young people at the time, who are now functioning adults in society, including people who knew the victims, family members of the victims and the like, certainly still remember it.

Again, in this group of qualifying, designated mass murderers, are we saying that consideration for Catherine Birnie and her victims is going to be prioritised? Why was this legislation not brought into being a bit earlier so that Mr Maloney could also have declaration made so that the Prisoners Review Board does not waste its time and the secondary victims of Mr Maloney's crimes do not have all that horror and nastiness revisited upon them during the parole consideration process, which I assume is going on right now?

Mr J.R. QUIGLEY: I have to say in all honesty that, at the time I came out with this policy and shortly thereafter, I was not conscious of Mr Maloney's offence or sentence. As the member said, it is so historic that I could not remember the case immediately. It was very recently that Mr Burden wrote to me, inquiring whether this legislation would deal with Mr Maloney. I can read out to the chamber my reply from my chief of staff. It is dated 6 November, because he has just written asking whether it will apply to Mr Maloney. It states —

> Good afternoon Mr Burden,
>
> Thank you for your email to the Attorney General and may I extend this office's condolences for the loss of your mother in such awful circumstances.
>
> The legislation will be debated in the Legislative Assembly this afternoon. Once it has passed that house of parliament, it will go to the Legislative Council.
>
> It is the Government's hope to have the legislation through the parliament by the second week of December, when parliament rises for the year.
>
> The Attorney-General has asked me to convey to you that rest assured, he shares your concerns about this offender.

Mr Burden had written saying, "Don't release this person on parole", so the line "The Attorney-General has asked me to convey to you that rest assured, he shares your concerns about this offender" does not mean I have given a pre-emptive decision. It continues —

> I will write to you again as the legislation progresses through the parliament, to keep you updated.

My only explanation for why this will not be through by the time the parole board starts work on it is that, in all honesty, I was not aware of the date. I have to be honest, but now that the date has come to me during the preparation of this bill, if we get this through, Mr Maloney will be caught by this bill. When I issue a direction, and I intend to issue a direction in Mr Maloney's case, it will not be three months out from the consideration; it will be a bit closer. I regret that but we cannot be perfect—but we try.

Mr P.A. KATSAMBANIS: Thank you for that answer, Attorney General. None of us is working at cross-purposes here; we are just trying to get through the legislation and clarify issues. I think the Attorney General's explanation and the email he read out verify that, despite the effluxion of time, there are people who are still intimately affected by these crimes.

Mr J.R. Quigley: All of their lives, I would expect.

Mr P.A. KATSAMBANIS: Yes, they will be affected for all their lives and sometimes it crosses generations. Without either labouring the point or trivialising it, I heard an interview on radio the other day with a gentleman whose name escapes me but he was either the great-grandson or great-great-grandson of one of the policemen who were murdered by the infamous Australian outlaw Ned Kelly. That family still carries the burden intergenerationally. Anyone who has ever encountered any of these issues, through either the legal process or knowing some of the people who have been affected by these terrible crimes, understands why that is the case. A cohort of people out there hope that they will get a bit of relief by not having to consider these matters every three years. We all understand that. I accept the Attorney General's personal explanation that he was not aware of Mr Maloney. It was so long ago that either he was too young to remember or it completely slipped his mind. I accept his explanation as an individual, but this was opposition policy that turned into government policy. I do not expect an answer from the Attorney General, but I would have expected that, at some point early on when he was seeking permission or instructions to draft the bill, which has to go through some process—he does not decide one day to draft legislation and the next day he tables it in Parliament—someone would have brought to the Attorney General's attention the cohort of people who would be subject to this provision so he did not solely have to rely on his memory. He could rely on the good officers of his department to be fully informed, beyond just his personal recollection.

The ACTING SPEAKER: Attorney General.

Mr P.A. Katsambanis: As I said, you don't have to answer.

