BAIL AMENDMENT (PERSONS LINKED TO TERRORISM) BILL 2018

Second Reading

Resumed from 28 November 2018.

MR P.A. KATSAMBANIS (Hillarys) [5.10 pm]: I rise as the lead speaker for the Liberal opposition on the Bail Amendment (Persons Linked to Terrorism) Bill 2018. At the outset, I indicate that the Liberal opposition supports this bill, welcomes its introduction and wishes the bill speedy passage through both chambers of our Parliament so that it can be introduced and become part of our bail laws in Western Australia.

The genesis of this bill was deliberations conducted by the Council of Australian Governments, which was guided in its deliberations by the Australia–New Zealand Counter-Terrorism Committee, the ANZCTC. Having reviewed some of the issues that have arisen in other states, ANZCTC determined that we needed amendments to bail laws across Australia to ensure that a presumption against bail applies to persons with links to terrorism when they come before the courts charged with offences that do not relate to terrorism. The four principles developed by the ANZCTC were outlined in the Attorney General's second reading speech. I will not labour the house with a full description of them. Those principles indicate that people who have demonstrated support for terrorism activity or who have links to terrorist activity or organisations should have to overcome a much higher threshold to get bail. It is all modelled on the joint counterterrorism team model implemented across Australia over the last couple of decades to respond to the emerging and very real threat of terrorism.

In many ways, the amendments will place a burden on people deemed to have links to terrorism that is extraordinarily significant and difficult to overcome if they have been charged with a non-terrorism offence and want to apply for bail. In many ways, the bill will create two categories of applicants for bail for the same offence. It could be a drug offence or an assault offence; it could be across the whole range of offences for which people need to apply for bail. One person could apply for bail not having to overcome the presumption against the grant of bail, and another person deemed to have links to terrorism could come before the courts with this presumption against bail applying to them.

For scholars of jurisprudence—as a few in this chamber are—or people concerned with civil liberties and balancing the rights of accused persons who have not been convicted, creating that presumption against bail raises a bit of a flag. I will not necessarily call it a red flag, but it raises a flag: why are we doing this? The answer is complex in one respect but simple in another. The simple part of it is that if people predisposed to terrorism or with links to terrorism carry out their thoughts and beliefs, they could cause significant mass casualties and incidents that impact across our community and in many ways threaten our way of life. We have seen that through attacks in other parts of Australia. There was an attack in Brighton, Victoria, at a hotel I believe. Yacqub Khayre was on parole at the time of the attack in 2017 while serving a sentence for home invasion offences, and that enlivened discussion at COAG about what to do with people with known links to terrorism who might be before the justice system. Obviously, Mr Khayre was on parole, but that issue was what triggered COAG to look at this matter.

COAG and the ANZCTC was also informed of the actions of Man Monis in the Lindt Café siege in Martin Place in Sydney in December 2014. Mr Monis, as most Australians would recall, was on bail at the time, facing charges of sexual assault and being an accessory to murder. The court had given him bail. The authorities knew Mr Khayre and Mr Monis had links to terrorism. That is a pretty broad term, but they had known links to terrorism. Certainly in the case of Mr Monis, the point was made that had a presumption such as this existed, perhaps he would not have received bail. There are other issues around that. I recommend that members and interested members of the public read the report on that case of the State Coroner of NSW, Mr Michael Barnes, in relation to that aspect. Some people in the community shake their heads and wonder how a person charged with sexual assault and being an accessory to murder is able to get bail even without a presumption such as this. In that case it was demonstrated that he had made out the criteria to be offered bail and was offered bail by the court in New South Wales. There are no, and may there never be, any examples in Western Australia. We would like to think that Western Australia will not be the subject of a terrorist attack.

Dr A.D. Buti: We have had terrorism attacks in WA.

