

MISUSE OF DRUGS AMENDMENT (METHYLAMPHETAMINE OFFENCES) BILL 2017

Second Reading

Resumed from an earlier stage of the sitting.

MRS M.H. ROBERTS (Midland — Minister for Police) [2.48 pm] — in reply: I was in the process of concluding my remarks on the reply to the second reading debate of the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017. In conclusion, I thank all members for their contributions. I also thank those in WA Police and other areas of government for their speedy advice on this legislation and their assistance in getting the bill before the house so quickly.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clause 1: Short title —

Mr P.A. KATSAMBANIS: Clause 1 is the short title that very simply reads —

This is the *Misuse of Drugs Amendment (Methylamphetamine Offences) Act 2017*.

Specifically, I highlight the fact that the bill relates to methylamphetamine offences. I wish to ask the minister why the provisions of this bill are restricted to methylamphetamine trafficking rather than broadened out to deal with trafficking offences generally of all illicit substances. I understand that we are suffering a massive problem with methylamphetamine. The nature of drug trafficking is such that drugs get substituted from time to time. Some members alluded to it in their speeches. Years ago we were dealing with a heroin epidemic, and in the past we have dealt with epidemics of other drug substances, so why restrict the provisions that have been introduced to methylamphetamine?

Mrs M.H. ROBERTS: I thank the member for Hillarys for his question. As he is aware, our election commitment was to address the methylamphetamine problem. We have made it a priority to introduce legislation to keep our election commitments. That is why the bill specifies methylamphetamine.

Mr P.A. KATSAMBANIS: In some of the drug-dealing cases that have been referred to in the debate, we see that dealers carry multiple drugs with them; they are in possession of multiple drugs on many occasions. These traffickers have frequently been caught with two or more different substances and they appear before the courts. When a bill such as this refers to specific quantities to trigger the clauses that are being introduced, why would we allow a window of opportunity for traffickers who might be caught with, say, 20 grams of meth and 20 grams of cocaine to not be subject to the stronger and tougher provisions that are contained in this bill?

Mrs M.H. ROBERTS: I have already advised the member for Hillarys that this legislation is about meeting an election commitment. That is exactly what we are doing. This bill does not go beyond the election commitment. I noted in my second reading response that there is a long overdue requirement to review the Misuse of Drugs Act 1981, something that the Liberal Party probably should have commenced about a year ago when it was in government but failed to do so. That review of the Misuse of Drugs Act is overdue. We are going to get on and review that act. Other issues will no doubt come to light, and we can certainly look at other drugs, but this is simply a matter of giving priority to our election commitment. I will announce details of the review of the Misuse of Drugs Act in the near future. No doubt, some recommendations will arise out of that review and a variety of other matters can be considered at that time.

Mr P.A. KATSAMBANIS: Since the minister raised the review, could she give some indication of who is conducting the review, when the review commenced and when it is likely to report to the minister?

Mrs M.H. ROBERTS: No, I am not in a position to announce that at this stage.

Mr P.A. KATSAMBANIS: Does that mean that the review has not commenced?

Mrs M.H. ROBERTS: No, it has not.

Mr P.A. KATSAMBANIS: I am not seeking an exact date or even a time frame within a week, but can we get some sort of time frame of when that review is likely to be announced?

Mrs M.H. ROBERTS: The terms of reference, timing and the like will be announced as soon as those matters have been determined. I have only very recently been made aware of the failure of the former government to instigate the review. We will move on it pretty quickly. I cannot give the member an exact date. That will depend on how long it takes the relevant people in WA Police to respond to my requests for further information. Who is conducting the review may well depend on the availability of persons. I will be seeking recommendations from WA Police. We certainly do not intend to delay the matter, but I cannot give the member precise answers to his questions at this time.

Mr P.A. KATSAMBANIS: Will the position of the reviewer or reviewers be advertised publicly or is it intended that an internal appointment be made without any public advertising process?

Mrs M.H. ROBERTS: I note that we are dealing with the short title of the bill, not a question-and-answer session about a review that the former government failed to instigate. It failed to give any announcement of potential terms of reference, advertising or whatever. At this stage, I am not able to provide further information to the member for Hillarys on the long overdue review of the Misuse of Drugs Act, which was neglected by the former government.

The SPEAKER: Member for Hillarys, I remind you that we are debating the short title of the bill.

Mr P.A. KATSAMBANIS: Yes, thank you, Mr Speaker. It was just an issue that the minister raised, so I was trying to seek some further clarification related to why methylamphetamine is the restrictive area of this short title.

I return to the short title. The bill introduces a range of new provisions. Has the minister made any assessment of what additional resource requirements would be required by the police, the District Court or any other body as a result of the passage of this bill?

