

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

p8827b-8868a

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

CRIMINAL INVESTIGATION AMENDMENT BILL 2009

Second Reading

Resumed from an earlier stage of the sitting.

DR J.M. WOOLLARD (Alfred Cove) [7.25 pm]: Before the debate was interrupted earlier today, I was thanking the Minister for Police for the briefing on this bill. I mentioned that this bill has been introduced because the minister has stated that there has been a proliferation of weapons and an increase in instances of violence. I was shown the figures for the past 15 months. In fact, during the break the member for Riverton showed me some figures from the past 15 years. It was interesting to note that over the past 15 years the figures for Northbridge had increased slightly until 2005-06, but have fallen since then. Even though the numbers, particularly for assaults, have fallen over the past couple of years, the number of assaults in that area is unacceptable.

I stated earlier that, although I support intervention that will ensure that there are improved safety measures for the community, I am concerned that this bill will remove the requirement for reasonable suspicion by police. It will allow police to stop and search a person or a vehicle without reasonable suspicion. I said that this was a fundamental principle of stopping and searching community members across Australia. The legislation of all the other states uses the term "reasonable suspicion". I also referred to the fact that Australia is a signatory to the International Covenant on Civil and Political Rights, which states that no-one shall be subject to arbitrary or unlawful interference with his or her privacy, family home or correspondence and that everyone has the right to the protection of the law against such interference. The minister will recall that when the previous Attorney General introduced the terrorism legislation in this house a few years ago, many members who now sit on this side of the house were unhappy at the content of that terrorism legislation, but we supported it because there was a concern that if we did not support it and there was an explosion at Subiaco Oval, for example, we probably would not be able to sleep again.

At the briefing, the police and the legislative research officers explained that the removal of the requirement for reasonable suspicion will assist with the difficulties associated with the prosecution proving reasonable suspicion. The minister in his second reading speech said —

Currently, under the Criminal Investigation Act 2006, police officers may stop and search a person or vehicle in a prescribed or declared area and seize any thing found that is relevant to an offence or that the officers reasonably suspect may endanger the place or people within it. However, these powers are limited and can be exercised only when the person provides consent for the search to occur. The problem with this is that if a person does not consent to a search, police officers can then only refuse the person entry to the relevant area. This leaves the potential for drugs and weapons to remain in public, which therefore may lead to their engagement in violent and other antisocial acts of behaviour.

Although I was unhappy that "reasonable suspicion" was coming out of the legislation, and I believe that safeguards should be put into the legislation to protect the police, to ensure the accountability of the police and to protect the community, I am pleased that the minister put on the table that this legislation will not only help to identify weapons and get people with weapons off the streets, but also be used for the problems that arise from drugs. The statistics that the police and the minister's research officers showed me during the briefing were on assaults and burglaries. I cannot remember all the categories on the list. It is a shame that the table of offences on assaults did not show in the next column how many related to alcohol and drugs. How many of the burglaries were related to alcohol and drugs? Some people would say that, although the intent of this legislation is to protect the community, most of the problems that occur in entertainment and other areas are the result of the abuse of alcohol and drugs. Perhaps the legislation coming to this house should be primarily aimed at preventing the abuse of alcohol in the community.

Mr R.F. Johnson: We are doing our best to achieve that.

Dr J.M. WOOLLARD: Some very good measures have been introduced. The Director of Liquor Licensing has put forward some very good suggestions, particularly for some of the remote areas. Accords have been introduced at Fitzroy Crossing and other areas. Because we know that alcohol and drugs are the main cause of the problem, we should be spending much more time on that than on many of the other things that we seem to waste time on in this place.

I was told at the briefing that at times a case can fall over because police are unable to prove that they had a reasonable suspicion when they conducted a search. I asked for some case material. The briefing was held only a

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few days ago, so the minister's department has not been able to get me that case material. This legislation is supposed to be evidence based. Although those cases have not been provided to me in this place, I hope that if this bill goes through this place this week, before it is put on the table in the upper house, the minister asks his staff to find those cases and put them on the table. There is the question of where the evidence is. Because the cases have not been given to me, I wonder whether there are limited occasions in which a case has been thrown out of court because the prosecution has not been able to prove reasonable suspicion.

I have been able to find some cases, particularly one in which police were unable to prove reasonable suspicion. Evidence identified through a search can still be admitted on the grounds of public policy, because courts can exercise discretion to admit illegally obtained evidence. The police could conduct a search and find weapons. The Director of Public Prosecutions could charge somebody, who could be taken to court. In the case of the *Police v Richard Noel Edwards* in 2007, illegally obtained evidence was admitted on public policy grounds. In that case police were called to a residence after an attempted break-in. A police officer put a call out on the police radio requesting officers to be on the lookout for the offender and a description was given. An officer noted the respondent cycling towards him without a light on his bike in the vicinity of the attempted break-in. The respondent was carrying a torch, which was not illuminated, and he matched the description of the alleged offender. When the case first went before a magistrate, the magistrate found that the evidence of items on the respondent was inadmissible because the search occurred only after the respondent had been illegally stopped. However, on appeal the judge concluded that the police officer did not have reasonable suspicion, but found that the evidence was admissible on the grounds of public policy discretion. The judge stated that on a public policy level it was his view that the evidence should be admitted because it was in the safety interests of the residents of that area that persons involved in theft-related crimes be apprehended.

The minister has not put other cases on the table. Without being able to look at those cases, I wonder whether the minister has evidence showing the number of assaults, burglaries and all those other factors that occurred within the Northbridge area and were provided in that table. I wonder whether the minister could leave "reasonable suspicion" in the legislation. I believe the minister could make a ministerial statement in which he could describe the evidence that has been provided to him as Minister for Police.

[Member's time extended.]

Dr J.M. WOOLLARD: I believe that, under that public policy discretion, the people that the minister wants to have apprehended because of weapons or drugs could be apprehended and that there could be a successful prosecution.

Mr R.F. Johnson: "Could be", not "will be". We are in the hands of a magistrate's discretion or a judge's discretion. They all rule differently. I am told that there are some cases. I do not know how many, but I am sure we will be able to give them to the member at some stage. The police have told me, and I believe them, that defence lawyers use the grounds —

Ms M.M. Quirk: Defence lawyers are showing —

Mr R.F. Johnson: You can interject in a minute. The member is taking my interjection at the moment.

Mrs M.H. Roberts: You are talking drivel.

Mr R.F. Johnson: Welcome back. It is nice to see you in the chamber once in a blue moon!

Mrs M.H. Roberts: Have you had some nasty pills for dinner?

The ACTING SPEAKER (Mrs L.M. Harvey): The member for Alfred Cove has the call.

Dr J.M. WOOLLARD: This is my time!

Mr R.F. Johnson: Let me just tell you what I am told. Very often some slick defence lawyers spend more time trying to question a police officer about the reasonable grounds for suspecting something like this rather than on the fact that a police officer has found a machete, gun or whatever in the person's possession. Where is the priority, I ask?

Dr J.M. WOOLLARD: The court has to make decisions based on legislation, reports and public policy. This is public policy. The police also outlined that the omission of reasonable suspicion would alleviate the practical problems faced by the police, that being confusion and perhaps a lack of consistency among officers as to what constituted a reasonable suspicion. Perhaps this lack of clarity could be addressed not by taking on auxiliary police officers but by providing further education to our officers. I am concerned about the potential for these

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powers to cause community disharmony. In the UK, where similar powers were introduced, it was found that particular ethnic groups were targeted. The abuse that occurred at that time was a result of the Terrorism Act 2000.

Dr M.D. Nahan interjected.

Dr J.M. WOOLLARD: No, I cannot because I will run out of time and I will have someone jumping up.

When the Terrorism Act 2000 was passed in the UK, basically, searches increased for ethnic groups, with the biggest rises being for black people and then for Asian people. Because of the problems that were experienced in the UK after it had introduced the Terrorism Act and taken reasonable suspicion out of those stop-and-search powers, and it was found that particular ethnic groups were being targeted, the Macpherson review, which undertook an inquiry into the death of Steven Lawrence, highlighted the effect of the stop-and-search policy on police, community and race relations. The report made a number of recommendations designed to ensure that the powers were exercised in a way that would be as effective as possible in reducing crime but would also promote trust and confidence in minor ethnic communities. Recommendation 61 of this report stated —

That the Home Secretary, in consultation with Police Services, should ensure that a record is made by police officers of all “stops” and “stops and searches” made under any legislative provision (not just the Police and Criminal Evidence Act). Non statutory or so called “voluntary” stops must also be recorded. The record to include the reason for the stop, the outcome, and the self-defined ethnic identity of the person stopped. A copy of the record shall be given to the person stopped.

This recommendation was accepted, and following a number of pilot programs, police forces in England and Wales have been recording stops since 2005. Basically, when the 2000 legislation threw reasonable suspicion out the window and it was found that particular groups were being targeted, there followed an inquiry into why particular groups were being identified and what could be done to improve relations in the community. Recommendation 61 provides that a stop is when an officer requests a person in a public place to account for himself, his action, his behaviour and his presence in an area or his possession of anything. A requirement was introduced that when a police officer stops a person, that information is recorded at police headquarters and included in an annual report that is given to the Parliament to prevent any abuse of these stop-and-search powers.

The ACTING SPEAKER (Mrs L.M. Harvey): There are a number of conversations in the house and I cannot hear the member for Alfred Cove.

Dr J.M. WOOLLARD: To ensure transparency and accountability, I believe that we should adopt procedures similar to those in the UK. If reasonable suspicion is to be removed from the act, then adopting the UK measures would give some protection to police who stop and search someone; it would ensure that police are accountable to the community; and it would also give some protection to members of the community.

It is inappropriate that this legislation will not be reviewed for five years. A review of the terrorist legislation in the UK resulted in annual reports being laid before Parliament. Because these stop-and-search powers are going to be so different from the law in all the other states, I believe that this legislation should come back to house within 12 months for review, and should go through both houses. If the Parliament then is not satisfied, I think reasonable suspicion should be reinserted into the act.

MR P.B. WATSON (Albany) [7.47 pm]: I stand here tonight very proudly as the member for Albany. Albany has a proud heritage. The Anzacs were formed in Albany. They left Albany and went away to war to fight against bills like this. This sort of thing would not happen: people being stopped and searched in the streets, in our cities, in Albany! Anywhere in Western Australia the police could come in. Down in Albany they could say, “The Albany show is on and there might be a few suss people there, so let’s go there; we can search anyone.” The police could go to the football grand final and say, “We think there’s going to be trouble there today, and we can search people.”

I am a great supporter of the police. I think they do a tremendous job. I go out quite regularly with our local coppers and they do a tremendous job. I think this legislation will cause more trouble for the police than it is worth. It is weak, badly thought out and reactionary. It is a breach of basic civil rights.

I have met Karl O’Callaghan on a number of occasions over eight or nine years. I have found him to be a very smart man—not good in his band, but a smart man—and he has come down to Albany quite a lot. I think when he saw the new Minister for Police, he thought, “Hello, hello, haven’t we got one here!” And he was right. He has put this right across the minister. I can imagine that when the Minister for Police goes into the

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commissioner's office, the minister lies down on his back and the commissioner tickles his tummy! The commissioner must think, "Here he comes again; I'll get some stuff for my policemen."

Mr R.F. Johnson interjected.

Mr P.B. WATSON: I do not want any interjections. I want to get my message across for my constituents.

Dr K.D. Hames interjected.

Mr P.B. WATSON: I have not heard the Deputy Premier speak. If he wants to speak, he can.

Mr R.F. Johnson interjected.

Mr P.B. WATSON: That is different; the deputy leader of the government did not ask for protection.

Western Australia has had some really good police ministers, including Michelle Roberts, John Kobelke and Kevin Prince, a former member for Albany, who was a very good police minister. The present minister is a joke. When he stands in here, he is seen as a joke by the chamber. From what I have heard from the police in my district, there is not much respect from them.

Mr J.R. Quigley: No-one's listening to Lord Haw-Haw.

Mr P.B. WATSON: There are a lot of good coppers.

Withdrawal of Remark

Mr R.F. JOHNSON: Once again, the member for Mindarie has insulted me by using unparliamentary language. He has adversely reflected on me and my character by referring to me as Lord Haw-Haw. He knows who Lord Haw-Haw was, because he is very much like him.

Mr T.G. Stephens interjected.

Mr R.F. JOHNSON: Why does not the member keep quiet and go back to the Pilbara?

The ACTING SPEAKER (Mrs L.M. Harvey): Member for Pilbara, I am taking a point of order.

Mr R.F. JOHNSON: Once again, Madam Acting Speaker, he has adversely reflected on me as a member of Parliament and I ask that he be made to withdraw.

Mr M. McGOWAN: I do not think that referring to the member for Hillarys as Lord Haw-Haw is unparliamentary. As part of his point of order, the member for Hillarys referred to the member for Mindarie as Lord Haw-Haw, so I call upon him to withdraw, if the member for Mindarie has to withdraw.

The ACTING SPEAKER: I request that all members stop calling each other Lord Haw-Haw until I find out what that means.

Debate Resumed

Several members interjected.

Mr P.B. WATSON: Members, I am speaking. But I am not in the chair, now!

Some members should go to Kings Park in the morning and read some of the plaques on the trees and take note of the age groups of the young men mentioned. I stop every time I go there; there are 18, 20, 22 and 24-year-olds who went away to war and gave up their lives for their country so that we could have freedom of speech and be able to walk through the streets without anything happening to us.

Mr M.J. Cowper: People get assaulted.

Mr P.B. WATSON: Yes, people do get assaulted, and I think something should be done about that, member for Murray. However, this legislation goes too far. It offends basic human rights. The member for Murray is a country member. What happens when the local footy team comes to Perth? The team members might like to go out and have a few beers, and while they are walking along the street the police come and say, "Look, get up against the wall." All of a sudden, these guys are up against the wall and some of their mates come along and then more mates come along. There will probably be four or five coppers there. We were concerned before about the police being bashed, but what will the situation be like when people are up against the wall being searched and everything like that? They might not be guilty of anything. What will the crowd do? If young people are involved who have had a few beers, they will get angry. All of a sudden when those poor four or five coppers are enforcing the government's law, someone will do something to be smart and there will be a full-on brawl. My main concern is that this legislation will have an adverse effect on the way people view the police. We might be

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taking our family out for dinner and end up in an area where there has been an incident and the police have declared it a stop-and-search area. We might have our wife and daughter with us and be told to get up against the wall because some of the people in the area are a bit suspect. Would the Minister for Police and Emergency Services like that for his family?

Mr R.F. Johnson: Where are you getting this “up against the wall” from?

Mr P.B. WATSON: The police will be able to search us, yes.

Mr R.F. Johnson: Read your own private member’s bill.

Mr P.B. WATSON: No, no, no.

Mr C.J. Barnett: Do some work for a change.

Mr P.B. WATSON: I should do some work! The Premier is a reactionary Premier. He wants headlines on the front page of the newspaper; he is not worried about the person on the street. He is worried only about getting the Premier re-elected. This is terrible legislation.

Proposed section 70B(5) reads —

The Commissioner must publish the written record of the declaration in the *Gazette* as soon as is practicable after the declaration is made, but the validity of the declaration is not affected by a failure to comply with this subsection.

The written record is supposed to be published, but if it is not published, it is okay. What is the good of something like that? It will be constantly abused.

Let us talk about Northbridge. The Premier wants to take pressure off his budget surplus, so he has raised the issue of getting people into Northbridge and getting people into town. He is saying, “Let’s have late-night shopping.” When late-night shopping happens and we want people to go to Northbridge, there should be a big sign erected in Northbridge saying in 16 languages, “Welcome to the police state of WA. When you come to Northbridge, you may be searched.” That will certainly encourage people —

Dr M.D. Nahan: Where will those people be coming from?

Mr P.B. WATSON: All over the world. Some of them might not speak English. I remember bringing the first-ever Denmark basketball team to Perth. They had never even been on an escalator before. There is no way in the world that they will know about these sorts of new rules.

Dr M.D. Nahan: Are you saying Denmark does not have escalators?

Mr P.B. WATSON: No; the member for Riverton should listen. I speak English; he speaks a different language! I said that when they came from Denmark to Perth, they did not know what an escalator was. They were people from the country. People from the country will come up here who do not read the *Government Gazette*.

Dr M.D. Nahan interjected.

Mr P.B. WATSON: I will speak slower if the member likes.

Dr M.D. Nahan interjected.

Mr P.B. WATSON: I said that when I brought the first basketball team from Denmark near Albany —

Mr R.F. Johnson: You did not say near Albany. I thought you were talking about taking foreigners from there.

Mr P.B. WATSON: It does not matter.

Mr T.G. Stephens interjected.

The ACTING SPEAKER: Order, member for Pilbara.

Mr P.B. WATSON: What will happen when tourists come to WA? Are we going to encourage them to come? When was the last time there was a fight in Northbridge involving machetes and knives? Most of the fights in Northbridge are fist fights. The police reports will show that. One-punch legislation has been passed, and that is great. How many times do the police break up a fight in Northbridge in which knives, guns or machetes are involved? The government has introduced this legislation that will allow everyone to be searched for hidden weapons. Will it ban people from making fists or make them wear gloves when they go into Northbridge so that they cannot fight anyone? Most of the fights in clubs are fist fights. The police minister is shaking his head. Can he tell me the last time there was a knifing in Northbridge?

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Mr R.F. Johnson: I have never heard so much rubbish in all my life as you are spouting tonight.

Mr P.B. WATSON: Okay, the majority of incidents are fights that happen when groups of people get fuelled up by alcohol and amphetamines and want to fight.

Mr M.J. Cowper: Have you been on patrol in Northbridge?

Mr P.B. WATSON: No; I have been on patrol in Albany because that is my electorate.

Mr M.J. Cowper: What about Northbridge?

Mr P.B. WATSON: I am talking about Albany. I have been to Albany and spoken to our young people.

Mr R.F. Johnson: You were talking about Northbridge. Are you aware that 10 weapons were taken from individuals in the Northbridge CBD area in the past 10 days alone?

Mr P.B. WATSON: Okay. How many of those weapons had been used?

Several members interjected.

The ACTING SPEAKER: Order, members. The member for Albany has the call.

Mr P.B. WATSON: Thank you, Madam Acting Speaker. I cannot understand why metal detectors are not placed outside nightclubs. That would be a much better idea. If people carrying weapons are trying to enter enclosed areas such as nightclubs, they would be stopped at the door by metal detectors.

Mr R.F. Johnson: Most nightclubs have metal detectors inside. That is not where the fights are happening; it is outside.

Mr P.B. WATSON: That is where people are in crowds when fights are caused.

I am concerned. As I said, my dad and my uncles went away to fight a war so that we would have freedom in Australia. My dad would be rolling over in his grave if he thought that he could be searched in Northbridge on a Saturday night.

I have sat in this place and listened to some of the remarks of members. I am sure the member for Southern River who spoke last night did not realise what he was getting into when he spoke as he did. The member for Mount Lawley said that women should not be allowed to wear scarves. We can only wonder about the attitudes of members on that side of the chamber.

Dr M.D. Nahan: He was referring to burkas.

Mr P.B. WATSON: That is not what was in *Hansard*. He said they should not be allowed to wear scarves.

Dr M.D. Nahan interjected.

