

MISUSE OF DRUGS AMENDMENT (METHYLAMPHETAMINE OFFENCES) BILL 2017

Consideration in Detail

Resumed from 21 June.

Clause 7: Section 34 amended —

Debate was adjourned after the clause had been partly considered.

Mr D.A. TEMPLEMAN: I was not sure whether the opposition spokesperson was in the chamber, but he is now.

Mr P.A. KATSAMBANIS: As I have just arrived in the chamber, is the Attorney General taking over carriage of this bill today?

Mr D.A. TEMPLEMAN: The Minister for Police is making an important national announcement with other police ministers across the country at 10.00 am. She will do that and will then be in the chamber to reconvene.

Mr P.A. KATSAMBANIS: Sorry, this is probably a discussion that may have needed to have taken place behind the Chair.

Mr D.A. Templeman: You were not here.

Mr P.A. KATSAMBANIS: So is the Attorney General —

Mr D.A. Templeman: Yes, the Attorney will be here until the Minister for Police comes in.

Mr P.A. KATSAMBANIS: All right, so the Attorney will be acting in place of the minister and be able to answer all the questions. Great, I thank the member for clarifying that.

We were discussing clause 7 yesterday and I seek some information, if it is available, about how many people these provisions are likely to apply to each year. How many people are estimated to fall under these provisions each year? Perhaps as a guide, is there any information about the people who have been charged with these types of offences in each of the last, say, three years? I understand that we cannot look at a crystal ball and foresee what is coming up in the future, but we can use the past as a bit of a guide. Are there any statistics about how many people were charged with these types of offences last year, the year before and the year before that? Perhaps we can extrapolate where that might go in the future.

Mr J.R. QUIGLEY: If we can use the past as a guide, when I spent eight years in that row over there, I pressed the previous government to keep a database of offences and sentencing, and the previous government refused repeatedly to set up an accurate database. As the previous government refused to set up and maintain the requisite databases that the Labor Party had been pressing for, we do not have solid information about that because there was a failure. We can say that up to 200 people could have been charged, but this is our best guess. How many people have been convicted? As I said, the previous government failed to keep a database and that is something we intend to set to rights.

Mr P.A. KATSAMBANIS: The issue of meth affects every single person in our community, whether they are victims through becoming addicted or through crime or simply due to the fact of having to deal with addicted persons in their home, workplace or on the streets. I do not think it is good enough to glibly dismiss any questions simply on the basis that there was not an accurate database. When the government puts together legislation such as this, it ought to be able to do work to come up with enough information to indicate how many people were charged with these offences, say, last financial year and in the financial year before; I imagine it will not be thousands of people. So, did the government do any assessment of how many people have been charged with these offences in the past few years or is this best guess that the Attorney General gave something he just made up on the spot?

Mr J.R. QUIGLEY: I repeat, before we settled this policy, we pressed and pressed from the opposition benches for the then government to establish a firm database and to have an office of crime statistics so that things could be approached on a factual basis. We have no intention of waiting four years for our crime database to produce the results before moving forward in this important area. I note that the member for Hillarys said repeatedly during his second reading contribution that in his view the sentences were inadequate, but he did so on the basis of reading out newspaper reports because the previous government refused to establish either an office of crime statistics or a rigorous database of convictions and sentencing in this area. We resolved to bring the legislation with the maximum penalty in line with the commonwealth legislation under the importation offences so it is exactly the same as the commonwealth.

Mr P.A. KATSAMBANIS: Clearly it is not a difficult task to look at District Court statistics and come up with some figure to indicate how many of these people are presenting to our courts each year. In fact, yesterday, during the second reading debate, I read out some District Court figures. I want to know whether there are any better statistics. The Attorney General suggested in his first answer today that it is a couple of hundred people. Is

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

that a couple of hundred people a year or a couple of hundred people over a three, four or five-year period? Can the Attorney General put a ring fence around that, please?

Mr J.R. QUIGLEY: The shadow minister said that he has looked at some District Court figures, and it should not be a difficult task to get the figures, but he has not been able to find those figures, so can the Attorney General give our best estimate. We can give our best estimate. If we had a bureau of crime statistics, or a sentencing database, we would have those statistics. We implored the member for Scarborough when she was Minister for Police to do that. I remember making that speech repeatedly from the chair next to where the member for Hillarys is now sitting. If the former minister had agreed to that request, I would be able to give the member accurate figures. We are giving the member our best guesstimate of the number of people who will be charged for possessing in excess of 28 grams of methylamphetamine. That is not the number of convictions. That is the estimate by the police of the number of people in Western Australia who will be charged under this new law.

Mr P.A. KATSAMBANIS: What is that figure? What is the Attorney General's best guess—per year?

Mr J.R. QUIGLEY: It is the same answer as before.

Mr P.A. KATSAMBANIS: It is around 200 a year. Okay. This provision—clause 7—which has been brought in by the government, will increase from 25 years to life the maximum sentence for people who are convicted of intending to sell or supply a trafficable quantity of methylamphetamine. The opposition supports that. We have been firm on that throughout the process. Yesterday, during the second reading debate, the Attorney General pointed out that the Director of Public Prosecutions has indicated that the tougher we make sentencing, the more incentive there will be for people to try to avoid the tougher sentence by pleading not guilty. The Attorney General used that information from the DPP to attack the concept of mandatory minimum sentences. He suggested that if we bring in mandatory minimum sentences, people who might have been prepared to cop a lower sentence would not be prepared to cop the higher sentence; therefore, it would lead to more not guilty pleas and put more pressure on the courts. If that is the case, it absolutely follows that if the maximum penalty is increased from 25 years to life in prison, people who might have been subject to a lesser sentence will challenge the case in court rather than plead guilty. The government has told us that this provision will impose tougher sentences. Therefore, there will be more incentive for people to chance their luck and plead not guilty in order to avoid the tougher sentence. Can the government tell the chamber how many more people it expects will plead not guilty under these provisions than would have pleaded not guilty under the existing provisions?

Mr J.R. QUIGLEY: What the government can tell the member is that he has misrepresented the content of the letter from the Director of Public Prosecutions. The government can only make the assumption that the reason the member has misrepresented the letter from the DPP is that he has not read it.

Mr P.A. KATSAMBANIS: The Attorney General is trying, not too skilfully, to avoid answering what is a pretty direct question. I have done no such thing. I have not misrepresented anybody. I have extrapolated, logically and sensibly, a letter that states clearly that if we introduce tougher sentences, more people will want to avoid those tougher sentences. That is what the Attorney General said yesterday in this chamber. If that makes sense under the opposition's proposal, it equally makes sense under the government's proposal. All I am seeking is information around what work the government has done to calculate the impact on our judicial system of these tougher sentences. The government has told us that sentences will be tougher. That is good. Therefore, there will be more incentive for the bad guys to plead not guilty in order to avoid the tougher sentence. Therefore, rather than obfuscate or accuse me of things I have not done, would the Attorney General please provide us with any information that he has; and, if he does not have that information, would he please let us know.

Mr J.R. QUIGLEY: I will step it through for the member for Hillarys. The letter from the Director of Public Prosecutions dated 5 May 2017 does not provide opinion on the increase in the maximum penalty. The DPP provides opinion only on the impact that the imposition of mandatory sentences is likely to have on the Office of the Director of Public Prosecutions and on the courts. Therefore, when I said to the chamber that the member for Hillarys has misrepresented the Director of Public Prosecutions' communication to my office, I was correct. Nowhere in this letter does the DPP cast opinion on the impact on the courts of increasing the maximum sentence. I will extend to the member for Hillarys the benefit of the doubt. I accept that it is not a malicious misrepresentation to this chamber. I would just say he has not bothered to read and absorb the DPP's letter.

I will read from the letter, because it is a tabled document of this chamber. The DPP is directing her comments only to the imposition of mandatory sentences. The DPP's concerns in relation to the courts are found at page 3 of the letter. She states, in part —

(b) Consequent increase in criminal trials and appeals

The result of such a provision would be a very substantial increase in the number of trials for methylamphetamine trafficking in both the Magistrate's Court of Western Australia (for summary

offences involving up to 4g) and the District Court of Western Australia (for indictable offences involving more than 4g).

The consequent burdens on the prosecution (be it Police Prosecution Division or the ODPP), the defence (including Legal Aid and the Aboriginal Legal Service) and the Courts should not be underestimated,

In addition, mandatory sentences in relation to methylamphetamine offending would be likely to result in a greater numbers of appeals against conviction.

(c) Increased burden relating to Expert Evidence

The likely increase in the number of methylamphetamine trials would also result in a greatly increased requirement for expert evidence regarding methylamphetamine trafficking. When a plea of guilty is entered, the prosecution is no longer required to source evidence it would otherwise require for trial. This particularly applies to expert evidence.

This is an area in which WA Police are already indicating a severe lack of resources and available experts; however, it is essential to prosecuting such matters that jurors are provided with sufficient evidence to make an informed decision.

The effect would be that more senior police officers with sufficient expertise would be required to provide a witness statement. As a result of Court of Appeal authority, those officers are usually required to be independent of the investigation. The already significant imposition on front line police resourcing would be increased.

There would also be a substantial additional burden on PathWest, which would be required to analyse packaging, scales, and items connected with the prohibited drugs, which does not occur when a plea of guilty is entered.

In addition, there would be an increased workload on the ChemCentre and their chemists who undertake more advanced forensic analysis of the seized drugs.

Finally, the Forensic Division of WA Police would also be required to undertake more analysis and reporting.

Apart from the reporting in each case, the experts would all need to attend Court to give evidence in the additional trials, thus preventing them from attending to their core work of undertaking forensic testing.

Mr S.A. MILLMAN: Mr Chairman, I wonder whether I can hear more from the Attorney General on this important matter.

Mrs L.M. Harvey: One of you is awake. Nice work!

Mr S.A. Millman: At least I was here when we started.

Several members interjected.

The ACTING SPEAKER: Members! Thank you.

Mr J.R. QUIGLEY: Ms Forrester, SC, Director of Public Prosecutions in Western Australia, continues —

(d) Fails to take into account circumstances of the offender

Mandatory minimum sentencing in relation to methylamphetamine offences would prevent the Court taking into account important circumstances relating to the offender such as mental health issues, successful attempts to rehabilitate in relation to drug offending and other exceptional circumstances. As such, there can be a disincentive to rehabilitation efforts before sentencing.

(e) Creates inequity between drug offenders

Mandatory sentences relating purely to methylamphetamine offences would create an anomaly whereby offences of drug trafficking involving other drugs of an equally serious nature would likely result in more lenient sentences, as no mandatory sentence would apply. This could result in unjust outcomes for offenders, or diversion to other, equally serious, prohibited drugs.

Further, whether the mandatory minima apply to a range of quantities, or a minimum quantity, at the margins there will be an inability to distinguish between offenders whose conduct is of very different criminality.

Point of Order

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

Mrs L.M. HARVEY: The member is reading verbatim from a letter. I request that the minister table the letter for us to be provided with a copy —

The ACTING SPEAKER (Mr R.S. Love): I believe it has already been tabled.

Mrs L.M. HARVEY: — and allow us to read it for ourselves. Reading it out word-for-word is somewhat tedious.

The ACTING SPEAKER: Thank you, member. I believe he has already tabled it.

Mrs L.M. HARVEY: My point of order, Chair, is that the member is reading verbatim from a letter that has already been tabled, which is a waste of this Parliament's time.

Debate Resumed

Several members interjected.

The ACTING SPEAKER: Thank you, members. Carry on, member.

Mr J.R. QUIGLEY: I am reading it into the transcript and will continue to read it into the transcript, Mr Acting Speaker, because the member for Scarborough was absent yesterday.

Mrs L.M. Harvey: No, I wasn't.

Mr J.R. QUIGLEY: She was absent from the chamber yesterday when this letter was read and tabled. Yes she was; she was absent from the chamber. It was during the lunch break.

Mrs L.M. Harvey: I was listening in my office.