Mr J.R. QUIGLEY: But I will give the member one anyway. I was concentrating on the drafting. I did not ask for the cohort or anyone to search for the cohort until I had the bill printed. When we were coming into Parliament, I said, "You'd better give me a list of people." I knew about Kate Moir, obviously, and I knew about the one in Geraldton, but I did not know and it was not until after the bill was printed that I asked the department —

Mr P.A. Katsambanis: And you would know about Crabbe, obviously.

Mr J.R. QUIGLEY: Crabbe had come across my desk. Crabbe is an interesting one because he will rue the day that he asked to transfer to Western Australia. He might be asking to transfer back to Darwin before too long, but he is in the trap now. He killed five people and became known as the "Mack truck murderer". The member for Dawesville looked up then. I do not know whether he would remember the "Mack truck murderer".

Mr Z.R.F. Kirkup: No, I've never heard of him.

Mr J.R. QUIGLEY: These things get lost in the mists of time and it was not until the bill was printed that I said, "Now could you give me a cohort of the people so I can provide the opposition with it?" Up came Maloney.

Mr P.A. KATSAMBANIS: Just because we raised Crabbe—we could raise it in another clause, but we have raised it now so there is no point in revisiting it later—my recollection —

The ACTING SPEAKER (Ms M.M. Quirk): Member, clause 2 deals with commencement. It is not a general discussion.

Mr P.A. KATSAMBANIS: Yes, and this is specifically about the commencement because it then impacts on the decisions made and the timing. Crabbe, as I understand it, has been reviewed at least twice and findings have been made by the Prisoners Review Board that he would be an appropriate candidate to be paroled. In those circumstances and just harking back to the answer the Attorney General gave about Birnie and not wanting to be seen to prejudge matters, is there a view the Attorney General wants to express about Crabbe's appropriateness?

The ACTING SPEAKER: Member, I have to remind you that the clause is about commencement. We are on clause 2.

Mr P.A. KATSAMBANIS: Yes, certainly, but we have discussed this particular issue here.

The ACTING SPEAKER: That may be the case but the standing orders are that you have to limit your remarks.

Mr P.A. KATSAMBANIS: All right; I will ask that question and see whether the Attorney General wants to answer.

The ACTING SPEAKER: No, Attorney General; we are dealing with the commencement. If the member wants to ask you any questions about that, that is fine.

Mr J.R. Quigley: Thank you.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 12A amended —

Mr P.A. KATSAMBANIS: This clause essentially fetters the Prisoners Review Board's work. In combination with the provisions of clause 5, but specifically in relation to the board's work, the Prisoners Review Board is empowered to consider parole in the first instance and make recommendations. That extraordinary power of the Western Australian Attorney General is not enlivened unless the Prisoners Review Board recommends parole. In many ways the addition of these new provisions to the Sentence Administration Act may be subject to constitutional challenge. I note particularly that in the second reading speech the Attorney General made some play on the fact that these provisions will not be subject to the requirements of natural justice or procedural fairness, and that the direction could not be challenged, appealed or reviewed in any court except on the basis of jurisdictional error. This is an opportune time, because my question fits within both clauses 4 and 5, so rather than ask it twice, I will ask it once: what legal advice has the Solicitor-General or someone else given to the Attorney General about the constitutional risks associated with this regime; and, if any alternatives were considered, why were they deemed to be riskier than the regime being introduced by the Attorney General?

Mr J.R. QUIGLEY: Firstly, I will limit what I say because I do not want to waive legal professional privilege, lest some prisoner or his counsel use or go off on anything I say in relation to that legal advice to challenge this legislation. I will say this, however: I came to the firm conclusion, after considering matters with the Solicitor-General, that the greatest vulnerability of the legislation will be if sought to interfere with the first parole consideration ordered by a court. So that first review is ordered by an independent court—life with 18 years before

consideration for parole. To seek to legislatively usurp that could be struck down. Beyond that, once the court's minimum term has been arrived at and there is consideration for parole—which there has to be, because that is what the court has ordered—the Attorney General still has the power to put the foot on the hose and not accede to the recommendation. After that first court-determined parole consideration, the prisoner has no right to parole. The courts have ruled that: the prisoner has no right to parole; that is the function of the executive.