Mr P.B. WATSON: No, he was talking about scarves. I will speak more slowly for the member for Riverton, because I know that he has trouble keeping up. I have been in Parliament for nine years and I have seen a lot of legislation. I have seen legislation introduced by members from this side of the house and from members on the other side of the house. I have agreed with some of that legislation and I have disagreed with some of that legislation, but this is the only legislation that I have seen that I believe is abhorrent. It goes against our basic rights and it will be a hassle for the police to implement. There are not enough police on the streets and those we have are under pressure because they are not properly trained. The Liberal Party said that it would provide extra policemen but it has not done that. That is another of the Liberal Party's broken promises. I do not like to see violence occur in either Northbridge or at the Albany nightclub. As I said, I have been out with the local coppers and I know what they have to put up with. We need new laws, but this is going too far. It is too open and could be abused. As I said, most coppers are good. I used to work with Australia Post, which employs thousands of people, and every once in a while someone would steal \$20 from a letter. There will be people who will abuse this law. That worries me because when nine or 10 coppers are confronted by 40, 50 or 100 people with intent, the police will be under more pressure. There is a better way of doing it. I have never been picked up by the police but, as I said before, times have changed. When I was younger and went to Pinocchio's nightclub —

Mrs L.M. Harvey: That is a tragic admission!

Mr P.B. WATSON: Is that something else that the member does not know about?

Mrs L.M. Harvey: I read about it in urban legends.

Mr P.B. WATSON: There is a lot that the member does not know about this place, although I am told that she knows who the Unknown Soldier is.

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When I was younger, if we messed around, the coppers would tell us to go home for giving them cheek. They would give us a kick up the backside and we would go home. That was accepted by society in that day. That is probably what made me the person I am today, for good or bad! I feel sorry for the police today. If they touch someone, that person will get a lawyer. I sincerely believe that this legislation was badly thought out and is a knee-jerk reaction. I believe also that Karl O'Callaghan has put one over the minister, and good on him; he is a very good Commissioner of Police. This legislation will be a hassle to implement and will put more pressure on the police. I would prefer to see more police on the street and more metal detectors, even if people who go into Northbridge have to go through a metal detector.

Ms M.M. Quirk interjected.

Mr P.B. WATSON: That is right. It worries me that the Commissioner of Police can put in anywhere in the state at any time.

Mr W.J. Johnston interjected.

Mr P.B. WATSON: The Carousel Shopping Centre, as the member for Cannington said. These laws are scary. The member for Southern River said that it is a bit like Germany in the bad times. I am concerned about what the next step will be. Where do we go from here? The government says that it is a tough-on-crime government. This legislation will come back to bite members of the Liberal Party. I have spoken to seniors and I went to a nightclub the other night and talked to the young people out the front. I have been to shopping centres and to seniors' villages, and people do not want their children and grandchildren in Perth, or anywhere, to be in a place where one person can say that anyone in the area can be searched at any time. That goes against everything our forefathers fought for. I was very impressed by the member for —

Ms M.M. Quirk: Girrawheen?

Mr P.B. WATSON: No, not Girrawheen. The member for Warnbro.

Mr V.A. Catania interjected.

Mr P.B. WATSON: It is funny that the member for North West should interject —

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Members! The floor is held by the member for Albany. Can other members stop interjecting so we can get on with the discussion?

Mr P.B. WATSON: It is funny that the member for North West should have interjected when I was talking about a patriot. They are two opposites. I am talking about a patriot and a traitor has interjected. He stuck his head up. I would grow that moustache over my mouth if I were the member for North West.

Several members interjected.

The ACTING SPEAKER: Order, members! If the member for Albany addresses me, he might avoid some of the interjections.

Mr P.B. WATSON: Do as I say, not as I do!

This is the worst legislation that I have seen and I cannot possibly support it. I am the member for Albany and I look after my constituents but I am also a Labor Party member. This legislation goes against everything that the person in the street who elected me—people of both political persuasions elected me, much to the chagrin of the Premier—stands for. I am a Labor Party person to the core. To me, this legislation is taking away a basic right of the people in the street. Members opposite who say that only the bad people will get caught are absolutely wrong. Any person could get caught up in a situation. I am very surprised that the National Party has not spoken on this because many of their footy teams —

Ms M.M. Quirk: I reckon the Wagin Woolorama is under threat.

Mr P.B. WATSON: Is it?

Mr C.J. Barnett interjected.

Mr P.B. WATSON: Being a farmer, the Premier is probably invited to that.

Mr C.J. Barnett: They don't like my sheep.

Mr P.B. WATSON: This is the worst legislation that I have seen. It is badly thought out. I can understand why the commissioner wants to do it, because he does not have enough police and the police are not given enough

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training. I would hate to be a young copper coming out of the academy. An academy recruit could be in Northbridge with all his mates and he could be facing a number of people and the police could say that they must search the recruit and his mates. The police might pick five or 10 people, which is fair enough, but I hope that we have the support to protect our police. I have seen what it is like in Northbridge. I have been on patrol with the police in Northbridge. I have been there when incidents have occurred and I have been with our local coppers in Albany when an incident has occurred. It is the worst job in the world to be out there when people who are fuelled with alcohol want to belt anyone and they see the poor copper.

I cannot possibly support this bill. I think it is the worst legislation that I have seen in nine years. It was very interesting to listen to some of the comments made in the maiden speeches of some members opposite who said that they would look after the people because it was their religious belief and that they would do the right thing, but as soon it comes to the crunch, they will fall in line behind the Premier. The Premier wants to be tough on crime. The member for Warnbro said today that that is the greatest cheap one-liner there is. Anyone can say it. This bill is the worst bill that I have seen. It will affect the rights of my constituents and my children who live in Perth. This will come back to bite everyone on the other side who votes for it.

MR C.J. BARNETT (Cottesloe — Premier) [8.09 pm]: It is very unusual for a minister to speak on a bill for which he does not have carriage. However, given the debate we have had on this bill today, I want to say a few things.

Mr T.G. Stephens: Political opportunism is driving you.

Mr C.J. BARNETT: No.

Ms M.M. Quirk interjected.

The ACTING SPEAKER: The Premier has the call.

Mr C.J. BARNETT: As members are aware, today is Remembrance Day, and so this debate about stop-and-search powers has had a certain military-cum-remembrance theme about it. We heard a very passionate speech by the member for Warnbro, and I acknowledge and respect his distinguished military record. A number of members have taken it upon themselves to interpret, as they see it, the values of the Anzacs. They have sought to preach to us across the chamber about what the Anzacs fought for.

Mr T.G. Stephens: Freedom.

Mr C.J. BARNETT: I am not going to do that, but I want to place it on the record, as I have done previously, that my father was a Rat of Tobruk. He was wounded at El Alamein, and he fought in New Guinea and Borneo. My uncle, to whom I was extremely close, was captured at the fall of Singapore. He survived the Burma railway and worked as a slave labourer in coalmines in Japan, and he lived through the experience, through courage, and came back to Australia. I do not appreciate members patronising me or this side of politics by telling me what the Anzac tradition is; I do not take that at all well.

Today I made the point that the Labor Party is soft on crime. That is not an accusation about the Anzac tradition; I happen to think that Labor is soft on crime. That is a political point of view that has nothing to do with the tradition of the Anzacs or Remembrance Day. Members in this chamber will remember—the member for Murray-Wellington probably better than most —

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Member for Bassendean, the Premier has the call.

Several members interjected.

The ACTING SPEAKER: Order, members!

Mr C.J. BARNETT: Members on this side of the house remember when several thousand police gathered outside this Parliament to protest in support of mandatory sentencing for people who assault police officers and cause bodily harm. It was interesting to watch the Labor members of Parliament taking a photo opportunity with police officers to create the impression in their local newspapers that they supported mandatory sentencing. When they came back into this chamber, literally an hour later, they argued against mandatory sentencing. Members opposite tell me that they are not soft on crime; they are. They went out there and spoke to police officers in support of mandatory sentencing, and came back in here and did the exact opposite. The member for Murray-Wellington, a former police officer, observed it at first hand, as we all did.

Several members interjected.

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

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Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

The ACTING SPEAKER: Member for Pilbara, I call you for the first time.

Withdrawal of Remark

Mr J.M. FRANCIS: The member for Pilbara made the comment, "You have crooks in your cabinet." He knows that that is unparliamentary, and I ask you, Madam Acting Speaker, to instruct him to withdraw the comment.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Member for Bassendean, I do not really want to be in a position of having to call another member at this time. Because there was so much noise in the chamber, I did not actually hear any unparliamentary language. I am sorry; I will have to turn my hearing aid up at this rate, but I ask members to please keep the noise down.

Debate Resumed

Mr C.J. BARNETT: The duplicity of the Labor Party on mandatory sentencing was there for all of the Western Australian public to see.

Ms A.J.G. MacTiernan interjected.

Mr C.J. BARNETT: We heard the member on the radio this morning, as did her potential voters, who will no doubt now vote for Don Randall. We are debating the issue —

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Member for Bassendean!

Mr C.J. BARNETT: Today we are debating the issue of stop-and-search powers. These powers are limited to designated areas. The police already have the right to search, but this legislation will mean that people who are found to be carrying weapons of the kind displayed by the Minister for Police earlier today will not be able to use the defence that the police did not have proper grounds for stopping and searching them. What sort of search will this be? It will be nothing more than what routinely happens when we go through an airport. We have heard descriptions of people being straddled against walls and all sorts of other idiotic stuff. This displays to the public that when it comes to making tough decisions on law and order, the Labor Party will not be there for the people of Western Australia. A number of young people have come up to me, as I am sure they have to other members of Parliament, to say that they support what we are doing, because when they go to a nightclub or pub in Northbridge, they want to know that the guy standing next to them does not have a knife in his pocket. They want to know that it is safe. They want to know that they can go to Northbridge and enjoy the entertainment, have a few drinks if they want to, and be safe. Once again, the Labor Party is standing in their way.

Today we have heard moralising from Labor about the Anzac tradition and moralising about this legislation somehow impinging on people's freedoms and rights as individuals. Whose rights are being infringed more than an innocent person going to a place like Northbridge, knowing that people are walking around with weapons concealed on their bodies? Whose rights deserve to be protected? This side of the house is on the side of law-abiding citizens and decent young people; I do not know whose side the Labor Party is on, but it is not our side.

Several members interjected.

The ACTING SPEAKER: Members, this debate is getting a little out of hand. I ask members to allow the Premier to complete his 15 minutes of speaking time.

Mr C.J. BARNETT: Another aspect of this debate is the holier-than-thou attitude of Labor Party members. We have heard speeches about the rights and freedoms of the individual from Labor members—these people of ethics and courage, apparently. I will provide one example that is not relevant to this bill, but I ask the Acting Speaker to indulge me for a moment. At this moment there is an Australian government ship, the *Oceanic Viking*, with 78 asylum seekers on board. When the *Tampa* came to Australia, those opposite made similar speeches about civil rights and the freedoms of the individual; not one Labor member has been prepared to stand up on the issue of the rights of asylum seekers and Australia's responsibilities. Those self-righteous, pious individuals —

Several members interjected.

The ACTING SPEAKER: Members, this is not a football field; it is a debating chamber of Parliament. I encourage members to respect where we are and to conduct themselves with decorum; that has not happened for the past 15 minutes since I took the chair. I ask that we lower the temperature a bit.

Extract from Hansard

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Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

Mr C.J. BARNETT: We have been lectured on the rights of asylum seekers, how dreadful John Howard was on the issue of the *Tampa*, and how the Pacific solution was a disgrace. What do we have now? An Australian government ship with 78 asylum seekers on board —

Point of Order

Mr P.B. WATSON: This has nothing to do with the bill before the house. I fail to see what the *Tampa* has to do with it.

The ACTING SPEAKER: I thank the member for Albany. Premier, I gave you some indulgence in taking this a little further. I ask you to please return to the debate.

Debate Resumed

Mr C.J. BARNETT: I simply make the point that we have listened for hours to arguments about civil liberties, freedoms and rights. I make the simple point that when we have a clear issue on Australia's frontier—it happens to be in Indonesian waters—not one of the people opposite who lectured us about the *Tampa* has the integrity, ethics or courage to stand up against a federal Labor government that ignores the rights of asylum seekers. Not one of them has had the courage; they are all absolute failures. Indeed, last Friday when I was with the Labor Premiers from the other states I made the comment, “You are the bleeding hearts; when are you going to make a comment about the asylum seekers on the *Oceanic Viking*? Are you going to support my simple proposition that maybe they should be brought to Christmas Island?” They shook their heads; they are not allowed to.

The ACTING SPEAKER: Order! Premier, would you please return to this bill and to the debate.

Mr C.J. BARNETT: Madam Acting Speaker, I am simply responding to the hours of lecturing that we have had from members opposite.

The ACTING SPEAKER: Order! Premier, I have asked you to return to the debate, please.

Mr C.J. BARNETT: I am. We have been lectured, have we not? We have been lectured on civil rights and on freedoms, and on how the great Anzacs would have been so offended by this law. Well, I can tell members opposite that my dad would not have copped someone walking around Northbridge with a knife. He would not have copped that. I am not going to go through his military history, but he would not have copped that. His brother—my uncle—would not have copped it. The World War II generation would not have copped the sort of behaviour that members opposite are defending by rejecting our position of taking a strong stand on security and safety in public places. So, forget the fact that today is Remembrance Day. Get back to the legislation. The hypocritical, self-righteous, pious approach of Labor members has been exposed in this debate. When it comes to the crunch, if it offends their Labor mates in Canberra, they do not have one ethical bone in their body.

MR B.S. WYATT (Victoria Park) [8.30 pm]: Madam Acting Speaker, I appreciate the call. I preface my comments on the Criminal Investigation Amendment Bill by saying that, technically, for tonight and for the remainder of this week I am paired. However, I did want to return to the chamber to make some comments on this legislation. I thank the house for its indulgence in giving me the opportunity to speak on this legislation when, technically, I will not be able to vote on this legislation should it come to a vote this evening.

I was not here when the member for Warnbro spoke on this legislation earlier today. Clearly, his comments have gotten to the Premier.

Several members interjected.

Mr B.S. WYATT: Clearly, they have rattled him! They have disturbed him! He is not terribly happy!

It is interesting that today is Remembrance Day. The Premier may have some problems with the fact that members on this side of the house have invoked the Anzac spirit in their speeches. I have not heard those speeches. I have heard the discussion about them, but I have not heard them. If the Premier is going to bring in legislation that has its origin in totalitarian regimes, he will have to expect this sort of debate. He will have to expect some discussion about what happened in World War I and World War II. He will have to expect a reflection on Australian soldiers and when they go and fight. No-one is casting any negative commentary on the Premier's clearly superior relatives in his father and his uncle. No-one is casting any negative commentary on them at all. But the fact of the matter is that the Premier clearly knows that much of what has been said by members on this side of the house is correct. That is why the Premier got up this evening and put on another of those petty, attacking and nasty performances that we have become used to in this chamber.

Mr R.F. Johnson interjected.

Extract from Hansard

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Mr B.S. WYATT: Oh shut up, minister! I am responding to the Premier. That is why the Premier got up this evening and gave us that sort of rant. I am delighted that the Premier has left the chamber, because he usually brings down the tone of debate by a significant level. The Premier always seems to raise this straw man of clever lawyers who are able to win arguments about reasonable suspicion and get all these people off. The Premier or the minister—I cannot remember who it was now—said on either Channel 7 or radio today that he would bring evidence to the house or provide information later today on the number of times a person had gotten off because a lawyer had attacked the reasonable suspicion element that must be invoked when a police officer searches a citizen of Western Australia. As far as I am aware, that information has not yet been provided. I have not seen it on the news. Certainly in the extensive second reading speech from the minister—all of one and one-third pages—there is no information about those statistics. In light of the fact that this seems to be one of the key defences that the government has put forward for bringing in this despicable legislation, I would have thought the Parliament would be well within its rights to ask for that information to be put before it during this debate. That would certainly enable members on this side of the house—and also those members on the other side who might wish to speak on this issue in a more substantive way than the Premier has done—to make a deliberate and conscious decision before they vote to either support or oppose what is perhaps one of the most offensive pieces of legislation that has come before this Parliament in a very long time. That is why I have come into this chamber tonight, even though I have been paired, to express my views about this legislation. I do not think the Premier did himself any justice or any favours in talking about asylum seekers. I really cannot see the relevance of that. But the fact of the matter is that this side of the house will continue to raise the issue of why Australians have fought in wars. The Premier may not like it. It may sting a bit. But the fact of the matter is that that is reality, so we will continue to do that. If the Premier insists on bringing legislation into this place that has its origins in totalitarian regimes, he will have to expect to have these sorts of discussions.

I want to make a number of points tonight. Firstly, I want to refer to the source document for the Criminal Investigation Amendment Bill 2009—namely, the minister's second reading speech. It is not the most impressive document, but it is all we have. The minister states in the first paragraph of that speech —

The government is introducing this bill in response to an increasing concern by government, police and the community in relation to the proliferation of weapons and the increasing number of incidences of violence and antisocial behaviour in entertainment precincts. As a result of this, it has been identified that powers of search need to be extended to enable police officers to stop and search people and vehicles in these areas without the consent of the person and without the need for the usual reasonable suspicion test.

That is the reason behind the legislation as outlined by the minister in his second reading speech. There is an increasing concern held by government—not increasing evidence put to the government, but increasing concern—about entertainment precincts. Of course, the legislation goes a lot further than simply focusing on entertainment precincts. I will come back in a while with some statistics about crimes that have occurred in entertainment precincts.

I make a prediction that in the not too distant future the police will come to this government or a future government and request that this legislation be changed. The member for Albany has already hit on this point. He is absolutely correct. This legislation will undermine the police force. A police force can operate only if it has the confidence and support of the broader community. This legislation will undermine that support. It may not have done that yet, but over time it will undermine that support. We have seen in other jurisdictions the terrible and tragic outcomes that result from a breach of trust between the police and members of the community.

It is worth noting that the Premier had some angst about the reference by members on this side of the chamber to individual civil rights. Interestingly enough, it is this sort of legislation that raises and increases the profile of debate about individual rights, about citizenship rights and about human rights acts. In the last term of the former Labor government, the then Attorney General, Jim McGinty, set up a committee chaired by Hon Fred Chaney to look at introducing a human rights act in Western Australia. I was one of the few members of this Parliament who put in a submission to that committee. In my submission, I outlined why a human rights act is not compatible with the Western Australian Westminster system of government. It is not. Although my view is now a bit shaky, I still stand by that view. A human rights act will not work. That is because, whether we like it or not, and despite any protections that we might put into that legislation, it will transfer power from this place to the courts. However, the fact of the matter is that if we bring in this sort of legislation—which will have far-reaching, deliberate and nasty consequences, and which will not deal at all, as I will outline in a moment, with the increasing level of crime in our entertainment precincts—we will find ourselves in a position in which a human rights act will become inevitable. It will become inevitable for the very reason that we in this place have

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failed in our duty to protect those rights that a Westminster democracy demands that we protect through the common law. I do not know if any member supports a human rights act in our system of government. I think everyone broadly opposes it, as do I—although, as I have said, as I read this sort of legislation, my view is rapidly changing. If members opposite do oppose a human rights act, they are undermining their own position by supporting this bill, because this bill will fundamentally change the relationship that the people of Western Australia have with this place, with their elected members and with the courts.

The bill provides the right for police officers to conduct a basic search. Clause 5 of the bill seeks to insert proposed section 70A, which provides that police officers—I assume that they will be real police officers, not the pretend police officers the minister will soon be employing, although we cannot tell the difference between the two—may do a basic search of a person in that place. The legislation is not qualified at all and that is deliberate, and I will come to that in a moment. A basic search is defined in the Criminal Investigation Act 2006; however, a basic search is certainly much more serious than the search that a person consents to when he or she goes through an airport. The powers of a police officer are greater than those of officers at an airport. It is not just about a person who goes through an airport and is pulled aside for a couple of minutes to be tested for explosives and then goes through a metal cage. The powers are much broader than that. That is clearly outlined in sections 63 and 65 of the Criminal Investigation Act 2006. A basic search is a significant imposition on civil rights. We cannot forget that. We cannot assume that, just because a search at an airport is not that intrusive, this is something that can take place anywhere and everywhere and that we can live with.