Mr J.R. QUIGLEY: Then, if she had been paying attention to proceedings from her office, she would have known the letter had been tabled yesterday.

Several members interjected.

The ACTING SPEAKER: Members! Member for Hillarys! Member for Carine! Attorney General, could you please return to the question at hand, which is clause 7.

Mr J.R. QUIGLEY: Thank you. I was referring to the question of clause 7 and that was whether any work had been done on the likelihood of increased court loadings or is the government speculating that. Work had been done by none other than the Director of Public Prosecutions. When referring to this letter, the member for Hillarys had misrepresented it saying that the letter was about the increase of maximum sentences. As I have respectfully pointed out to the Chair, the letter has nothing to do with the increase of maximum sentences; it is only about the infliction of maximum minimum sentences. As it appeared that the member and others in the chamber were not cognisant of the contents of the letter, I was taking them through it in my answer, so that for the purpose of the debate, we were all on the same page.

Mr P.A. Katsambanis interjected.

Mr J.R. QUIGLEY: The member wants me to vacate—the minister can tear him apart and expose him, do not worry about that. I will continue —

... the Liberal Party election policy would require that an offender with 10g of methylamphetamine could conceivably receive the same mandatory sentence as one with 49g.

Therefore they would likely plead not guilty and increase the court's workload.

Ms S.F. McGURK: I am interested in what the Attorney General has to say.

Mr J.R. QUIGLEY: Work has been done by this government on the likely impact of the infliction of mandatory minima. The infliction of mandatory minima penalties in this area will significantly increase the work of the District and Magistrates Courts, which are stretched beyond capacity because they have not been properly resourced for the past six years. As the Director of Public Prosecutions has pointed out, will considerably —

Point of Order

Mrs L.M. HARVEY: In the eight years I have been in this chamber I have never been in the consideration in detail stage of a bill with two ministers present. Does that conform to standing orders?

The ACTING SPEAKER (Mr R.S. Love): Thank you, member for Scarborough. I have decided to let the Attorney General finish his contribution on this point, at which point I expect the minister will resume her place as lead on this issue.

Debate Resumed

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

Mr J.R. QUIGLEY: I was asked what the impacts would be: the government has done this work and we would be very concerned—more than concerned—as would be the judiciary, the Commissioner of Police and ChemCentre of Western Australia if mandatory minimums were inflicted unnecessarily upon this community because —

Mr A. Krsticevic: Unnecessarily putting people in jail?

Mr J.R. QUIGLEY: I did not say that. I never said that. Do not verbal me. I never said, “unnecessarily put people in jail”.

Several members interjected.

The ACTING SPEAKER: Members! Member for Hillarys! Member for Hillarys!

Several members interjected.

The ACTING SPEAKER: Members!

Mr S.K. L'Estrange: I have a point of order.

The ACTING SPEAKER: I am on my feet.

Several members interjected.

Withdrawal of Remark

Mr S.K. L'ESTRANGE: The member used some unparliamentary language during that exchange. I ask that he withdraw it.

The ACTING SPEAKER (Mr R.S. Love): I did not hear anything. Did the member —

Mr B. URBAN: I told the member to be an adult. If it is unparliamentary to tell members opposite to be adults, then I apologise and withdraw “be an adult”.

Debate Resumed

The ACTING SPEAKER: Can we return to the business, please, which is discussion of clause 7? Are you continuing, Attorney General?

Mr J.R. QUIGLEY: Yes I am, thank you, Mr Acting Speaker.

All these agencies are not concerned, as the member for Carine would have it, about the unnecessary imprisonment of methamphetamine traffickers. The courts are always imprisoning methamphetamine traffickers. The courts, the police, the ChemCentre and other agencies are concerned about the huge and unnecessary increase in the workload that would result from the opposition's proposals. That is what the Director of Public Prosecutions was addressing in her correspondence to me. This will result in a huge increase because, for example—I will turn to the opposition's proposal, and this is what the director points out in her correspondence—people who are charged with possessing 10.5 grams of methamphetamine with intent to sell or supply will necessarily be pleading not guilty. If they were to plead guilty to possession of 10.5 grams of methamphetamine, they would have inflicted upon them the same penalty as someone who had 50 grams of methamphetamine—that is, five years' mandatory minimum imprisonment. Of course, they will go to trial to fight two aspects of the charge: firstly, that they had it in their possession with intent to sell or supply. They will say they did not have it in their possession with intent, as in a matter that went through the District Court the other day, in which the defendant said he was a two-gram-a-day addict and had less than a week's supply in his possession. More importantly, they will fight over half a gram. They will fight it out for days over half a gram, and challenge the expert witnesses over half a gram, because they are fighting for the difference between 12 months' imprisonment and five years' imprisonment. That is what will cause the increase in the court's workload, because without that the court would have the discretion to decide where an offender fits in the range, and more likely the offender would plead guilty. As the former Attorney General said in the other place, it is in the public interest that culprits plead guilty at the earliest possible stage and relieve the police, the courts and the other agencies of the workload.

I trust you have found my contributions this morning helpful, Mr Acting Speaker, and I will now retire from the ministerial table and hand over to my very learned colleague, the Minister for Police.

Mr P.A. KATSAMBANIS: I welcome the minister back. I know she had important business, and that is fine. In her absence, the Attorney General wanted to hold forth. I appreciate that this is not the Attorney General's bill. I appreciate that he personally may not have the same knowledge as the minister with carriage of the bill would have. I appreciate that he might want to filibuster for many reasons, to either avoid answering or wait until he gets the actual answer. In his inimitable style, the Attorney General smears, verbals and attacks. He brings down the

entire tone of the Parliament. We are down there with the used car dealers, and a lot lower than many other long-term professions in the world, for a very important reason: the way we treat each other in this place. The Attorney General accused me of not having read a letter that he tabled, to which I was referring. He accuses me of misrepresenting it, quoting it out of context, or whatever concoction he came up with, when all I was doing was referring to the letter, accepting what was contained in it, and extrapolating from the points made by the Director of Public Prosecutions about mandatory minimum sentencing, which, in the main, I do not disagree with. Essentially, the point of the letter is that if bad guys are going to cop tougher sentences, there will be more incentive for them to question the entire process and get off those tougher sentences. If they are going to get away with a slap on the wrist, they will probably treat that as a cost of doing business, cop a slap on the wrist and come back out onto the streets in a couple of years or a couple of months' time. If that applies to mandatory minimum sentencing, it ought to, and it does apply to any increases in sentencing. It was the only point I was making, but instead of answering that and letting us know whether the government had done any work on that area —

The ACTING SPEAKER: Member, do you have a question for the minister?

Mr P.A. KATSAMBANIS: I do, and I will get to it.

The ACTING SPEAKER: Could you get to the question, please?

Mr P.A. KATSAMBANIS: I will get to it.

The ACTING SPEAKER: Thanks, member.

Mr P.A. KATSAMBANIS: If that is the case, has the government done any work on the extra workload that our police, our courts and our entire system will have as a result of its tougher sentencing regime? Instead, I get smeared, the member for Scarborough gets smeared, and we get verbally, and so now I am glad —

The ACTING SPEAKER: Member, the point of this is to explore the bill with the Minister for Police. Could you asked the question, please.

Mr P.A. KATSAMBANIS: It is, and I am exploring it, but I am explaining to the minister the background, because she has not heard any of this. For me to ask the question I need her to have the background. This is a tougher sentencing regime. The minister tells us there will be tougher sentences. She tells us that meth dealers will cop tougher sentencing under this regime. We welcome it; we want that to happen. The minister wants that to happen, we want that to happen, and the public of Western Australia wants it to happen. Given that offenders will be receiving tougher sentences, which we want to happen, there will be an incentive for these bad guys—I think I described in my second reading contribution as the scum of the earth, and they are—will have more incentive to challenge the entire process, and to do the things that the Attorney General referred to in his contribution, which I accept that the minister did not hear. Has the government done any work on the additional impact this tougher sentencing regime will have on police resources, court resources or, at the other end of the scale, corrective services resources?

Mrs M.H. ROBERTS: I thank the member for his question. Police have done some work on it; they have looked at the options, and their advice to me is that they do not anticipate that they will need any increased resources as a result of these measures. People before the court charged with a trafficking offence—possession of 28 grams or more of methamphetamine—already face a hefty sentence in this state; that is, imprisonment for 25 years. In a sense, there is already a significant incentive for such offenders to plead not guilty or, if the evidence is stacked against them, to plead guilty and complete their mitigating circumstances, or whatever. This bill increases the penalty to life imprisonment, which means that we hope they would get longer sentences. In that case their sentence may well be closer to the full 25 years rather than 15 years or whatever. However, I think there is probably an equal incentive for people to avoid 20, 25 or 30 years in jail as there would be to avoid 10 or 15 years in jail. If they are looking at a lengthy jail term, they would want to avoid it in any event.

I do not really agree with the member's point. I gather that the Attorney General has also responded to him on this point, that somehow, although this is going to mean longer sentences—because, as I said yesterday, the envelope in which sentences are given, depending on the circumstances of the charge, will be extended and consequently there will be longer sentences—those sentences may be three, four, five or 10 years longer. They will add to what people already have a jail term for, so it is not a question about avoiding jail.

Then there might be the circumstance of what is the immediate impost on the prison system. The forward estimates generally look to the next four years. People who get a life sentence or something up to a life sentence in these circumstances—that minimum of seven years—would now likely serve at least four years in jail. I do not see how that will have an impact on the forward estimates, if that is the member's question. Whether someone gets a 10-year sentence, a 25-year sentence or a 30-year sentence, they will be in jail for the next four years in any event. As I also said yesterday, we will monitor the impact of this very closely and we will be able

to make an assessment of how these increased penalties are working out. There is plenty of time to adjust future budgets, but I personally do not see how this will have an impact on our prison system, for example, until after the forward estimates. We are talking about drug traffickers who are already being dealt with under the law, who are currently facing a 25-year sentence or a \$100 000 fine. That is pretty much a big incentive to get people to muster their best case. As the member is probably well aware, in many circumstances clear forensic and other evidence is available to police that makes pleading guilty rather futile.

Mr P.A. KATSAMBANIS: When was the last time a person received the maximum 25-year sentence for these types of offences in Western Australia?

Mrs M.H. ROBERTS: I would like to inquire about a couple of things: one is whether members have any questions about the clause we are dealing with; and, two, when are they likely to move their own amendment? I do not consider a question about what sentences have been meted out to people over a period of time for various offences to be pertinent to this clause.

Mr P.A. KATSAMBANIS: I think it is extremely pertinent. The government comes in here and says that it is going to get tough on meth dealers because it is going to make sure those offences attract maximum life sentences, which sends a message to the community that the really bad guys, the worst guys, the ones at the top of the tree, are going to go to jail for life. That is laudable, and we support it. We cheer it. We welcome it. It is part of our policy. If the government is sending that message out to the community, I think it is fair to highlight whether those maximum sentences have ever been meted out. If no-one has ever received a 25-year sentence for those offences, it is unlikely, although not outside the realms of possibility, that they would receive a life sentence.

The other thing I would expect from a minister when bringing a bill into the chamber is to be cognisant of how the provisions that are being amended are operating. If a dozen 25-year sentences were being imposed every year, we would not be having this conversation; none of us would be bothering about increasing the maximum sentence from 25 years to life if the bad guys were copping 25 years. I put it to the minister that there is no evidence available that anyone, certainly not in the last decade, has ever received a 25-year sentence for these types of offences. I seek again from the minister, rather than her questioning our motives, an answer to the question. Can she tell us whether that is the case; whether she is aware of any case in the last decade or more in which someone has received a sentence of a maximum of 25 years for these offences.