I will give the member a couple of cases. There is an excerpt from a case in which the judge's sentencing determination for a minimum non-parole period does not create an entitlement or a right to parole, only that the offender should be eligible to be considered for parole at a set point in time. That is what the High Court said. A sentencing court is not entitled to base its decisions on assumptions about the current or future statutory arrangements for early release. The court can fix that.

Mr P.A. Katsambanis: Which case was that?

Mr J.R. QUIGLEY: In Crump vs New South Wales [2012] HCA 20, Chief Justice French, in a joint judgement, stated at paragraph 36 —

> The distinction between the legal effect of a judicial decision and consequences attached by statute to that decision is apposite in the context of sentencing decisions and statutory regimes providing for conditional release by executive authorities. The power of the executive government of a State to order a prisoner's release on licence or parole or in the exercise of the prerogative may be broadened or constrained or even abolished by the legislature of the State. Statutes providing for executive release may be changed from time to time.

We feel, relying on this judgement of the High Court, that changing the decision post that first consideration fits within what Justice French is saying is within the power of the legislature to do. The member would also be very familiar with the case of Julian Knight v Victoria.

Mr P.A. Katsambanis: I wish I was not.

Mr J.R. QUIGLEY: This came up again in 2017. This is the judgement written, I believe, by Chief Justice Kiefel, which states —

> 27 The sentences of imprisonment for life imposed by Hampel J provide the authority for the imprisonment of Mr Knight during the term of his natural life. The minimum term of those sentences fixed by Hampel J … did no more than to set a period during which Mr Knight was not to be eligible to be released on parole. As Hampel J expressly recognised at the time, the fixing of that minimum term said nothing about whether or not he would be released on parole at the expiration of that minimum term.

Mr S.J. PRICE: I would like to hear more from the Attorney General.

Mr J.R. QUIGLEY: It continues —

> 28 Whether or not Mr Knight would be released on parole at the expiration of the minimum term was simply outside the scope of the exercise of judicial power constituted by imposition of the sentences. The sentences imposed by Hampel J could not, and did not, speak to that question.
>
> 29 By making it more difficult for Mr Knight to obtain a parole order after the expiration of the minimum term, s 74AA does nothing to contradict the minimum term that was fixed.

What we are doing is not contradicting the minimum term that is fixed. It continues —

> Nor does it make the sentences of the life imprisonment "more punitive or burdensome to liberty".

That is taken from the Baker v The Queen (2004) 223 CLR 513 at page 528.

It continues —

> The section did not replace a judicial judgment with a legislative judgment. It does not intersect at all with the exercise of judicial power that has occurred.

We are saying that we are confident that this legislation does not interfere with the judicial power that has been exercised and conferred, which sets a minimum term. That is why we say the designated person becomes of that class only after that first period—that first review set by the court. We are not interfering with the judicial discretion that arrived at that point. After that, if we go to the first case that I referred to, Crump, it says we can legislatively change the regime constitutionally.

Mr P.A. KATSAMBANIS: I accept that. I have to say that, for what it is worth, my interpretation of the various cases, including cases relating to murderers that the High Court has decided over the last few decades, agrees with the Attorney General's suggestion that not interfering with the initial consideration of parole upon the expiry of the non-parole period does not in any way interfere legislatively with a judicial decision or judgement in a particular case. Then the legislative mechanics of the parole process are allowed to operate. As Chief Justice French, as he was then, pointed out in the judgement that the Attorney General read out, the legislature can change those mechanical provisions from time to time, and should not be fettered in doing so. On balance, I think it is a good construction and, as the Attorney General himself said in his second reading speech, it minimises the risk of constitutional challenge. It is appreciated that we cannot fully eliminate it. I asked the questions because we all have an interest in making sure that the regime we are introducing, which we believe will be better for victims and their families, will not run the risk of being scuttled by a judicial challenge in the High Court of Australia. From the explanation given to me by the Attorney General, in this particular instance relating to the provisions in clause 4, and in clause 5 for that matter, I am satisfied that due consideration has been given to the constitutional issues. It would be ideal, of course, if the Attorney General would waive legal professional privilege, as he has done in the past, but I understand that it is his privilege, and he does not have to waive it if he does not want to.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Part 2 Division 5 inserted —