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Members! The member for Victoria Park has the call. If he wants to take an interjection, he will let members know. Please do not scream across the chamber.

Mr B.S. WYATT: Thank you, Madam Acting Speaker; it seems that the member for North West has just realised what he will be voting for. I dare say that he has not given it much thought to this point. He has woken up and realised exactly what he is doing.

Several members interjected.

The ACTING SPEAKER: Members! I cannot hear the member for Victoria Park, and I do not know how anybody else in this place can either. Will members please stop the backchat and the chatting across the chamber.

Mr B.S. WYATT: As I have said, the day will come when the police will approach the government to have this legislation amended, if not repealed. My view is that the police will not want this power in the future. It will simply come to a point at which it will undermine their position vis-a-vis their relationship with the general community and it will simply become impractical for it to continue.

I know that the minister will be aware of the Scarman report. Is the minister aware of the Scarman report? I am not convinced that he is.

Mr R.F. Johnson: I know about it; I don't know it word for word.

Mr B.S. WYATT: The Scarman report was a significant report that was released after the Brixton riots in London in 1981.

Mr R.F. Johnson: I was there at the time.

Mr B.S. WYATT: That is why I hoped at the very least that the minister might have been aware of if not the riots then certainly the subsequent report. I will quote from a report in volume 8 No 2 of the *International Journal of Police Science and Management* entitled "Stop and Search in 2004: A survey of police officer views and experiences" by Qureshi and Farrell. It states —

The Scarman Report (1981) suggested numerous deficiencies in the manner in which police conducted stop and search procedures. It made recommendations to improve both stop and search operations management training for Inspectors and Sergeants as well as the objective application of 'reasonable suspicion' ...

The English kept their reasonable suspicion qualification for their stop-and-search powers, unlike the government has done in this legislation, which is a significant change. The report continues —

A key aim of the recommendations was the improvement of relations between the police and ethnic minority communities.

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That report was followed by the Lawrence report and a report by Lord Macpherson, both of which effectively said the same thing, although they dealt with subsequent legislation that flowed from each report after the Brixton riots. The Brixton riots were obviously the result of a significant breakdown in the relationship between the police and a number of ethnic groups in Brixton. It saw the loss of control of law and order in that part of London and significant disruption took place as a result.

Mr R.F. Johnson: They set fire to shops, they damaged things and they injured people.

Mr B.S. WYATT: Yes, the minister is right. I thank him for arguing my point.

Mr R.F. Johnson: Do you want to blame the police or the perpetrators for that?

Mr B.S. WYATT: The minister sells himself very short. His ministerial meetings in the east must be very interesting. I dare say that he must be the butt of many jokes when he goes there.

I know that the minister is very familiar with the United Kingdom system, even though he did not appear to know much about the results of the Brixton riots. The Police and Criminal Evidence Act 1984, known as PACE, came up with a code of practice for police officers. Police officers have statutory powers of stop and search. I think that Western Australian Police Commissioner O'Callaghan can look to this to perhaps explain to his police officers and to members of the broader community why it is in the interests of the police to continue to meet the reasonable suspicion requirement and why members of the community should be aware of their rights in their relationship with the police, particularly now that we will have police officers who will not have the powers of police officers. Things have blurred significantly in the relationship between members of the public and police officers.

Reasonable suspicion of itself is not that difficult to prove, which is why the minister has not been able to bring to the house cases in which lawyers have been successful in throwing out an arrest on the basis that the requirement for reasonable suspicion was not met. He has yet to do it, and I dare say that he cannot do it. I do not have a great and deep knowledge of or background in criminal law, but I dare say that the Attorney General will not have too many examples either. I know that the member for Mindarie, who has a significant criminal background, cannot recall any situations in which that has occurred, and that apparently is the fundamental reason that we are opposing —

Mr R.F. Johnson: We'd agree with that!

Mrs C.A. Martin: We know what he meant!

Mr R.F. Johnson: He's a lawyer; he's supposed to choose his words carefully.

Mr B.S. WYATT: The Police and Criminal Evidence Act 1984 Code A code of practice, which deals with police officers' statutory powers of stop and search, outlines in detail what constitutes reasonable suspicion. As I have said, it is very broad. It outlines —

Reasonable suspicion can never be supported on the basis of personal factors ... cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity. A person's religion cannot be considered as reasonable grounds for suspicion and should never be considered as a reason to stop or stop and search an individual.

That was obviously the fallout of the Brixton riots. The code of conduct goes on to state —

Searches are more likely to be effective, legitimate, and secure public confidence when reasonable suspicion is based on a range of factors. The overall use of these powers is more likely to be effective when up to date and accurate intelligence or information is communicated to officers and they are well-informed about local crime patterns.

Significantly, for the interest of the minister, it continues —

Where there is reliable information or intelligence that members of a group or gang habitually carry knives unlawfully or weapons or controlled drugs, and wear a distinctive item of clothing or other means of identification to indicate their membership of the group or gang, that distinctive item of clothing or other means of identification may provide reasonable grounds to stop and search a person.

Reasonable suspicion is a broad concept. This document that was prepared for all United Kingdom police officers clearly outlines that. That is why they have had some significant success in focusing on those areas of crimes in those areas, as this piece of legislation purports to do, even though it is significantly broader than the minister indicated in his second reading speech.

Extract from Hansard

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In the United Kingdom, and traditionally here in Australia, there are three qualifications for a stop-and-search power. One is reasonable grounds for suspicion. The second is reasonable belief. In respect of the Terrorism Act 2000, there was still a qualification much greater than the one in this legislation, and it was expediency for the prevention of acts of terrorism. The old Parliament of Westminster understands that we cannot, as this legislation does with no qualification whatsoever, simply hand over to police officers a power to do a basic search. The English have had time and time again report after report after report. They have refused to remove that qualification on what is a significant power. It involves much more than simply walking into an airport where people consent. They know that they are getting on a plane and going into a secure environment. They therefore understand that they will go through some security checkpoints. When they are walking down William Street, it is a different thing altogether—very different. As outlined in section 65 of the Criminal Investigation Act 2006 the basic powers are much greater than the powers people consent to when they walk through an airport.

[Member's time extended.]

Mr B.S. WYATT: The minister in his second reading speech said that the reason for this significant, offensive bill is —

... in response to an increasing concern by government, police and the community in relation to the proliferation of weapons and the increasing number of incidences of violence and antisocial behaviour in entertainment precincts..

He does not say anywhere in that speech that it is because lawyers are getting crooks off because they keep arguing that the test of reasonable suspicion was not met. That is not in the minister's second reading speech; that is fodder for the media out front. That is different. He does not mention it in this place and he does not provide any evidence whatsoever about how many times somebody has got off because a lawyer has made that argument, and that is because he cannot.

It is worth having a look at the 15 months in the lead up to September 2009 and the number of offences involving weapons that took place in Northbridge. That tends to be the focus of debate. The Premier likes to wander around lost in Northbridge and look as though he is part of a crew there. If I may just outline the figures, in the 15 months leading up to September 2009 the offence of carried or possessed an article with intent had a grand total of 17; carried an article with intent to injure, four; possessed an article with intent to injure, seven; carried a controlled weapon, one, which is not a complete offence; carried a prohibitive weapon, four; possessed a prohibitive weapon, nine; possessed a controlled weapon, seven—maybe they are all rolled up into one; and carried a controlled weapon, two. Therefore, all up in the 15 months to September 2009 there was a total of 51 offences in respect of carrying weapons, which the minister has said is the prime motivator for this legislation. If we incorporate Perth into that as well, the grand total is 235 offences in the 15-month lead up to September 2009. The number of offenders charged in Northbridge and Perth in the 15 months leading up to September 2009 was 229. It is clear when we look at these monthly figures that there has not been a dramatic increase over the past 15 months at all. Most months there are one, two or three. That is the situation we are in. That is the reality of the police figures for offences and charges in respect of possession of prohibited or controlled weapons in Northbridge.

Mr C.J. Barnett: Don't you think there is an issue in Northbridge?

Mr B.S. WYATT: Of course there is an issue. No-one says that is great or that is good. As has been said, if the government is going to introduce legislation that has its origins in totalitarian regimes, the government must expect a reasonable discussion on it. It must expect a demand from this side of the house to bring the evidence to this place. The government did not bring that evidence for the mandatory sentencing debate and the government has not brought that evidence here tonight. The Minister for Police has said time and again on radio, on television and on the steps of Parliament House that tricky lawyers get people off because they argue that reasonable suspicion was not there. Then silence! We are yet to be given one example. I daresay that the minister cannot find any to justify and warrant one of the most significant increases in powers for police officers that we will see in our time in Parliament.

I return briefly to the concept of reasonable suspicion. As I have said, it is a broad concept and not something that lawyers have had a significant amount of luck in arguing to get people off charges. The member for Mindarie could not come up with any example over a legal career in excess of 20 years. I hope that the Commissioner of Police, Karl O'Callaghan, is at least vaguely interested in the debate and listening and can provide the opposition with those figures, because the government seems intent on not providing any information that might provide that first skerrick of evidence for why we are giving such significant powers to the Western Australia Police.

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This has nothing whatsoever to do with being soft on crime. I had not realised that had been said until the Premier stood up and carried on, but obviously “being soft on crime” has been thrown around during the course of this debate. The minister does not have an overwhelming majority support for this bill. I am confident of that. He does what the police have requested him to do. We know that. I think that the police will regret this bill because of what was outlined in the Scarman report and the Lawrence report by Macpherson in the United Kingdom. Through all those reports reasonable suspicion was still a qualification, but it is a very broad concept. However, the relationship between the police and the community fundamentally broke down. I think that the member for Alfred Cove, who is no longer in the chamber, was trying to make this point when she was examining some of the research that fell out of the United Kingdom legislation on stop-and-search powers. I refer to an article in the *Modern Law Review* by Benjamin Bowling and Coretta Phillips, titled “Disproportionate and discriminatory: reviewing the evidence on police stop and search”. They made the point at page 944 that in England and Wales for 2005-06, in respect of stop-and-search powers, the figures were 15 incidents for white people, 90 for black people, 27 for Asian people and 23 for people of other ethnic origins. These figures show that in England and Wales black people were six times as likely to be stopped and searched by the police in comparison with their white counterparts.

Inevitably we do not have a clear set of guidelines, as the English have with their Police and Criminal Evidence Act outline on how stop-and-search powers are exercised. They are made public. People can go to the website, print them off and look at them for themselves. They are detailed and they outline the history of why stop-and-search powers have been controversial in the United Kingdom. These laws will fail. As was outlined in the previous article I referred to by Qureshi and Farrell, what was found in their research on stop-and-search powers in 2004 was that fewer than half of officers reported having received any formal training on the changes to stop-and-search procedures and fewer than 40 per cent of officers believed that changes introduced by the Criminal Justice Act 2003 had made stop and search better from their perspective.

The government needed to expect that if it was going to bring this legislation into this place, the debate would be emotional, and that people would have strong personal opinions about this legislation. The Premier can come into this place and carry on, as he does, all he likes. He can refer to his uncle, quite rightly, and why would he not. However, as I have said, this legislation has its origins in some fairly nasty places in some fairly nasty times. It is up to the opposition to raise these issues. It is coincidental that we are here on 11 November. Obviously, what would happen was that the Anzac spirit would be invoked in this debate, and quite rightly. Read any of the poetry written by the Anzacs or written about the Anzacs, or any of the stories, and this is what they talk about. Therefore, this is what we are going to talk about. The federal government may not like it, and the member for North West can snicker all he likes, but when Roebourne is a declared area and he is wondering why his constituents are being stopped and searched, I daresay he will have a different view.

We all know who will be subject to these laws, and I will be very interested to hear from the National Party. I asked the leader of the National Party, who at the time was sitting in this place during debate on the mandatory sentencing legislation, when he was going to speak because I wanted to hear his views on the impact on people in regional areas—on Aboriginal people. He said that he would speak, but he did not. I would like to hear what the leader of the National Party thinks about the impact this legislation will have on regional areas. I would like to hear what the member for North West thinks will be the impact on some of his constituents. I would like to hear from the Attorney General, who has not spent much time in this chamber during this debate. I can understand why. It is because he knows that this legislation will be hanging around the neck of the Minister for Police in years to come—hanging around his neck in a shameful way. It is going to be up to the police to bring this back to the government and request that it changes this law. It is not soft on crime to argue this point, it is a —

Mr R.F. Johnson: It is very soft on crime.

Mr B.S. WYATT: You're a boofhead minister; back in your box.

Withdrawal of Remark

Mr C.J. BARNETT: Madam Acting Speaker —

The ACTING SPEAKER (Ms L.L. Baker): Yes, Premier, that is fine, I take your point of order.

Could the member please withdraw that?

Mr C.J. BARNETT: It was the member for Victoria Park I was referring to. I know the insults came thick and thin, but I think the member for Victoria Park should also withdraw.

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

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Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

The ACTING SPEAKER: Premier, what was your point of order?

Several members interjected.

The ACTING SPEAKER: Excuse me! Premier, I did not catch the point of order. What was the point of order you were making?

Mr C.J. BARNETT: The point of order, Madam Acting Speaker, was the expression used by the member for Victoria Park in reference to the Minister for Police, which was clearly unparliamentary.

The ACTING SPEAKER: I am terribly sorry, but someone is going to have to tell me.

Mr C.J. BARNETT: An honest person, a person of integrity would stand up and withdraw.

Mr B.S. WYATT: I think I may have referred to the Minister for Police as a boofhead.

The ACTING SPEAKER: That is unparliamentary.

Mr B.S. WYATT: And for that I withdraw. Apparently it is unparliamentary.

Debate Resumed

Mr B.S. WYATT: In conclusion, I would very much like the minister to provide evidence about those tricky lawyers and those cases where people have got off because the defence of reasonable suspicion was attacked in court, found to not be met and people walked away from the courts. He cannot. This is despicable legislation. Liberals and conservatives on the other side of the house know it. This legislation is not going to change anything, particularly in the environment where the evidence of increasing crime and increasing weapons crime, from the police's own statistics, is not there; it does not stack up. This legislation goes way too far. The Minister for Police knows it and I know that in the future we will be back in here and the government will regret having brought this legislation on. I implore the Minister for Police—it is not being soft on crime; it is against the western democratic system that we have been elected to represent.

MR J.M. FRANCIS (Jandakot) [8.52 pm]: I will keep my remarks very short. I want to thank the Leader of the Opposition for once again highlighting to the people of Jandakot and Western Australia the great divide between the Australian Labor Party and the Liberal Party in this state on the issues of law and order. Once again, the Leader of the Opposition has proved to my constituents and to the rest of the state that the Labor Party cares more for the rights of criminals than it does for the rights of victims. The Labor Party cares more about the rights of people who believe it is okay to carry weapons into Northbridge than it does about the rights of people who want to feel safe on the streets of Perth.

If members want to hear about something that highlights the hypocrisy of the Labor Party in this state, it is not long ago—with all due respect to the member for Alfred Cove—when members opposite were happy to support laws that gave police the power to fine people for smoking in cars but they will not support laws that give police the power to stop people from carrying guns into Northbridge.

Mr W.J. Johnston: So you are opposed to that, are you?

Mr J.M. FRANCIS: No, I am not. I am highlighting the hypocrisy of members of the Labor Party supporting anti-smoking laws but it will not support anti-gun and anti-weapons laws. That is how ridiculous and absolutely ludicrous the Labor Party's position is!

I want to make one other quick point about this debate. I have heard members opposite try to invoke the name of Australian service men and women in this debate. I have this very simple message for the Leader of the Opposition: he does not have a monopoly on interpreting the thoughts and beliefs of my grandfather, my father, me or anyone else who has served in the defence forces, neither do Labor Party members have a monopoly on those thoughts. I can tell members opposite that they were not fighting for Labor Party beliefs or Liberal Party beliefs but for democracy and freedom, and that freedom includes the —

Mr W.J. Johnston interjected.

The ACTING SPEAKER: Member for Cannington, please! The member for Jandakot has the call.

Mr J.M. FRANCIS: That freedom that they were fighting for includes the freedom for people in this state and this country to be able to walk safely down the streets in our towns and cities without the risk of being stabbed or assaulted by people carrying illegal weapons. That was part of the freedom that they were fighting for; it was not for the philosophical beliefs of the Labor Party.

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Once again, I will give the Leader of the Opposition another insight. Like on trading hours and on so many other issues, the Labor Party has been hijacked by the left wing of its caucus, and the Leader of the Opposition has grossly misread the mood of the people on this issue. If the Leader of the Opposition wants to come into my electorate and tell my voters that I voted in favour of this and he voted against it, he would be doing me a huge favour. The Leader of the Opposition has misread the mood of the electorate and he will stand condemned for that.

MR J.J.M. BOWLER (Kalgoorlie) [8.56 pm]: Being an Independent member of Parliament now, I obviously see things in a different light. I have a history of being, first of all, a backbencher in government, then a minister in government, then an Independent, and now an Independent aligned to a government. I have observed over those eight and three-quarter years debate in this chamber that has seen one side and then the other take extreme views when the reality is somewhere in the middle. One side will paint it black and one side will paint it white, and invariably it is a shade of grey, either a dark grey or a light grey. Once again, in this issue, that is where I see the middle ground and where I believe the truth may lie. From the level of indignation and the level of self-righteousness that have been shown by both sides, a person listening to the debate in the past two days would think, gee-whiz, whichever side one stood on, that is the only way to go and the other side is totally wrong. Both sides have come up with some good points, and both sides have overstated their cases at varying times in this debate.

Am I going to support this legislation? Yes, I will support it, but with some reservations. Until last night when I spoke to the Minister for Police I was not going to support it. Like the member for Girrawheen, who introduced similar legislation in this chamber with differences, in that she wanted greater checks on the way the legislation would be administered, I also agree there should be checks. I raised those concerns last night with the Minister for Police. Speaking to the Minister for Police, I suggested to him that he would report to Parliament or include in an annual report a list of the number of times the declarations were invoked, and against those statistics would be a figure that showed the number of arrests and charges that resulted from those declarations. The member for Victoria Park has suggested that this legislation is so bad that we will be back in this chamber to repeal it—we may well be! But I do know that if at the end of the first full year the report to the Minister for Police shows that there were an inordinate number of declarations, let us say 100, but only one arrest or one charge, it will indicate that the power has been abused by the commissioner and the minister, and it will come back on the minister politically from the opposition and from the media. That is where the real level of our democracy lies, does it not, in the opportunity for the opposition to raise matters and for the media to report on that?

Ms M.M. Quirk: Would you support a formal review of the legislation after a year? As it stands, there is no statutory requirement for the minister to table details of the operation of the act after a year; in fact, we have to wait five years for a statutory review.

Mr J.J.M. BOWLER: I will take a further interjection from the Minister for Police, who has assured me —

Ms M.M. Quirk: He has not said anything in this house.

Mr J.J.M. BOWLER: I know, but he will state in this house for the *Hansard*, once again, that ultimate control always lies within this chamber and with the people of Western Australia. If the minister makes that statement in this chamber and he does not live up to his word, I am sure it will come back to haunt him.