Mrs M.H. ROBERTS: The member is effectively re-arguing points he made during the election campaign. He made it clear during the election campaign that he does not like the maximum sentencing regime—he wanted a mandatory sentencing regime! He is re-arguing that point. I am going to explain it one last time. The fact is that a maximum sentencing regime works differently from a minimum sentencing regime. Clause 6(2) of the Sentencing Act 1995, under “Principles of Sentencing”, states —

- (2) The seriousness of an offence must be determined by taking into account —
 - (a) the statutory penalty for the offence; and
 - (b) the circumstances of the commission of the offence, including the vulnerability of any victim of the offence; and
 - (c) any aggravating factors; and
 - (d) any mitigating factors.

The key point I am focussing on here is the statutory penalty. We are increasing the maximum statutory penalty from 25 years to life imprisonment. That is one factor. It is the first listed factor that a judge has to take into account in sentencing principles. When the maximum sentence is increased, the sentence is thereby increased. Does that mean everyone will get 25 years? No, it does not. Has it meant that everyone will get 25 years? No, it does not; that would be extremely rare. Does it mean that everyone is going to get life? No, it does not. It means that they will get a higher sentence than they would have got ahead of this legislation.

I further draw the member’s attention to the point I believe the Attorney General was referring to earlier in his correspondence from Hon Wayne Martin, AC, Chief Justice of Western Australia. In that advice, he states —

... I would expect that the effect of the Bill, if it were to be enacted, would be to increase the range of sentences imposed on offenders liable to the increased penalty of life imprisonment, in much the same way as the corresponding increase in the maximum penalty available for manslaughter has increased the range of sentences customarily imposed upon offenders convicted of that offence.

The comparison drawn by the Chief Justice is this: when the penalty for manslaughter was increased, we then got an increased range of sentences; we got higher sentences, an increase at the top of that range. The Chief Justice believes that this legislation will have the same impact.

Mr P.A. KATSAMBANIS: Again, I have asked this question of the minister twice and the minister has used every tactic to avoid answering it. It was a very simple question: in the history of Western Australia, has anyone ever received the maximum penalty of 25 years for drug dealing? From the minister's non-answers —

Mrs M.H. Roberts: The answer is that I am not aware of that, but that's not what maximum penalties are about.

Mr P.A. KATSAMBANIS: The minister is not aware of that; that is great. I accept that maximum penalties are not about giving everyone the maximum penalty, otherwise it would not be a maximum penalty; it would be an automatic or mandatory penalty of 25 years. I accept that there will be a range. I understand the principles of sentencing; my goodness, they were drummed into me at university for year upon year! I understand them quite clearly. However, we would imagine that the people at the worst end of the spectrum—the really bad guys—would be getting the maximum or close to the maximum. If these maximums had been handed out, I would expect the minister to come in here and say that no-one has had a sentence of 25 years but last year a guy got 22 years, another guy got 23 years and a few got 20 years. As I and other opposition members highlighted in our second reading contributions, that is not happening.

The minister says that there will be an incremental increase because the maximum penalty is shifting. I accept that. That is a principle of sentencing. Our judiciary understands that clearly. They apply it. They are good people doing a tough job. But we look at reality. The examples that were put during our second reading contributions were examples that upset our community. They make people believe that the system that we as members of Parliament put in place and that our judiciary enforces is not tough enough on meth dealers—the system that this government is trying to improve. What impact will this change in the maximum penalty have on sentences? Mr Stoysich was convicted of trafficking drugs weighing 56.4 grams and 26.8 grams. He does not even fit into this regime. For trafficking 56.4 grams, he got three years and six months—a total sentence of four years for both charges. If the maximum penalty is 25 years and this person dealing 56.4 grams of a drug is liable for a penalty of life under the government's regime but got only four years, what would they get under a life regime? Can the minister guide us and the community on how much longer this person will spend in prison under this new regime if he was convicted once these laws come into force?

Mrs M.H. ROBERTS: I think the member is starting to border on tedious repetition. Had the member been listening to the excellent speech given by the Attorney General yesterday, he would have heard him refer to a number of people who got 20-year sentences under the current regime. The member might pull out a couple of cases of people receiving sentences at the lower end in which a judge—whom the member says he respects—in his wisdom took into account all the individual circumstances of that case and gave a sentence that he regards to be too low. He asked me exactly what sentence the judge would give if the law were changed to the maximum life penalty. Based on the advice that I have already read out from Wayne Martin, QC, we would expect that would be a higher sentence. Would I expect it to suddenly jump to 25 years? No. I do not think the member would either.

Again, I think the member is trying to make a political point, referring to some individual cases. He is suggesting that sentences of 25 years are not given out at the moment. The Attorney General cited a number of cases of 20-year sentences being given out. When we up the penalty, as happened with manslaughter, we would expect to see increased sentences as a result. The proof of the pudding is always in the eating so we will see what happens over the next couple of years. All I can do is advise the member that this is a tougher sentence. A life sentence is a higher sentence than 25 years. As a result, the member will see increased penalties. If the member or his side of politics wanted to see something else, it had eight and a half years to do that. It should not waste the time of Parliament today trying to say that it is really tough when it had eight and a half years to be tough and it did nothing about it. When we bring something into Parliament that strengthens the sentencing regime, the member appears to be tediously repetitious on issues that were well canvassed during the election campaign and during the second reading stage.

Mrs L.M. HARVEY: We are doing exactly the job we are required to do as an opposition in articulating our case. We agree that the penalty for this offence should be increased to the maximum penalty of life imprisonment. However, we want the government to stick to the commitment it made during the election, which was to also honour the mandatory minimum penalty scheme. The Premier agreed to that. It was widely reported in the media because no doubt he agrees with the majority of the community whom we consulted when formulating this policy.

Point of Order

Mrs M.H. ROBERTS: We are dealing with clause 7. The member for Scarborough is making the same comments about what the Premier did or did not say during the election campaign. I do not think it is relevant to

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this clause. The second reading debate is very general and members can make all those points. We have been there and done that. I am waiting for the question about the clause.

The ACTING SPEAKER (Mr R.S. Love): Thank you for the point of order. There is no point of order.

Debate Resumed

Mrs L.M. HARVEY: I know that the minister does not like being reminded of a broken election commitment. However, to get to the point and to the clause at hand, I have appellate court data with me. For members who may not be aware, it is an analysis of appeals to the court against the sentences that have been imposed on offenders. The reason we wanted to introduce mandatory minimum penalties for some of these offences is that we think some of these sentences are manifestly out of touch. I have details of the 2010 case of *Direen v The State of Western Australia*.

Point of Order

Mrs M.H. ROBERTS: I appreciate that the opposition's amendment deals with mandatory sentencing. This clause is not about mandatory sentencing. Again, Mr Acting Speaker, I seek your ruling. From my more than 20 years in Parliament, I consider the minister to clearly be out of order, canvassing an issue that does not relate to this clause. I am more than happy to hear her comments but I think they should be heard when the opposition moves its amendment.

The ACTING SPEAKER (Mr R.S. Love): Thank you, minister. I take your point. The member is no longer the minister, but she is discussing the actual penalties, which is the point of clause 7. Some discussion on that should be allowed. I point out that we need to come to some sort of conclusion on this.

Debate Resumed

Mrs L.M. HARVEY: I have been trying to articulate my point. I have had less than a minute and a half without being interjected on, which is not a long time to put a question during consideration in detail. If members want to acquaint themselves of this process over time, they will see that I am not being unreasonable. I am certainly not out of keeping with what I experienced as a minister in this place during a similar process.

The ACTING SPEAKER: I am allowing you to continue.

Mrs L.M. HARVEY: In the 2010 trial of *Direen v The State of Western Australia*, the total effective sentence for possession of methylamphetamine with intent to sell and supply 13.7 grams at 13 per cent purity and 52.8 grams at 26 per cent purity—a total of 66.5 grams of methylamphetamine—was three years and six months. We are saying that that is insufficient. The minister needs to articulate what the community can expect of sentences such as that under a regime with a maximum sentence of life. Will a sentence of three years and six months increase by three months, four months or two years? Under our regime, the community would know that that individual would be looking at imprisonment for 10 years. There are a lot of other cases. In *Cant v The State of Western Australia*, the total effective sentence for possession of methylamphetamine with intent to sell and supply 69 grams at 21 per cent purity was four years' imprisonment. In *Colangelo v The State of Western Australia*, the total effective sentence for possession of methylamphetamine with intent to sell and supply 53.32 grams at nine to 48 per cent purity, possession of MDMA with intent to sell and supply 74 tablets, and possession of meth with intent to sell and supply 26.3 grams at 36 per cent purity—that is 79.62 grams of drugs—was six years. Under the mandatory minimum system that we are proposing, that individual would be looking at imprisonment for 10 years. I would like the minister to articulate the government's expectation of the proportionate increase in the sentences in those three cases, so that the sentencing can go some way to meeting the community expectations of punishment for the havoc that these drug dealers wreak in our community.

Mrs M.H. ROBERTS: Of course, all we have had is political rhetoric from the member for Scarborough. She has not asked a question about the clause.

Point of Order

Mrs L.M. HARVEY: I asked the minister to articulate what proportionate increase in these sentences the government expects by increasing the maximum sentence from 25 years to life.

Mrs M.H. Roberts: Is this a point of order?

The ACTING SPEAKER (Mr R.S. Love): I think it is a point of clarification and that is the question that she wanted to ask.

Debate Resumed

Mrs M.H. ROBERTS: I make the point that there is no clarification here. What we have had is worse than tedious repetition; we have just had the same inane rubbish bowled up over and again. The fact of the matter is

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that the Liberal Party went to the election with a mandatory sentencing regime and it was rejected. Learn to live with it. There are 13 Liberal members sitting there for a reason. It is because their policies were rejected. As Minister for Police, the member for Scarborough failed the community. Where were all these tough penalties that she is now talking about? Why did she not put them forward over the last three or four years?

The ACTING SPEAKER: Minister, please come back to the clause.

Mrs M.H. ROBERTS: I am arguing the point. I do not think it is fair when someone in this place goes completely off the point and argues for mandatory sentencing even though this clause is not about mandatory sentencing. Members opposite want to rehash the election over and again. They say that they support a tougher regime. They want to lock up people forever and throw away the key. Where was that legislation in the last eight and a half years? Why did the member not introduce it? She can talk tough now that she is in opposition, but in government she did nothing. The member for Scarborough did not even review the Misuse of Drugs Act. She had a statutory requirement to do it, but she failed to do it. She did not review the drug act at all. If she wants to have any credibility, she cannot possibly make a point about mandatory sentencing terms in the Misuse of Drugs Act. This bill amends the Misuse of Drugs Act, which she failed to review under her own statutory obligations. She was supposed to review it. Where were the plans? The member for Scarborough let her team down badly. Yes, policing and sentencing are very important issues to the community, but did she do anything? No, she did not. We can talk about a whole range of issues that are off point if the member for Scarborough wants to.

The ACTING SPEAKER: We do not want too many issues off point, minister.

Mrs M.H. ROBERTS: And I will get to it. Members opposite have had the answer to this question over and again. If they do not want to take my word for it, I have suggested that perhaps they might take some notice of the Chief Justice, who has said that there will be tougher sentences. He has said that there will be a broader range of sentences. I have read out the paragraph before and I can read it again for members if they would like. When the maximum sentence for manslaughter was increased, we saw increased sentences. When the maximum sentence is increased under this bill, we will see increased sentences. It is not a legitimate argument to pull out a couple of sentences at the lower end of the scale in which the circumstances are not clear, it is not clear whether the individual cooperated with police and it is not clear whether other offences were a part of it, and say, "Have a look at these little ones in isolation." That is not a legitimate thing to do. It is no more legitimate than pulling out the three or four most hefty penalties and saying, "Look at this; 10-year sentences are being imposed on some people." They may have been imposed on those people because of the circumstances in the individual cases. The Attorney General highlighted some at the other end. The individual cases do not make the argument. What makes the argument is what happens in an overall sense. That is why Wayne Martin, QC, made the very measured comments that when a maximum penalty is increased, the sentencing range is increased and there are longer penalties overall. That is what occurs. Members opposite may not like this regime and they may not want to support it; that is up to them. But this is better than what they put in place in the last eight and a half years.