Mr P.A. KATSAMBANIS: I will get to that. I have spoken about it before and I will get there again. As the member for Armadale points out, there have been attacks in WA in the past and attacks in other places have been planned in WA. The preparatory work in the case of the sarin gas attack in Japan—testing work if you like—was conducted in Western Australia. WA has also had Australian homegrown—Western Australian-grown, if you like—terrorists who have committed terrorism offences in other places, such as Jihad Jack. His name is Joseph Thomas—the member for Armadale can again correct me if I am wrong.

Government members: Van Tongeren.

Mr P.A. KATSAMBANIS: I will come back to him as well. I will save van Tongeren for later because I want to make a point about him and his ilk. There has been Jihad Jack—Jack Thomas was his name—and terrorist sympathiser Junaid Thorne. Also, way back, one person convicted at first instance and then exonerated in the Sydney Hilton Hotel bombing was from a town in the wheatbelt. I think it was Narrogin, but I do not want to cast aspersions. I think his name was either Peterson or Pederson—I could be wrong. Irrespective of that, one individual has come from Western Australia.

A lot of the focus on terrorism at the moment is on one type of terrorism, that motivated by extremist Islamist ideology. Members who were interjecting before would be only too well aware that terrorism comes in all forms; it is not just extremist Islamist-type terrorism. We have seen in the case of Ananda Marga and the bombing of the Sydney Hilton Hotel that sort of separatist, anti-Indian government ideology, for want of a better term. I have read a little about that cult and I still struggle to understand exactly what it was about, but they hated the Indian government, basically, for one or many reasons.

Mr J.R. Quigley: Now the protagonist has been sacked from the University of Sydney for loving the North Korean government.

Mr P.A. KATSAMBANIS: That is interesting. His name is Anderson. He was also exonerated for that crime; he was on appeal. But, yes, he has offended even the extraordinarily small "l" liberal University of Sydney to the extent that it sacked him for providing comfort to the North Korean regime. That is something for it to decide.

But van Tongeren is one name people in Western Australia have not forgotten. His reign of terror was not motivated by extremist Islamism, but by base racism. He is obviously another example of the fact that terrorism has reared its ugly head over decades in this state, so we are not immune from it. It is interesting that—I am certainly not going to cross the line and discuss deliberations of the committee—a lot of the work of the Community Development and Justice Standing Committee's current inquiry into the preparedness to respond to terrorism acts in crowded places has focused on emerging threats in the terrorism space. A lot of experts suggest that to solely consider extremist Islamists to be the only terrorist threat that we face is silly and wrong, and that there are other emerging threats, including threats that we could categorise on the extreme right wing of the political spectrum, which most members would agree is where van Tongeren lies. When we talk about these extremist cases I am always reminded of the posters that were around at my university in the 1980s, which showed political discourse as a circle rather than as a line, and that the extreme left and extreme right would meet at that extremism point. That is a fair analogy. There are extremists and loads of different ideologies, and it is not limited to that small group of adherents to the Islamic faith who tend to that extremist Islamism that has been very, very prevalent. Irrespective of that, terrorists can come in all shapes and sizes, in all forms, and with all sorts of warped ideologies. Their one common link is that they want to create indiscriminate terror in society by harming innocent people. Often their desire is to cause as much damage as possible either to highlight their cause or to harm those people whom they consider to be their enemies, or sometimes both. They want to cause maximum damage to highlight their cause and target some of those individuals. I think that was the point of Ananda Marga when they were targeting the then Prime Minister of India who happened to be in Australia for a regional Commonwealth Heads of Government Meeting. It was a long time ago. I was in primary school.

Dr A.D. Buti: I think it might have been a full conference.

Mr P.A. KATSAMBANIS: It could have been the full conference—one or the other. As I said, I was in primary school at the time, so I found out about it later rather than recollecting the incident. Although, even as a young child, I remember how frightening it was to have that sort of attack in Australia.

Terrorism is very real. It comes in all shapes and sizes. What we do know—again I am not talking about any deliberations of the committee—and reinforced by some of the information gathered by the Community Development and Justice Standing Committee and published on its website as evidence that it has received, is that our intelligence organisations are doing a really good job. They are doing a wonderful job in detecting people with links to terrorism. Remember, the bill before us is all about persons linked to terrorism.