Mr P.A. KATSAMBANIS: Clauses 4 and 5 related to what the Prisoners Review Board can and cannot do, but clause 6 encapsulates the things that the minister, as defined in the bill—the Attorney General is the responsible minister—can do in this new regime to make things better for victims and secondary victims and their families. As we pointed out in the debate, the opposition will not be opposing this. We have ventilated this, and we do not need to go through it again, but in an ideal world we believe that the inclusion of child murderers, which can be ring-fenced and defined in a number of ways depending on the drafting construction we want to take, even if they have committed only a single murder, would strengthen the legislation. We accept that the Attorney General does not want to do that, and that is fine. That is his choice; he is the Attorney General. We think that, if someone had killed only two people on one day, they would be incorporated as a designated prisoner. We are talking about the definition of "designated prisoner". If it included child murderers, who happened to murder only one child, or included multiple murderers who had killed only two people on the same day, we think that would make this legislation even better, except that the Attorney General is not going to do that. That is why we are not troubling the house with amendments that, no matter how well thought out or argued they might be, the government will not accept. It would just be wasting the time of the house.

A "designated prisoner" is defined in proposed section 14B of the Sentence Administration Act. How would the distinction between the mass murderers, if you like, and the serial killers work in a circumstance in which it is all one incident, but one of the people killed is killed at 11.00 or 11.30 in the evening and the other is person is killed just after midnight? The Attorney General knows this in practice. He has been a leading criminal lawyer in this town, and he knows that defence counsel can sometimes argue that. Would that be defined as one incident, and the period of time defined as a 24-hour period, or will it be the actual day from 12.01 am through to 12 midnight the following day? That could have different implications in some admittedly extraordinary, and very rare, but not totally inconceivable cases.

Mr J.R. QUIGLEY: I thank the member for the question. The answer is caught by the legislation. As I said, we did not slavishly follow it, but when we looked at the United States legislation, to which I have previously referred, but in consideration in detail I will give it its correct title—that is, the Investigative Assistance for Violent Crimes Act of 2012, United States, section 455(2)(a)—and the Federal Bureau of Investigation definition, they were talking about two or more people in the same incident. We have gone in a different direction. We have said, on different days: is murdering someone at 11.30 pm and then murdering someone at five past midnight the same incident, if it is an ongoing fight? There will always be some constructed argument against it, either way. If we say that 11.30 pm, and then at five past midnight is different days, that is two or more people on different days, captured by the legislation. People can say that that is pretty stiff, because it was not a day between them; there were only 35 minutes between them. What is the alternative? Do we get down to the US definition of saying two or more people in the same incident, but what is the same incident? Did he stop fighting for 10 minutes at a quarter to midnight, and then recommence a new incident? We will always get those, so we decided to make it that, we know what a day is—today is the sixth, and tomorrow is the seventh—and if one is killed today and one is killed tomorrow, that is killing two or more people on more than one day. Tough—that prisoner is subject to the direction, if the Attorney General wants to give it. The Attorney General of the day—it will not always be me—might say that there is only 20 minutes in it, with one at quarter to midnight and one five past midnight, and decline to give the direction. That is a matter of discretion for the Attorney General at the time. We had to come up with

a definition that set a line that the courts and the community could easily understand. That is why we have ended up where we are, instead of the definition of two or more in an incident.