Mr R.F. Johnson: I am very happy to put it on the record that I give the member for Kalgoorlie and this house an assurance that I will ensure that the sort of data you are requesting can be and will be dealt with. I want to know myself and I know he wants to know. He is the first person to bring up the number of times a declaration will be invoked and where it will be invoked. It is important information.

Ms M.M. Quirk: Why is it not in the legislation?

Mr R.F. Johnson: Just a moment. It is quite reasonable to suggest that that become public knowledge every time an area becomes a declared area. That will happen automatically. I give you an assurance that included in some way in the annual report will be the times and locations and, importantly, the number of offences that have been committed whereby the search powers have been invoked.

Mr J.J.M. BOWLER: I think that should go a fair way towards getting what the member for Girrawheen is seeking. As I say, nothing is ever black or white, yet both sides in this house will try to paint it as such. There are shades of grey here. I have faith in the police and trust that they will not abuse it. If they start abusing it, once again the opposition and the media will be all over it and that, in turn, will embarrass the government, and the Minister for Police and for Emergency Services will be forced to do something. I have faith in the police and I

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am sure this legislation will not only lead to perhaps some arrests and some charges, but also, I hope, prevent charges being laid and prevent people carrying weapons in the first place.

MS A.S. CARLES (Fremantle) [9.02 pm]: I rise to discuss this bill and put on the record that the Greens do not support the bill—that is hardly surprising, I am sure, to the members in this chamber—nor do we support the amendments to be moved by the opposition.

Mr R.F. Johnson: That's good. You'll vote with us when we vote against them.

Ms A.S. CARLES: We do not support legislation that removes safeguards for civil liberties, that marginalises disadvantaged groups even further and that ultimately may cause more problems than it seeks to solve. An unintended consequence of this bill is that it may lead to more offences being committed. We can easily imagine the scenario of innocent people resisting being searched and the episode escalating into a mandatory detention issue if a scuffle or fight ensues. I quote from WA ethics expert, Stephan Millett, who said this to the media on 31 October —

It only takes an inexperienced officer or a good cop having a bad night for the new laws to be abused.

A criminal conviction and a gaol term is possible for people who, until the point at which a search is forced on them, had done nothing wrong and did not look as if they were about to do anything wrong.

This bill is unprecedented in Australia. No statistics or research has been provided to justify these changes. I fear that, once this becomes law, it will be impossible to wind it back because of the bidding wars we see on which government can be the toughest. It will take a very courageous government to wind it back once it is in place.

The bill also raises issues about our new auxiliary police. Remember; they are the ones without the pay and training of the police force, but they have all the powers of police. Will our auxiliaries be exercising these new powers?

Mr R.F. Johnson: No.

Ms A.S. CARLES: That is a definite no.

Earlier the Australian Institute of Criminology published a study called “What Australians Think About Crime and Justice: Results from the 2007 Survey on Social Attitudes”. It is interesting to put some of these on the record. A key finding was that a large majority of the public have inaccurate views about the occurrence of crime and the severity of sentencing. Consistent with previous Australian and international research, the Australian public perceives crime to be increasing when it is not; it overestimates the proportion of crime that involves violence and underestimates the proportion of charged persons who go on to be convicted and imprisoned. Another key finding was that fear of crime is associated with decreased confidence in the criminal justice system and more punitive attitudes. The bottom line is that we should be passing laws based on evidence, not misconceptions. The report also found that, in responding to a scenario in which the government suspected a terrorist act was about to happen, 54 per cent of surveyed respondents supported the government having the right to stop and search people at random. I wonder what the respondents would think about this random right to search—without the threat of a terrorist act—that we are debating here today. I think many people would be very alarmed by it.

I will talk briefly on proposed new section 70A(4) because it is at the heart of the bill and provides the additional powers to search. This provision permits a police officer to do a basic search of a person and his or her vehicle. It lacks any of the usual limitations on this type of search power that are built in to legislation to safeguard the citizens of Australia. There is no search warrant requirement. The reasonable suspicion test has been abandoned, and there is no requirement for consent of the person to be searched or, alternatively, to give the person the opportunity to leave the place rather than undergo a search. In essence, therefore, police are permitted to search anyone they like for whatever reason they like, regardless of any biases or prejudices they may have in reaching that decision. There is no opportunity for the person to refuse this. Further, because the declaration is published only in the *Government Gazette* and it is not invalid if the commissioner fails to publish it, people will not realistically be able to avoid areas where these powers are to be exercised, unless, of course, there are big signs warning them that they are entering a random search zone.

There are major issues that go with this bill, such as how it affects minors. There is nothing in the legislation requiring a parent or guardian to be present when children are to be searched. There are major issues for Indigenous people, but that is another topic. We all know they will bear the brunt of this search power. There are major issues also for people from different ethnic backgrounds, mentally ill people and women out at night.

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A government member interjected.

Ms A.S. CARLES: Yes, women. I will tell members about them in a minute. Without the test of reasonable suspicion, the police risk searching people on a discriminatory basis. This is an erosion of our fundamental right to go about our own business at night without being harassed. In the early hours of the morning, there will be nothing to stop a group of policemen deciding that they will search a group of young women who are out binge drinking or getting drunk—nothing at all to stop them doing that. There is nothing to stop them searching a group of Aboriginal people because they are Aboriginal people, a group of Chinese students because they are Chinese students, or a group of gay men because they are gay men. We have one word for this. It is called discrimination.

Mr P.T. Miles interjected.

Ms A.S. CARLES: The member for Wanneroo may well ask that.

Ms M.M. Quirk: If the member for Wanneroo thinks it is so funny, he may want to contribute to the debate.

Ms A.S. CARLES: I briefly turn to the opposition's amendments to the bill. As I said, the Greens cannot support them. It has been really interesting to hear what opposition members have been saying about this over the past 48 hours. The tone of the debate is reminiscent of the mandatory sentencing debate. Most members opposite have been very passionate in their opposition to this legislation. The member for Armadale said it is the most troubling piece of legislation she has seen in her 16 years as a member. The member for Forrestfield said it is the most fundamental single attack on civil liberties and the member for Maylands said she was pretty horrified.

Point of Order

Mr A.P. O'GORMAN: The member for Fremantle appears to be reading from the blues—the uncorrected *Hansard* proof.

The ACTING SPEAKER: I know that the member is new to the place but she cannot quote from the uncorrected *Hansard*.

Debate Resumed

Ms A.S. CARLES: That is fine. I think I have made my point. Members opposite were very passionate about what they were saying and I could not agree more with most of their comments. It is therefore surprising that the opposition's amendments are weak and do not go to the heart of the problem that we are looking at. They merely tinker at the edges of this fundamentally flawed legislation, which is why I cannot support them. For instance, the first amendment relates to section 10 and suggests that an interpreter should be at hand and, if an interpreter is not at hand, that the police officers will carry around translations for people who do not understand English so that the police can explain their rights to them. The whole problem is that people do not have rights under this situation. Will the translation say, "Dear sir or madam, we are going to search you whether or not you like it, with or without your consent"? It is absolutely ridiculous.

Ms M.M. Quirk: It is better for someone who does not understand English to know what the hell is going on. At least it will give them an inkling of what is going on.

Ms A.S. CARLES: I think this legislation should not be supported in any way.

Ms M.M. Quirk: We may well come to that position but we are giving the government a chance to do the right thing.

Ms A.S. CARLES: Okay. I say that the legislation is beyond being fixed and that we should not condone it. It is draconian and unprecedented and should not be supported.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [9.12 pm]: It is with great pleasure but also a certain sense of obligation and responsibility that I stand to make a contribution to this debate tonight. I have watched the debate on the Criminal Investigation Amendment Bill 2009 over the past 24 hours and believe that it is fair to say that the debate has been, as the member for Kalgoorlie portrayed it, a debate of extremes. I will look at some of the arguments and evidence that might sit within this legislation. Firstly, I will address the contribution made by the Premier earlier this evening. It was an important and valuable contribution. It was important because it laid bare the absurdity of the nature of this debate at times and it was invaluable because, in itself, it was a beautiful demonstration of the hollowness of the Liberal Party's policies on these and other

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matters. The Liberal Party mantra goes “soft on crime, soft on boat people”. A Liberal Party state politician says that the Labor Party is soft on crime and a federal Liberal politician says that the Labor Party is soft on boat people and border control. It is a lazy, disingenuous contribution to the debate. The only difference in the Premier’s contribution is that he is not sure which theatre he wants to play in—whether it is the national stage or whether he should be concentrating on where his priorities should be, which are the issues that confront his community in Western Australia.

The Liberal Party is lazy on crime. We remember, of course, the policy it took to the last election, which was mandatory sentencing for anyone who comes within cooe of a public officer. Even the Liberal Party understood the absurdity of that gesture and of having mandatory sentencing laws that relate to every public officer in Western Australia. The centrepiece of the Liberal Party’s policy on crime is slogans and rhetoric and pushing fear buttons. Its gestures are somewhat symbolic. It has come in with a raft of legislation that is fairly light on detail while at the same time we are seeing damaging cuts to the police budget. The poor old Commissioner of Police is on the one hand trying to defend the actions and policies of the government but on the other hand he is seeing the damage that is being brought about by the government’s budget mismanagement.

One of the most alarming admissions in this debate is the emptiness of the legislation. It is not backed by any evidence or evidentiary policy process that the Minister for Police has brought forward. There is nothing of that nature in this legislation. On several occasions during the debate the Minister for Police has been invited to show the evidence that justifies this legislation in the form that it is in. All he has managed to produce is a half-empty cardboard box with some evidence from the police department. A cardboard box is not evidence of policy. It is not evidence of a considered and comprehensive policy response to a problem.

Last night we heard a number of absurd notions about the greatest threat to democracy. Everything from the world wars to the Vietnam War was evoked in its name. We heard that the greatest threat to democracy was anarchy and that it was also totalitarianism. There have been more threats to democracy in the past 24 hours than in the whole period of western civilisation! My version of the greatest threat to democracy is corruption of power. The corruption of power comes through the unfettered power of the state. These are the anxieties that fuel a lot of the passion from members on this side of the chamber. These are the reasons that the debate has raised so much passion and excitement. It is the reason why this debate has reached some low points in the extreme language that has been used.

I will make an observation about some of the legislation that has been introduced of late. It all has a fairly familiar ring to it. When the Cannabis Law Reform Bill is introduced, I predict that it will have a similar ring. The theme that runs through all this legislation is “trust the police force”. We saw that in the mandatory sentencing legislation. Legitimate concerns were raised about the powers of the police to decide who would and who would not go to jail. The response to that was that we should trust the police force to lay charges in a responsible way. I can understand why that produces some anxieties. This bill has a similar theme. We are being told to trust that the police force will use these extraordinary powers in a responsible and socially acceptable and balanced way. The cannabis legislation, when it is introduced into this place shortly, will have a similar theme to it. We will be asked to trust the police to judge when someone should be issued with a cannabis infringement notice and when someone should go through the court process. Frankly, that is not the basis of our democracy. The basis of western democracy is about having a series of checks and balances that provide the people with confidence that their civil liberties will be properly balanced against their obligations as members of society. This highlights some of the greatest threats and some of the weakest aspects of the legislation. People have raised these concerns on a number of occasions during this debate. From what I can gather from what has been foreshadowed by the government, those concerns will be rejected outright.

Some members have raised concerns about this legislation and have declared, as the member for Fremantle did, that they will reject the legislation outright. That is not the Labor way. Labor’s approach to these issues is to take a balanced approach. We understand that there are anxieties in the community about the level of violence, particularly the violence that is portrayed in Northbridge, and I will come to that portrayal in a moment. We understand that there is some anxiety in society that there has been an increase in violence and that that violence is fuelled by alcohol and other drugs. The government, therefore, is in some respects looking to respond to that. Why not? From a political point of view, it is like shooting fish in a barrel; it is an absolute winner. The government can push the fear button and the hate button and bring forward legislation like this to its political advantage. But it is not balanced, and that is why Labor has anxieties about these proposed laws.

Earlier in the debate, some members evoked memories of the police of the 1970s. I have some memory of the 54B legislation—a symbolic act of Parliament that caused people a lot of anxiety. When Labor came to power in

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1983, it repealed that legislation. I remember images on TV of police roughing up protestors and being particularly physical in the way they managed crowds and so forth. That is not a problem for today. If people are suggesting that this legislation will place too much power in the hands of thugs, they are wrong. Instead, we are placing extraordinary powers in the hands of one of the most sophisticated public relations machines in Western Australia. The Commissioner of Police is an extraordinarily clever man; he has a great deal of trust within the community and he communicates very effectively to the community. It is not surprising that the community has a level of trust and faith in the police force, because he has provided extraordinary leadership to the police force in Western Australia and is very clever at allaying concerns about excessive police powers. He is also very clever at portraying a police force that balances its social responsibilities with its law enforcement responsibilities.

But this may not always be the case, and this is not the basis upon which we make laws in this state. It may be that there are no anxieties at this stage about placing power in the hands of particular people and particular instrumentalities of government as they stand at this time, but we must put in place checks and balances that make the abuse of those powers impossible, or almost impossible by virtue of the fact that there is oversight by Parliament or agents of Parliament to ensure that the rights of people going about their lives in law-abiding ways are not unnecessarily interfered with. We also heard some extraordinary claims that families will be pushed up against walls and searched. I want to put on record that I do not think that will be the case. I do not have any fear that my white, middle-class family will be in any way unnecessarily interfered with as a result of these laws. I do, however, hold fears for other members of the community; I have fears that Aboriginal people, people who do not have a strong command of the English language and people from a range of minority groups will be unnecessarily targeted. I am not for a moment saying that the police force is racist and I am not for a moment saying that the police force targets particular social groups in our community. I am simply saying that that is the nature of the way these laws fall unevenly upon the people in the community.

I noted with some interest an article which appeared recently in *The West Australian* and which pointed to some research undertaken by the Australian Institute of Criminology. It was national research that sought to look at the ways in which police force activity impacts upon Aboriginal people as opposed to non-Aboriginal people. The take-home message of that research is that police across Australia are far more likely to arrest young Aboriginal people and see that they go to court than is the case with non-Indigenous juveniles, who are considerably more likely to be let off with a warning or caution. The research found that in Western Australia, young Aboriginal people are more than twice as likely as non-Aboriginal juveniles to be given a jail term after being found guilty of an offence. It also found that in Western Australia, half of all juveniles who are arrested are Aboriginal and that although 71 per cent of the cautions issued in 2005 were issued to non-Indigenous youths, only 29 per cent were issued to Aboriginal juveniles. This research reveals the pattern of the ways in which these laws impact upon people within the community. It is a sad fact that in our community, these laws fall more heavily on Aboriginal people than they do on people such as my family.

The Labor opposition has proposed some very sensible amendments to this legislation. They are amendments that are designed to safeguard the exercise of these laws to ensure that there is oversight, that the laws are not overly prescribed, that they are not overly exercised, and that the laws are not used as a means of harassment. The amendments are designed to prevent people who are going about their lives in a law-abiding way from being unnecessarily interfered with. As I said, the Labor Party understands that there are anxieties within the community; it also understands that the government wishes to respond to those anxieties in some way, but we must do so in a way that is supported by strong policy evidence, and we must do so in a way that preserves the checks and balances that this Parliament is empowered to provide. We must also respond to those anxieties in a way that does not undermine the confidence of Western Australians that we are not placing too much power in the hands of the police force. At the moment, the police force enjoys a great level of trust within the community by virtue of the strength of its leadership, but that may not always be so. The Labor Party is coming forward with these amendments in good faith; they are not based on a reckless examination of the legislation with the intent to simply go about rendering the legislation impotent. We are bringing these amendments forward to render this legislation fairer. There may be some misgivings on both sides of the chamber that our amendments will not go far enough to create fair legislation. We are bringing forward these amendments in good faith to ensure that we strike a balance, and that is the Labor way—to strike a balance between what is required to safeguard the rights and interests of people in the community to go to places like Northbridge and enjoy a night out without necessarily being exposed to an unnecessary level of violence or antisocial behaviour, and what is required to safeguard the rights of people who go to Northbridge and find themselves the subject of overly zealous law enforcement activity.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 11 November 2009]

p8827b-8868a

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

The police are not perfect; neither is the average Western Australian who goes out for a night in Northbridge or any other entertainment district. But there are laws in place to rectify the behaviour of people who go out, get a head of steam, and take a swipe at someone. Laws should be put in place to ensure that police officers who are having a bad night, or who are, frankly, not very good, are also able to have their behaviour rectified. That is the nature of the democracy in which we live, and that is the nature of the democracy that Labor wishes to preserve.

Labor has never walked away from the issue of crime. In the past, as a young member of the Labor Party, I sometimes found myself at odds with legislation that a Labor government had brought into this Parliament. I am not sure whether it was a piece of legislation or a government decision, but I remember when the Gallop Labor government imposed a curfew on young Aboriginal people walking the streets of Northbridge after a certain time of night. I thought at the time that that was overly draconian. I understand that it has had some really good outcomes, by the way, but at the time I had difficulties with that as well. But Labor did not shirk from its responsibility to address that issue, and it is not doing that now.

I sometimes wonder how much trouble there is in Northbridge. It has been some time since I have been to the entertainment areas of Northbridge, particularly late at night. But there is no doubt that there is a perception within the community that something needs to be done about the problems in Northbridge.

[Member's time extended.]

Mr R.H. COOK: I hope that that perception of what is taking place in Northbridge is backed by some solid evidence. I hope that that perception has not been formed just because the government has been able to whip up a storm of anxiety and concern within the community. I hope that that perception has been formed on the basis of a body of evidence that the government and the police have examined and have decided needs to be responded to. I hope that the basis for this legislation is not just a desire by the Minister for Police to be pictured with a box full of knives in a good photo opportunity. I hope that the government is not simply using the usual Liberal Party tactic of ramping up anxiety and fear in the community about crime. I look forward to the Minister for Police providing that evidence to this chamber. I look forward also to the Minister for Police actively considering the amendments that will be moved by Labor, because they are very good amendments. I believe the shadow Minister for Police has done a very good job in examining this legislation and proposing these amendments.

Mr R.F. Johnson: Did you support the member for Girrawheen's private member's bill?

Mr R.H. COOK: I always support the member for Girrawheen, minister.

Mr R.F. Johnson: Do you know the difference between this bill and that bill? Have you had a good look at that bill? I will be pointing out that there is virtually no difference between this bill and that bill.

Mr R.H. COOK: I hope the Minister for Police understands the anxieties of the member for Kalgoorlie and responds not only within the letter of what the member for Kalgoorlie was looking for, but also within the spirit. We want to see how this law will work.

Mr R.F. Johnson: I will. I have already put it in *Hansard* that I will.

Mr R.H. COOK: I want to know—also for the sake of putting it in *Hansard*—how many areas have been prescribed each year. I want to know how many inspections have taken place. I want to know how many of these inspections have resulted in arrests, and ultimately in charges. I want to know the impact of those arrests on people in the community. I want to know how many juveniles have been searched, how many young Aboriginal people have been searched, how many women have been searched, and how many drivers have had their cars stopped and searched. This is very important. We need evidence that demonstrates how these laws are working, so that as members of Parliament we can continue to monitor the impact of this legislation.

If this legislation passes unamended, and without what we believe are the appropriate checks and balances that this legislation not only deserves, but requires, we will put some extraordinary laws in place. At the consideration in detail stage, the Labor opposition will provide a rigorous, active and extensive examination of this legislation. We will put up our amendments. We look forward to the Minister for Police giving those amendments appropriate and active consideration, in good faith.