We are doing more than that as a community; we are engaging with at-risk communities and at-risk people to either prevent some people who might have a propensity to go that particular way, down that wrong path, from going down that path, or in some cases to rehabilitate those people. A lot of work is going on, some of it very quiet. In the last decade or so that has required really deep and meaningful cooperation from Islamic communities across Australia. What needs to be highlighted too is that family members—mothers, fathers, brothers, sisters, uncles, aunts, grandfathers and grandmothers—within those communities are just, if not more, concerned, about some of their family members being radicalised and turned into either people who support terrorism or, in the worst case, people who commit terrorist acts. They are so concerned that they are engaging, and we need to continue with that meaningful engagement. The WA Police Force has an important role to play in that, but so do our federal authorities—the Australian Federal Police, the Australian Security Intelligence Organisation and the

other bodies involved in keeping our country safe. I talk about all this because often the information gathered by our intelligence services, be they state or federal, is extraordinarily sensitive. If it is ventilated publicly at a particular time, it may well prejudice ongoing investigations and, ultimately, prejudice and cause harm to the Australian people. A lot of information linking a person to terrorism has to, by its nature, be kept classified and secret. I intend to spend a little bit of time during consideration in detail talking to the Attorney General about some of the provisions of this Bail Amendment (Persons Linked to Terrorism) Bill to make sure we have all the issues well ventilated so that if ever people come to read our debate in interpreting this legislation, they may know what the actual intention was at the time. Significant provisions in the bill protect that sensitive intelligence information relating to terrorists or terrorism from becoming publicly known simply because one of the people involved in having links to terrorism has committed a completely separate offence and is before the courts at the time.

Again, that sometimes enlivens the concerns of scholars of jurisprudence and people who are genuinely interested in preserving our civil liberties and our rights as individuals in society, especially those individuals who are accused of a crime but have not been found guilty and who deserve their right to a fair hearing in court and deserve and have the presumption of innocence until they are convicted of any crime they are accused of. It is a very fine balance that this sort of legislation needs to tread.

I have examined this legislation. I thank the Attorney General and his office for providing some information in response to issues that we as an opposition raised in a briefing we had some time ago. Unfortunately, this information was provided to me just before question time today. I have had an opportunity to glance at it but given the commitments I have had in the house since I received this information, I have not had an opportunity to fully digest it. I simply put on the record that rather than delay the bill in this place, my colleague, the shadow Attorney General, Hon Michael Mischin, in the other place will have the opportunity because he has received this information as well.

Dr A.D. Buti: I'm sure you understand it better than he does.

Mr P.A. KATSAMBANIS: As I have said—I think this is the second time I am going to say this in the chamber today—I have applied my legal mind to it, but there are much better legal minds than mine that have looked at this and will continue to look at it.

Before Christmas, I had an opportunity to sit down with—I will not name who it was—a former federal Attorney-General; there have been a few in the last 30 or 40 years; plenty of them are still alive. It was one former federal Attorney-General. We discussed how someone who has grown up in the law, who has a real strong commitment to the protection of individuals' rights, particularly against the state, and who has a firm commitment to upholding everyone's right to be presumed innocent until convicted in a court of an offence, reconciles themselves to legislation such as this that, in many ways, creates an extraordinary hurdle to people getting those rights when there is a presumption against bail. We say that, in this case, it is justified. Everyone has their own road to Damascus. I went to law school. I believe in individual rights. I believe in everyone getting a fair trial and having the presumption of innocence until proven guilty. It is critical to the operation of our legal system. It is not just a maxim; it is something I believe in. It is something that most of us who have come through the legal system have a strong commitment to. For me, the road to Damascus probably started on 11 September 2001, when we witnessed those horrific acts in New York of the planes flying into the two towers of the World Trade Center, as it was then, and the havoc that wreaked.