Mrs M.H. ROBERTS: From a policing perspective, it will be handled from within existing resources. The Attorney General has looked at the requirements in his area. The member would need to seek further clarification from him.

Mr P.A. KATSAMBANIS: It is the minister's bill and it is having an impact on government. If it is to have an impact on government, I would expect that the minister introducing the bill would have some clarity on the impact across government. In fact, I would expect that the minister sought comment from the Department of the Attorney General in the preparation of any cabinet submission on this bill. I would ordinarily expect the minister to have some knowledge of the resource implications. Evidently, she highlighted the area that is the responsibility of the Attorney General.

The SPEAKER: Member, I will just tell you that we are talking about the short title of the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017.

Mr P.A. KATSAMBANIS: Yes we are, and I am seeking the resource implications of the introduction of this bill, Mr Speaker. If you do not believe this is the appropriate place for me to seek that information —

The SPEAKER: There are other clauses in the bill in which this can be looked at.

Mr P.A. KATSAMBANIS: I am thinking we can short circuit that by dealing with it now.

The SPEAKER: Yes, but this is the short title.

Mr P.A. KATSAMBANIS: I am happy to go through and wait until that provision and we can address it there if you so instruct. Mr Speaker, I am used to different procedures. I am very happy to take your lead on it.

The SPEAKER: There are different procedures between the lower house and the upper house. We are talking about the short title, but I will let the minister answer.

Mr P.A. KATSAMBANIS: I have not actually asked the question yet. I will take your lead and will leave that line of questioning. I will just finish off on the short title by indicating that, as has been stated in the second reading debate, the opposition supports the passage of this bill. We support any legislation that increases sentences for drug traffickers. We support any legislation that will make things tougher for drug traffickers to ply their evil trade in this state. We will move amendments, as has been foreshadowed, because we think the bill can be improved, but we do not take issue with the specific provisions being introduced.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 3 amended —

Mr P.A. KATSAMBANIS: Clause 4 simply notes that “methylamphetamine means the prohibited drug referred to in Schedule VII item 8” of the Misuse of Drugs Act 1981. I do not take issue with defining it in that way. However, when we were talking about clause 1, the minister indicated that this is specifically focused on methylamphetamine. Can the minister indicate whether that definition relies on a particular chemical formulation or chemical make-up that turns any form of drug or amphetamine drug into methylamphetamine?

Mrs M.H. ROBERTS: It is a standard definition of methylamphetamine. Schedule VII is found in the Misuse of Drugs Act at pages 107 through to 110. It is the standard chemical formula.

Mr P.A. KATSAMBANIS: I am trying to seek that we really are restricting the provisions being introduced by this bill to methylamphetamine. We have heard quite clearly in the second reading debate from everyone that although in the past these drugs were manufactured in backyard or garage laboratories, today these drugs are mainly manufactured offshore and imported to Western Australia in large quantities. Is it possible for the

procedures or importers of these drugs that slightly changing the formula will avoid the provisions that are being brought in this bill in that way?

Mrs M.H. ROBERTS: For the member's information, there is something called the national Poisons Standard. Definitions are there. I also point out that the reference in this particular amendment bill to the schedule gives us the opportunity to update things if there is a requirement to update things. That is why it is in a schedule and why the definition is not specified in the amendment bill.

Mr P.A. KATSAMBANIS: I understand that, and I do not want to cause any particular consternation; I just want to make sure that this is going to work. I am sure the minister shares my concern about that and that it is going to work. Yes, the schedules can change things, but methylamphetamine is methylamphetamine. Has the government done any work around how easy it would be for people who want to avoid being subject to these tougher penalties—the government tells us they are tougher penalties, and we agree they are tougher penalties—to simply change the chemical composition and avoid these provisions? I do not want to see that happening. I do not want to put words in the minister's mouth, but I know the minister does not want to see that happening either. The police do not want to see that. I do not know anyone who wants to see that. I just want to make sure. This is narrowing down the definition, to move away from illicit drugs and to a particular type of illicit drugs. We know in the past that these criminal gangs have been very sneaky and good at avoiding falling into a particular provision if they can. Has any work been done around how secure the government is that by limiting the application of these provisions simply to methylamphetamine, as it is referred to in schedule VII item 8, that it will not give these criminal gangs a window of opportunity to avoid these types of sentences?

Mrs M.H. ROBERTS: I appreciate the member's concerns, but I can assure him that the definition of methylamphetamine has been around since the 1980s. It has stood the test of time since the 1980s. People have not found their way around the definition of the drug since the 1980s through until now. The best estimate is that nothing is likely to change in the near future.

Clause put and passed.

Clause 5: Section 32A amended —

Mr P.A. KATSAMBANIS: Minister, why is it necessary to introduce the new provisions that are contained in clause 5(1)?