Mr P.A. KATSAMBANIS: I accept the explanation on a couple of grounds, because as I outlined previously I see the distinction between two and three as somewhat arbitrary anyway and whether it was another murder at any time committed. If proposed paragraph (a) did not exist under the definition of "designated prisoner" and instead of (b) stating, "on a different day", there was a period after "committed", I would have been comfortable with that. In the circumstances I gave, the only one I can think of in which a person killed people in the same incident would err on the side of being tougher if they were caught up in this timing issue of the sixth versus the seventh. I will not labour the point, I just point out that it opens up little pathways for endless argument; far be it from me to suggest that lawyers might want to drag things out, but sometimes they do. I accept the Attorney General's explanation on that, given the construct he has chosen to use.

I move on to proposed section 14C, which will be inserted into the Sentence Administration Act. This is the direction to be given by the minister. There are some technical specifications. I will not sit and argue whether the technical specifications could work better in a different way. This is how it has been drafted and this is the legislation we will get. I want to focus on the chosen time frames. Proposed subsection (2) states —

> A direction under subsection (1) must —
>
> (a) be in writing; and —

That makes sense —

> (b) specify a day on which the direction takes effect, which must not be earlier than the day the direction is made; and

I will stop there for one moment. That is logical, because it eliminates the question about anything done retrospectively and what impact that will have on the original judicial decision and all that. I will not question (b). Proposed subsection (c) states —

> specify a day on which the direction ceases to have effect, which must not be later than 6 years after the day specified under paragraph (b).

It contemplates two events. Firstly, the Attorney General can make a determination that will have effect prospectively from a certain date in the future, rather than on the day that it is made. That is fair enough; I have no problems with that. Secondly, the direction cannot last beyond six years from that commencement date. Again, it is understood that that is how it is going to operate. Why was six years chosen? If we want to avoid refreshing the memories of the victims and the secondary victims, why not choose a later date? Why not choose nine years, 10 years or 12 years? I understand six is an easier multiple of three, but why did we not go for an even longer period between directions?

Mr J.R. QUIGLEY: I have concerns about people being lost in the system. But originally, in our election promise—this is where it differs from when I first announced it—I said five years. It was an arbitrary thing. Then when we were developing the policy we thought it would be better to keep it in sync with three years. Why put the victims and secondary victims through it again? We do not have to. The Attorney General of the day can issue another direction in an appropriate case. Once the legislation passes, it will be my intention to issue a direction firstly about Peter Maloney, and secondly for Catherine Birnie. It might be that in six years' time—I do not know whether I will still be here—whoever is here might say that they do not want to put them through it again. We are not dealing with a great hoard of prisoners; the cohort is only six at the moment. An Attorney General can say, "Put it off for another six, because that is 12, or another six—that is 18." There is no limit to it. The Attorney General of the day will become aware of these things because it will be brought to his attention that a person is coming towards the end of their six-year direction. What will the Attorney General want to do? Will they want to report, to weigh up, or give them another six years? We feel that the person, depending on Attorneys General or successive Attorneys General, could be in prison for the term of their natural life without ever having a parole consideration, simply by successive directions. But at least the executive, not necessarily involving secondary victims, is turning its mind to the prisoners' circumstances every six years. I think that is appropriate.

Mr P.A. KATSAMBANIS: I accept the explanation. Yes, in a series of rolling directions from Attorneys General at the time, the victims will be spared the Prisoners Review Board process, but as the Attorney General himself highlighted when he read out the correspondence he had with one of the victims' families—Mr Burden, I think it was—these families who have suffered so much have a circle around a date in their diary. Currently, it is every three years, and now they will just kick it down the line to every six years. I dare say that some contact will probably be initiated in the lead-up to that six years, minus three months, by those victims' families with the executive, rather than the Prisoners Review Board. I know that we cannot always be perfect in these things, and that six years has been chosen. We will not try to amend it to increase it or whatever. I point out though that yes,

the whole Prisoners Review Board process will be avoided by rolling directions, but the memories and the need that people will feel to make contact with the Attorney General of the time every six years will not go away completely. It is simply a better situation than they are in today. It is not an absolutely perfect situation. The perfect situation would be that they were never placed in this horrible, nasty, invidious position in the first place.