The following year, one year, one month and one day later on 12 October 2002 the attack on the Sari Nightclub in Bali was a lot closer to home. We all knew people who were in Bali at the time. I did not know anyone who was at the Sari Club but I have subsequently met people who were there, who lost friends and relatives and who were deeply affected by that horrific attack. It was really at that time that I, personally, had to reconcile my commitment to all those legal maxims that I hold dear, with the need to in some circumstances restrict some people's rights for the greater good. It is a fine balancing act. I do not know that we have got it right, but we all try very, very hard to get it as right as possible. In the case of this legislation, I think it is appropriate and I think the tests that need to be met for this legislation to be invoked are also appropriate to protect the Western Australian and Australian public and any visitors to our state from events such as those two I have described and all the other terrorist acts we have seen around the world and, historically, have also seen here in Western Australia.

We need a few preconditions to exist before this presumption against bail applies to a person. The first is to draw the link to terrorism. In some cases, it is easy to determine that. It can be someone who has been charged in the past with a terrorist offence, who has served their time and been released back into the community either with or without conditions. That is one flag. There is the other group of people who are on some form of control order, an active control order or one that has existed within the last, I think, 10 years under this legislation. There is either an interim control order in place on the person who is brought before the court under this bill or there is a confirmed control order or there has been a confirmed control order some time within the last 10 years. As I said earlier, that

information would need to be brought before a court but would need to be protected from public disclosure, so as to not prejudice ongoing operations, to not alert certain people and to allow our authorities to continue their good work in discovering and foiling terrorist plots before they happen. There is a significant need for that information to be put to a judicial officer, but to be protected from public disclosure. The bill does that. Clause 11 introduces a new section 66C to the Bail Act to provide a process for how the information is to be put to a judicial officer in cases in which there is that sensitivity. Once someone is suspected of having those links, the prosecutor needs to go to court and convince a judicial officer that those links exist. There is a further protection, because the judicial officer cannot be a justice of the peace. Because these issues involve difficult fact circumstances and difficult areas of law and are highly sensitive, the people who can consider these sorts of applications will be limited to magistrates, District Court judges and Supreme Court judges, rather than allowing justices of the peace to make these sorts of determinations. That is pretty fair. Again, it recognises the severity of what is being alleged against a person. It also recognises the issue I spoke about earlier of how, in many ways, this takes away rights from an accused person that may exist for another person accused of exactly the same crime, and who perhaps committed the crime together. It elevates it to a level of a judicial officer who we believe has the experience and skill set to consider this in detail.

The final and perhaps most important protection is that this is not a prohibition against bail but a presumption against bail. In many ways, it places a lot of obligations on the presiding judicial officer, who will have to provide a record of decision of why they believe the presumption ought not be applied. We can see reasons for that. Someone who was the subject of a control order any time in the previous 10 years may have been identified as a potential risk, but, subsequently, may have been rehabilitated. As I said earlier, we do a lot of good work in the community to bring people back from the brink. Such a person may be actively assisting the authorities to dissuade others from going down that dark path of having links with terrorist organisations. If that person is charged with a relatively minor offence for which, in the ordinary course of events, they would get bail, and if evidence is produced that they are rehabilitated, reformed or perhaps even assisting the authorities in programs for deradicalisation and the like, the judicial officer, having weighed up all the evidence, will be able to say that they are satisfied that there is a presumption against bail, but, in those circumstances, they are also satisfied that the person is not a risk. However, the judicial officer will need to consider the risk; they will need to weigh it up. That is a good protection for both the accused person and, more importantly, the community. If we get it wrong and allow someone on the streets when they should not be, the risk is really serious and the consequences can be absolutely devastating, as we know. That is an appropriate protection.