Mrs M.H. ROBERTS: I can advise that this is just a consequential drafting amendment that does not actually effect the operation.

Mr P.A. KATSAMBANIS: I am looking at this subclause, and it is inserting an additional provision. It is not consequential; it is inserting an additional provision that is removing “7(1), 33(1)(a) or 33(2)(a); or” and inserting —

7(1) or 33(1)(a) or, under section 33(2), conspiring to commit a crime under section 6(1) or 7(1); or

It is adding to the definition of “external serious drug offence” the extra part, “conspiring to commit a crime under section 6(1) or 7(1).” I do not see that as consequential.

Mrs M.H. ROBERTS: This does not actually change anything in the operation of the Misuse of Drugs Act. In that sense, I say it is consequential; it is something that needs to be done to bring it into line with the act. I wonder whether the member has read the detailed notes that we put in place for clause 5 in the explanatory memorandum, which go over a number of pages. We have endeavoured there to provide a very thorough explanation. I would rather choose not to read all that out to the member, but we have been, I think, quite clear there in going through clause 5 in quite some detail.

Mr P.A. KATSAMBANIS: I thank the minister. Yes, I have certainly read the explanatory memorandum. It refers to clause 5, “Section 32A amended”. I will not quote the whole lot, because there is a fair bit and I do not want to take up the time of the house. However, the explanatory memorandum states —

The proposed amendments to subsection 33(2) (contained at subclause 6(2) of the Bill) amend subsection 33(2), so that:

- subsection 33(2)(a) captures conspiracy offences relating to subsection 6(1), but not involving methylamphetamine;

Earlier in this consideration, the minister said that this bill is all about methylamphetamine, but clearly the amendments at clause 5 indicate that it is capturing conspiracy offences not involving methylamphetamine. That is why I sought some clarification from the minister and some indication of how the clause is likely to proceed in practice.

Mrs M.H. ROBERTS: I can advise the member for Hillarys that proposed section 33(2)(c) will capture the methylamphetamine conspiracy offences. Indeed, that is the note at the end of the section of the explanatory memorandum that deals with clause 5, which reads —

These amendments ensure that the penalties for conspiracy correspond with the overarching intention of the Bill.

Mr P.A. KATSAMBANIS: It clearly captures, within the operation of the operating section, proposed section 33(2)(c), conspiracy offences involving both methylamphetamine trafficking and other forms of drug trafficking. It clearly brings those into a regime that they were not in before. It is clearly not consequential. It concerns me that the minister would describe these substantive provisions of the bill as simply being consequential, when they have obviously been brought in in conjunction with, but separately to, the main purpose of the bill. Again, I seek the minister's explanation of why they are necessary and how they will operate in practice.

Mrs M.H. ROBERTS: I thank the member for the question. The fact of the matter is that this does not change the framework of the Misuse of Drugs Act at all. It will just make sure that those who conspire get the same penalty as those who commit the offence.

Mr P.A. KATSAMBANIS: Again, I appreciate that it does not change the framework; I do not want it to change that part of the framework. If anything, if it changed it, I would want to make it even tougher, but it is quite clear that there is an attempt here to increase the penalties for conspiracy that apply today. Is that not the intent of this provision?

Mrs M.H. ROBERTS: This would apply to meth conspiracy, not to any other conspiracy.

Mr P.A. KATSAMBANIS: Is the minister suggesting that no changes to the conspiracy provisions relating to the trafficking of any drugs other than meth are introduced by this bill?

Mrs M.H. ROBERTS: Member for Hillarys, that is correct.

Mr P.A. KATSAMBANIS: Again, I want to point out—I realise the intention of the government was to limit this only to meth—that the substantive provisions of this bill bring in a weight of 28 grams, which triggers these new, tougher provisions. In relation to both the trafficking and the conspiracy to traffic, we again will be confronted with a situation in which people are caught by the police—in good faith doing their work, going out there, getting the meth dealers off the streets—with amounts of meth and other illicit substances, and simply because they do not meet the 28-gram requirement for meth, these people will not be subject to these tougher penalties. It could well be that they had 25 grams of meth and a kilogram of cocaine or heroin. From what the minister tells me, those people will not be caught.

Mrs M.H. ROBERTS: Those found with 25 grams of meth would be subject to a maximum penalty of 25 years and \$100 000. Ultimately, a line has to be drawn somewhere, and we have already put the argument for why we drew the line at 28 grams.

Mr P.A. KATSAMBANIS: We will have to get through a fair bit, so I will let that be for now and continue to go through the rest of the bill.

Clause put and passed.