Mrs L.M. HARVEY: This clause refers to penalties and states in part —

a crime under section 7(1) is liable to a fine not exceeding \$100 000 or to imprisonment for a term not exceeding 25 years or both; ...

I am talking to the penalties proposed by the amending legislation before us. In *Monument v The State of Western Australia*, the total effective sentence for possession of methylamphetamine with intent to sell and supply 499 grams at 78 per cent purity was seven years. In the case against Fragomeni, who had a prior criminal record, including for murder, the total effective sentence for possession of methylamphetamine with intent to sell and supply 859 grams was 10 years. The minister has referred to a letter from the Chief Justice that states that there has been an increase in the length of penalties dished out since the maximum sentence for manslaughter was increased to life. Obviously, there is some data and the minister should be able to provide us with some indicative data on the proportionate increases we have seen since that occurred. If she is going to mention a letter that refers to these proportionate increases, it is not unreasonable for the opposition to expect her to have some data on that. We are asking her what we can tell our community to expect as a proportionate increase in the total effective sentence of 10 years that was given to this individual based on what has occurred with the increase in the maximum sentence for manslaughter.

Mrs M.H. ROBERTS: The member cited a number of cases in which people got penalties at the lower end of the scale. The Attorney General has cited some cases in which people got penalties at the higher end of the scale. In 2014, Marc Quaid, who had 8.7 grams of methylamphetamine and four kilograms of methylamphetamine, got 23 years' imprisonment after trial.

Yik To Ng had 315 kilograms of methylamphetamine. He was 19 years old. He made a late plea of guilty and got a five per cent discount. He was also lower in the chain of distribution. In 2017 he got 20 years'

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imprisonment. Joshua Raymond Gaskell had 21.74 kilograms of methylamphetamine. He was 35 years old. He made a late plea of guilty and got a 12 per cent discount. In 2017 he got 20 years' imprisonment.

What will happen under the new regime is that those penalties will be longer. For people who would have got lower penalties, their penalties will be higher and better as well. I have made that point and I will continue to make it. Do I intend to provide every last bit of information on every little fishing expedition that the member for Scarborough wants to go on? No. The member had a job in government for many years. It is a shame that she did not do her own research then and introduce legislation that might have met her expectations.

Mrs L.M. HARVEY: I refer to some comments that the minister made in this place yesterday. My colleague the member for Hillarys asked her about penalties for individuals who would be charged with the offence of possession with intent to sell or supply between 0.2 grams and up to 28 grams. I believe the minister said that the maximum penalty available for that at the moment is 25 years' imprisonment. Could the minister clarify what the maximum penalty is for that offence?

Mrs M.H. ROBERTS: I do not know whether the member for Scarborough is reading from the uncorrected *Hansard* or where she got the figure of 0.2 grams from. Is that what the member has read or heard? I believe that the amount is two grams, not 0.2 grams.

Mrs L.M. HARVEY: It could be two grams. I am asking what the maximum penalty is for possession with intent to sell or supply up to 28 grams.

Mrs M.H. ROBERTS: As members will know, I answered that question yesterday. The maximum penalty is 25 years' imprisonment or a maximum fine of \$100 000.

Mr P.A. KATSAMBANIS: We could go on about this for a long time. It is not at all my intention to waste the time of the house. My intention is to make sure that we have as much information as possible on the impact that the government's proposal will have. Clearly, we have elicited about as much work as the government has done, which, unfortunately, does not appear to be much. Now is the opportune time for me to move the amendments to clause 7 standing in my name. Because I am not sure of the formal requirements, I will be guided by the Acting Speaker.

The ACTING SPEAKER: The member needs to use the words "I move".

Mr P.A. KATSAMBANIS — by leave: I move —

Page 5, line 25 — To delete "life; or" and substitute —

life, but the minimum penalty is that set out in the Table to this subsection corresponding to the quantity of methylamphetamine set out in that Table; or

Page 5, line 29 — To delete "both; or" and substitute —

both, but if the crime involves methylamphetamine the minimum penalty is that set out in the Table to this subsection corresponding to the quantity of methylamphetamine set out in that Table; or

Page 6, after line 9 — To insert —

(2A) At the end of section 34(1) insert:

Table — Minimum penalties for crimes under s. 6(1) involving methylamphetamine

Quantity of methylamphetamine	Minimum penalty
Less than or equal to 10 g	Imprisonment for 1 year
More than 10 g but less than or equal to 50 g	Imprisonment for 5 years
More than 50 g but less than or equal to 200 g	Imprisonment for 10 years
More than 200 g	Imprisonment for 15 years

The ACTING SPEAKER: Does the member wish to speak about these amendments?

Mr P.A. KATSAMBANIS: Yes, I do, thank you.

These amendments give effect to a range of mandatory minimum penalties for drug traffickers of the evil drug methamphetamine, who are causing so much harm to our community. These amendments give effect to what appeared to the public of Western Australia to be a bipartisan policy during the recent election campaign. Despite every single attempt by the Premier, the Attorney General and the Minister for Police to obfuscate what the Labor Party's position was at that election campaign, it was very clear that the Labor Party, through the

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Premier himself, adopted the mandatory minimum sentences proposed by the Liberal Party. The Premier adopted them, and after the time that he adopted them there was little debate because it seemed as though both parties supported mandatory minimum sentencing. It was not an accident that an article by Gary Adshead and Dylan Caporn in *The West Australian* on 6 February 2017 stated —

Yesterday's \$190 million Liberal Party announcement came after Labor's promise last week to increase the maximum sentence available to the courts for drug trafficking to life in prison.

In a sign of how crucial it is to be seen to be tough on crime during the election campaign, Labor leader Mark McGowan said his party would match the mandatory jail terms and the Liberals said it would adopt the new life term as a maximum.

It was not an accident that these two journalists reported this. On the previous day, 5 February, the Premier was at a press conference. Perhaps he was caught off guard. Perhaps the Premier did not anticipate the question. Perhaps he was more interested in pushing the issue aside than debating it.

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

Mr P.A. KATSAMBANIS: Perhaps the Premier was caught off guard. Perhaps he just wanted the issue to go away; he did not want to have a debate. He certainly did not want to be seen as soft on crime. The journalists Gary Adshead and Dylan Caporn said that it was a sign of how crucial it was to be seen to be tough on crime during the election campaign. The day before that, the Premier was at a press conference where he was asked by a journalist, "How do you react to Liberal policy of minimum mandatory sentencing? Has Labor been wedged on this?" According to a transcript of that press conference, the Premier responded, "I'm fine with what they're saying. I'm fine with what they're saying. But what I will say is this: do they support our life imprisonment approach and do they support having an activist Attorney General who will actually go and appeal inadequate sentences? I'll bet you they don't." The journalist asked, "Would you implement mandatory sentencing?" The Premier responded, "I've said I support what they're doing." The journalist asked again, "So would you do it?" The Premier said, "I'm saying yes. That's what I'm saying." The journalist said, "So you would implement ... " and the Premier interrupted and said, "I'm saying yes."

That is pretty clear to me. It was pretty clear to the journalists, and they reported it on 6 February. As we discussed during the second reading debate, a former journalist for Channel Nine, Josh Jerga, tweeted it. Whether he was at the press conference or not, as the Attorney General questioned yesterday, that was his understanding too. That was the understanding in the public consciousness. The policy announcement was on 5 February. The Premier's press conference that I quoted from was on 5 February. The first newspaper article was on 6 February. There was even an online report on 5 February as well. It was more than a month before the election. All political parties, including the Labor Party, have massive media units out there all the time making sure that they correct anything that is on the record that might even slightly be misconstrued. In the entire time between 5 February and 11 March, nobody from the Labor Party—not the Premier, the Attorney General, the Minister for Police or anybody else—came out to correct the record. By their silence, they clearly adopted this as their policy. I cannot speculate on whether they had any intention to implement it or not; I cannot read minds. However, their clear intention was to make the public understand that the Labor Party supported tough mandatory minimum sentences to get drug dealers off our streets for longer. The election has been run and won. The minister has reminded us about that again today—fair enough—but the public of Western Australia expects its government to stay true to its commitment, particularly the commitment in an area as critical as this. All members who spoke on this issue did so from the heart. They spoke about the damage that methamphetamine dealing is doing to their community. Some of them told personal stories and some of them told stories that others had related to them. Our community is crying out for us to get tough. At the election, both parties indicated that they had bipartisan support to get properly tough on mandatory minimum sentencing. Unfortunately, since the election, one party has reneged on that and it is the party that is in government. We bring forward these amendments today and give the government an opportunity to implement what it told the public of Western Australia was its policy.

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

Mr P.A. KATSAMBANIS: That is not the only reason we bring in these amendments. In most issues that relate to politics and where there is argy-bargy between political parties in the chamber, it is politically expedient for one party if the other party has breached or gone back on one of its promises. It would be politically expedient for the opposition in this case to run around and accuse the government of being soft on crime and soft on meth dealers, and to do it for the next four years. I do not want to do that. This is too important an issue with which to play politics. We are here to make our community a better place in which to live. I know that that is what we all want. We might have different ways of going about it, and we might think of differences in the way to make our community better, but I genuinely believe that we are on a unity ticket when it comes to locking up meth dealers for as long as is humanly possible.

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That is why we bring these amendments to the house today. These amendments give some certainty to the public. Our police work very hard to catch these drug dealers and act in the way highlighted by the member for Burns Beach in his contribution to the house that was based on his experiences. Day after day and week after week, our police pursue leads, experience disappointment and face dead ends, and then they go home at the end of the day wondering whether they are ever going to catch these guys. Eventually the police nab them, but they need to know that they will not chase them again in a few months or a few years' time and they will be locked away where they can cause no harm to the rest of us. Our community needs to know that when these crooks get caught, they will be locked away for a long time. We are bringing these amendments to the house today to provide that certainty. In this debate, especially during the consideration in detail stage, opposition members have highlighted just how badly these laws are needed. We have seen from the minister's own admission that no-one has had the maximum penalty imposed—no-one at all.

Mr P. Papalia: I blame the previous government.

Mr P.A. KATSAMBANIS: The Minister for Tourism has suggested that he blames the previous government for the maximum penalty not being imposed.

Mr P. Papalia interjected.

Mr P.A. KATSAMBANIS: That is exactly what he said. These matters are not decided by government—the minister ought to know that—so the member should stop being flippant with an issue that is so critical to our community. I know that it is ripping apart the area that he represents, as much as it is ripping apart the area that I and the minister represent—and every other area. Let us stop playing the blame game. Let us start doing things that will start to lock these people away. The penalty will not solve the problem. It will not miraculously fix all addicted people or stop the incentive for drug dealers to continue to peddle misery, but it means that if they get caught—they will get caught because I know that our police are doing a great job—they will be locked away for a long, long time.

The minister admitted today that no-one has been given the maximum penalty. The minister repeated the claims of the Attorney General that recently a few people have received some tough penalties; I applaud and welcome those penalties.