It is true that this debate raises a lot of passions. It is true that we in the Labor Party are very anxious about the nature of the powers that these laws will bestow upon the state. It is true that we believe that these powers should not be unfettered, and that appropriate checks and balances should be put in place, under the close scrutiny of the people's chamber. This legislation in its current form goes too far. But we believe it is not without redemption. We believe that it can be amended so that it will be given the appropriate level of scrutiny, and the appropriate

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checks and balances. We look forward to the government giving active consideration to the amendments that we will be proposing, and accepting them as a sincere and fair response to the legislation.

MR M.J. COWPER (Murray-Wellington — Parliamentary Secretary) [9.36 pm]: I would like to make some comments on the Criminal Investigation Amendment Bill. The debate on this bill in this place has been going on forever, or at least that is how it seems. I am hoping to bring some sense to this debate. I understand that the individual members of this place are reasonable persons who outside this place are quite amicable people and easy to talk to and debate with. I understand also that the nature of this place is adversarial. However, in recent days I have had heard some comments made in this place that demonstrate very extreme views.

I would like to draw to the attention of members that we are debating a bill that the Commissioner of Police himself has requested that we enact. The commissioner is the person who is responsible for putting police officers on the streets to quell the problems that are faced by society. That is no more evident than from what is occurring in Northbridge. Contemporary policing is very difficult. It does not matter whether it is in an urban environment, a rural environment or a place like Northbridge. However, not just any ordinary police officer is put on duty in Northbridge. That is because being put on duty in Northbridge is very much a fast learning curve for individual officers. One of the problems that the police service is facing today is that because of the recent changeovers of staff, a great deal of experience has been lost. The police service has therefore had to rely on relatively inexperienced police officers, particularly young officers; it has had to thrust them into the foreground, and inevitably thrust them into these situations in Northbridge. I must say that these officers are doing an exceptional job given the circumstances that present to them. On any given night there could be 30 000 people in Northbridge, and on a busy night there could be up to 50 000 people. There may well be only 20 or 30 police officers on duty in Northbridge to try to keep the peace and prevent crimes from occurring. It is interesting to note that these police officers are trying to patrol the streets and to learn their beat and familiarise themselves with the nightclubs and the various locations where problems are likely to occur. They are trying to familiarise themselves with where the drug deals are being done in the back streets, and with the areas that are frequented by gangs such as the Spider Boys and the M'Bros and the other gangs that have materialised over recent years and frequent Northbridge. The police officers who are sent to Northbridge are a select group of people who are thrust into very difficult circumstances. These people are monitored and mentored so that they can do the best job that they possibly can. As has been said in this place, legislation is in place that permits police officers to carry out searches of people, particularly under the provisions of the Firearms Act, the Misuse of Drugs Act and, if they are in a car, the Road Traffic Act.

We have a new generation of police officers—the X and Y generations—who are very much literal; they want things to be in black and white. In order for their searches to be conducted lawfully, they want legislation that fully protects them. They are more aware of their legal responsibilities and are even better trained than I was when I went through the police academy.

It is worth noting that recently my 18-year-old daughter went to an event in Perth with a group of friends. She went to an event at Burswood Dome and then they went to Burswood Casino. She rang at about midnight to say that they were going to Northbridge. This would have been her first experience of Northbridge at the age of 18 with a group of friends, and I had some reservations. It is not the sort of place I would recommend for anyone's daughter, but she is a young adult and was in good company. I have faith that our police officers can keep the peace in Northbridge, notwithstanding that I have seen some pretty ordinary things occur on the streets of Northbridge. She rang again at about two o'clock saying that all was well and that she was coming home, and she asked whether we could pick her up from Mandurah train station. My wife travelled to the train station at three o'clock in the morning, picked her up and drove her home. The next day I was very keen to know what she thought of the whole ordeal. She said that she felt quite safe in Northbridge. I give a big tick to our serving police officers for providing that safe environment. But that is not always the case. I acknowledge the great work that they do. Interestingly, she told me that when she got on the last train at Perth station to travel to Mandurah at three o'clock in the morning, it was chock-a-block full of people. When they got on the train, the transit guards, who are employed by the Public Transport Authority—they are referred to by police officers as Alannah's private police force—had metal detectors. As people walk onto the train, they are scanned by metal detectors. I suspect that it has something to do with the fact that it is a condition of entry onto public transport that people can be scanned.

Ms A.J.G. MacTiernan: Can you just clarify that it is your understanding of this legislation that it is only that the police will walk around with metal detectors; it is not that they will stop individual people? Is that your understanding of it? If that is the case, that changes it.

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

p8827b-8868a

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

Mr M.J. COWPER: My understanding is that police officers want the tools to be able to do their job. They will not be frisking people and doing body cavity searches in the main street. That is far from the truth. They will ask people to empty their pockets, and they will give them a quick pat down and scan them, and then those people will be allowed to go on their way.

Ms A.J.G. MacTiernan: So people will be stopped individually and they will have to empty their pockets and take off their jacket. Is that what will happen?

Mr M.J. COWPER: Going by experience, the police will ask people what they have in their pockets and whether they are concealing anything, such as a knife, and then give them a quick pat down. I have experienced this situation. I inadvertently found a concealed weapon. I placed my hand on the back of a person as I was going through a crowd and I felt something strapped to the back of this person. He had a dirty great big machete down the back of his shirt. I found that weapon by accident. I will return to the notion of reasonable suspicion in a moment. The fact remains that police officers want to be able to do their job as quickly as they can, because there are 40 000 or 50 000 people in Northbridge on a Thursday night. The police want to ensure that the area is safe. Police officers will not be aggressive or intentionally try to provoke some sort of reaction, because they would be on a hiding to nothing; they are hugely outnumbered. At the end of the day, the police commissioner has a role and police officers have a sworn duty to keep the peace and look after people, and that is primarily what they do. Ninety-nine per cent of the time that is what they achieve. The police commissioner has a real concern. People need only pick up a newspaper or listen to radio reports to know that the police have real concerns about what is happening on our streets. They feel that they are losing this particular battle. It is symptomatic of what we are faced with these days. I agree that this legislation is perhaps pushing the boundaries a bit, but we have to trust somebody; and, if we cannot trust our police officers, who can we trust?

Ms A.J.G. MacTiernan: Is it your view, as has been said, that we need this legislation because when cases are taken to court, lawyers are using the defence that the weapon was found not —

Mr M.J. COWPER: It is interesting that the member should mention that. When I first heard that this legislation was mooted, I was in a hotel lobby somewhere. I cannot remember where it was; it might have been at a state conference in Perth and the announcement was made by the Premier. I recall that there were two officers there from the state protection unit whom I happen to know, and when I heard this announcement, I asked them whether they knew of any cases that had been lost because the justice or the magistrate threw out the case because the matter was not accepted —

Ms A.J.G. MacTiernan: The appropriateness of the search.

Mr M.J. COWPER: Exactly. They said that they were not aware of any cases, and I am certainly not aware of any cases in my time. However, police officers are reliant on peripheral legislation to achieve what they need to achieve. They rely on the Firearms Act, the Misuse of Drugs Act or the Road Traffic Act —

Ms A.J.G. MacTiernan: Or powers under the Criminal Investigation Act that are already there.

Mr M.J. COWPER: But it gives rise to the fact that there is reason for suspicion. If these centralised areas are being frequented by the M'Bros, the Spider Boys and various other gangs, I have no problem with giving these powers to the police commissioner, whom we trust. Hopefully, from here to eternity we will have a sequence of very good police commissioners who can control the police officers in that situation and they will be able to do the job that they are employed to do. It is interesting to note that police officers are already doing this.

Ms A.J.G. MacTiernan: They are obviously finding weapons, aren't they, because they are finding all the weapons that you have displayed? It just seems that if you're going to impede civil liberties, there has to be something that's not working.

Mr M.J. COWPER: The member heard my comment about the train guards who have metal detectors. Danny Green has a certain following; a number of rough and ready people from opposing gangs or factions like to go to his fights. A large group of people converged on Challenge Stadium to watch an adrenaline-pumping sport, and as they entered Challenge Stadium, they all had to walk through a metal detector.

Ms A.J.G. MacTiernan: No-one has a problem with that.

Mr M.J. COWPER: No-one has a problem with that; the member is dead right.

Ms A.J.G. MacTiernan: If you set one of those up on a street in Northbridge and everyone who went down that street had to go through it, no-one would have a problem with it. That's not what we're talking about.

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Mr M.J. COWPER: The fact remains that we are losing the battle of trying to deal with these matters on the streets.

I return to the requirement for reasonable suspicion. Let us say that there is a big line of people waiting to enter a nightclub and a drug sniffer dog walks along the line and stops, props and sits down next to a person. That is deemed to be reasonable suspicion. How preposterous! It is reasonable suspicion if a dog sits down next to a person because it suspects that the person is carrying drugs, but a police officer cannot make the same interpretation. We have to trust somebody; and, if we do not trust our police officers, who will we have left to trust? I have heard comments in this place that we are going to have some sort of totalitarian state and we will be marching up and down the street in uniforms and people will be frisked and slung up against a wall.

Ms A.J.G. MacTiernan: And you don't think that that's going to happen?

Mr M.J. COWPER: I do not believe that that will happen.

Ms A.J.G. MacTiernan: Do you acknowledge that that's permitted under the legislation?

Mr M.J. COWPER: There is the potential for it, but I trust that police officers will use such force as is reasonable in the circumstances. I would not expect them to slam a person whom they know has a drug conviction against the wall and frisk him. But if a problem presents itself in certain circumstances, police officers are trained and experienced. They do not go into Northbridge looking for problems, because at the end of the day they are the ones who are going to cop it flat bang on the end of the nose. They are at the pointy end. They are the ones we are relying on to keep the peace. As a collective group in this place, we need to put aside all these issues. We are here because we all care about the people of Western Australia.

Ms A.J.G. MacTiernan: Do you believe that the police should have unfettered powers? An important part of our society is actually having some checks and balances.

Mr M.J. COWPER: The member is dead right. The balance is moving away in the job.

Ms A.J.G. MacTiernan: You have not been able to produce any evidence.

Mr M.J. COWPER: Some members of the community are now fuelled by not only alcohol, but also drugs. The job is therefore becoming exponentially more difficult. I suppose this is a bit of a shift in operations and in the way that police operate in these circumstances. I have seen the Commissioner of Police walk down the main street with just about every minister, I have seen the Premier walk down the main street and I have seen previous ministers walk down the main street, and they have all been faced with the same problem. I do not think for one second that members on this side have got together in a huddle and thought that they would come up with, as I have heard some people say, some sort of idea that will result in a fascist regime. I think that is nonsense. We are better than that. We are all good people individually, and we can sit down and have reasonable discussions.

Ms A.J.G. MacTiernan: I think there is a degree of naivety about that. You, as a former policeman, have recognised that the sorts of scenarios that we are talking about are actually possible under this legislation, which your police minister denies.

Mr M.J. COWPER: The member is right: I am not a theorist; I have actually done the job.

Ms A.J.G. MacTiernan: I know, and so you are talking about the practical side, which is what we are talking about. If people go through a metal detector, no-one on this side would have a problem with that.

Mr M.J. COWPER: It could be a metal detector, a quick pat down, a turnout of the pockets, a question of what is there and a response of no worries. If there are drugs, the person is off the streets. If a person has nothing on him, he is thanked very much, told that his cooperation is appreciated and wished a good night. If a police officer can operate in that fashion, it not only augurs well for keeping the peace, but also makes people feel safe, as was the case with my daughter.

Mr M.P. Murray: Safe from whom?

Mr M.J. COWPER: From whom? The member should do himself a favour and go to Northbridge on a Friday night to have a look. It is very interesting. I am just hoping that commonsense will prevail. The Commissioner of Police has asked us to equip him for the situation. I do not believe that police will abuse the power. I know it is the opposition's job to raise these fears in this place, but I am asking for some commonsense to prevail. Let us trust our police officers and give them what they need to do their job in the current environment. Then let us review the situation to see how things have gone. I believe that we must do that and that we must be sensible about these matters.

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

p8827b-8868a

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

Everyone has talked about rights. People have the right to walk down a street and not be confronted by drug pushers, drunken fools and belligerent drug addicts. They must be weeded out and got rid of. The gang mentality that is now developing in our society is alarming. It is almost as though people are trying to imitate what happens in the United States. We are not in the United States; we are in Australia. We should be dealing with this in an Australian way. Northbridge is a problem. The police have come up with an option that they want to explore. I say that we must have trust in the Commissioner of Police.

Mr A.P. O'Gorman: Will you accept our one-year review?

Mr M.J. COWPER: I do not think that one year is enough, to be honest, because I do not think it will have run for enough time.

Mr R.F. Johnson: Why don't members opposite check it out? News polls show that 80 per cent of people support this legislation.

Mr M.P. Murray: Wait until they have all been frisked and run through the mill.

Mr M.J. COWPER: The fact is that a member says that he or she is a friend of the police. There has been argy-bargy today. Members have said how they are best friends with the police and then have given their experiences of a bad encounter. I believe that there are always two sides to a story. I cannot comment on those people who have said that they have had a bad experience, because I was not there, but I do know that there are always two sides to a story. I believe that 99.9 per cent of our police officers are doing the job because they want to serve the people of this state. They do a good job and they want to protect us. It is not because they are getting some sort of jolly because they have a power craze and can have some dominion over a group of people. If they wanted to do that, they certainly would not do it in a Northbridge environment, because they would find themselves unstuck very quickly.

Mr T.G. Stephens: Do police officers ever do anything bad?

Mr M.J. COWPER: Of course they do. I am trying to make a reasonable and balanced contribution to the debate. I am asking for all members to just stop and think about the situation. The police are asking for this legislation and we have got to trust our policemen. If we do not trust them, we are out the door and we will have a problem.

MR M.P. MURRAY (Collie-Preston) [9.58 pm]: I certainly wish to say a few words. I have great concern about where this legislation is heading. Although it is only a small step, I believe it is a step in the wrong direction. To start with the end of a problem instead of the beginning is always the wrong place to start. According to a newspaper report this week, 101 drug factories have been found in Western Australia. That is tremendous, and hats off to the police who have done that. However, the problem is searching people on the streets after they have first taken drugs at home or have tanked up at home. It is a nonsense, because it is not only a violation of their civil liberties, but also a waste of time. If sniffer dogs were taken along a line of people, most of the people would be found to be clean. Why? It is because some would have taken drugs earlier. Most violence comes from amphetamines. People have no control, and once they flip, they are away. I think people would have seen that at one time or another in many of the places they have been to. They might wonder why some young bloke or some young lady has gone off. It is because of the chemicals they have taken before they went out. The point of pulling people up in the street is therefore lost.

Let us expend our energy and spend our money on the source of the problem. Alcohol education is high on the list. Not only do children and young adults need alcohol education, but so do their parents. We need only look at schoolies week. Police pull up car after car on the way to the coast with piles and piles of grog in them for kids who are 16 or 17. Their parents are condoning it. Yet we say that we will put a rope around Northbridge. Northbridge seems to be bearing the brunt of the problems, but over the past couple of weeks I have seen problems in Hillarys, Subiaco and places like that. When we talk about expanding an area and moving it further out, where are we going to stop? Will we look at the entertainment precincts and the V8 motor car event that is coming up shortly? Will we frisk everyone who goes to that event? Why not? Why are we looking at only one area? I do not believe that if we give these powers, they will be confined to one area. Why not at an AFL football match if there is a blue there one week? One of the major reasons that we have half these problems is the lack of police resources. What does the government do? It must find an easier way. This is just a short cut. I would hate to think that I could not walk down a street in Subiaco with my granddaughter, who may have spiky hair, purple jeans and 40 rings hanging out of her eyebrows and ears, without her being pulled up and searched because of her appearance. That is what will happen. The decision will be based on people's colour, their race and their appearance.

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Mr R.F. Johnson: Rubbish.

Mr M.P. MURRAY: Do not say rubbish to me. We have heard the statistics and we know it will happen. It happens already and it has happened for years. I am glad to say that it has eased off a bit. The saying was that if an Aboriginal had a new car, he should be pulled up and checked because he had probably stolen it. Things have not changed that much in recent years. The same thing still applies. What I see is a slow but sure movement towards oppression. Do we want to see in the future people disappearing off the streets as Eastern European countries once had?

Mr R.F. Johnson: For goodness sake!

Mr M.P. MURRAY: Do not laugh about it, minister, because this legislation will allow that to happen. Already tonight's newspaper refers to new laws for metal detectors. I do not oppose that, but it is another step—one step, two steps, all the way down. The Minister for Police is getting his way. Does the minister remember when in opposition saying, "Hang 'em"?"

Mr R.F. Johnson: I never said that.

Mr M.P. MURRAY: The minister did so! He said that the best place they would be was hanging up! The minister was the person who said that it was all right for people to have sex with animals! You were the one!

Mr R.F. Johnson: Put up or shut up!

The ACTING SPEAKER (Mr J.M. Francis): Order!

Mr M.P. MURRAY: I am just reminding the minister of that.

Mr R.F. Johnson: Don't mislead this house; you're better than that.

Mr M.P. MURRAY: I am not withdrawing that because that is true.

Mr R.F. Johnson: I said that you were better than that.

Mr M.P. MURRAY: What I can say is that the minister said it. Whether or not he meant it is another issue. I do not want to see that type of thing happening whereby we are moving inch by inch until there will have to be a major push.

I saw a gentleman in the dining room tonight—Mr Kierath. He tried the same line with industrial relations issues. Where did he end up? Where did that government end up? Out! I believe this will be the same. At first it will be popular, because it is a populist view, but watch what will happen as one person after another is put through the mill and thrown up against the wall and frisked because of his or her appearance. Watch the students who are 16 now and who will be 18 or 19 at the next election. Watch the response that is coming—hello; old red face is back! Watch what will happen.

Mr R.F. Johnson: You're really getting in the gutter tonight.

Mr M.P. MURRAY: Because I am passionate about this. The last thing I want to do in my time in Parliament is let these laws be passed. I do not have any problem about this if there are reasonable grounds. At the moment, there are not. As I said to the minister just a moment ago, the issue is about freedom. Are we going to go back to the Kierath laws or section 54B of the Police Act, under which only three people were allowed to stand on a street corner? We have been through that and we have seen the reaction from the public. It was not great at the start, but it built up over time. That is what will happen here; we will have the same problem. It will bounce back on these guys opposite; do not worry about that.

Sure, there are differences of opinion all through this chamber, and I respect those opinions. This is my opinion, and I will make that very clear. I tell the minister that he has gone one step too far. I really, really mean that. As time goes on, where do we stop this? There is no end to a length of string. Where is it going to stop—at the south west football final, at the Billabong pro surfing carnival or the Margaret River masters? That would be a good opportunity to knock a few off with a bit of pot on them, or something like that. Where is it going to stop—at a concert? It could be anywhere. It could be that the police put up a precinct on the highway and anyone who comes into that area can be searched because there are no laws —

Mr R.F. Johnson: Oh, for goodness' sake!

Mr M.P. MURRAY: No, minister; there are no laws to say that the police cannot do that. That is the point I am trying to make.

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett; Mr Joe Francis; Mr Ben Wyatt; Mr John Bowler; Ms Adele Carles; Mr Tony O'Gorman; Mr Roger Cook; Mr Murray Cowper; Mr Mick Murray; Mr Tom Stephens; Mr Martin Whitely; Mr Fran Logan; Mr Christian Porter; Mr Bill Johnston

Mr R.F. Johnson: Yes, there are.

Mr M.P. MURRAY: No, there are not.

Mr R.F. Johnson: There has to be a declared area, either by regulation or application from the commissioner and approved by me.