Clause 6: Section 33 amended —

Mr P.A. KATSAMBANIS: Are any sentences for any conspiracies to commit offences—to commit drug trafficking or to make out the intention to sell or supply or however we want to phrase it—involving the trafficking of drugs other than meth captured under this clause?

Mrs M.H. ROBERTS: Yes, this clause deals with just methylamphetamine.

Mr P.A. KATSAMBANIS: Even the provision in lines 15 to 21 on page 4—proposed new section 33(2)(c)—applies solely to meth.

Mrs M.H. ROBERTS: Thanks, member for Hillarys. I was just seeking some further clarification on that. I think the member is looking at page 4 of the bill and proposed subsection (2)(a), (b) and (c). Paragraph (c) captures the meth. The member can ask me something else by way of interjection or he can stand again if he has a further question.

Mr P.A. Katsambanis: Paragraph (c) captures meth, and meth only, does it?

Mrs M.H. ROBERTS: No, not just meth only. Paragraph (c) is necessary because, as I understand it, meth is not captured by paragraphs (a) and (b).

Mr P.A. KATSAMBANIS: Does proposed section 33(2)(c) change the way that conspiracy laws operate—the principles are not changing—or the penalties for conspiracy for offences other than meth? Will they change?

Mrs M.H. ROBERTS: To provide clarification, yes, the penalties will change for meth conspiracy but will not change for others.

Mrs L.M. HARVEY: Is it true to say that this provision is required because the life sentence for trafficking will apply for only methamphetamine and no other drug?

Mrs M.H. ROBERTS: Yes. It is true to say that this bill puts a life sentence in place for methamphetamine, but not for other drugs.

Mr P.A. KATSAMBANIS: I move onto clause 6(3), which will change section 33(3), on pages 4 and 5. This clause intends to define people who will be subject to lower terms than life imprisonment. Why has 14 years' imprisonment been chosen as the maximum term that would be given to a person who commits an offence in a case in which the person who committed the principal offence would be liable to imprisonment for life?

Mrs M.H. ROBERTS: Incitement generally gets a sentence of half the principal sentence. In the case of a life sentence, the half sentence is regarded to be 14 years under the Criminal Code.

Mr P.A. KATSAMBANIS: Sure, but this is the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017. We can do things like the Criminal Code, but we do not have to. Is there an indication that the intention of this legislation is that a life sentence would, in practice, be 28 years?

Mrs M.H. ROBERTS: No; I do not think that is fair to say. In practice across lots of pieces of legislation, we are looking at half the penalty for an incitement offence. It is a convention that the half-sentence for life is regarded to be 14 years but that does not mean that a life sentence will be 28 years.

Mr P.A. KATSAMBANIS: The minister introducing the bill would obviously have an idea in her mind of what a life sentence ought to mean in practice. What would the minister consider to be an appropriate term of imprisonment before someone becomes eligible for parole if they were sentenced to life imprisonment under this new legislation?

Mrs M.H. ROBERTS: My opinion is not what will be taken into account when this sits before a judge. Ultimately, a judge will determine what life means. A life sentence can mean life—for the term of someone's natural life. It could be a very long sentence indeed. It will not be a matter of my opinion. That is why we have judges who make appropriate determinations in these matters. This legislation, as the member is aware, will broaden the sentencing parameters up from 25 years to life. No doubt the actual sentence that a judge gives will depend on the circumstances of the offence.

Mr P.A. KATSAMBANIS: The minister says that life "can" mean life. Would there be any ability under these new provisions for a judge, after weighing it all up, to sentence someone to prison for life with no prospect of parole? Would there be such opportunity under these provisions and the operation of our Criminal Code?

Mrs M.H. ROBERTS: Yes. I understand that if they were not granted parole, they could get a life sentence and that life could mean life in some circumstances.

Mr P.A. KATSAMBANIS: I did not ask whether they would be granted parole. I am asking whether they could be given a life sentence with no prospect of parole or ability to apply for parole.

Mrs M.H. ROBERTS: I am stating that it is up to the judge's discretion. Is the member asking whether people can be locked up and the key thrown away or whether people can be denied parole at the time of sentencing? Is that what the member is asking? Can I ask him to clarify the question?

Mr P.A. KATSAMBANIS: I am asking the minister whether it is open to a judge under this regime to sentence someone to life with no prospect of parole. That is what I am asking.

Mrs M.H. ROBERTS: If we were to remove parole as an option for judges, we would need to look at the Sentencing Act 1995. That is not what this bill proposes to do.

Mr P.A. KATSAMBANIS: It is the minister's bill; I would expect that she would be able to answer a question such as that. We have the Sentencing Act and the Criminal Code, as has been referenced here previously, but is this a situation in which in every case when someone is sentenced to life, they will also be sentenced to a non-parole period; therefore, they will have—right from the outset—the opportunity to seek parole at some stage in the future after they have served their non-parole period?