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

Mr P.A. KATSAMBANIS: I welcome tougher penalties. I just wish that those tougher penalties were meted out to more people. We saw examples produced by the member for Scarborough and the example of Stoysich that I quoted earlier today in consideration in detail for which the effective sentence was four years. Under these amendments, that person would get a mandatory minimum penalty of 10 years in jail—a long time for a minimum penalty—and the court can then decide to give more time. The minister said that the court will consider it, and the Chief Justice has said that when we increase the penalty, the maximum sentence is increased. I accept that, but there is no credible evidence before us that someone who got four years under an existing regime with a maximum penalty of 25 years' imprisonment would get anywhere near a minimum 10-year penalty if the maximum sentence was increased from 25 years to life. I cannot speculate on the individual circumstances of the case. The minister will note that in my contribution I did not ask her to speculate on individual cases, because we cannot do that. The judiciary will make those decisions; that is its job and it usually does it pretty well. However, I cannot see how a four-year sentence for dealing 56.4 grams—it was actually a sentence for three years and six months for 56.4 grams and another six months for dealing 26.8 grams, an accumulative or effective sentence of four years—can get to 10 years. It might get to four and a half years, it might get to five years or it may get to six years. If it got to six years, it would indicate a 50 per cent increase in penalty. I am not sure that an increase in the maximum prison term to 25 years to life would get a 50 per cent increase at the lower end. I hope it does; I hope it gets more than that. As I say, I hope it gets to 10 years, which is what we are advocating. It is the same as the sentence given in the case of *The State of Western Australia v Hunter*, in which a person convicted of possessing 110 grams of meth, along with possession of a smaller amount, was given an effective sentence of three years and eight months, which on appeal was increased to five years and six months. Under the regime we are proposing, this person who was charged with possession of 110 grams of meth, along with other amounts just underneath the 28-gram scale that the government has introduced for the maximum life sentence, would get a minimum of 10 years' imprisonment. Then we moved to the higher end of offences. In *The State of Western Australia v Wilson*, there were four counts, all for meth, with the intention to sell and supply. I remember this; I have highlighted it again and again. All these cases make out the intention to sell and supply. They do not deal with a person who proves that the drug is for their personal use. In the case I have just mentioned, the first count was for 71.4 grams, the second count was for 303.7 grams—they did not learn from that—the third count was for 2.677 kilograms and the fourth count was for 371.3 grams. The total effective sentence was six years and six months. That was in the case of *The State of Western Australia v Wilson* in 2015. The sentence was appealed and increased to eight years and six months. Yes, that sort of sentence will go up under the regime that the government is proposing, but under the mandatory minimum

sentencing that we are introducing by this amendment today, the stuff that the now government told the public of Western Australia it was supporting before the election, the sentence would be a mandatory minimum of 15 years.

Mr S.K. L'ESTRANGE: I would like hear more from the member for Hillarys.

Mr P.A. KATSAMBANIS: There would be a minimum sentence of 15 years for these four counts amounting to the possession of almost four kilograms of meth, which is a large amount. The person in question clearly does not learn and does not deserve to be out on the streets or treated leniently. That person was sentenced to eight years and six months under the current sentencing system. I accept that that would increase under the government's proposed changes to the maximum sentence—I accept it will go up a bit—but I cannot see that pathway from eight and a half years to 15 years.

[Interruption.]

Mr P.A. KATSAMBANIS: An extra member has joined the chamber and I think her name might be Siri!

If we asked people in our communities today whether they thought that offender got a fair whack at eight years and six months in prison and whether it was an appropriate sentence for dealing this amount of meth, we all know they would say that it was not enough and that that person should be in jail for longer; we know that. The government knows that because it is introducing this bill and telling the community that this person will get a higher sentence—no ifs, no buts. The government is not saying how much the sentence will go up by, but it is saying that in the ordinary course of events, all sentences along the scale from zero to life imprisonment will go up because the maximum sentence has increased. The government accepts that this person deserves more than eight years and six months; otherwise, it would not have brought in this legislation. If members asked people in their community what that person should have got, they would get a range of answers, but most people would land at a minimum of 15 years. As the minister was saying before, some people would say to throw away the key forever. Yes, that is all right; that is glib. That is commentary, really, when people consider it. We are saying that there would be a mandatory minimum sentence of 15 years and the judge could give more if they wanted to and could assess that in individual cases. The judge could give a sentence of up to life imprisonment. The government is saying that offenders will get a bit more, but under the proposed regime, it cannot by all rights say that those people will get so much more. The government cannot say whether those offenders will get six months more, one year more or two years more. Anyone can claim to be an expert on sentencing, but the reality is that there will be an increase; it will not be a 50 per cent increase and it will not be a 100 per cent increase. There is no credible way that eight years and six months will go to 15 years or anywhere near that under a maximum penalty regime of 25 years.

Mr J.R. Quigley: Member, what would you say about 11 to 11 and a half years? Would that fit with your range?

Mr P.A. KATSAMBANIS: I do not know. Again, the Attorney General is asking me to speculate. If I asked him that question, he would tell me that I was asking him to speculate.

Mr J.R. Quigley: You did speculate by saying 15 years.

Mr P.A. KATSAMBANIS: No, I did not speculate.

Mr J.R. Quigley: I am just saying that you said that if you asked the community, it would say 15 years, but if you gauged your range of community expectations, do you think 11 to 11 and a half years' imprisonment instead of eight years would satisfy?

Mr P.A. KATSAMBANIS: I think 11 years would definitely be better than eight and a half years. It is higher. Is it appropriate? No. Is it likely to get there? We do not know. There is no point in getting into an esoteric argument about where it will go.

Mr J.R. Quigley: But would that satisfy you?

Mr P.A. KATSAMBANIS: What would satisfy me is a mandatory minimum sentence of 15 years; that is what would satisfy me in this case.

Mr I.C. BLAYNEY: I would like to hear some more from the member, please.

Several members interjected.

Mr P.A. KATSAMBANIS: I am going to try not to overextend the house's tolerance, and I use the word "overextend" advisedly!

This is the problem, highlighted by the Attorney General, with the government's bill. We can speculate that if the sentence went from eight and a half years to 11, maybe 12 or maybe even 13 years, it might be a good outcome. I accept that it would be a better outcome, and it ought to be a better outcome, but the community recognises the damage these people have done. We made a strong submission, which we put to the public at the

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election and which the government embraced at the election—the Premier certainly did and I highlight that difference. The Premier did accept it; he may not have consulted with the Attorney General or the shadow cabinet at the time. Today's Premier, when he was opposition leader, accepted that this was the right way to go. We are saying that the right way to go in cases such as this is a mandatory minimum sentence of 15 years and then offenders can get more if the judge thinks they should in the circumstances. Yes, we accept that by getting tougher, by introducing tougher penalties, there will be a stronger desire for the bad guys to avoid them—the tougher the penalty, the stronger the desire to avoid them. We accept that the Director of Public Prosecutions may need more resources. We accept that in limited circumstances, the ChemCentre will need more resources; it will need to check this stuff and do the weighing-up exercise anyway. There is also a possibility at the extreme end that we will get more contested trials and more not guilty pleas. We might even get more argy-bargy at sentencing time, even though there is a mandatory minimum. We accept that. That is why we said, as part of the comprehensive policy that we presented at the election, that we would provide additional resources to the courts, and to the police and forensics. When I go into the community, I am asked by a lot of people to save money in government. I am one of those people who wants government to become more efficient, spend less, and reduce taxes.

Mr P. Papalia: So where were you?

Mr P.A. KATSAMBANIS: Minister for Tourism, every public comment that I made went down that pathway.

Mr P. Papalia: Except when you were in government.

Mr P.A. KATSAMBANIS: Our community is effectively saying, “Don't let a few dollars get in the way of community safety.” The community is saying that in relation to meth dealers. The community is also saying that in relation to properly resourcing the police with anti-stab vests. It is a terrible argument to run that we do not want to bring in tougher sentences for meth dealers because we will then need to provide more resources for the courts. It is a terrible argument to run that we cannot afford to give the court more resources. The fact is that we cannot afford to continue to subject our community to the damage that is being caused by these horrible, nasty, vicious drug dealers, who do not care about the consequences of their actions. That is why I have moved these amendments, and I am asking the government to embrace them.

Mr I.C. Blayney: I would like to hear more from the member, please.

Mr P.A. KATSAMBANIS: This will send a strong message to the community. It will also send a strong message to drug dealers, which they may or may not listen to. This will do more than just send a strong message. This will have a real impact. Make no mistake—this will have a real impact. It will get more of these people off the streets, and it will get them off the streets for longer. The longer these people are off the streets, the less damage they can do to our community, and the more chance we will have of rehabilitating the people who are addicted to this nasty substance. We know that this substance is different from heroin and other drugs that have been around in the past. It takes longer for a person to break the cycle of meth than it does for heroin. A person who is addicted to heroin can effectively detox and start again. I am certainly no chemist, but I know that because of the way meth operates on the receptors in the brain, it takes people longer to get off this substance. There are also more stumbling blocks along the way. People cannot get off meth the first time. They have to try again and again to get off meth. We know that from some high-profile examples.

Mr M.J. Folkard: You don't know much about drug addiction, mate.

Mr P.A. KATSAMBANIS: We all know about drug addiction, because we have all been exposed to it in our communities. The member for South Perth talked about a champion Western Australian, Ben Cousins. Ben Cousins is struggling with his demons. He should be a hero in Western Australia today, and was for many years. He should be a guiding path for young people. We know members in our community who are struggling with this drug. I would ask the member for Burns Beach to not become Tony Jones to Tony Abbott. Tony Jones was pressing Tony Abbott on the issue of how well he knows homosexuals. I ask the member for Burns Beach to not become Tony Jones to Tony Abbott.

Mr J.R. Quigley: Did I hear that right? Did he ask Tony Abbott whether he was homosexual? What did he say?

Point of Order

Mrs M.H. ROBERTS: Mr Acting Speaker, I am wondering about the relevance of the member's contribution to the amendments that he has moved.

The ACTING SPEAKER (Mr S.J. Price): I think the member is progressing with the debate.

Debate Resumed

Mr P.A. KATSAMBANIS: I know that people only half-listen to some things that are said in the chamber, but the record will stand. I was asked—actually, I was told—that I do not know much about drug addiction, and

I reminded members of what happened when Tony Jones put a similar issue to Tony Abbott around having an understanding of people in the gay community. I remind the Attorney General of that, too.

Several members interjected.

Mr P.A. KATSAMBANIS: I will pick up on that interjection. The point I am making is that we may not be experts, but everyone in this house has exposure to the impacts of this horrible, nasty substance. I have stressed that in all my contributions. We know about it personally and we know about it through the impacts on our community.

Several members interjected.

Mr P.A. KATSAMBANIS: Mr Acting Speaker, I am trying really hard to get back to the subject.

Several members interjected.

Mr P.A. KATSAMBANIS: If this subject was not so serious, I would like to pick up on some of the interjections from the Attorney General. Certainly the member for Burns Beach understands exactly what I am saying, and I know his interjection was made in good faith.

The ACTING SPEAKER: Members, let the member finish, please.

Mr P.A. KATSAMBANIS: Thank you, Mr Acting Speaker. I am trying to get to the end of my contribution.

Mr I.C. BLAYNEY: I would like to hear more from the member for Hillarys.

Mr P.A. KATSAMBANIS: We know that whether this bill passes with these amendments or without these amendments, we will not fix the problem. We will still have addicts. We will still have nefarious drug dealers who are pushing this stuff onto people. However, we will start to break the cycle of these horrible, nasty people who see sentencing as a cost of doing business. They factor it in. They say, "I'm going to go away for a couple of years, but the profits are so large that my family or my friends can continue to have a decent life while I'm inside, and when I come out I'll resurrect my business." We know also from examples in other states that some do not even go that far; some continue to run, or attempt to run, the process while they are inside. I hope that our correction system works well enough for that not to happen here in Western Australia.

What we see in our community is too important to glibly dismiss it with legislation that pretends to get tough but in practice will not do very much. That is why I have moved the amendments today, and why the opposition stands by them. They will lead to tougher sentences and to real certainty in our community around sentencing for meth dealers. The arguments have been run uphill and down dale in the second reading debate as well as during consideration in detail here. I do not intend to indulge the house for too much longer. But I implore government members to reflect on why the Premier made the comments he made on 5 February. Was it because it was politically opportunistic to push the issue aside and not have a debate on which party would be tough on meth dealers or was it because, deep down in his heart, the Premier knew, despite differences within his own party, his own cabinet and his own backbench, that if we are to get tough on meth dealers, we will have to introduce a strong deterrent and strong punishment through mandatory minimum sentences that mean something, that lock dealers away for a long time? We are not seeking to take away judicial discretion. We are not oblivious to the fact that it might give people an incentive to extend their trial. Of course it will. That is just one cost we have to pay to get drug dealers off our streets. Let us send a really strong message today. Let us be bipartisan in this: "If you deal in meth and in death and destruction, you will get locked away for a long, long time." I commend these amendments to the house.

