

PROHIBITED BEHAVIOUR ORDERS BILL 2010

380. Mr J.M. FRANCIS to the Attorney General:

I quickly acknowledge that today, being 11 August, marks the twentieth anniversary of the election of the member for Cottesloe to this house and I congratulate him on two decades of service to this Parliament.

Mr C.J. Barnett: I thank the member for Jandakot and I am delighted to have reached the midpoint of my career!

Mr J.M. FRANCIS: Like all members on this side of the house, I am keen to ensure that criminals actually pay for the crimes they commit and that steps are taken to reduce offences and make our streets safer. Can the Attorney General please inform the house of how this government's Prohibited Behaviour Orders Bill 2010 proposes to target antisocial behaviour and what kinds of offenders it will be directed against?

Mr C.C. PORTER replied:

I thank the member for his question and, of course, it is likely that this week, perhaps tomorrow, we will debate the Prohibited Behaviour Orders Bill 2010 in this chamber. The opposition has indicated that it does not intend to support that bill, so in the interests of ensuring that that debate proceeds in as informed a fashion as possible, in answer to the member's question I will speak briefly about two things: first, what precisely the bill seeks to do in a mechanical and legislative sense; and, secondly, who the government seeks to target with this bill.

I understand that different views exist on the principles behind the Prohibited Behaviour Orders Bill, but the bill has been designed in a very cautious way, which gives a great deal of discretion to the courts. To be subject to a PBO, a person must have committed and been convicted of an antisocial behaviour offence and then, within three years, have again committed and been convicted of a relevant antisocial behaviour offence. Also, the court must consider that unless constrained from certain otherwise lawful behaviour that person would offend again against the public, so the court must predict and to the best of its judgement work out whether this person will offend for a third time. The court must consider it appropriate in all the circumstances and, further, the court must consider as part of those circumstances not only the desirability of protecting other people and their property, but also the degree of hardship that could potentially be levied on the subject of the PBO. That is a fairly balanced way of approaching the problem, I very much hope. The best predictions that we have from the Western Australia Police is that they would likely, given what we know about offending patterns, apply for perhaps 70 or 80 orders a year. Certainly, if we exceeded that level I would look at this legislation closely and, indeed, if we did not get that many orders, I would again look at the legislation closely.

Who do we seek to target with this legislation? I spoke this morning on the radio with the member for Mindarie, and I take the view that there are people out there who deserve to be the subject of these orders; they are serious repeat offenders at the low grade of antisocial behaviour who make life a misery for people residing in our electorates. In developing this policy and this legislation, we went through a quite detailed actuarial process of the top recidivist offenders in our court system. We worked out that from 2006 to 2009, 20 adults in the adult court system each committed and were convicted of 20 separate offences. They are the top 20 worst offenders in the adult court system. Over the same three-year period, 20 juveniles had each committed more than 50 offences. These are the people whom we seek to target with this legislation. We recognise that the courts are not equipped under the present legislation to deal with people who commit, recommit and commit again offences at the lower order of seriousness. We have said that we will give additional protection to the community.

I will finish by giving one example of a juvenile offender. I will read through the charges that this individual had racked up in the period of three years. These are the people whom we are trying to target. In 2006: destroying property by fire, stealing and aggravated burglary. In 2007: damaging property, assault with intent to prevent arrest, stealing, burglary, breach of bail, three counts of possessing a thing for applying graffiti, aggravated burglary, damaging property, stealing, trespass without lawful excuse, possessing a drug, going armed so as to cause fear, and another two counts of aggravated burglary. That was all in 2007. In 2008: going armed so as to cause fear, wilfully and unlawfully destroying property three times, aggravated burglary, possessing a drug, breach of bail, giving false details to police, aggravated robbery, destroying or damaging property by fire, and aggravated burglary. In 2009 —

Mr E.S. Ripper: He'll do what he's told!

Mr C.C. PORTER: — possessing things for applying graffiti, unlawful damage to property, trespass, unlawful damage to property, stealing, unlawful damage to property—then a period of detention—unlawful damage to property, possessing graffiti implements, unlawfully destroying property, unlawfully damaging property. He does not do what he is told! However, if a person has a prohibited behaviour order applied to him or her, the community has the additional protection that when that person does not do what he or she is told, people can call the police and that person can face a criminal sanction. In the United Kingdom, about half the people who

breached their prohibited behaviour orders and were returned to court received terms of imprisonment. We are being selective, we seek to target the worst offenders who offend against the community, and the opposition will not support us in that task.

Point of Order

Mr J.R. QUIGLEY: I call upon the Attorney General to table the document from which he read in giving his reply—that is, the record.

The SPEAKER: I need to see that document, Attorney General, before I can make any sort of decision. Are they personal notes?

Several members interjected.

The SPEAKER: Members, thank you! I quite simply asked the Attorney General a question. I need to see the notes or find out from him whether they are personal notes or an official document. That is the process, and nobody else needs to be involved in it. Attorney General, I just need to know the answer to that question.

Mr C.C. PORTER: They are personal notes, Mr Speaker, and I will show you the document, if you wish.

Mr M. McGOWAN: Point of order, Mr Speaker. You requested documents from the Attorney General and I clearly saw him amend the documents subsequent to your request for the documents. I ask the Attorney General to provide you with all the documents that he had before him, rather than an annotated version that he deems that you should see.

The SPEAKER: Member for Rockingham, I will not take that as a point of order. These are personal notes provided—there are some handwritten notes on here—for the Attorney General. Quite simply, I am satisfied with that.