Mrs M.H. ROBERTS: As the member may well be aware, when someone is sentenced to life imprisonment, there is a non-parole period of seven years. Of course, the judge can specify another period as a non-parole period.

Mr P.A. KATSAMBANIS: If someone were sentenced to 25 years under the current regime, what would be the minimum non-parole period that they could be sentenced to?

Mrs M.H. ROBERTS: I see that the Attorney General has left, but it is my understanding that that is up to the judge to determine. I am happy to seek further advice from the Attorney General. This bill does not propose a 25-year sentence; it proposes a life sentence.

Mr P.A. KATSAMBANIS: This bill will replace a provision that has a maximum sentence of 25 years. A moment ago the minister told me that the minimum non-parole period under a life sentence in our regime is seven years. That is what the minister said to me. I am asking whether the minimum non-parole period for a sentence of 25 years in our jurisdiction would be higher or lower than seven years.

Mrs M.H. ROBERTS: As I have said to the member, I do not think that there is a minimum non-parole period under the Criminal Code for a 25-year sentence. Zero years is clearly lower than seven years. I have also said that when someone gets a life sentence, there is a minimum seven-year non-parole period under the Criminal Code. That does not mean that happens every time someone gets a life sentence; that is the minimum non-parole period. The judge has to specify a minimum of seven years. The judge may specify another amount of time as a non-parole period. He might specify 10 years, 12 years or the like. This is a higher penalty than the 25-year penalty and there will be a guaranteed non-parole period of seven years and, as I understand it, there is no guaranteed non-parole period under a 25-year sentence.

Mr P.A. KATSAMBANIS: We will explore that a bit later on in clause 7, I think, because it is important that if we are making changes and they are intended to lead to increased sentencing for meth dealers, that it happens in practice, not just on paper. In my community when I go around talking to people, very few people complain about the maximum penalty; they complain about the actual penalties being delivered, and we ventilated some of that in the second reading debate yesterday. It is critically important that when we set up regimes intended to increase sentences that they do so on a practical basis, not just theoretically on a piece of paper that we are passing through this house.

Mrs L.M. HARVEY: Could the minister please explain why the quantity of 28 grams has been arrived at in the development of this policy as a trafficable amount of meth? In determining whether a person being charged for these offences is in possession of 28 grams what process is undertaken to assess the purity of the drug?

Mrs M.H. ROBERTS: I thank the member for Scarborough. First and foremost, the amount of 28 grams is in the bill because that was our election commitment. Why was that our election commitment? It is because it provides for a consistency of definition when looking at drug-trafficking declarations. The purity of the drug or otherwise is determined by the ChemCentre.

Mrs L.M. HARVEY: In the context of seizures of drugs that police would make from drug dealers and traffickers in our community, what usually tends to be the quantity of the drug seized—if you like, a median seizure of drugs?

Mrs M.H. ROBERTS: I do not think there is any information available on what a median seizure of drugs is. I guess the member is asking what the median seizure of methylamphetamine is since that is what this bill is about. I am not sure why the member is asking about the median as opposed to the mode or the mean, and I doubt that the police could provide that information in any timely fashion, if ever.

Mrs L.M. HARVEY: Just to be a bit clearer on what I am trying to get to, the opposition is interested in how many individuals are likely to be captured by this change. During the second reading debate we were talking about seizures in excess of 100 kilograms; however, in preparing for Parliament I thought that the government would have assessed the number of individuals who police would be charging with trafficking of methamphetamine who would then attract this maximum life penalty. As a former police minister I believe that police have that data and I would hope that the minister would have that information available and be able to advise us.

Mrs M.H. ROBERTS: Unfortunately, it seems that the member for Scarborough wants to re-hold the last election. The fact of the matter is that this is the policy we were elected on. There is a rationale for the 28 grams and it has been provided numerous times. For the benefit of the member for Scarborough I will clarify again what we said at the election. We said we wanted to crack down on drug traffickers—those people who are the worst scourge in the community. Although they cause a real problem in the community, there are users of the drug who, as the member will be aware, are on many levels victims themselves, particularly some of the young people. They are users, they try it once or twice—they should not do that—they get hooked on it and they become victims. If the member wants to know how much those users get caught with, apparently in a session they might have one or two points, and two points is probably the average. This is not about targeting those users. Ideally, we would like to see those people get rehabilitation, move on with their lives and stop causing a problem for themselves, their families and the community.