Mr M.P. MURRAY: I declare Subiaco; is that okay?

Mr R.F. Johnson: I would not approve that.

Mr M.P. MURRAY: The minister will not be here much longer, so it will not matter; it could be someone else doing the approvals. We have to have more checks and balances along the way. If we do not have that, it will suit the elements of the extreme right—as we heard from members opposite when we heard that people should be laid naked out on the street and searched upside down and inside out. Those views come from the extreme right, and those in the background tell us that. That is who will get their way! They will get their way because it is popular at the time. We have to look at the course of history to see where we have come from. We do not want to go backwards. I do see this as a backward step, as I am sure would most others if they think it through. We have to have checks and balances and some reason for pulling people up. We cannot have a situation in which people are prevented from walking down any street. As I said, the next step is to put them in jail for a couple of months just because of their appearance! We heard a tirade from the Premier tonight about the boat people. Members heard the way he went off.

Mr C.J. Barnett: Do you have a view on that?

Mr M.P. MURRAY: I certainly do, but it is not for here and now. The Premier spoke about that for one purpose—to deflect people on another angle and to take them away from the real issue, which is this legislation. That is what I am concerned about. When the Premier would not talk about the regulations that could be written, I was concerned, because I know what will happen when going down this road fails: the Premier will say “I never said anything. I talked about boat people.” The Premier had 10 minutes and he talked about something other than this legislation. That worries me immensely, because it gives the Premier a way to wriggle out. I am calling on the minister and the Attorney General to take another look at the legislation; I really am, because I think it has to contain a lot more checks and balances.

Can the Premier imagine walking down the street, and the first day he gets pulled up and searched, it is a bit of a joke; the second day he is walking to work and is searched; but on the third day that he has been searched, it will start to get under the Premier's skin. Knowing the Premier, it will get under his skin. It takes only a couple of interjections to get under the Premier's skin, so imagine somebody patting him down three times in a week! That could be the case. They will have to have long arms to get around that waist. That is really the issue. When people start to react, mandatory sentencing will come into play. The same cop, through harassment—I hope it never happens—goads someone into taking a swing, and that person will be jailed under the mandatory sentencing law because he was goaded! How many times is enough if the same person is going up and down the same street and he gets pulled up two and three times in a week?

Mr R.F. Johnson: They would have a case against the police, my friend, for harassment.

Mr M.P. MURRAY: I just cannot take that. The minister can go up and down his street in his suit and he will not be picked on, but the metal head who walks past with his underpants up around his waist and his jeans down around his ankles will get pulled up. The minister's reaction shows he has not been out lately to see some of the new styles. The Premier went to Northbridge under a big banner of lights and walked up and down the main street, and stepped over a lady who was passed out on the street! The Premier cannot tell me he had a good look over town. He should get out by himself and have a look. It is about time he did. It is unfortunate that he will probably be recognised and somebody might bump him on the head! The whole point is this is one step, two steps, three steps, and then where are we? I do not see this stopping. I see it progressing. If I do not speak strongly against this legislation, I would be leaving a legacy for my grandchildren and their grandchildren. Their grandmother moved away from an oppressed country to have a better life in Australia. It is coming full circle and it is going back.

I was talking tonight with a gentleman who had been back to Poland. He said that things had changed over there. He was very pleased and he said that it is similar to living in Australia. These laws will be stronger than those in an Eastern European country today! Where are we stepping to? I spoke to that person less than an hour ago. We are stepping back to those oppressive days. In Romania if someone was on the street without reason, he got a bang on the head. It might sound extreme, but the laws that this legislation will change will allow this trend to

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progress into the future. I am concerned to hear some people say, "Let us try it." I do not think we should even go that far. I think we need some tougher laws to deal with the existing problems, but they can be addressed in many different ways, as I said, through education and that sort of thing, and with more police, not half-baked coppers without a full licence who will be replacing the police that the government promised. We need proper policing. I was in Victoria last week and what did I see on the street there walking the beat? There were four coppers together checking all the clubs, looking at the licences of the bouncers. I do not think anyone would deny that bouncers sometimes contribute to violence. Those police were checking licences and were visible as they were marching the block. Police cars were also driving around at the same time in support. We are not doing enough of that sort of work here; we are taking the cheap and nasty way out. We need to work with those groups and with the communities. The government should not seek to come out with a big hammer. There is a licensing regime in place. Gloucester Park will not run its event on New Year's Eve this year because of police pressure to stop people going there. I do not know where the 35 000 people will go—probably to Northbridge, so the minister should jack up the number of coppers there because this government, through the Department of Racing, Gaming and Liquor, is making sure there will be no venues like that around.

I am asking for commonsense to prevail here. The government must agree to the opposition's amendments to this bill. I am pleading for the government to look during consideration in detail at what we can do better, because this is a very ill-thought-out bill, which will take us step by step towards being a laughing stock. If this policy is so good, why have the other states, which have far greater populations and similar problems, not adopted it? We are the most over-policed, harassed place, with the fun police, that I know of. There is no doubt about that; it can be seen at any event. At Yalgoo races, for example, there had to be 14 security guards for 400 people, under the Liquor Licensing Act. Members cannot tell me that is not oppression.

Mr J.M. Francis: You're talking to your mates in the gallery; you are being silly.

Mr M.P. MURRAY: I am not being silly, because I went to those races and that complaint was made. I just received a card saying, "Thank you for listening to the problems out there". Those races will not run next year because 14 security guards cost \$40 an hour.

Mr C.C. Porter interjected.

Mr M.P. MURRAY: That is the thing. The Attorney General has missed most of the debate today. He has come in tonight only because he wants to sit in his seat and have a bit of a snooze. I want to see whether he is man enough to do the same thing as I asked him to do concerning the mandatory sentencing law—that is, to stand up and amend the legislation himself rather than let amendments come from this side. I looked at him during that debate as I am doing now, and he should remember that. That legislation came very close to failing when unfortunate people with mental problems were the first two people arrested. But the police used their discretion, which I am pleased about. I am not arguing about that. But by gee, it went very close. I bet the Attorney General was running down the street saying, "Please, stop, whoa don't do that." That is not what the legislation was about.

I am pleading with the Attorney General, with the Minister for Police—"Mr I'll hang 'em"—to do two things if the legislation fails: firstly, to look carefully at the amendments and work with them; and, secondly, if the legislation fails after a very short period, will he bring it back to Parliament and amend it so that it works properly? I do not think I need to say more; I have put my point firmly, although others may not agree with it.

Mr C.J. Barnett interjected.

Mr M.P. MURRAY: Again, the Premier will talk about boat people or something else—anything other than the real issue, as he did before, which is a disgrace when the issue is as serious as this. What will we read in *The West Australian* next week—that the commissioner will get whatever he wants next? The Premier is going to kowtow to him. It is about time he showed some leadership himself.

MR T.G. STEPHENS (Pilbara) [10.15 pm]: I oppose this legislation in the form it is presented in this house. I do that against this background—

Mr C.J. Barnett: The leader said that you all supported it.

Mr T.G. STEPHENS: The leader made it quite clear that unless the legislation is amended with the significant number of amendments on the notice paper, it will not receive the support of a single Labor member of this Parliament.

Several members interjected.

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The DEPUTY SPEAKER: Order!

Mr T.G. STEPHENS: If you feel inclined to chuck out the Premier, Mr Deputy Speaker, I would be happy about that.

The DEPUTY SPEAKER: Order! He is coming close!

Mr T.G. STEPHENS: When faced with a government that has over the past 12 months been, if we like, a reasonably moderate government, it creates a problem for an opposition. When the government comes into office and starts to adopt policies and strategies that have moved very much to the centre ground, it makes it extremely difficult for an opposition to find ways to land punches on the government, which is the task of any opposition. I have been around this Parliament and in politics across this nation for a long time. When a government that has within its ranks people whom we can recognise as people who, at times—I do not want to make a great habit of singing the praises of my political opponents, but for the purpose of this discussion I will make these points—display compassion, intelligence and vision and seek opportunities for the Western Australian community to have hope, and when we see our political opponents, if we like, move to the middle ground, the task on this side of politics is to think, “What has gone on here?” In fact, it should be celebrated as a victory for the politics of people like me and people associated with my party, and for the sorts of causes and hopes for our community that we have always held out.

Then I look back and ask: what motivated me when I went to great efforts to try to run for Parliament because I had suddenly developed a complete revulsion with the opposite side of politics from my politics so that I was prepared to take all the steps necessary and experience all the discomfort necessary to make sure that the then Court government—the Daddy Court Government; the Sir Charles Court government—no longer held the government benches? It was because, from 1974 through to 1982, when I arrived in the Parliament, it had become increasingly extremist in the way it responded to the challenges facing a modern community that Western Australia was moving to become. As it adopted strategy after strategy, it caused ordinary people in the community, of which I consider myself to be one, to become highly motivated to take all the steps necessary to point out to the Western Australian community that this was a party in government that no longer deserved the right to be in government. Tonight our political opponents have taken one of the first steps that is taking a step too far. It is a step upon which, I fear, other steps will be taken if members opposite, such as the Minister for Police and others who seem to be in strong support of this step, get their way. They will be sowing the seeds of their own eventual destruction. By introducing legislation in this way, without the amendments that are being urged by members on this side of the house, they run the risk of bringing about the destruction of their own government sooner rather than later.

From the comments made earlier in this debate, particularly those made by the Minister for Police and the member for Murray-Wellington, it is clear to me that members opposite have highlighted some of the problems with their own bill. I will go into detail about the problems they highlighted in their contributions. They say that this bill allows for only a modified type of pat down of a person, yet there is no such restriction in this bill. If members opposite were trying to put in front of the house legislation that enabled the police to operate only in the way that members opposite have described to the house, they would have found ways to articulate that in the words in the bill, but they have not done that. For instance, the Minister for Police said that he would never allow the Commissioner of Police to make Subiaco a prescribed area. However, this bill allows the Commissioner of Police and the Minister for Police to do exactly that. Nothing in this bill would allow Parliament to prohibit either the Commissioner of Police or the Minister for Police from utilising the amended act to declare an area such as Subiaco subject to random searches of people, not on the basis of suspicion, but because the Commissioner of Police, with the permission of the Minister for Police, had taken such a step. If the Minister for Police says that he will never allow that, why should he expect the Parliament to allow for that in this bill? That is what the Minister for Police is doing. He is asking Parliament to say that an area like Subiaco can be declared open for —

Mr R.F. Johnson: Let me put it in this way. If there is a history of serious violent crimes in Subiaco and we saw that it was getting out of control and the request was intelligence led, there might be a case for invoking that as a declared area for a specific amount of time. Unless there is intelligence and some evidence to show that that is needed—we can see it in Northbridge and in the CBD; I cannot see it in Subiaco, unless the member for Pilbara knows more about Subiaco than I do —

Mr T.G. STEPHENS: The Minister for Police made the point again. The Minister for Police articulated why he might allow Subiaco to be caught up by a blanket prescription in this way whereby any search could be conducted in that area. However, as he did that, he also articulated the reasons why that would govern the

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declaration of that area for the purposes of the amended act. Why is the Minister for Police so lazy that he chooses to introduce a bill that is stripped of the arguments that he has delivered to the house? He has some arguments to justify allowing an area such as Subiaco to suddenly be prescribed under the provisions of this act but he has not put within this legislation the sort of rationale that he can quickly throw across the chamber. It is ill-thought-out legislation. It is a step too far. It is a blunt instrument to respond to the modern challenges of the complex community that Western Australia increasingly is.

A member said earlier in the debate that it is possible to play successfully upon the fears and upon the base motives of the community. Sometimes hate can be unleashed within the community. I am of the view that fear and hate are powerful forces, but I have noticed in my lifetime that they are not the most powerful forces that can be tapped into or unleashed. Much more powerful forces in the community are the prospects of hope and vision, and the prospects of a community motivated by compassion and love. They are much more powerful forces that can be unleashed in our community and it is far better to rely upon them than it is to rely upon fear and hate. This bill is about tapping into people's fears. It does what is called "dog whistling" to the community. We know what this bill is about. We know the sorts of people it can be utilised for. We will not say it but this is what we had in mind when we passed this legislation. Increasingly, the Western Australian community is alert to this type of response that this government seems to be on about with this bill. The clearest thing that has been identified in discussions around this place is that the government has been looking for a way to play wedge politics in Western Australia to try to find a way to make it look as though members of the Labor Party are soft on crime. That is what the government hopes to do with the debate on this bill at this time, and it will try it again and again. We can hear from the discussions around the house that members on the government benches are excited about the prospect that they might be able to construct, from the way in which this bill is being handled in this place, an argument that the Labor Party is soft on crime. Nothing could be further from the truth. The mantra will come. It is a mantra that the Minister for Police does not believe, but that does not stop either him or the Premier from saying it. They will continue to say something that they know is untrue for the primary purpose of trying to deliver to themselves a harvest of fear within the community about their political opponents. They should eventually be exposed for exactly what they are endeavouring to do. My prediction is that they will be exposed for what they are endeavouring to do with this strategy of wedge politics and for constructing an argument that their political opponent is something that it is not.

Members on this side of the house represent areas where there is a fundamental belief in the community about the importance of respect for the law. People fundamentally want to be protected by the laws and they want that protection to be uniform and for the government to provide the police with good resources and good community support. I have been around long enough to know that a request from a Commissioner of Police by itself is not sufficient grounds for me to think that I should go along with that request. I have been around long enough to remember the sorts of requests that came from police commissioner Owen Leach. When one looks back over the history of the police force in this community, one realises that we have not always been blessed by sensible decisions being made by the Commissioner of Police or by good decisions being made by the Minister for Police. There are times when Parliament—I think it is all the time—should respond to requests from the Commissioner of Police and subject those requests to scrutiny to determine what is in the best interests of the community of Western Australia and what will best serve the wellbeing of the community. That is the responsibility for which we are elected. Every day that we sit in Parliament we pray that we will deliver good government to the community of Western Australia.

The fact that the police commissioner is of the view that a change is necessary is not cause enough for me, and, hopefully, the Parliament, to go along with it. In common with probably everyone in this house, I hold the current police commissioner in very high regard. He has great skills and clearly has had a good education. When he is well resourced, supported and well guided by government, he will come up with the necessary strategies to respond to the challenges facing the modern community of Western Australia. This legislation is not such a response. It runs the risk of breaking the relationship that the police need to have with the community of Western Australia. It runs the risk of delivering to the police a weapon that, far from engendering support from within the community, will instead create a lack of support for police. That is what happens from time to time in communities, and that is what Parliaments have to protect the police from—a lack of support from the wider community. It could happen if the Parliament delivers to the police force powers that go a step too far, such as the powers in this legislation in its unamended form. I make the point that on this side of the house, we do not consider it acceptable for the government to make the taunt that the Labor Party is soft on crime; nothing could be further from the truth. We are of the view, for example, that there should not be any crooks in the cabinet, but the government seems to be of the view that it is acceptable for someone who forges branch application forms to

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be a cabinet minister. I do not. I have seen people—Premiers—go to jail after claiming to have made a mistake on a travel application form, yet the government seems happy to keep such a person in its cabinet as Treasurer.

Point of Order

Mr C.J. BARNETT: The member for Pilbara is making a lot of wild accusations about crooks and forgers. Typically for him, he lacks the courage to make any such comment outside this chamber. It is clearly unparliamentary. If he has an accusation to make, let him make it.

Mr M. McGOWAN: Further to the point of order, there is no point of order; the member for Pilbara did not refer to any single member as a forger. He made a factual statement about the Treasurer that was not unparliamentary.

Mr R.F. JOHNSON: The member for Pilbara accused the Treasurer of signing a form that would give him something that was not due to him —

Mr M. McGOWAN: That is what happened; he paid it back!

The DEPUTY SPEAKER: This is not a time for debate!

Mr R.F. JOHNSON: — in the context of deliberately doing something that was fraudulent. He knows that that is not the truth. If the member for Pilbara wishes to attack the Treasurer or any other member of this house, it must be done by substantive motion, not by the throwaway lines he has used tonight. That is unparliamentary.

Mr M.P. WHITELY: The member for Pilbara was actually wrong. I think he intimated that the Treasurer was a forger. I thought he was referring to Hon Peter Collier as a forger; that is the forger that I am aware of.

Mr T.G. STEPHENS: No, there are two crooks.

The DEPUTY SPEAKER: Member for Pilbara, the Leader of the House has pointed out that if you want to make these accusations, you have to do so by way of substantive motion.

Mr C.J. BARNETT: I do not want to labour the point, but the member for Pilbara just made the comment that there are two crooks in the cabinet. If he wants to make an accusation like that, as you have just ruled, Mr Deputy Speaker, he should make it by substantive motion or apologise. He has demonstrated a lack of character.

Mr M. McGOWAN: I do not want to labour the point either, but again there is no point of order. The Premier himself has referred to the member for Kalgoorlie as a “crook”, and never withdrew that allegation. The member for Pilbara did not refer to any particular member of this house.

Mr M.P. WHITELY: Further to the point of order, I referred to Hon Peter Collier as a forger, and no-one has called a point of order on me! I think that is outrageous!

The DEPUTY SPEAKER: I am going to make a ruling that any aspersions cast against members must be done by way of substantive motion. I ask members to now desist and carry on with the debate.

Debate Resumed

Mr T.G. STEPHENS: I think it is important that no-one should be soft on crime. Certainly, a Premier should not tolerate crime, even amongst his own cabinet. When he has evidence of that, he should not be soft on crime. If he wants to throw taunts across to this side of the house that the Labor Party is somehow soft on crime, let him in the first instance turn to those closest to him and do exactly what the member for Bassendean has suggested—clean out his cabinet.

Ms M.M. Quirk: Get his own house in order.

Mr T.G. STEPHENS: Indeed; the Premier should get his own house in order. There are people on this side of the house who hold that the principles of being tough on crime and tough on the causes of crime are fundamental to our role as legislators.

Mr C.J. Barnett: You've been in this place 20 years too long.

Mr T.G. STEPHENS: The Premier had the good sense to know that he should have gone earlier when he announced his retirement. He used to sit on this side of the house and slander the opposite side of the house about alleged crooks and criminals. He used to use the most extravagant and ill-considered language in reference to the member for Kalgoorlie and other members of the Labor Party. All I am saying is that we now have evidence about the Premier's lot. I would have thought that if the Premier was serious about being tough on

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crime, he would get his own house in order. I also make the point that on this side of the house there are people who have the capacity —

Several members interjected.

The DEPUTY SPEAKER: Members!

Mr T.G. STEPHENS: I resigned to contest the federal seat of Kalgoorlie when a candidate died; I was not sacked.

Several members interjected.

Mr T.G. STEPHENS: Is the Premier going to lie to the house? I resigned from Parliament. I asked a question; it may have been a rhetorical question, but I asked the Premier whether he was going to lie to the house.

[Member's time extended.]

Mr T.G. STEPHENS: The Premier is wrong; I was not sacked from cabinet, so he should get his facts straight. I was not sacked from cabinet. I resigned from cabinet to contest the federal seat of Kalgoorlie. The Premier should not try to reconstruct or falsify history.

Mr R.F. Johnson interjected.

Mr T.G. STEPHENS: That is another matter; I might have a grievance about that, but that is another matter altogether!

Mr E.S. Ripper: Might? You do!