Mr J.R. QUIGLEY: That is possible too, because an Attorney General, six months out might say, "I know this matter is coming up in six months. I intend to issue a direction and communicate to the secondary victims through the Commissioner for Victims of Crime that they can relax and not think about this. Parole consideration won't be coming up." There is a way of doing this so that we can totally protect the victims, but the executive look at this all the time because I am not one in favour of saying that they are in prison and those who are responsible for the person's incarceration never look at it again. I do not think that that is appropriate.

Mr P.A. Katsambanis: I am not sure it is even constitutional.

Mr J.R. QUIGLEY: That is right.

Mr P.A. KATSAMBANIS: That is fine. I have a couple of more questions on this. Firstly, was the Commissioner for Victims of Crime consulted in drafting these provisions—not just this clause, but generally? What was the advice received from the commissioner about the provisions in this bill?

Mr J.R. QUIGLEY: The Commissioner for Victims of Crime, as I recall, was supportive of Kate Moir's position at the time she was approaching the then government and the opposition, but we have not sat down and consulted with her particularly on the terms of this bill. We have consulted with the Prisoners Review Board, the Solicitor-General and the State Solicitor's Office. I am helpfully reminded by my adviser, Mr Fernandes, that in these cases the Prisoners Review Board itself consults with the secondary victims. That is why we consulted with the Prisoners Review Board: we believe the Prisoners Review Board would have pretty good vision on the attitude of victims across the board.

Mr P.A. KATSAMBANIS: I accept that the Prisoners Review Board would have some optics or vision on what victims think through its consultation process, but its primary job is not to advocate for victims of crime; it is to do the job of its statutory duty and consider prisoners for parole. Would the Attorney not think that it is a bit of a failing in legislation being brought in primarily to give some further comfort and improve the lot of victims of crime, including both the primary victims such as Kate Moir and the secondary victims, and that it would have been more appropriate to seek direct input from the victims of crime commissioner?

Mr J.R. QUIGLEY: No, that is why we went to the department. In these cases it is the victims mediation unit that deals with the victims and reports and feeds into the Prisoners Review Board. The victim mediation unit fits within the department, so we feel comfortable that we have pretty good vision on that. There would be a lot of victims, even of single murders, who would say never to let the person out ever and bring in legislation in which every murderer stays in forever. As the member Hillarys quite rightly identified, we might have some constitutional problems with that. We know what victims want: they want these people contained. We take it all on board in any parole decision—not only myself, but my predecessor. I supplied an answer to a question on notice with a full list of people who have been convicted of murder who had been signed off by the previous Attorney General and myself as Attorney General, and it seems to be running at about the same rate. We know that we have to take into account victims' views, but not in every case is it appropriate to say that the victim gets the final call. It is the state that is imprisoning the person that gets the final call.

Mr P.A. KATSAMBANIS: Except that there are considerations other than those of victims, and that is the case throughout the judicial system. I have to say that I would have expected the answer to my question to be, "Yes, we spoke to the victims of crime commissioner and is what the commissioner had to say." That is perhaps a little bit of a failing in consultation there, except that it did not happen and we move on. Another question I have around this is that the Attorney General and his office have helpfully provided a list of those people who fall into the category of designated prisoner and who have had their first statutory review. It is the six we have discussed at length. I spoke about all of them in my contribution to the second reading debate and we have used some of them to illuminate some examples in the consideration. Is the Attorney General able to provide us either the list or the number of those people who are currently in our present system currently serving sentences for murder who upon their first review—upon their non-parole period coming to fruition—would fall into this category as well? I would expect there would be at least a few more than the six who have currently been identified.