This is about cracking down on the Mr Bigs—those people who are caught in possession of a trafficable amount of 28 grams. A life sentence is a really significant sentence. The member wants to know how many people will

get caught by this provision. We could sit around and do a lot more research on this, but at this stage that is not our intention. Our intention is to go ahead and deliver our election commitment. In the future we may like to go further. In one, two or three years we may be able to know how many people are caught up by this legislation and what the penalties meted out will be. This is about getting on with the job. This is not about waiting until year three or four of government to deliver an election commitment like the previous government did on a number of its election commitments. This is about delivering within the first 100 days of year one and it is about putting in place a tougher penalty for those people who are drug traffickers—those people who are caught with 28 grams or more of methylamphetamine. We will see how this legislation goes; we will monitor how it goes. We will see whether it is having the impact that we want it to have. But we are not going to sit around, consider and work out whether we want to have some other suite of initiatives and take two or three years to put some legislation before this house. That is why this legislation is short, sharp and specific: it delivers on the election commitment. Does this mean this is the only legislation we will introduce about methylamphetamine or drugs in the next three years and nine months? No, it does not, because we will get on and do that review of the Misuse of Drugs Act the member for Scarborough failed to do when she was Minister for Police. The former Minister for Police did not review the Misuse of Drugs Act. She did not appoint anyone and she did not put any terms of reference in place, and that review of the Misuse of Drugs Act is long overdue. It is a bit rich for the member for Scarborough to come in here today and feign some concern about what she could, would or should have done; whether our election commitment was right; or what the justification for it was. That is what we put out there. That is our commitment to the people of Western Australia and we are delivering on it.

We will see how it goes. This may not be the right solution. Maybe more can be done. We will assess that as we review the Misuse of Drugs Act and we will certainly monitor the success of this legislation before us. We will certainly monitor the courts and see what sentences are coming out. We will see whether or not those sentences meet community expectations. If they do not meet the community's and our expectations, we will certainly consider even further amendments to the Misuse of Drugs Act. Given the long overdue review of the Misuse of Drugs Act, it is highly likely that issues will be brought to me by WA Police and there will be suggestions for amendments to the Misuse of Drugs Act. That will be the opportunity to have a broader review of these provisions.

Mrs L.M. HARVEY: Just to be clear, I understand that the minister is implementing an election commitment. I absolutely concede that there is no doubt that the government has the authority to implement its commitments. However, as a responsible minister and member of the cabinet in charge of the public purse, I would have thought that in implementing this commitment the minister might have asked the question of police, "How many people do you think might be captured by this provision?" I thought the minister might have put the question to the Minister for Corrective Services, "How many people are likely to get longer sentences as a result of this legislation coming forward?" Yes, it is good to implement election commitments in a timely fashion, but we still need to understand who is likely to be captured by this offence and how many people are likely to be charged with this offence. I do not believe that that is unreasonable. When I was sitting in the committee chair where the minister is sitting now, I was asked questions like this, and a lot of the time I had the answer because I had asked the police for that data before bringing legislation to this place that might impose a cost on the community. Hopefully the minister's advisers may have that information for her; however, if she has not asked for it, they probably did not get it. Could the minister please confirm for me whether, prior to bringing this legislation here, she actually asked the question of police and her advisers as to how many individuals would likely be captured by this new offence.

Mrs M.H. ROBERTS: Of course, the member for Scarborough is asking me to predict the future as to how many offenders police are going to capture in the next year and how much methamphetamine they are going to have. I do not know the answer to that. I know that police are doing their level best. Acting Assistant Commissioner Scanlan and others have advised me that they do not see this as having an impact on police resources. As a result, I am really not quite sure where the member is going with this question. If she is so knowledgeable, perhaps she can answer her own questions.

Mrs L.M. HARVEY: My question is really simple; police are able to access this information. I asked: before the minister brought this legislation to this place, did she at least ask police how many people over the last five years had been charged with possession of 28 grams or more of methylamphetamine? Surely she asked that question and has that data for us.

Mrs M.H. ROBERTS: Perhaps the member for Scarborough does not appreciate that this is not just a general Q and A. We are dealing with clause 6. If the member is having some difficulty in understanding the clause, I am more than happy to answer her questions. The fact of the matter is that I have also announced we will have a 100-strong border force, and I am hoping that we will have a lot more prosecutions of drug traffickers in this state. If anything the police will, I hope, seize more drugs as they transit into our state. It may well be that, with some tougher drug penalties, drug traffickers may target other states rather than Western Australia. That is why

I make the point that predicting the future is a very difficult thing to do. With 100 extra officers in the border force there may at first be a significant increase in prosecutions. Maybe when some people start getting tougher penalties for trafficking drugs in this state we might see a significant decrease. That is why we are getting on with implementing it. We will monitor it and provide information as part of monitoring the legislation once it is in force.