Another example is a person who was previously charged with, convicted of and jailed for a terrorism offence and was then released back into the community, saw the error of their ways, was rehabilitated and deradicalised, and may well be involved in deradicalising others—as we know, people who have been down a pathway and come back from the brink are sometimes best placed to help others see the light. They may have spent many years in the community. They are then charged with a relatively minor offence for which they need to go before the court. Again, the evidence will be provided—the person had been charged previously with a terrorism-type offence, had served their time, had come out and had been a model citizen and had been doing the right thing. Again, the presumption against bail can be rebutted by the evidence, and that person can get bail and await their day in court back in the community.

Other than some of those circumstances I have described, the Council of Australian Governments, which involves every government in Australia, has determined that there is a significant risk to our community if a person who has links to terrorism comes before the justice system and is offered bail and returned to the community. COAG has turned its mind to that; it has been informed by the Australia–New Zealand Counter-Terrorism Committee. We have some examples in Australia—not many—of some of those people. One example is Mr Monis. As I said, I do not think Mr Khayre's circumstances are the same; he was on parole. Parole and bail are two completely different concepts. Mr Monis was on bail. A judge thought he was of no risk. He was a known terrorist sympathiser. Not only did the authorities know that he was a terrorist sympathiser, but also there was plenty of community knowledge of that. Interested people in the community also knew about him and knew who he was, yet he was given bail. Whilst on bail, he committed the horrific events of the Lindt Café siege. We are dealing with problems that are real and have arisen in the past. COAG decided to close the gate.

Interestingly enough, New South Wales was the first to react to this—it passed legislation in 2015, once it had reviewed what happened in Martin Place and all of the factual circumstances. Other states have gone ahead and introduced legislation as well. Each state has a different model, because each state's bail acts are different. South Australia introduced legislation in June 2017. New South Wales introduced legislation in June 2017 to further toughen the changes made in 2015. These changes implemented a presumption against parole for terrorism-linked offences, which supplemented the previous changes. Victoria has proposed a model, but I have not recently checked whether it has passed its legislation or not; Victoria went to an election quite recently. I think it has now passed legislation, but it has not yet been proclaimed and there is a default date of 1 May this year.

Tasmania has passed legislation, and the Queensland government has introduced a similar bill to this one and it is still awaiting passage in its Parliament. All states have acted on it and Western Australia is acting on it. The terrorism threat across the whole nation is probable; it has been set at probable for quite some time now. It is not probable in some places and less probable in other places. It is probable across Australia, because we cannot predict where these offences will happen. Sometimes people in authority in Western Australia are likely to add that it is probable, "But we know we are probably at less risk than other states." That is a very dangerous attitude to have because our commonwealth authorities are telling us that the threat is probable across Australia. They are not saying it is probable in Melbourne, Sydney, Victoria or New South Wales; they are saying it is probable across Australia.

Throughout the discussion across the chamber during my contribution, we know that terrorist acts have taken place in Western Australia and others have been planned here and committed in other places, including the Bali bombers—I think they spent a bit of time in Western Australia before they committed their heinous terrorist acts in Bali. We need to be ever vigilant. We cannot simply say that that applies to another place and it does not apply to us. It is a very tough balancing act to introduce a presumption against bail, to interfere significantly with an accused person's right to obtain bail so that they can go back out in the community, prepare their defence and await their time in court. There needs to be serious reasons, and I would submit there are very few reasons as serious as a link to terrorism and the threat that that link could go beyond espousing terrorist ideology, sympathy and radicalisation of any type of terrorist threat, and move into acts with a capacity to cause the serious harm that we have seen and continue to see in far too many places both in Australia and across the world. Unfortunately, almost every day we continue to see different types of terrorist activity, especially if we read the international news and we see what is happening in other parts of the world, whether in Africa, Asia, Europe or anywhere else. It is a real, imminent and genuine threat. The risk of harm is massive. If there is an attack, the harm could be on a massive scale. We are saying that in these circumstances, with one voice across Australia led by the commonwealth government, the Council of Australian Governments and agreed to by the other states, that a group in our community—persons with links to terrorism—needs to have a presumption against bail if they are charged with a criminal offence and brought before the courts. We are saying that in many cases those links to terrorism ought not to be ventilated in a public courtroom but produced to the judicial officer in camera privately, in chambers, if you like, but not always. The accused person will have the right to rebut that presumption against bail and provide information, and the judicial officer will weigh up the information provided to them. On weighing it up they will then make a determination to exercise the presumption against bail, or to not exercise it and then grant bail to the accused person. They will need to give their reasons if they choose not to exercise the presumption against bail. It is a difficult area and a difficult balancing act. Often in these cases I would say to the Attorney General, "Look, other states acted a long time ago. You've taken practically two years to bring this before us." But it is difficult legislation and we need to spend time dealing with it.