Mr J.R. QUIGLEY: I am instructed that there are two more. We are looking at the records and we think that there are two more. We do not want to name those people yet, because they have not had their first court ordered review, and until then I just want to let the situation sit as it is.

Mr P.A. Katsambanis: Which is why I asked for a list or number.

Mr J.R. QUIGLEY: I am instructed that the number is two who will come up for the minimum term review, and then they will become a designated prisoner.

Mr P.A. KATSAMBANIS: Just on those two, without naming them, do we have a time frame as to when they are coming up for their first review, the one that is not really going to be touched anyway by this legislation?

Mr J.R. QUIGLEY: I am not instructed on when the first review is; I just know that there are two in the system. I can take that on notice and find out later, but I am just not quite sure.

Mr P.A. Katsambanis: If you could let me know even after the bill goes through, thank you.

Mr J.R. QUIGLEY: We will; even after it gets through this chamber, I will let the member know and notify him for the other place that there are a couple. Hang on, we have found them. One will be in August 2018 and one will be in January 2022. There is another one who committed two murders, but at this stage of inquiry there are uncertain dates as to the offending, so we do not know whether it is two on one day, as I have answered here, or two on different days, but the short answer to the member's question is two—August 2018 and January 2022.

Mr P.A. KATSAMBANIS: August 2018 has been and gone. In respect of that prisoner, has the Attorney General received a report from the Prisoners Review Board; and, if so, did it recommend parole?

Mr J.R. QUIGLEY: I have not got a report yet for the August 2018 one; I have not sighted a report. That was the date I was given as the first statutory review. Perhaps they are still conducting it, but it has not hit my desk.

Mr P.A. KATSAMBANIS: The clause we are discussing gives the Attorney General, being the relevant minister, power to, as we said earlier, specify a time frame for a direction, from the day it comes into effect, for up to six years. Currently, the period between reviews is three years, and six years is double that, but it is up to six years. I am not suggesting this would ever happen, and I would be aghast if it did and I am sure this Attorney General does not intend to do it, but can he confirm that the direction made by an Attorney General under this clause could be for a period of less than three years so it could it in some circumstances end up enlivening the review process quicker than it would under the existing legislation?

Mr J.R. QUIGLEY: No, it will not come up earlier. Once the suspension is lifted, it will be as though those statutory reviews had taken place when they were required, so the next statutory review period will come into play. Does that make any sense to the member?

Mr P.A. KATSAMBANIS: I understand what the Attorney General is getting at. The explanation makes sense inherently and internally, but I am not sure that that is what the legislation is or what the clause states. I seek some clarity on that from the Attorney General.

Mr J.R. QUIGLEY: This is not something that we can vote on because we have already passed the clause. For the edification of the house, these provisions are to be found in clause 4 in proposed sections 12A(2B) and 12A(2C). However, we have already passed that clause.

Mr P.A. KATSAMBANIS: I will take the Attorney General's assurance that that will not lead to shorter review periods.

Mr J.R. Quigley: I refer the member to page 2 of the explanatory memorandum. It is dealt with there. It explains the working of proposed sections 12A(2B) and 12A(2C). This legislation will not shorten them.

Mr P.A. KATSAMBANIS: This will all be tested in due course. We just need to highlight the matters and have them ventilated. Obviously, under clause 6 the minister will have the power to issue a direction and to withdraw the direction. Can the Attorney General explain what sort of circumstances he would contemplate revoking —

Mr J.R. Quigley: You can't revoke it.

Mr P.A. KATSAMBANIS: That is what the Attorney General said in the second reading speech. It either is or it is not.