Mrs L.M. HARVEY: I take it, then, that the minister did not ask police how many people this offence might likely capture. I will just take the answer as a no; that question was not asked. Just to be clear, we hope that a lot more dealers are caught and that drug use in the community is reduced. That is why we also proposed the introduction of a maximum life penalty for dealing this drug as part of our policy going into the last election—a policy that the government’s leader at the time agreed to and committed to implementing, along with the government’s own policy. I am satisfied that the minister has no idea how many people might be captured by the government’s legislation and that she even has no idea, looking back over the last five years, how many people would have received a higher penalty as a result of this legislation. In her haste to implement this election commitment and get a tick, she has not done the required background work that is normally expected in this place. With that, I have no further questions on this clause.

Mrs M.H. ROBERTS: I thank the member for Scarborough for her gratuitous insults. Of course, most of what she said is fallacious and is not worthy of response. When she last made comment, I drew her attention to the possibility that she might like to actually ask a question about the clause rather than trying to have some political debate on a really important issue. The opposition has said that it supports this legislation but, interestingly enough, it has been very negative about the implementation of it and the fact that the government has brought it before the Parliament so quickly. It may be a bit of envy; I do not know. The former government did not seem to bring any legislation before this Parliament very quickly at all. Indeed, the former Minister for Police, the member for Scarborough, used to stand here and say, “Yes, I’ll bring that legislation in later in the year”, and we would never see it. We would have to wait until the following year.

Clause put and passed.

Clause 7: Section 34 amended —

The ACTING SPEAKER (Ms J.M. Freeman): Does the member want to put his amendments now, or does he want to ask questions?

Mr P.A. KATSAMBANIS: Thank you, Madam Acting Speaker. I would prefer to ask some questions and after members have had the opportunity to ask questions, I will then move the amendments I have foreshadowed as lead speaker for the opposition.

I have a range of questions on this clause and I think some other members have as well. This clause is clearly based around the trafficable quantity of methylamphetamine, which is defined in the clause to mean a quantity of methylamphetamine not less than that specified in schedule VII, item 8. The government has told us, and we are aware, that this means 28 grams. To make it clear, whenever we are talking about dealers or traffickers, we are dealing in this bill specifically with those people who have already made out the intention to sell or supply and met the requirement that they have been found to be dealing and trafficking in drugs. We are not dealing with users. There is evidently no intention by the government, as the minister said, and similarly no intention from the opposition, for users to be captured by this bill. We are dealing with people who have met that threshold. We know that they are out there in our community, dealing meth. I firstly seek from the minister an indication: if someone was caught trafficking 27 grams of meth, what penalty would they be liable for once this legislation is enacted? What is the maximum penalty they would be liable for?

Mrs M.H. ROBERTS: I actually already answered that question for the member earlier. The answer is 25 years or \$100 000.

Mr P.A. KATSAMBANIS: That is fine. They will get a maximum of 25 years if they are caught with 27 grams. If they are caught with 28 grams, they are then subject to a maximum penalty of life imprisonment. Why should that one gram make any difference to the maximum penalty these people are subject to?

Mrs M.H. ROBERTS: Ultimately, we have to draw the line somewhere. There has to be a number. I expect the member will understand that. That is the current amount for trafficking—28 grams. It is not a number we have made up for the purposes of this bill. It is an established amount for the purposes of drug trafficking.

Mr P.A. KATSAMBANIS: I understand that we must draw the line somewhere, and the government has drawn it at 28 grams, and it is important that we start talking about this.

Mrs M.H. Roberts: It had already been drawn at that point.

Mr P.A. KATSAMBANIS: The government can change it; it is bringing in the legislation. Correct me if I am wrong, but the intention of the government is that once the provisions of this bill are introduced, anyone who is

caught with 28 grams or more of methamphetamine and meets all the requirements indicating that they are traffickers will get higher criminal custodial sentences than they do today.

Mrs M.H. Roberts: That is right.

Mr P.A. KATSAMBANIS: That is right, so the minister confirms that. Again I ask: why should someone caught with 27 grams of meth, especially if they are caught with a combination of other drugs as well, get a lower sentence than someone caught with 28 grams of meth?

Mrs M.H. ROBERTS: Indeed, I do not know whether the member for Hillarys was in the chamber to hear some of the second reading contributions made by some of my colleagues, such as the member for Mount Lawley.

Mr P.A. Katsambanis: I was here for that.

Mrs M.H. ROBERTS: If he was here for that, then he would understand that judges have to be cognisant of the statutory penalty for an offence, and if the statutory penalty is higher within that sentencing envelope they will give a higher penalty.

Mr P.A. KATSAMBANIS: That was not actually my question. I am just asking the minister why the community should accept that a drug trafficker who just happens to have been caught with 27 grams that day should get a lower sentence than someone caught with 28 grams, when they are dealing in the same illicit substance, causing the same harm in our community, subjecting our community to all the ravages that we have discussed, and that we all agree we want to stop, correct and solve. Why should we not be treating the guy with 26 grams or 27 grams the same as someone with 28 grams?