Mr J.R. QUIGLEY: I have to address some of the comments—I will not keep the chamber long—made by the member for Hillarys to disabuse the chamber of their misleading nature. I have already pointed out the Director of Public Prosecutions' letter and her concerns about the incredible increase in the drain on resources on her office and the glib statement by the member for Hillarys that of course the previous government would resource that office. Let me tell members that as a result of the previous government's workforce replacement policy, a person who retired from government or left the government service could be replaced only by someone on 70 per centum of that salary. The previous government decimated the Office of the Director of Public Prosecutions—members opposite talk about being tough on crime—to such a point that on assumption of office, one of the first overtures I got from the director was that her office did not even have enough funds to prosecute the Claremont serial killer case. She said that unless the government quickly came to the party, her office would not have enough funds to properly prosecute the person who the police macro task force tracked to ground over 20 years. She said that if her office were to prosecute the macro task force serial killer allegations, it would have to let go of a whole lot of other prosecutions. Members opposite have come into this chamber and just glided over it all and said, "Don't worry about the concerns of the DPP. That's nothing; they will be funded."

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That is not what the previous government did. It decimated the office of the DPP. Prosecutors were becoming so stressed due to their workload that they were applying to the Magistrates Court to become magistrates. Six or seven of them did, and they were replaced only by junior prosecutors on 70 per cent of the wage. What did the Labor government do on coming into office? We immediately allocated \$1.5 million to secure this year's funding of the macro task force. We made the DPP a frontline service so that it would be shielded, as the police are shielded, from the workforce replacement policy. The former government talked up on crime. Talk about not walk the talk; it could not crawl the talk. It left the Office of the DPP decimated, but then came in here and said, "Sure, we recognise what the DPP is saying; there'll be all these extra resources." The former government did not leave any money in the bin to fund them, but members opposite come in here and make those motherhood statements.

I asked a specific question of the member for Hillarys: how would they go with 11 and a half years? He said that that would be better. With regard to the 11 and a half years for the offender he was talking about, the previous government brought in an amendment to the Sentencing Act. The former Attorney General introduced it into the Council to provide a statutory reduction of 25 per cent for pleas of guilty. Hon Michael Mischin said at the time that the public utility of the legislation that he was introducing on behalf of the Barnett government was, to take away the load from the District Court, to encourage pleas of guilty in a timely manner. A sentence of 11 and a half years is 15 years less 25 per cent. He said that that would be sort of okay. That is where it would have ended up, unless, of course, the Barnett legislation, which granted discounts for pleas of guilty, was repealed. Members opposite are all over the shop. They are just trying to gain political points.

Mr S.A. MILLMAN: I wonder whether I might be able to hear further from the Attorney General on this very important point.

Mr J.R. QUIGLEY: Thank you, my very learned friend the member for Mount Lawley. The member for Hillarys just read out the line indicating where the sentence ended up—that is, "eight years and six months". He failed to detail to the chamber the level of cooperation the offender gave the authorities that led to the apprehension of other people. Time and time again, the Court of Appeal and the High Court of Australia have said that they have to give discounts of up to 50 per cent when an offender identifies the people further up the chain. I went through this yesterday, with the assistant commissioner for crime for the state of Western Australia at the back of the chamber, and now at the ministerial table. The police apprehend the Mr Bigs by being provided information from people further down the tree. The mid-range dealers do not ring up 999 or—I am sorry; I have forgotten the number.

Mrs M.H. Roberts: 131444.

Mr J.R. QUIGLEY: Thank you very much, Minister for Police.

They do not ring Crime Stoppers and tell them to go out and get the head of the deal—the top of the tree. No; they give that information only as a trade-off for a lighter sentence. Both the Court of Appeal and the High Court say that that is the proper way to go in pursuit of the Mr Bigs of the drug trade. But the member for Hillarys would say, "Scrap that system, and I'll come in here and criticise the ultimate sentence and keep the chamber ignorant of the true circumstances that led to that sentence of eight years, six months. I will hide that." The minister has already pointed out that when, by this process, they get to the top of the tree, Marc Quaid got 23 years out of 25. Increasing the maximum sentence to life imprisonment provides more room for the Marc Quaid of this world to get even stiffer penalties.

Mrs L.M. HARVEY: I will not labour the point, because the government has made it very clear that it will not agree to what it committed to in the election campaign on the introduction of mandatory minimum penalties. We have heard that from the Minister for Police and from the Attorney General. We appreciate the Attorney General coming to the aid of the minister with his contribution. I would like to refute a couple of things. The previous government looked at mandatory minimum penalties because, when we looked at sentencing history—I held a lot of community forums—criticism would constantly come up of the sentences handed out to criminals, particularly for assaults on police officers, so we corrected that. The community also wanted tougher sentences for individuals who evade police, causing serious injury or death, so we introduced mandatory minimum penalties in those circumstances. Every time we brought the mandatory minimum penalty debate to this chamber or the other place, one of the arguments brought up was that it would result in more not guilty pleas and impose more of an onus on police and courts, and extra costs on the justice system. That did not happen.

Mr P. Papalia: It did happen. Ask the Chief Magistrate; of course it has.

Mrs L.M. HARVEY: It did not happen. We have not seen an increase in not guilty pleas. When it comes to the logic behind our election commitment —

Mr P. Papalia interjected.

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Mrs L.M. HARVEY: Mr Acting Speaker, I seek your assistance here. I am trying to get a sentence out without an interjection. I am not being controversial. I am articulating what sits behind the amendment on the notice paper.

There was logic behind the election commitment that we took to the community, with which the government agreed at the time. Police were telling me that they would apprehend a lot of individuals in possession of just under a trafficable amount of methamphetamine, which is still a lot of methamphetamine. We looked to grade the quantities that individuals had in their possession with intent to sell or supply and separate out mandatory minimum penalties that would fit with those trafficable amounts in a graded scale. That is why we said that, for less than or equal to 10 grams, there would be a mandatory term of imprisonment of one year. The sentencing history of individuals caught in possession with intent to supply around that amount showed that many of them were receiving only a monetary fine, which is not much of a disincentive to continue with the drug trade. For possession of more than 10 grams, up to and including 50 grams, there would be a mandatory minimum sentence of five years' imprisonment; for more than 50 grams, up to and including 200 grams, a minimum of 10 years; and for possession of more than 200 grams, a mandatory minimum of 15 years. We did that based on the sentencing history in the courts. We wanted the mandatory minimum penalty scheme to sit within an increased maximum penalty of life imprisonment because the courts rely on sentencing history. They look to similar cases and sets of circumstances.

During our eight years in office, our government looked to mandatory minimum penalties to reset those minimums and bring the sentencing history up, so that in the future when the judiciary was sentencing offenders, it could look to sentencing history and the bar would be set a bit higher. That is what the community said it wanted. It was a community expectation, and the community was critical of the judiciary. My answer was that it is not fair to criticise the judiciary. We are the lawmakers. We can change the legislation—and we did, for assaults against police officers and for dangerous driving offences while evading police. In response to the meth issue, we proposed to bring in a similar regime for drug dealers and drug traffickers so that we could reset that sentencing history, and the courts could refer to a different sentencing regime when they had similar offenders with similar offences before them. They may not need to remain forever. We can leave mandatory minimum penalties in place for a period.

Mr P.A. KATSAMBANIS: I would like to hear more from the member for Scarborough.

Mrs L.M. HARVEY: We can leave mandatory minimum penalties in place for a set time. Indeed, most legislation has a sunset clause of five years. We can leave the legislation in place for five years, reset the sentencing history, make sure those drug dealers that were part of such a big problem the community was and still is experiencing stay behind bars for longer. The longer they are taken out of the system, the less opportunity they have to commit offences and to create more addicts, who will then be involved in criminal offending. That was our logic, based on research on the sentences being doled out by the courts. It is not fair to criticise the judiciary if we are not prepared to stump up and change the legislative regime in which they work. That is what we took to the community in the election campaign. It made sense, to the point at which we had bipartisan support, which was reported in *The West Australian* on Monday, 6 February 2017 by Gary Adshead and Dylan Caporn —

In a sign of how crucial it is to be seen to be tough on crime during the election campaign, Labor leader Mark McGowan said his party would match the mandatory jail terms and the Liberals said it would adopt the new life term as a maximum.

Mr P. Papalia: That was not really a quote; it was just an observation by a journalist who made his own interpretation of what was said.

Mrs L.M. HARVEY: Those comments were reported in the *Busselton–Dunsborough Mail*, *WAtoday* and *The West Australian*. Also, in *The Sunday Times*, Tom Percy, who has always been quite critical of most things I proposed as police minister, was highly critical of both sides of politics on this matter. Tom Percy's observations were that the now Premier and me as then Minister for Police were both wrong because we had agreed to the same policy, and that was not the right policy. I disagree. My view is that we need to send a strong message, and honour the efforts of police by ensuring that individuals charged with drug trafficking get put behind bars for longer. That is what we proposed in response to the increasing methamphetamine use over the last two and a half to three years of our term of government. I am pleased that we have seen methamphetamine use drop by 26 per cent in the metropolitan area and 41.5 per cent in Bunbury, according to the blackwater testing. That is terrific. Hopefully, we will see that usage drop off as some of the education campaigns and the disincentives for dealers take effect. All the opposition is asking is that the government honour what it told the community during the campaign. The government's commitment to the community during the campaign is reflected in the amendment the opposition has proposed on the notice paper. In government, we put out a comprehensive methamphetamine strategy, and the next steps for that strategy involve these mandatory

minimum penalties, which the Premier agreed was the policy of his party. He was elected in a landslide because he agreed with that policy.

Dr A.D. Buti: Come on—was that the only reason?

Mrs L.M. HARVEY: The government cannot pick and choose which of issues and promises it took to the election were those upon which it was elected. It said it would cancel Roe 8, and the Perth Freight Link, and it has torn up that contract and said that that was its commitment. The Labor Party committed to mandatory minimum penalties as well. The government cannot say that it got elected on its Roe 8 policy but not on its policy of mandatory minimum penalties. The government is choosing only the commitments that it thinks people elected it on and not the ones it agreed to in the campaign. This was reported in many forms of media across the community, from the *Broome Advertiser* to the *Dunsborough–Busselton Mail*. People saw those comments of the now Premier that were reported and that is why the Labor Party won.

Mrs M.H. ROBERTS: It seems to me that those opposite are holding the McGowan government to a tweet from a journalist who was not at a press conference. That is what it amounts to. They know that what they have put on the notice paper by way of amendment was not the Labor policy going to the election. They are not the only ones who know that. One has only to look at the only daily newspaper in this state and the repeated articles in it, as the Attorney General did very effectively. That is why we are getting a bit repetitious. The opposition is running the same arguments that it ran at the second reading stage with respect to clauses of the bill and now with respect to its amendments.

However, I will go through it one last time. The member for Hillarys has said that comments were made by the Premier on 5 February. I ask members to look at what is in *The West Australian* on 6 February, the day after that tweet was put out. At page 14 of *The West Australian*, an article by Grant Taylor reads as follows —

The Liberals have proposed introducing mandatory minimum jail terms for dealers, including a 15-year sentence for anyone caught with more than 200g of the drug. They would have to spend 13 years in custody before being eligible for parole.

The article goes on to state —

Labour's meth crackdown would introduce a maximum life prison term for meth traffickers caught with more than 28g of the drug.

It is quite clear. That is the summation of one of that newspaper's chief reporters and long-term crime reporters the day after that tweet.

Did it end there? No, it did not. I will cite a couple more articles from *The West Australian* on 24 February. There was another graphic that basically summarised crime and punishment key promises. Under "Liberal" it states —

Australia's harshest penalty for methamphetamine dealers, including life sentences and mandatory minimum terms of 15 years for 200g or more.

Under "Labor" it states —

Convicted methamphetamine traffickers will face life in prison.