Mr J.R. QUIGLEY: Once again, we will go back to section 12, which we have already dealt with. Retaining section 12 negates the need to include special provisions for the revocation of a direction because it allows the board to, effectively, report to the minister on any exceptional cases in which parole may need to be considered. It allows the minister to request the board to prepare a report at any time. That was the practice of my predecessor. Sometimes there was a statutory three-year period of review, but he decided to have a shorter one. In fact, that is exactly what he did with Crabbe. Just before the election he put it off for 12 months so I would cop it to see what I would do. He did not want to make a decision, so instead of putting it into a three-year cycle he asked for a report in 12 months so it would hit the new Attorney's desk—he must have known that it was all over—to see what the new Attorney would do with Crabbe. Because of section 12, there is no need for a revocation and the bill does not have a specific revocation provision.

Mr P.A. KATSAMBANIS: I accept that explanation. I could probably raise some other esoteric issues, but I think that has given the bill a relatively good examination. It has certainly provided new information that will help in both the interpretation of the bill in the future and also add some comfort to the victims of these heinous crimes.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR J.R. QUIGLEY (Butler — Attorney General) [9.56 pm]: I move —

That the bill be now read a third time.

MR P.A. KATSAMBANIS (Hillarys) [9.56 pm]: I think the consideration in detail stage was useful. It identified and clarified a number of issues. I thank the Attorney General for going through it. Taking away the hyperbole and the political pointscoring, this legislation will make things better for primary victims and secondary victims of heinous murderers. The opposition's view is strongly on the record. We believe that with due consideration the bill could have been better. I will not repeat our points. They are on the record and are quite clear. The government has highlighted the time imperative and the opposition has highlighted when this bill came to the house. We accept that the sooner this legislation comes into place, the sooner there will be longer review periods. Therefore, victims and their families will have longer periods of not having to contemplate the horrible notion that these multiple murderers may see the light of day. For every day that those victims and their families can sleep contentedly and know that consideration of parole for these vicious criminals is not coming up, the better it is for them and for our community. I just wish that more victims than allowed for by the bill could get access to this sort of regime.

MR J.R. QUIGLEY (Butler — Attorney General) [9.59 pm] — in reply: I will be very brief in reply. In response to the last comment, were it not for the election of a Labor government, the victims would not even be getting this legislation because the former Attorney General and the former government were totally opposed to it.

In relation to the expansion of the legislation to deal with people who murder children, once again I repeat my answer given earlier today and during question time; that is, just saying "child killers" can bring into the legislation unintended consequences. I mentioned during an answer in question time and in debate that this could include a mother who was in a bad place who killed her child. It could also include a child who killed a child. There are all sorts of consequences.

The case of Dante Arthurs was raised by the members for Hillarys, Churchlands and Scarborough. I do not want to say what my decision will be in relation to Dante Arthurs, for reasons I gave the member for Hillarys. I do not want my ultimate decision to be impeached in any way because it was said that I prejudged the situation. I will note that if one sought to get around unintended consequences of just saying that child killers will be subject to it as well, and then we get the unintended consequences of bringing in depressed mothers or children who murder another child during an awful fight, we may not want to include those. Victoria passed legislation to name specific offenders. So to keep Julian Knight in prison, the Victorian Parliament passed the Julian Knight bill. I mentioned Minogue from New South Wales; that was in Victoria.

Mr P.A. Katsambanis: Minogue was in Victoria.

Mr J.R. QUIGLEY: Yes, that is right. I mentioned New South Wales, but Minogue is a Victorian case. That is the case in which he killed the policeman but was not charged on the basis that it was a police person, so they brought in legislation to name Minogue. All of these end up in full-on High Court challenges about legislating in relation to one particular person.

We cannot solve all the problems of the world by legislation. We are very comfortable that we took this legislation to the people of Western Australia. The then government had a different position; that is, do not do it at all. The people of Western Australia had a choice and I am comfortable with the legislation that we brought before the Parliament. It is delivering what the people of Western Australia voted for and wanted.

Question put and passed.

Bill read a third time and transmitted to the Council.