Mrs M.H. ROBERTS: Interestingly, I think 28 grams was also part of the previous government's platform, so the member for Hillarys' party chose the same figure for the point of being consistent. In any event, there is obviously a maximum penalty of 25 years for someone in possession of 27 grams or less, and a maximum penalty of life imprisonment. There may in fact be little difference between the ultimate sentence that someone with 27 or 28 grams gets, because someone in possession of 27 grams might get a sentence at the higher level of the sentencing envelope, of up to 25 years imprisonment, and someone on just 28 grams, as opposed to maybe 50 or 100 grams or some other amount, may receive a slightly lower sentence in the envelope, up to a life sentence. In effect, there may not be a huge difference in penalty between someone found with 27 grams and someone found with 28 grams, because at 27 grams they might be subject to the top sentence of 25 years. For possession of 27 grams, a person can receive a sentence of 25 years' imprisonment. It is also possible that someone in possession of 28 grams, depending on other circumstances, might also get a sentence of 25 years' imprisonment.

The ACTING SPEAKER: The question is that clause 7 stand as printed. Member for Hillarys, I also point out standing order 97, about repetitious debate on the member's own arguments. You might want to note that, member for Hillarys.

Mr P.A. KATSAMBANIS: Earlier today, the Attorney General told us in this chamber that amounts do not really matter. He told us that when a court, in its wisdom, finds a Mr Big, it will wallop them with a higher sentence than when it finds someone who is in the middle of the tree, or just underneath Mr Big—Mr Second Big or Mr Third Big. I do not want to trivialise the debate in any way, because that is what the Attorney General said, and I think he referenced —

Point of Order

Mr J.R. QUIGLEY: I have been misrepresented by the member for Hillarys, and want to make the statement that I said that weight is only one of the determinant matters, and that other considerations came into play. I never said that weight is irrelevant.

The ACTING SPEAKER (Ms J.M. Freeman): Thank you, Attorney General. Points of order are not to be used for clarification of debate. Member for Hillarys, can you just ask your question? That would be fantastic.

Debate Resumed

Mr P.A. KATSAMBANIS: I will. I think the reference was to a Mr Quaid, who was considered to be right up there at the top of the tree, or whatever, so he was given a higher sentence than other people who may have had a greater weight. Again, why this arbitrary line? What if we do get one of those Mr Bigs, and they are only caught with 27 grams? Are we going to let them off with a lower penalty than they would have got under this new regime? That is what the minister is telling us. If they are caught with 28 grams or more they would get more time in jail in the future, once this bill is passed, because they would be subject to a maximum sentence of life imprisonment. They would get more time in jail, than if they were subject to a maximum sentence of 25 years' imprisonment. If we get one of those Mr Bigs, who is still subject to a maximum sentence of only 25 years, why should they get a lower sentence than if they were caught with 28 grams?

Mrs M.H. ROBERTS: Without getting into the hyperbole of Mr Bigs and the like, the fact is that if we have a higher penalty for an offence, that effectively gives us the sentencing envelope within which to impose

a sentence. If the penalty is life imprisonment, as opposed to 25 years, it stands to reason that an offender would receive a higher penalty. I think that the matters the member is referring to are really handled by the Sentencing Act, under which judges can look at both aggravating and mitigating factors in determining sentences. Some mitigating factors that a judge takes into account in sentencing may incline the judge in particular circumstances to impose a sentence at the lower end of the scale. Some aggravating factors made known through the court process may incline the judge to deliver a sentence at the higher end of the scale or may, in the case of the legislation before us, incline the judge to impose a life sentence.

Mr J.R. QUIGLEY: I want to ask about this 27 or 28 grams that the member for Hillarys is referring to. I want to direct the attention of the minister to schedule VII of the Misuse of Drugs Act, headed “Amounts of prohibited drugs for purposes of drug trafficking”. Item 8 sets the regulated amount at which a person is declared a drug trafficker at 28 grams. In all the time that the minister was the shadow minister, did the then Liberal government ever suggest to her or to this chamber that the 28 grams at which a person is declared a drug trafficker be reduced to 27 grams or any lesser amount?

Mrs M.H. ROBERTS: No, of course, they did not. Further than that, the minister chose not to fulfil her statutory obligation to review the Misuse of Drugs Act at all.

Mr P.A. KATSAMBANIS: The effect of clause 7 is to increase the maximum term of imprisonment for someone convicted of trafficking more than 28 grams of meth from a current maximum of 25 years to a maximum of life imprisonment.

Debate adjourned, pursuant to standing orders.