In the main, as I said, there are a couple of issues that I want to address briefly at the consideration in detail stage, so that we are clear on the intention of how this legislation ought to operate, but otherwise, the bill strikes the right balance. The agreement reached at COAG strikes the right balance in a very difficult area interfering with the rights of individuals as they approach our justice system. As I said, a lot of us have had a road to Damascus on this issue, but it is one that has been guided by events that are so catastrophic and create so much harm, death and ongoing harm to survivors and families of victims that we have had to rethink where the balance lies in this area of the law. We already sometimes make people subject to control orders, because we think that they are a risk, and we put onerous conditions on them, even though they have not been convicted or charged with an offence. In this particular case, these people have been charged with an offence—it is not a terrorism offence, but there is a presumption against bail because they have made out links to terrorism. As I indicated, the Liberal opposition supports this bill. It is a bill that has bipartisan support across Australia. It has arisen out of the determination of all Australian governments, the federal government and state governments, and our intelligence authorities to better protect the Australian public from threats and acts of terrorism. It has been informed by the good work of the Australia–New Zealand Counter-Terrorism Committee and it is a bill that I believe ought to be supported through both houses.

DR A.D. BUTI (Armadale) [5.57 pm]: I would like to contribute to the debate on the Bail Amendment (Persons Linked to Terrorism) Bill 2018. I follow the eloquent contribution of the member for Hillarys, who has given us a journey through various aspects of terrorism, examples in Australia and the very difficult task presented to the Attorney General and other states in trying to get the right balance in this area. It is very difficult and the bill before us, which will be agreed to by all sides of the house, strikes the right balance. As was mentioned by the Attorney General in introducing this bill to the house, and the member for Hillarys, this bill proposes to amend the Bail Act 1982 to implement the 2017 agreement of the Councils of Australian Governments for the presumption against bail applying to persons with links to terrorism. That is a big call. As we know, there is a presumption on granting bail rather than against bail in most cases, so the effect of the proposed presumption against bail is that there will be an onus on the person with links to terrorism to satisfy a court of essential reasons why they should

be kept in custody. What is important here is that the person who this applies to is someone who has a link to terrorism, not that the charge that may be subject of a bail application has to be terrorist related. That does not necessarily have to be terrorist related, it is just that that person has to be linked to terrorism. Of course, the issue of what we mean by terrorism is a very important issue, as the definition varies.

Sitting suspended from 6.00 to 7.00 pm

Dr A.D. BUTI: I should try to remember where I left off.

Dr D.J. Honey: Start again!

Dr A.D. BUTI: No, I will not start completely from the beginning.

I think I was talking about what terrorism is, and I will talk further about that later in my contribution. The Bail Amendment (Persons Linked to Terrorism) Bill 2018 defines a "person linked to terrorism" as —

(a) is charged with, or has been convicted of, a terrorism offence; or

(b) is the subject of an interim control order or confirmed control order, —

That is as set out in the commonwealth Criminal Code Act 1995 —

or has been the subject of a confirmed control order within the last 10 years;

This legislation applies to those people. As I said, the presumption against bail will apply to people who have links to terrorism, but one has to remember that the charge that the bail may be subject to does not necessarily have to relate to terrorism. As indicated by the Attorney General, Hon John Quigley, in his second reading speech, this bill specifically addresses one aspect of the 2017 Council of Australian Governments agreement. That is the overall agreement to ensure there will be a presumption that neither bail nor parole will be granted to those persons who have demonstrated support for, or have links to, terrorist activity.