That again reflects our policy.

If voters were looking at what their options were just before the election, they would have seen on page 5 of *The West Australian* on 9 March the headings "Public Transport", "Health", "Tourism", "Education", "Infrastructure", "Law and Order", "Arts" and "Other". Under "Law and Order" for WA Labor are four bullet points that state —

- Maximum sentences for methamphetamine trafficking increased from 25 years to life.
- \$40 million meth border force with 100 dedicated officers.
- Introduce no body-no parole laws.
- End statute of limitations time limit for child sex abuse victims taking legal action.

They are the four key points that were summarised on page 5 of *The West Australian* on 9 March this year as Labor's law and order promises. The argument being rehashed by those opposite was that somehow their election commitment was Labor's election commitment. No, it was not, nor was it portrayed to be our commitment in the only daily newspaper in this state. We have seen here that it was very clear on it.

The further point I will make is that, as members opposite are aware, we will be opposing the amendment. Interestingly enough, on 2 March 2014 an article by Kaitlyn Offer in *The Sunday Times* states —

One of WA's top judges has slammed mandatory sentencing—saying it increases the risk of injustice.

Mr D.R. MICHAEL: I would like to hear more from the minister.

Mrs M.H. ROBERTS: That article goes on to state —

District Court Chief Judge Peter Martino told a recent Law Society of WA event that any reduction in sentencing discretion “increases injustice, rather than decreases”.

He also pointed to a recent article by *The Economist*, which found that housing inmates jailed under mandatory sentencing cost the US \$1.8 billion and racial minorities were most likely to be imprisoned.

What I found really interesting in that article was a comment by the then Attorney General, Michael Mischin. Today members opposite have cited a few individual cases and have then tried to extrapolate from them. On page 4 of that same article in *The Sunday Times*, Michael Mischin was quoted as stating —

Attorney-General Michael Mischin acknowledged that “the risk of injustice is increased by rigidity”, and high-profile campaigns based on particular cases did not enable a measured consideration of sentencing.

There we have it. The Liberal Party did not do anything to put in place mandatory sentencing. That was the Attorney General’s comment in 2014. He cautioned against extrapolating from looking at individual cases and that that was not appropriate when considering sentencing. That was the true position of the Attorney General in the former government, and it may go some way to explain why the previous government did not progress with mandatory sentencing in this area.

The member for Scarborough has said that the opposition knows that the community wants tougher sentences because when members go to community forums, the community says that that is what it wants. The Liberal Party had its chance. I think one of the reasons that the Liberal Party was rejected at the election is that it simply had no credibility. Whilst people were seeing the huge problems that meth was causing in our community over those eight and a half years, as highlighted and as was known to the government prior to the start of its eight-and-a-half-year term, it was only in the last year that the Liberal Party started to put together a plan and to do something about it. Frankly, it was too little too late. After eight and a half years, people said that the Liberal Party was just not credible. It had not done it in government and then, after eight and a half years, it was asking for another term—just one more time—to get it right. That was rejected and, as a result, the Liberal Party was defeated.

We have moved very quickly to bring our election commitment into this house. That is before us today. The amendment reflects what the Liberal Party took to the election. I am advised that it has not been drafted well and that provisions would need to be inserted if it were to be contemplated. I am not going to get into the detail of the drafting and the impact of that because it is not something that we support in any event.

Mr P.A. KATSAMBANIS: I acknowledge the contributions to debate on the amendments by the member for Scarborough, the Attorney General and the minister. It is quite clear that the government does not intend to support these amendments, which is disappointing. We seem to be playing some sort of game of one-upmanship on articles. The Premier’s comments during his press conference on 5 February were clear. It was quite clear what was reported by Gary Adshead and Dylan Caporn the following day and tweeted by Josh Jerga. We are not relying on a tweet; we are relying on the Premier’s comments.

As I said earlier, it may well be that that is what the Premier wanted to do and it was the position of other people in this cabinet. That is fine. We will end up with a sentencing regime for possibly the worst of all criminals in our society that is less tough than it ought to be. Yes, the maximum sentence will increase from 25 years to life. Yes, in practice, there might be some small incremental changes to the sentences that these nasty drug dealers have been receiving to date, but that will not provide the certainty that the community is calling for. It will not get these people off the streets for as long as we can keep them off the streets to stop them doing the harm that they are doing and it will make our battle to defeat the scourge of methylamphetamine harder rather than easier.

Even at this late stage, I implore the government to support these amendments. It is evident that it will not support them. It has the numbers. We will put it to a vote.

Division

Amendments put and a division taken, the Deputy Speaker casting her vote with the noes, with the following result —

Extract from Hansard
[ASSEMBLY — Thursday, 22 June 2017]
p1536b-1560a

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

Ayes (17)

Mr C.J. Barnett
Mr I.C. Blayney
Mr V.A. Catania
Ms M.J. Davies
Mrs L.M. Harvey

Mr P. Katsambanis
Mr Z.R.F. Kirkup
Mr A. Krsticevic
Mr S.K. L'Estrange
Mr R.S. Love

Mr W.R. Marmion
Dr M.D. Nahan
Mr D.C. Nalder
Mr K. O'Donnell
Mr D.T. Redman

Mr P.J. Rundle
Ms L. Mettam (*Teller*)

Noes (37)

Ms L.L. Baker
Dr A.D. Buti
Mr J.N. Carey
Mrs R.M.J. Clarke
Mr R.H. Cook
Mr M.J. Folkard
Ms J.M. Freeman
Ms E. Hamilton
Mr T.J. Healy
Mr W.J. Johnston

Mr F.M. Logan
Mr M. McGowan
Ms S.F. McGurk
Mr K.J.J. Michel
Mr S.A. Millman
Mr Y. Mubarakai
Mr M.P. Murray
Mrs L.M. O'Malley
Mr P. Papalia
Mr S.J. Price

Mr D.T. Punch
Mr J.R. Quigley
Ms M.M. Quirk
Mrs M.H. Roberts
Ms C.M. Rowe
Ms R. Saffioti
Ms A. Sanderson
Ms J.J. Shaw
Mrs J.M.C. Stojkovski
Mr C.J. Tallentire

Mr D.A. Templeman
Mr P.C. Tinley
Mr B. Urban
Mr R.R. Whitby
Ms S.E. Winton
Mr B.S. Wyatt
Mr D.R. Michael (*Teller*)

Pair

Mr J.E. McGrath

Mr M. Hughes

Amendments thus negated.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Section 42 amended —

Mr P.A. KATSAMBANIS: This clause seeks to amend the District Court of Western Australia Act 1969 to allow the court to administer life sentences. Obviously, it is consequential on the government's bill. It is consequential on the fact that we are increasing maximum sentences for meth dealers from 25 years to life. It would be counterproductive, in the opinion of the opposition and obviously in the opinion of the government too, if by doing that we shifted all these cases into the Supreme Court. The District Court has been handling them relatively well. It has a good body of knowledge. It would harm our system of justice rather than help it if we forced these matters into the Supreme Court. We all acknowledge that. The District Court judges are experts in their field; they are experts in what they do. They get significant training, like all judges, on sentencing that applies to them. Is this amendment likely to require District Court judges to receive significant training to enable them to execute their functions properly in sentences that include a life sentence that they previously have not had to contemplate?

Mrs M.H. ROBERTS: I thank the member for Hillarys for those comments. I also thank him for his support of this proposal so that the charges can continue to be heard in the District Court rather than the Supreme Court. The member for Hillarys is quite right when he suggested that when the maximum sentence of life is imposed, it would be a considerable impost if these cases needed to be heard in the Supreme Court. There would be costs involved and it would be very demanding on the Supreme Court and it is, frankly, unnecessary.

I am glad that we both agree that it is appropriate that these cases continue to be heard in the District Court. The Attorney General has already advised that this will mean some extra resources will be needed for the District Court. This clause was indeed put forward by the Attorney General because it made sense when increasing the penalty from 25 years to life. If the jurisdiction of the court suddenly changed, that provision in the District Court of Western Australia Act would not be appropriate. The member for Hillarys was also quite right when he suggested that the judges of the District Court are well trained and well informed in these matters. I expect that this is something that they will be able to get across very quickly. I am not sure that it will involve training for them but they will certainly be well briefed. I am aware that Chief Judge Kevin Sleight and Chief Justice Wayne Martin support this initiative so that the cases can be heard in the District Court. They are already making preparations for that to happen.

Mr P.A. KATSAMBANIS: There is another issue that I want to address that we have asked about in other clauses, but I will ask it directly here. Obviously, a tougher sentencing regime leads to the possibility we discussed that more people will want to try to avoid a tougher sentence. Has the government made any assessment on whether the introduction of this tougher sentencing regime in the District Court will add an

additional workload to the District Court; and, if so, what resources will be made available to the court to deal with it?

Mrs M.H. ROBERTS: There may be some increase in workload. The Attorney General is fully across that. I understand that as part of the budget process, he will put in his bid for additional resources, as he has already done to resource the Director of Public Prosecutions.

Mr P.A. KATSAMBANIS: I want to stress that I do not think we should not do this because of any resource impact. I want to stress—as I have stressed in previous deliberations on this bill—that it is incumbent on any government to provide the system with the appropriate resources to fight the scourge of methylamphetamine. I am heartened by the comments of the minister that there are likely to be resource implications. I hope that the government continues to monitor the situation and provides the appropriate resources to make sure that the court can execute its functions, as we have charged it to do.

Mrs M.H. ROBERTS: Thank you, member for Hillarys. I acknowledge the member's support of the bill.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MRS M.H. ROBERTS (Midland — Minister for Police) [12.24 pm]: I move —

That the bill be now read a third time.

MR P.A. KATSAMBANIS (Hillarys) [12.24 pm]: I will not ask the house to indulge me for too long. I just want to put on the record that the opposition supports the provisions contained in the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017. We are disappointed that the tougher mandatory minimum sentencing regime that we proposed through amendment was not adopted by the government, but, clearly, when it comes to the intention of this bill, there is absolute bipartisan support. The intention of this bill is to introduce a tougher sentencing regime for meth dealers. The opposition agrees with that. Obviously, the government agrees with that too, and, more importantly, our community is crying out for it. As I said in my contribution to the second reading debate, it will not magically get meth off our streets—it is not a magic bullet. There is no magic bullet to this problem; it requires a multifaceted approach. We need education, treatment and rehabilitation. We also need an understanding that people will continue to try but fail, until they try to succeed, but, most importantly, we need to cut off that supply so that fewer people become addicted and stay addicted to this substance. We can cut off that supply through enforcement—through our police and our federal authorities as well—and by locking away the dealers for as long as humanly possible.

Opposition members hope that when this bill is enacted, it will lead to significantly longer sentences for these nefarious drug dealers. As we pointed out throughout the entirety of the debate, we thought that the penalty could be even tougher. The government does not agree with us—fair enough; the government introduced this bill. We do not wish it failure at all; we wish it success. We wish our police continued success in pursuing meth dealers. We wish our courts the best and hope that they take the message from this bill and start to implement even tougher sentences. In particular, we wish the best to all those out there fighting the scourge of meth, be they addicts, the families of addicts, the support services around them or the community that is suffering from the impact of this horrible drug. We wish them all the best and we hope that by working together we can make a real difference in reducing the impact of meth with the aim of eventually abolishing or getting rid of its impact on society. If fewer people are addicted to this substance then we can treat more people who use drugs and stop more people from starting to use drugs, and the better off society will be. If that means locking away meth dealers for longer, we ought to make no apologies for that.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [12.28 pm]: As we said from the outset, the opposition supports this legislation. However, we acknowledge that it is not 100 per cent what the government promised during the election campaign, and we have gone into great detail about that. Just to reiterate, I have commentary here in the *Busselton-Dunsborough Mail*, *WAtoday* and *The West Australian* about Mark McGowan, then the opposition leader, committing to match the mandatory jail terms. I also have a tweet from Josh Jerga that alluded to the same checklist of commitments in the law and order space during the last campaign, and an editorial by Tom Percy, QC, in *The Sunday Times* on 12 February that basically alluded to that commitment. The opposition is disappointed that the government is already starting to pick and choose from its commitments to the community—which had it elected in a landslide win—which ones it will honour and which ones it is not going to honour. This is indeed a broken commitment.