Mr T.G. STEPHENS: This legislation is a step too far for Parliament. It should be considered by those opposite as a step too far for the Liberal Party also. I suspect that it will be an influential factor when the people of Western Australia eventually decide that they have had enough of this government. These changes will be put on the statute book because someone in cabinet had a rush of blood to the head and thought that by advancing legislation like this, the government would produce a short series of headlines in an attempt to try to con the community of Western Australia that there is a basis for justifying this type of legislation, even with all its imperfections. The community in Western Australia is smarter than that. Ultimately it judges governments for what they do. It did so with the Sir Charles Court and Ray O'Connor governments in 1982-83, in the wake of legislative steps such as the section 54B legislation and other responses that were made available to police officers.

Mr M.J. Cowper: Do you know about 54B?

Mr T.G. STEPHENS: I do. In fact, when a statue of Sir Charles Court is eventually built, hopefully statues of Hon Norman Moore and the Minister for Police will also be put beside it. If that does happen, the police will then be able to use section 54B to arrest all three statues together for having assembled there on St Georges Terrace!

Mr R.F. Johnson: So this is the level of debate that we getting on this particular bill! This is great!

Mr T.G. STEPHENS: No. I am saying that section 54B is an example of the excesses of previous Liberal governments. This legislation is one of the first steps along the way of introducing excessive legislation into this Parliament, without any justification. This legislation is a blunt instrument that will not protect the community of Western Australia in the way it deserves to be protected. The community of Western Australia deserves legislation that is refined by wisdom and by a sense of looking at the challenge and bringing into Parliament a response to that challenge.

Mr M.J. Cowper interjected.

Mr T.G. STEPHENS: Member, I support police officers. I am just saying to the member that he is doing his colleagues a disservice —

Mr M.J. Cowper: How do you account for the prolific amount of drugs and weapons in Northbridge? How do you account for that?

Mr T.G. STEPHENS: It is because we have an incompetent Minister for Police. We have a do-nothing Minister for Police. We have a Minister for Police who is more interested in headlines and stunts than in getting on with the job and supporting the good men and women in the police service—who deserve better than him, and better than this bill. It is for those reasons that I oppose this legislation, and I urge other members to oppose it as well.

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MR F.M. LOGAN (Cockburn) [10.41 pm]: I also want to put my views on the Criminal Investigation Amendment Bill and to express my opposition to the bill in the way it is framed at this time. I support the amendments that will be put on behalf of the Labor Party by the shadow Minister for Police.

I want to pick up on the point that was made by the member for Murray-Wellington about how this debate is all about balance. What is the government trying to achieve with this legislation? The government is trying to protect the right of individuals to go about their normal course of affairs in places such as Northbridge, Fremantle and Rockingham without being hassled, intimidated or threatened by people who may well be under the influence of drugs or who may well be carrying weapons. That is the intent of this bill. The government wants to give the police the power to declare an area a prescribed area and to stop and search people for the purpose of finding drugs or finding weapons. But that needs to be balanced against the right of individuals to go about their normal course of affairs without being interfered with or being stopped by an instrument —

Mr R.F. Johnson: Then why did you support the member for Girrawheen's bill?

Mr F.M. LOGAN: Members, I am trying to ascertain the balance between the two sides of this argument. One side of the argument is the need to protect the right of individuals to go about their normal course of affairs without being threatened by people who are under the influence of drugs or who are carrying weapons. The other side of the argument is the protection of the right of individuals to go about their affairs without being interfered with by an instrument of the state—the police. That is what it is.

Mr M.J. Cowper: At a designated time and place, member.

Mr F.M. LOGAN: Whatever way we look at it, the police are an instrument of the state. Therefore, the way in which the powers of the police must be legislated for and used must always be very carefully thought through. I think that if anyone in this chamber has the ability to talk about how those powers can be abused, and about how the rights of the individual can be eroded, it is the member for Mount Lawley, who is currently in the chair as Deputy Speaker. The member for Mount Lawley can probably speak about that better than anybody else in this chamber. In the country that he came from, and as a lawyer, he saw the rights of the individual eroded bit by bit, from the introduction of the apartheid laws all the way through until the apartheid government was overthrown. Those powers gradually built up and they were targeted at one section of that community—the black people and the coloured people of South Africa. I am sorry, Mr Deputy Speaker, to actually —

Mr R.F. Johnson: How long were you in Jo'burg?

Mr F.M. LOGAN: I have been there.

Mr R.F. Johnson: I have a relative who lives there.

Mr F.M. LOGAN: I was there under the apartheid regime and also in Cape Town, mate, and it was not very good at all. The minister should have gone to Soweto during that period of government and felt what it was like to have the laws used against him. I am sorry to raise this while you are in the chair, Mr Deputy Speaker, because obviously you do not have the ability to respond to it. I am sure that you are probably not going to speak on this matter. It is a pity that you have not spoken on it, because I think your experience could add to the comment that our side made about the rights of the individual being eroded.

I will just take members—the Minister for Police will be interested in this —

Mr R.F. Johnson: You're going to talk about Croydon, aren't you?

Mr F.M. LOGAN: I am going to talk about Croydon! It is funny that the minister just raised that. I will talk about the United Kingdom, because there are no other stop-and-search powers being used in this way in Australia, but we can go to another place in the world where they are being used—namely, the UK. Under section 44 of the terrorism laws in the UK, stop-and-search powers are used. What were they introduced for? They were introduced not because there was violence in the West End of London or violence and drug deals in Manchester, Birmingham, Southampton—because it is far more extensive over there—or Croydon. I gave the Minister for Police an article about the level of violence in the town that we came from and the stabbings in the head undertaken by teenagers on one another. Northbridge seriously pales into insignificance compared with those towns in the UK. That is not to say that we should drift into that state of affairs. But what was introduced? The stop-and-search powers under section 44 of the terrorism laws were not introduced initially for the purpose of searching for weapons or drugs in places of entertainment. They were introduced, and quite rightly so, as anti-terrorism measures. Of any place in Europe, the UK, unfortunately, and particularly London, has suffered terribly as a result of terrorism attacks. Those powers were then extended, and they were extended in the same

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way that is being proposed in this place today; that is, they are now to be used for the purpose of stopping people and searching for drugs and weapons, particularly —

Mr R.F. Johnson: Predominantly weapons.

Mr F.M. LOGAN: No, drugs as well. The powers are used particularly in areas of entertainment. According to Andy Hayman, who is the Commissioner of Police in the UK, they are useless. Those powers are futile—they are his own words—and they are not delivering results in searching for people in areas of entertainment who may be carrying not only weapons or parts that may lead to acts of terrorism, but also drugs. He also indicated that these powers are futile because all they do is irritate people. Being stopped and searched drives people mad, and the powers are used indiscriminately. Figures referred to in the UK show that the number of those searches under section 44 of the counterterrorism legislation soared from 37 197 in 2006-07 to 117 278 in 2007-08. That is a massive increase in the number of people who were stopped and searched with no real result. What types of people were stopped? The number of black people stopped under these powers rose by 322 per cent, compared with an increase of 277 per cent for Asian people and 185 per cent for white people. The government's counterpart in the United Kingdom, the Conservative Party, does not agree with the powers. Chris Grayling, the shadow Home Secretary in the UK, says that if his party gets elected, it will amend those powers, because they are being abused by the police. Even the UK commissioner of police, Andy Hayman, said that they do not work; they tie up police resources and do not deliver the results that the police thought they would. The police in Hampshire have now dropped the stop-and-search powers, because they are a waste of money. These powers do not deliver the results that people think they will. That is a real example, Minister for Police. The minister is introducing these powers in Western Australia. He may, down the track, drop them simply because the police commissioner says, "We've put them in place, they cost a fortune and they just don't work."

I draw the minister's attention to the differences between this legislation and the Terrorism Act, because there are strong similarities between the provisions of this legislation and section 44 of the Terrorism Act. I will also ask the minister some questions about the bill. In particular, I refer to proposed section 70B(3), which states —

The Commissioner must not declare an area larger than is reasonably necessary, having regard to the reasons for making the declaration referred to in subsection (4)(d).

What does "reasonably necessary" mean? What does "an area larger than is reasonably necessary" mean? This is very broadly worded legislation. I put it to the minister that it has been deliberately worded in that way to give the police the ability to maximise their utilisation of this bill.

Mr M.J. Cowper: How would you define it?

Mr F.M. LOGAN: It is not up to me to define it, member for Murray-Wellington. The member's government has introduced the legislation. Whatever I say about my interpretation of "reasonably necessary" has no relevance in this debate. This is a question to the minister; it is not to the member for Murray-Wellington. If the member for Murray-Wellington were the minister, I would be asking him the question. I am putting this question to the minister because he is the person who has to explain to Parliament the answers to these quite sensible and correct questions about this very broadly drafted piece of legislation. I am not asking the minister to respond now; he can do so in his reply to the second reading debate.

I also refer the minister to proposed section 70B(4)(d), which states that the commissioner must make a written record of such a declaration and the reasons for making it. Will there be regulatory control over those reasons? For example, the reasons for making such a declaration could include that there have been numerous knife stabbings in Northbridge, that there has been a proliferation of drug dealing in a particular area, or that there have been numerous gang fights. There will be a number of reasons for making a declaration over the period that this bill will be applied, but there are no specific reasons in the legislation. Will there be regulatory control over the reasons? Otherwise, the minister could have the Commissioner of Police or his deputy come along and ask him to declare an area and give any reasons. There is no limit on what those reasons are to be; it could be any reasons. The minister would be placed in a very difficult situation to argue with police as to why he should sign off if he feels uncomfortable with the proposition put before him. That is a difficult position for a minister; that is, when the minister is confronted by the Commissioner of Police he may not agree with those reasons. It will be very difficult for the minister to say no unless he has some regulatory control over the reason that he can say, "What you're putting forward to me does not fit with the way in which we would expect this bill to apply." As the minister, he does not have that control here.

Mr R.F. Johnson: It gives me a huge responsibility.

Mr F.M. LOGAN: It does give the minister a huge responsibility.

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Mr R.F. Johnson: I am prepared to take that on my shoulders. I think ministers are supposed to make decisions.

Mr F.M. LOGAN: In order to protect himself, the minister should actually define what those reasons are.

I would like to raise another issue with the minister about the application of the bill. In practice, if an area of Northbridge is declared, for example, and people are stopped as part of the declaration of that area, are individuals expected to provide names and addresses?

Mr R.F. Johnson: If an officer asks a member of the public for their name and address, they are already expected to give that information.

Mr F.M. LOGAN: But in this case they are being asked to give their name and address as part of the —

Mr R.F. Johnson: Let me put it this way: a police officer will not go up to somebody and say, “I want your name and address because I want to conduct a search over you.” What the officer would say is, “Excuse me, sir, excuse me, madam, we are conducting random searches tonight. They are not intrusive. I want to run this metal detector around the frame of your body to make sure you are not carrying any weapons.”

Ms M.M. Quirk: That’s not what was told to us in committee.

Mr F.M. LOGAN: Hang on; can I just finish? Let me put this to the minister: an area is declared, there are a significant number of people in that area, and police are going to implement the stop-and-search powers. The area would not be declared if police were only looking for one or two people. The area is declared a stop-and-search area as a significant number of people are in the area. Police officers will be polite, as the minister said, and ask, “Excuse me, sir. I am going to carry out a search of you. Could you also give me your name and address, please?” If that name and address is then recorded from a person who has been stopped and searched in the area, what happens to that information? Remember, it is a campaign that the police have undertaken in that area under these powers and there may well be a record of all people they have stopped and searched.

Ms M.M. Quirk: We were told at a briefing that it is likely standard practice that police would request the name and address of the people they were searching. That was for probity reasons, so if there was any complaint or issue afterwards, police had a record of who it was they searched. We were certainly given that advice by police.

Mr F.M. LOGAN: These are the concerns that I am raising with the minister; it is not set out in the bill. There are some very, very strong concerns that go to the balance between the rights of the individual, as I started off speaking about, to not be threatened by drunken lunatics, and the rights of the individual to go about his or her business without being interfered with by an instrument of the state, being the police—particularly when taking information from that individual for no reason whatsoever other than that they just happen to be in that area. What happens to that information, how long is it recorded for and what will the police do with that information? I am not asking the member for Murray-Wellington. I am pointing this out as an issue that I would like the minister to address. The reason I say that is the way the Home Office in the United Kingdom interprets its stop-and-search powers and the information it provides to the general public about their rights. I have not seen this government proposing any information about the rights of the citizen under stop-and-search powers. In the UK information on those rights is provided to the citizen. By the way, those stop-and-search powers under section 44 of the Terrorism Act have to be renewed every 28 days; they are not in place for the same period of time that they would be here. Remember, those powers were introduced for the purposes of terrorism, not for drunken louts in Northbridge. They are significantly different.

Mr R.F. Johnson: People carrying weapons. It is the weapons we are interested in, not the fact that they are drunk.

Mr F.M. LOGAN: I know. I am just saying that there is a big difference between what is regarded in the United Kingdom as a significant infringement of the liberties of an individual by stop-and-search powers, which are used in only extreme circumstances for the purposes of combating terrorism, and the same use of powers here in Western Australia because of a number of drunken lunatics and stoned idiots in Northbridge. That is why this legislation is being introduced. However, may I just come back to the point of the information that is gathered and what I would like the minister to address.

Mr R.F. Johnson: I will give you all those answers.

Mr F.M. LOGAN: Please, if the minister could.

[Member’s time extended.]

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Mr F.M. LOGAN: Under the UK legislation people do not have to provide their name and address if the police stop them and search them, unless of course they are being reported for an offence. Even under the anti-terrorism legislation in the UK, the police must have a firm belief and suspicion that people are in breach of an act. For them to stop people they must have that belief. The debate that has occurred today and the quite emotional statements made by those on this side of the house go to that very point, and the fact that in this bill provides no requirement that police must have at least a level of suspicion before stopping people. That is what the emotion has been all about. Police usually only have this right when there is a suspicion that people have broken the law, committed an offence or are likely to commit an offence. That is when these quite extensive powers would be used. In the UK the rights of the individual are protected even under anti-terrorism laws.

Mr M.J. Cowper: Why won't you take an interjection from me? You started so well.

Mr F.M. LOGAN: The member can stand and put his point of view again if he wants to have another go. The rights of the individual in the UK are protected because the police must first have a suspicion that people are about to commit an offence or have committed an offence. The legislation contains protections under which people do not have to provide their name and address if they do not want to. Even when they have been required to provide their name and address, the police must not keep that information on record. Simply because people have been stopped in a particular area and searched, the information about them cannot be kept on file, and it should not be kept on file.

Mr M.J. Cowper: Beautiful!

Mr F.M. LOGAN: The member for Murray-Wellington is making an embarrassment of himself.

Mr R.F. Johnson: I will give you those answers in consideration in detail.

Mr F.M. LOGAN: Yes, but does the minister get the point I am making? We should be able to compare this legislation with similar legislation used elsewhere in the world. This legislation has very strong similarities to that used in the UK, except that in the UK legislation there are protections, even though that legislation was brought in for a completely different purpose from the one for which this legislation is being brought in. As I said in opening my contribution to this debate, if in very similar legislation in the UK that balance has been struck of the rights of individuals to go about their daily lives without being intimidated or threatened by an instrument of state—that instrument being the police—then it should apply here.

Mr R.F. Johnson: I think you have made that point.

Mr F.M. LOGAN: I know I have made the point. However, I am taking the minister to those points in the bill that should have those protections, but unfortunately it does not have them.

Mr R.F. Johnson: Let us deal with those points in consideration in detail.

Mr F.M. LOGAN: I wanted to avoid the hyperbole and emotion that has occurred in this debate so far and to go to the key issues.

Mr R.F. Johnson: Can I say that your speech has been very well delivered and has not been emotional and hysterical. I do not necessarily agree with everything the member has said —

Mr F.M. LOGAN: I understand that.

Mr R.F. Johnson: — but I think you have delivered it in a very tempered manner and I applaud you for that.

Mr F.M. LOGAN: I thank the minister for those comments, but I do wish he would take them on board and I ask that he consider them very carefully. That is because legislation with greater protections for individuals is now being tossed out in the UK for a number of reasons, primarily economic ones, because at the end of day it does not work.

MR C.C. PORTER (Bateman — Attorney General) [11.06 pm]: It is somewhat unusual to have another minister speaking on a fellow minister's bill, although I have given some assistance to the Minister for Police in his drafting of this bill. Many of the members opposite issued something of a challenge that I come and speak to the bill. I am not necessarily responding to a challenge, but there are some comments I feel should be raised on some of the matters raised during the course of this debate. I want to be brief and make three very quick points. One is about the emotion and what was just described by the member for Cockburn as the hyperbole that has been engaged in in this debate; the second is about the position of the members opposite; and the third is to give an explanation from my perspective of precisely what this legislation is seeking to do.

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First of all, the emotion in this debate, having watched some of it and listened to the rest of it from my office as I worked away, has been absolutely extraordinary. I cannot recall hearing anything quite like it: the depth of the passion, the statements that were made, and the descriptions of the legislation as having totalitarian origins. At various points we heard about apartheid, the National Socialists, the Stasi, the Community Party of the Union of Soviet Socialist Republics, Hungary and Czechoslovakia; they have all got a run.

Mr Speaker, for your benefit, I am not now, nor have I ever been, a member of a Communist Party between the years 1952 and 1956—or any other time! The only time in my memory that I can recall anything like the heat of the emotion in this debate occurred at a Liberal Party conference. It must have been when I was maybe 17 or 18 and becoming interested in matters of debate and public policy, and because of my family connections with the party I would be dragged along to conferences and I would sit at the back. I was not a member or anything of that like, but I would listen and watch. There was debate in very similar terms, and it involved another law enforcement measure in the jurisdiction of Western Australia. The debate went down this hyperbolic path that if the Liberal Party endorsed a policy motion to bring about this law enforcement measure it would be the start of a totalitarian state and we would go down the slippery slope towards fascism.

Ms M.M. Quirk: Random breath testing.

Mr C.C. PORTER: The member for Girrawheen has got it in one: it was precisely random breath testing. All of these points that were raised—almost every single one—were raised by elements of my own party around 1987-88 about random breath testing. Now we think of random breath testing as so run of the mill, so average and an ordinary part of Australian life. It is intrusive with respect to what the law calls body privacy. When I heard some of the statements opposite about people being thrown up against walls and frisked, I thought they have been watching way too much TV!

Mr E.S. Ripper: That is opposition for you.

Mr C.C. PORTER: Very good, Leader of the Opposition! I do not know if anyone has had a random breath test recently, but something is done that many people consider to be one of the most intrusive things that a person can do: forcing something in one's mouth. I can see Mr Speaker giving a wry smile, and I will not inquire as to why. When I think back to the debate that occurred at a Liberal Party conference, it was pointed out that one of the most intrusive things that can happen to someone is to have something poked in an orifice, which is precisely what random breath testing requires people to do on a routine basis and for a reason. Random breath testing is not confined to declared areas; it can occur anywhere. It can happen in a person's driveway in Subiaco, in the Kimberley or anywhere else. Random breath testing is undertaken for a reason. It is intrusive and people have come to accept it. People will either come to accept or reject the measures in this bill. However, the opposition continues to run these slippery slope arguments that it is the thin edge of the wedge and that we are moving towards something.

Mr W.J. Johnston interjected.

Mr C.C. PORTER: I have listened to everything that has been said, and the member for Cannington's contribution was the least worthy of all.

Several members interjected.

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington!