The member for Hillarys mentioned some examples of terrorist attacks in Australia and in Western Australia. I will go into them briefly in a minute. The Department of Home Affairs, the Attorney-General's Department, the Australian Federal Police and the Australian Security Intelligence Organisation submission's to the Independent National Security Legislation Monitor stated —

> Since 12 September 2014, when the national terrorism threat level was raised to 'Probable', there have been six attacks in Australia and 14 major counter-terrorism disruption operations in response to potential attack planning in Australia. Since September 2014, 85 people have been charged as a result of 37 counter-terrorism related operations around Australia. There are 40 people currently before the courts for terrorism related offences, of whom three are children or young persons. Further, around 220 people in Australia are being investigated for providing support to individuals and groups in the Syria/Iraq conflict, including through funding and facilitation, or are seeking to travel to join these groups. The overwhelming majority of these are young men and women.

Of course, that is very concerning.

Terrorism is not a new phenomenon. It has been in existence for 2 000 years. It is defined as the use of threat or violence that aims to spread fear in a population and to advance a political, ideological or religious cause. It is important to understand that not all violent acts are terrorist acts. Terrorism is more of a strategy than just a random act of violence and it always includes some sort of political, ideological or religious motivation on the part of the perpetrators. The reasons that a group or individuals would carry out a terrorist attack vary. In more recent times—although terrorism has been around for 2 000 years—there was a terrorist attack in Australia in 1972. On 16 September 1972, the Sydney Yugoslav General Trade and Tourist Agency bombing was carried out. Members may remember that attack was perpetrated by Croatian separatists. At the time, Yugoslavia was one nation that was made up of many different groups, including the Croatians. A group of Croatian separatists sought to engage in terrorist activities in Australia to further its cause back in what was then Yugoslavia. That was in 1972 but the most famous terrorist attack in 1972 was at the Munich Olympic Games. Some members, such as the member for Dawesville, were not born then! Nor was the Whip, the member for Balcatta. The member for Kingsley was not born either, but I think the rest of us were.

Several members interjected.

Dr A.D. BUTI: All right. We are not going to go through ages here; let us stop that. For those of us —

Mr D.A. Templeman: I remember it well. I was in grade 2 at Avondale Primary School.

Mr Z.R.F. Kirkup: In grade 2 in 1972?

Dr A.D. BUTI: Yes, he would have been. He was teaching grade 2.

The Munich Olympics terrorist attack by, I think, the Palestine Liberation Army was, of course, a very tragic scenario that changed the Olympics forever. The Speaker was not at the 1972 Olympics but was at the 1968 Olympics, which were not subject to terrorism, but, as we know, there was a lot of unrest around the world in 1968. There was some unrest in Mexico. Terrorism has been with us for a long time but the Munich attack brought it to the forefront of our minds. In Australia, in 1978, there was the Sydney Hilton Hotel bombing, which the member for Hillarys mentioned. The member was correct that it was at a regional Commonwealth Heads of Government Meeting. Two garbage collectors and a police officer were killed and 11 people were injured. As a result of the bombing, the Australian Security Intelligence Organisation's powers and budget were increased. It was also the motivation for the formation of the Australian Federal Police.