I think I went ad nauseam into the reasons that we articulated for wanting mandatory minimum penalties, but, just to recap, we believe that drug dealers, as police and lawyers will tell members, are gaming the system. They often come in at just under 28 grams, which is a trafficable amount of drugs. This legislation does not go any way to effect any change to that regime. The graded approach that we proposed, and the Premier Mark McGowan agreed to, broke down trafficable amounts into various quantities with more serious penalties depending on the quantity of the drug. We went into that in detail and it formed part of the amendments that the opposition proposed to try to keep the government honest. But it was not voted for by the government. We will watch with interest. The Minister for Police could not provide detail on what sort of increases in sentencing the government expects as a result of bringing that legislation to this place. Despite alluding to the Chief Justice saying that there had been increases in the sentences being handed out as a result of the former Attorney General lifting the maximum penalty for manslaughter to life imprisonment, the government did not articulate where those increases had been or how many cases had had a higher than expected penalty as a result of lifting that penalty. We are in the dark about what might be expected as a result of increasing the maximum penalty from 25 years to life in prison. We hope that it has an impact and that we see longer sentences handed out to drug dealers. The community certainly wants that.

However, as an opposition, we acknowledge that just lifting the maximum for drug trafficking in methamphetamine from 25 years to life will not necessarily achieve the result that the government has told the community that it expects to achieve. I hope that the government will back up this legislation with a comprehensive expansion and commitment to the existing rehabilitation programs, education programs, and methamphetamine re-education programs that are running in our prisons, the school system and the community. That includes the meth hotline and the meth teams. We implore the government to put resources behind police to ensure that the meth transit route legislation can be effectively used by police to disrupt the trade of methamphetamine within the state and in our particularly vulnerable remote communities. We call on the government to do that but we will not know whether that will happen until the budget is handed down. As an opposition, in light of the commentary of the Attorney General and the minister on the meth issue, we expect to see additional resourcing go to police to deal with this issue. It is not good enough for members of the government to stand in this place and berate the previous administration for not doing enough. When it comes to budget time, we expect the government to allocate additional funds to police if it says that the funds and resourcing to police were lacking. We expect the government to continue to fund rehabilitation, education programs and information programs for families to help addicts and their families get the help that they need.

We expect to see this government continue to work with the former government to drive down meth use in the community. The blackwater testing results suggest that meth use in metro Perth has come down by 21.6 per cent and in Bunbury by 41.5 per cent. Over several months of testing from November 2016 to April 2017 we have seen double-digit reductions at all the blackwater test sites. Every individual who consumes methamphetamine has a by-product of methamphetamine come through their system. That is why we initiated the blackwater testing.

Mr M.J. Folkard interjected.

Mrs L.M. HARVEY: Would the member for Burns Beach like to seek the call at some point?

Several members interjected.

The DEPUTY SPEAKER: Ministers! Members of the opposition and members of the government, the member for Scarborough is on her feet. This is an important debate and she deserves to be able to contribute to it without these interjections. Members can wait and speak when they have the opportunity.

Mrs L.M. HARVEY: Thank you, Deputy Speaker. As I was saying, the former government had a comprehensive methamphetamine strategy. We went to the electorate with a \$190 million expansion of that strategy. The community did not vote for us; it voted for the Labor government, which did not make a similar commitment. I hope that the government sees the merits in the expansion of some of the programs that we saw as being required in the community to ensure that we can continue the good work in driving down meth use in the community. The blackwater testing system has shown a double-digit reduction in meth use in the community from November 2016 to April 2017.

It is not good enough to say, when the blackwater testing system was first introduced and we could see the level of meth use in the community, that it is okay to accept that and beat up the former government for not doing enough, and then not acknowledge the efforts of the former government when the blackwater testing shows reduced use. I hope that that reduced use continues and I hope to see it come down to be less than the national average. As a community, we should not accept anything less. When the government eventually hands down the budget, we will look with interest to ensure that police are resourced and that all the rehabilitation, education and community information sources on methamphetamine use and addiction continue to be funded or, indeed, expanded to fit with the rhetoric that we have heard through this debate.

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

MS C.M. ROWE (Belmont) [12.37 pm]: I wish to make a contribution to the third reading debate on the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017. I rise today to talk about some of the issues that have previously been discussed at length in this place. We all know that the purpose of this bill is to amend the current legislation to provide that a drug dealer who is caught with 28 grams or more of methamphetamine will be subject to the maximum penalty of life imprisonment. That speaks to the seriousness of this issue in our communities and is an acknowledgement of the catastrophic impact that it is having on many lives across WA.

As other members have already done, I would like to touch on the issue of drug-driving. Studies in Europe show that drivers driving under the influence who had been arrested for serious driving offences or after crashes, if affected by illegal substances, were most likely to be affected by cannabis or methamphetamine. One study indicated that of DUI drivers arrested after crashes, 30.6 per cent tested positive for meth or some combination that included meth. That figure shot up to over 59 per cent for other serious offences among DUI drivers. I would like to congratulate the Labor government on taking decisive action to address this issue, particularly for the additional roadside testing resources.

Under the former Liberal government the rate of random drug and alcohol testing of drivers in WA was well below that of New South Wales, Victoria and South Australia. Figures obtained by the Royal Automobile Club of Western Australia show that between January and October 2015, New South Wales had conducted 97 000 tests.

Point of Order

Mr S.K. L'ESTRANGE: This is the third reading contribution and I believe that the speaker is introducing new information.

The DEPUTY SPEAKER: There is some relevance to the point of order in this case. I think, member for Belmont, you need to keep to issues that you or others previously raised during the second reading debate and not bring too much new material in. Could you please continue your debate with that in mind; thank you.

Debate Resumed

Ms C.M. ROWE: Thank you, Madam Deputy Speaker. Although that is an important issue I will note that point of order and move on to discuss, as many other members have done, the clear relationship between meth addiction and crime. In my community in Belmont a lot of people have raised this issue directly with me. During the election campaign I spoke with many thousands of locals concerned about crime, and they often believed that the level of crime could be attributed to the prevalence of meth in our society and our community. I recall meeting a single mum in Cloverdale who has had her home broken into and many personal items stolen from her front verandah on a number of occasions, and she was firmly of the view that the thefts and attempted thefts were connected to the prevalence of drugs in our community. She explained that she took it upon herself to check the park across the road from her house each and every morning, and if she came across used needles she would safely dispose of them herself in order to prevent the risk of her kids standing on them when playing in the park before and after school.

I would like to quote from an article entitled “Methamphetamine use and acquisitive crime: Evidence of a relationship”. It states —

This study provides further evidence of an association between methamphetamine use and criminal offending, particularly with property and drug-related crime. Both methamphetamine users and heroin users were approximately four times more likely than non-users to report obtaining income from acquisitive crime. These associations were maintained even when polydrug use and the use of other illicit drugs was controlled for. Methamphetamine users’ reports indicate intoxication and the need for money were the most common motivations for engaging in property crime. Drug-related crime was reported to be most commonly related to intoxication.

Cannabis users were almost twice as likely as non-users to report generating income from acquisitive crime. Given those detainees who reported no cannabis use also reported no use of any other illicit drug (including heroin, ecstasy, cocaine, inhalants and methamphetamine) in the previous 30 days, this could indicate that the use of illicit drugs almost doubles the likelihood of a police detainee engaging in acquisitive crime. This may be driven by the illicit drug use itself, or by the demographic and socioeconomic factors that increase the likelihood of both illicit drug use and offending.

One of the other issues of concern that I believe has been touched on over the previous days’ discussion is barriers to accessing treatment. This is obviously of critical importance to deter meth and other illicit drug use and dependency in our society. I have a quote I was going to read, but given the time constraints, I will just point out that Labor is very committed to rectifying this issue and ensuring that we have a proper approach to address

Mr David Templeman; Mr Peter Katsambanis; Mr John Quigley; Mrs Liza Harvey; Acting Speaker; Mrs Michelle Roberts; Ms Cassandra Rowe; Mr Sean L'Estrange

these barriers to accessing treatment for methamphetamine addiction and this is covered extensively in our meth action plan. That includes investing an additional \$2 million per annum into the treatment facilities to respond to early intervention and severe methamphetamine dependence, expanding our specialist drug services into rural and regional areas, and investigating ways to fast-track guardianship and administration applications for those methamphetamine addicts who are no longer able to make their own decisions and need help to manage their affairs and rehabilitation. There is also the introduction of the mental health observation area at Royal Perth Hospital emergency department. We will also work with drug and alcohol education agencies to ensure that WA schools have the most up-to-date programs to better inform our young people. Of course we are taking many other approaches; I just wanted to highlight some of those that are part of our meth action plan.

Another major issue for my area is a significant risk to public health from clandestine meth labs and the manufacture of the drug. Chemicals, emissions and waste products from the process are absorbed by building materials, including dry walls and carpeting. They obviously present a significant health risk. This was highlighted in article in the journal *Reviews on Environmental Health*, which states —

In Australia the primary ATS manufactured in clandestine drug laboratories is methamphetamine, which is the primary focus of this review. Clandestine laboratories are commonly located within residential homes, units, hotel rooms, backyard sheds and cars, with increasing numbers detected in Australia each year ... Unlike the legal manufacture of industrial and pharmaceutical chemicals, clandestine drug operations do not involve any care in the storage, handling and disposal of chemicals and wastes nor any responsibilities in relation to health and safety during and after the cook. Many of these laboratories are within urban communities where there are significant hazards (including chemical exposures) to cooks, other residents, neighbours, law enforcement and other first responders and the general public who may visit or reoccupy the premises.

Further, the article states —

... a range of individuals, including children in clandestine drug laboratories are at high risk for injury and illness associated with immediate hazards such as fires, explosions and chemical incidents, as well as acute and chronic exposure to the range of chemicals used to manufacture the drugs as well as the drugs themselves.

This leads to my very final and brief point that one of the biggest tragedies in this cycle of meth addiction in our community is the effect it has on many children who are growing up in a household where a parent is using meth. This is shown to have a detrimental impact on children. As a mother, it is absolutely heartbreaking to read about the rising number of children currently raised by grandparents or in foster care due to their parents' inability to manage substance abuse. I will leave members with a scary number: it is estimated that approximately 46 680 Australian households are headed by grandparents for the reasons I have just mentioned.

MRS M.H. ROBERTS (Midland — Minister for Police) [12.47 pm] — in reply: I thank all members who have contributed to the debate on this Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017. I note, though, that methamphetamine is still a really big issue in the community. The member for Scarborough likes to produce a few stats based on some blackwater testing and say there have been amazing reductions, as though the problem is just about sorted. It is not. She also implies that the first time we really knew about the big problem with meth was when there was the blackwater testing, and of course nothing could be more ludicrous. The fact of the matter is that the size of the problem has been well established for over 10 years. Drug Use Monitoring Australia testing from watch houses around Australia over a long time at various sites—various police watch houses in capital cities and some country centres that have shown a high level of use. Indeed, as part of my speech in reply to the second reading debate, I made note of some of those figures of people in watch houses who had been using methamphetamine in the last couple of weeks; it was a very significant number. This problem is a long way from over and a long way from sorted. That is why it needs a comprehensive meth action plan. This is just one part of that plan. It is a tougher sentencing regime for those traffickers who traffic this misery into the community.

I thank members for their support and I am delighted that so many of my colleagues have got so strongly behind this legislation. We will of course monitor very closely the sentences that now come out of the District Court when people are caught with 28 grams or more of the drug and are clearly trafficking. I also thank the Attorney General for his strong support and those who assisted with advice during the committee stage.

Question put and passed.

Bill read a third time and transmitted to the Council.