Mr C.C. PORTER: I know that the slippery slope argument towards totalitarianism is raised often and it cannot always be right, because we are not wearing SS uniforms. It is raised all the time and it has not happened yet. That is not to say we should not be vigilant; it has just not happened in recent memory. Will it happen with respect to this bill? I proffer not. The reason why—this is the second point I make about the position of members opposite—goes to the private member's bill that the member for Girrawheen brought into this place. I do not know how it works on the other side, but I presume that if a private member's bill reaches the Assembly, it must go through caucus and people must vote for it and it is approved and supported. We had lavish hypocrisy from several members, although not all, when they must have, as a matter of logic, supported the Weapons (Supply to Minors and Enhanced Police Powers) Amendment Bill 2008. On 2 December 2008, in this very place, the member for Girrawheen's bill was second read. I thought the bill, albeit its drafting had some problems, was a bill with merit. It was a bill that tried to solve a problem.

Ms M.M. Quirk: That is not what the Minister for Police said. You were not convinced by his arguments.

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Mr C.C. PORTER: I must admit that I read the *Hansard* and I did not see that particular exchange. Maybe I missed it. The member for Girrawheen said —

The other feature of the legislation, which was inserted after some public discussion in recent weeks, addresses the inadequacy of current police powers. As the law exists, under section 13 of the Weapons Act police must have a “reasonable belief” that a person is in possession of a weapon before they can exercise the power to search. “Reasonable belief” is a term that carries its normal legal meaning. The problem is how police can have that belief if weapons such as a machete, “The Scorpion” or “The Defender” are secreted. This legislation removes the need for police to have that level of suspicion and enables them to search for weapons by way of frisk or metal detector.

To which I say, “Bingo!”, the member got it absolutely in one.

The member went on to say —

The bill will allow police to search without warrant in certain areas, such as night entertainment areas, gazetted by regulation at specified times, to ascertain whether persons are carrying weapons. We envisage that the areas to be gazetted would be chosen on the basis of crime statistics and would be evidence based. Similarly, the times these powers would be exercised would be based on advice from police about when these weapons offences are most prevalent. We are supporting police by giving them additional targeted powers that will not impact on law abiding members of the community.

I am left to assume that the operative part of the bill—that is, allowing police in certain regulated areas to search not on the basis of reasonable suspicions, but at random, like a random breath test—is basically supported. What we are arguing about, with a few hyperbolic exceptions from members opposite, is how we structure and go about regulating those areas.

I understand the points made by the member for Girrawheen. When I looked at the bill she brought to this place and at the way in which it would determine the areas—how large and for how long—I could see that it was perhaps considerably more expansive than the bill that is before the Parliament, and I can show that. When we look at the size of the area that the member’s bill would have allowed to be gazetted —

Mr E.S. Ripper: There was no 70B in that bill.

Mr C.C. PORTER: In many salient respects it goes further than what is in this legislation. The size of the area could have been any size. Under the bill the member for Girrawheen brought to Parliament, there would have been no limit on the time that an area could be made a declared area. There was no limit to size and no limit to time, which means, at least potentially, that under her bill the entire state of Western Australia could have been gazetted forever. Of course, the government could not have done that because it would have required the government to be ultimately responsible, just as under our legislation the Minister for Police will be ultimately responsible. Any politician or member of the executive who did such a thing as gazette the entire state of Western Australia forever would be insane; there is no question about that. Maybe that should concern us at certain times, but I have not met anyone in this place who would go that far. The point was made by the Leader of the Opposition that if it is done by regulation, which would require gazetting, at certain periods there could be a parliamentary recess and therefore the ability to amend or repeal the regulation or to move a disallowance motion would be lost or could take some time. Again, that was precisely the methodology and operative provisions of the bill the opposition introduced into this house and that they all must have agreed on. I think it is a procedure with merit, but it makes me feel outraged at the outrage of the members for Mindarie and Warnbro, who stood in here invoking the Anzac spirit against provisions in a bill they supported from their own side of the house. Did they say those things in caucus? Were they as loud and proud for the Anzac spirit when the Weapons (Supply to Minors and Enhanced Police Powers) Amendment Bill 2008 was being put to Labor Party members in caucus? I do not know; I was not there. I did not hear the shouting that day, but I did today. We must be consistent about these things.

I want to finish by talking about what this bill seeks to do. We heard from some bush lawyers, and that is fine, but let me put it in simple terms. The system that exists under the Criminal Investigation Act is this: there must be a reasonable suspicion. When there is a reasonable suspicion, either a basic search or a strip search can be conducted. A basic search is defined, and it is fairly simply put. I will explain what a basic search is because the member for Armadale raised a whole range of questions through interjection, which any sensible person could have the answer to had they read the bill. A basic search is described as follows —

A person who is authorised by this Act to do a basic search of a person may do any or all of the following —

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- (a) scan the person with an electronic or mechanical device, whether hand held or not, to detect any thing;
- (b) remove the person's headwear, gloves, footwear or outer clothing (such as a coat or jacket), but not his or her inner clothing or underwear, in order to facilitate a frisk search;
- (c) frisk search the person;
- (d) search any article removed under paragraph (b).

There is no mention of throwing people up against walls—nothing of that nature. Of course, if a police officer did that, that action would be unlawful, which would taint the evidence and be counterproductive. The point exists that to have reasonable suspicion we have to have what the law talks about as a concrete, personally held view as an investigating officer that attaches to another individual. The problem with the circumstances that arise at the moment is that if we wanted to search the 70 people who went into this or that bar in Northbridge merely because we know that bar has recently had a history of violent behaviour and of people carrying drugs and weapons such as knives and guns into the bar, we could not search all the patrons going in, pursuant to a basic search, and argue that we had a reasonable suspicion that attached to each of them. The search would be almost certainly unlawful. Whether that would mean it would be thrown out in the court would depend on all the circumstances because of another principle called the Bunning and Cross principle, which says that even illegally obtained evidence might be admissible, but consideration must be given to the ways in which it is obtained illegally. If it was an inadvertent and non-malicious mistake, it would not necessarily be ruled inadmissible. But if a police officer knew that it was unlawful to randomly search 70 people going into a nightclub and did it anyway—which police officers tell this government they want to be able to do—I can guarantee that that would almost certainly be seen by a court to be not merely unlawful gathering of evidence, but the gathering of evidence so unlawful and so contrary to the known state of the law that it could not be held to be admissible. If we want police officers to be able to search 60 or 70 people before they go into a nightclub where there is good evidence and good data to suggest that that is a worthwhile policing activity, we must have legislation of some type or another to allow us to do the things in this bill. That is why the opposition introduced its own bill and it is why this government has presented this bill. Will it lead us into a slide towards totalitarianism? I do not know. Watching that Liberal Party conference, they said they would be searching the cars of everyone—the gypsies and their caravans, presumably—but that never happened and we have a system that people naturally accept, because it makes sense.

MR R.F. JOHNSON (Hillarys — Leader of the House) [11.20 pm] — in reply: I initially thank the members who have made some good contributions to the second reading stage of this bill. There are many members that I cannot say that about, but some members have made some constructive and useful comments about the bill.

I make one thing clear before I seek leave to do something else. Members opposite seem to think that the Commissioner of Police came to me and asked me to introduce this bill. The reverse happened. I assure members that it was a policy decision of mine, in discussion with cabinet, to bring this bill to Parliament. When I put it to the commissioner, he was very helpful. He believed it was a good bill and a very useful tool in the fight against crime and the fight against unlawful weapons that are being carried around, particularly in Northbridge. We were predominantly talking about Northbridge and the central business district to start with. We have looked at other areas where there may well be a need to invoke the designated area for very limited times. That will be based on intelligence.

I do not want to say any more because the house has sat late for two nights because of the filibustering and hypocrisy that we have heard from most members on the other side of the house. I seek leave to continue my remarks at a later stage of this day's sitting.

The SPEAKER: Members, is leave granted?

Mr M. McGowan: No. What was that?

Mr R.F. JOHNSON: I am going to adjourn the debate until tomorrow.

Mr M. McGowan: Aren't you concluding the debate now?

Mr R.F. JOHNSON: No.

Mr M. McGowan: Why not?

Mr R.F. JOHNSON: Because I have a lot more to say than there is time for now. I am conscious of the hours that we are sitting.

Dr Janet Woollard; Acting Speaker; Mr Peter Watson; Mr Rob Johnson; Mr Mark McGowan; Mr Colin Barnett;
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Mr Bill Johnston

Mr M. McGowan: This is an absolute disgrace.

Mr R.F. JOHNSON: The member should not talk such rubbish.

Mr M. McGowan: It is an absolute disgrace. You've left us here until 11.30 at night. You had the opportunity to speak and we are ready to listen to you and you are not even going to speak.

Mr R.F. JOHNSON: If the member comes in early tomorrow, he will hear me speak tomorrow. What absolute arrant nonsense.

The SPEAKER: Members, I put the question to you again: is leave granted?

Mr M. McGowan: No.

The SPEAKER: Leave is not granted.

Mr R.F. JOHNSON: I thought the opposition wanted to hear some considered response from me, particularly as my advisers have been taking notes of some of the nonsense opposition members have been spouting over the past two days. We did it for the former government regularly when those sitting on the front bench were ministers—terrible ministers at that; we gave them the opportunity to deliver their response in a considered way.

Mr C.J. Barnett: It happened often.

Mr R.F. JOHNSON: It happened many, many times.

Mr M. McGowan: You can make your speech now.

Mr R.F. JOHNSON: Has the Leader of the Opposition no control over his junior people?

Mr C.J. Barnett: He's a humpy from Rockingham.

Mr R.F. JOHNSON: No, he is not; he is a junior person. He is trying to do a man's job. It is very dangerous to refuse to grant leave when leave is sought in this house.

Mr M. McGowan: Why is it dangerous?

Mr R.F. JOHNSON: When the member for Rockingham or any opposition member wants to seek leave —

Mr C.J. Barnett: When you ask for favours.

Mr R.F. JOHNSON: When opposition members ask for favours —

Mr M. McGowan: You never give us any favours.

Mr R.F. JOHNSON: I have always agreed when the member has sought leave to give a late notice of motion and all sorts of things. The Leader of the Opposition should not forget that we had a deal today. He is not a man of his word. We agreed last night when he wanted to go home and all his backbenchers wanted to go home because it was very late that we would deal with the weapons bill, at his request, after question time today—I am saying this so he knows the truth—on the basis that his members would speak for no longer than 30 minutes and that they would support the bill going all the way through.

Mr M. McGowan: You went 20 minutes over the agreed time.

Mr R.F. JOHNSON: Did that break the agreement? I can tell the member for Rockingham that I am happy to stay here until just before 12 o'clock if I have to. I will do it. I do not want to keep the staff in this chamber here because they have to be here well before nine o'clock tomorrow morning. Usually we would try to adjourn the house by about 11 o'clock or 11.30 pm at the latest, but because of the intransigence of the manager of opposition business —

Mr M. McGowan: You didn't last night.

Mr R.F. JOHNSON: We did not start at nine o'clock, you very silly person!

Mr M. McGowan: You have anger management issues.

Mr R.F. JOHNSON: No, I do not. There is a dopey management issue on your side of the house because you cannot manage your house properly! You cannot even get your own members to keep their word or your word! You are not a man of your word anymore!

Mr M. McGowan: Just get on with it.

Mr R.F. JOHNSON: If I give an agreement to something, I stick to it.

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Mr M. McGowan: Just get on with it.

Mr R.F. JOHNSON: Do not tell me what to do, sunshine! Do not tell me what to do. I will get my mate from Croydon on to you! I can babble on for an hour, my friend; no problem at all.

Mr M. McGowan: Go for it.

Mr R.F. JOHNSON: What a stupid, irresponsible response from the manager of opposition business. If he wants me to carry on, I will carry on.

Mr M.P. Murray: You would have to take some of the blame for the weapons bill because of that crossbow issue that we didn't get an answer for. The main issue was in that area. We were told to give a hurry-up. I'll take the blame for that because you didn't give an answer to the letter that we gave you. That was the issue.

Mr R.F. JOHNSON: I did not have an agreement with my friend the member for Collie-Preston; I had an agreement with the person who I thought was responsible for members on the opposition's side of the house.

Mr M.P. Murray: If you had honoured your bit, we would have been done.

Mr R.F. JOHNSON: I will keep members opposite here; they need not worry.

Mr M. McGowan: Don't make threats.

Several members interjected.

The SPEAKER: Thank you, members!

Mr R.F. JOHNSON: The number of times that we used to agree to leave being granted for the opposition's former ministers, Jim McGinty and John Kobelke being clear cases, so that we could get a measured response to give them —

Mr M. McGowan: I don't see the relevance to the bill.

Mr R.F. JOHNSON: You do not see anything, sunshine, because you have not been here long enough! You are just a boy doing a man's job, but you are not doing a very good job! We did it all the time.

Mr M. McGowan: I will take a point of order on you in a minute.

Mr R.F. JOHNSON: Take a point of order; go on then. You are a pathetic person! If the Leader of the Opposition had any gumption and any stamina, he would put you in your place, sunshine, I can tell you!

Mr Speaker, I will remember that leave was not granted and when the manager of opposition business comes to me wanting to seek leave for any matter on his side of the house, he should not expect to get an automatic, positive response.

Mr C.J. Barnett: Next time an opposition member has a special problem, that member will have to come over and speak directly to the Leader of the House. He will not be able to rely on the manager of opposition business.

Mr R.F. JOHNSON: Absolutely; not through him at all. As far as I am concerned I will ignore the manager of opposition business in future because he is not a man of his word and he is not trustworthy. We have to have a certain amount of trust in this place; something he has not shown.

Withdrawal of Remark

Mr W.J. JOHNSTON: The Leader of the House has just called the leader of opposition business untrustworthy and lacking in his word. That is clearly unparliamentary and the Leader of the House should withdraw.

Mr R.F. Johnson: No, it is not.

The SPEAKER: There is no point of order.

Debate Resumed

Mr R.F. JOHNSON: I apologise to the house, not for my actions but for the actions of the manager of opposition business. That person is forcing this house to stay later than it should do. I know that every member of this house, including him if he was honest, wants to go home now, as we have had two very long days and two very long nights. The manager of opposition business is obviously going to try to accuse me of not being able to run the house properly; and, of course, we have heard that from other members opposite. That is fine, but at the end of the day I am the Leader of the House and I promise the manager of opposition business that I can

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do certain things that will make life not particularly comfortable for him. I will not agree to him being given leave for anything he asks for—okay? That will cost him dearly in time to come.

Mr M. McGowan: Fine.

Mr R.F. JOHNSON: Good; okay.

Mr M. McGowan: Do whatever you want.

Mr R.F. JOHNSON: I will do that, my friend.

Mr C.J. Barnett: Your members will not thank you for this.

Mr R.F. JOHNSON: They will not thank him.

Mr Speaker, I am being forced now by the manager of opposition business, and obviously the Leader of the Opposition, to go through my dissertation in response. I want to apologise to the members of the house, and indeed to the staff members in this house, who are being forced to stay here at what I think is an unreasonable time, being the second late night on the run, and having to come in here well before nine o'clock tomorrow morning. I am sure they know who is responsible for that.

I would like to be able to say that I appreciate the comments made by members opposite; but, with the exception of one or two speeches, I cannot. The speech made by the shadow Minister for Police was a reasonable one; I obviously do not agree with it all, but it was reasonable. I have to say that virtually all the other speeches were the biggest load of hypocrisy I have ever heard in my life. The Attorney General put it beautifully—far better than I could put it—when he referred to the hypocrisy of the opposition. When one has listened to what the opposition said until the early hours of this morning about the bill before the house, one can only assume that this legislation is the end of the world for the opposition. However, it supported to a man and woman an almost identical bill brought to Parliament by the member for Girrawheen. That was quite clear.

I apologise for a slight delay in my speech, because I packed all my papers thinking that we would be going home. I refer to comments made by the Leader of the Opposition. He was talking about areas not being declared without the prior approval of Parliament. The member for Girrawheen's private member's bill had no provisions whatsoever for parliamentary approval.

Ms M.M. Quirk interjected.

Mr R.F. JOHNSON: Not prior approval, I can assure the member. Her bill would have declared areas by way of regulations, not prior approval, in the same way that we would make regulations under proposed section 70A.

Ms M.M. Quirk: I think you mean 70B.

Mr R.F. JOHNSON: No, regulations under proposed section 70A; I trust my notes to be more accurate than what the member is saying. Under the member for Girrawheen's bill—it must have been a marvellous bill for all the members of the Labor caucus to have voted for it—reasonable suspicion and consent would not have applied to proposed search provisions, yet we are here after 11.30 pm. What a damnation the government's bill is because we have taken away the areas of reasonable suspicion and consent! The member for Girrawheen is the person with primary responsibility for responding to this bill. How can she possibly look any of her colleagues in the face and say that this bill is draconian, when hers is very similar?

Ms M.M. Quirk: It's different in a material respect that you have glossed over.

Mr R.F. JOHNSON: Which is that?

Ms M.M. Quirk: Proposed section 70B is completely new, and that is probably the thing that we object to most.

Mr R.F. JOHNSON: Why does the opposition object to it?

Mr E.S. Ripper: There is no parliamentary accountability.

Ms M.M. Quirk: We do not understand what justification there is for it.

Mr R.F. JOHNSON: That is slightly different; I accept that, but we believe that it could be necessary in an emergency.

The member for Maylands raised the issue of the removal of headwear such as hijabs and burqas. A draft policy is being prepared about people in police custody. This could be expanded to cover situations regarding the removal of headwear during searches carried out on a person who is not in custody. We could do that, and it is

Extract from Hansard

[ASSEMBLY - Wednesday, 11 November 2009]

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something we would be prepared to look at. Another concern she had was complaints about police and the use of their powers. I would suggest that the member visit the police website about making a complaint about the police. It would be exactly the same. The person who has a complaint about a search being carried out can make a complaint in exactly the same way. I could not quite understand what other areas the member for Maylands wanted to cover there.

The member for Alfred Cove has now gone home. In one particular case that has been given to me, police had to appeal against the decision of a magistrate that there were reasonable grounds, and that the magistrate did not admit the evidence because of that. I have the paperwork here somewhere, which I would be very happy to give to the member, showing that that particular appeal case had happened.

What the government is trying to do, and what I think the people of Western Australia want, is to send a very clear message to those people who carry weapons in our society; that is, that we will not tolerate them. I know that the police will welcome the fact that we are passing this bill through this Parliament. There may not be too many cases that have been lost because of challenges about a police officer having to prove reasonable grounds to carry out a search, but very often slick defence lawyers will use that sort of argument, rather than argue the fact that the person was found to be carrying a machete or a knife, to move the focus away from the real crux of the matter, which is somebody carrying a dangerous weapon. Lawyers will very often try to discredit the police officer.

I had many other things that I was going to say, but I will not keep members in this chamber any longer tonight. The people who will miss out will be opposition members, because tomorrow I will not be able to continue responding to members who had genuine queries and comments. We will be going straight into consideration in detail.

Ms M.M. Quirk: That's fine; we can ask them then.

Mr R.F. JOHNSON: Yes, and I can tell the member that she had better make the most of it, because I will not have the time of this house wasted like I have seen over the past two days with the constant filibustering and hypocrisy from members opposite.

Ms M.M. Quirk: I hope you are not calling me a hypocrite.

Mr R.F. JOHNSON: I am sorry, but I am referring to the hypocrisy of every member, because a year ago they all voted for the member for Girrawheen's bill, which is very little different from the one that is before the house today. In fact, it was more draconian in some areas because it could have covered anywhere in Western Australia. The opposition was quite happy for people to be stopped and searched without warrant, and without reasonable suspicion that they were carrying anything. That bill did not provide for designated areas such as the ones that we are proposing.

I will not keep members of this house here for any longer. We will continue the debate on this bill tomorrow, and we will go through it rapidly, I can tell members.

Question put and passed.

Bill read a second time.