Of course, there was also the continual terrorism in what is known as the troubles in Northern Ireland. I am not sure whether any member has been to Northern Ireland in the last five years, but I was lucky enough to be there in 2016. Belfast is considered to be the safest city in Europe. Even during the troubles, Belfast was—besides the bombings, which I understand is a major thing—actually a very safe city if terrorism was taken out of it. There was very little crime. When I went there in 2016, it was a great place to be. A lot of the problems that Prime Minister Theresa May is having trying to come up with a Brexit agreement are due to Northern Ireland. There is fear of a hard border because of the concern that it will regenerate sectarianism and violence, and we will go back to the bad old days. I do not know whether this was articulated before the referendum but it is obvious that if the United Kingdom were to leave the European Union, Northern Ireland is part of the United Kingdom and therefore there has to be a border. The problem is that Theresa May has an agreement with the EU but the British Parliament will not agree to it because it will still allow free movement of people between Ireland, which is in the EU, and Northern Ireland, which is not in the EU. Obviously, if people can move freely from Ireland to Northern Ireland, once they are in Northern Ireland, they are in the UK; therefore, they can move to England and Scotland. One of the major reasons for people wanting to leave the EU was freedom of movement; that would be the major factor. Of course, there was terrorism in Northern Ireland. I mentioned Munich, and there are the continuing problems that have resulted in terrorism in the Middle East and has been relayed to other parts of the world.

Coming back to Australia, there was the Hilton Hotel bombing in Sydney in 1978. Then on 17 December 1980 there was the assassination of the Turkish consul-general in Sydney, in reaction to the Armenian genocide. I believe that there was an Armenian genocide that the Turkish government still refuses to accept. Closer to home, in the 1980s we had the activities of Jack van Tongeren and his Australian Nationalist Movement group—a Neo-Nazi group. They engaged in a series of bombings of Asian restaurants and businesses and he was imprisoned until he was released in the early 2000s. He then resumed his activities until he was rearrested in 2004 as part of Operation Atlantic, prompting a judge to order him to leave the state.

In 1982 the Israeli consulate in Sydney was bombed. There was also the bombing of the Turkish consulate in Melbourne in 1986. Then in 1995 the French consulate in Perth was firebombed by terrorists, which I had actually forgotten about. On 16 July 2001 there was a shooting at an abortion clinic in East Melbourne.

[Member's time extended.]

Dr A.D. BUTI: Peter James Knight, described as an obsessive anti-abortionist who lived alone in a makeshift camp in rural New South Wales, attacked the East Melbourne Family Planning Clinic—a privately run clinic providing abortions—carrying a rifle and a large quantity of kerosene and lighters. He shot and killed a security guard at the clinic before his capture and arrest. I do not want this to develop into a debate about abortion and pro-choice et cetera, but it is interesting when people who say they are pro-life feel that it is justifiable to actually go and kill someone. But, anyway, we will leave that for another —

Dr D.J. Honey: I don't think it applies to all of them.

Dr A.D. BUTI: No. I am talking about the people who do. Member for Cottesloe—or member for Struggle Street, Cottesloe—that is not what I said. I was talking about that specific example. I said that it is strange that someone who is pro-life would engage in shooting. I did not say all people who are pro-life.

Dr D.J. Honey: I'm glad.

Dr A.D. BUTI: Obviously. It was a very silly comment by the member, which I am surprised about.

Of course, the big terrorist attack of 2001 was what is well-known as 9/11, which is 11 September 2001. I think even the member for Dawesville would have been old enough by then for him to now remember where he was at the time. I remember where I was. I had actually arrived back from Toronto in Canada only two days previously; I arrived back on 9 September. I remember being on the computer that night and then at about 11 o'clock I went to the TV room to turn on the TV and I did not see the first plane, but I saw the second plane attack, and the world changed forever after that.

Then there were the Bali bombings of 2002 —

Mrs J.M.C. Stojkovski interjected.

Dr A.D. BUTI: Yes, I think it affected a lot of people—88 Australians were killed, and 38 Indonesians, and people of more than 20 other nationalities. A further 209 people were injured. That was on 12 October 2002. Someone I went to school with, Andrew Dobson, died in the nightclub. I used to play football with him; he was actually a Collingwood supporter. He was a Victorian, a lovely bloke, and he was in the nightclub. Andrew was a friend, and another very good friend of mine, Ewan Marshall, was in Bali at the time and was supposed to be at the nightclub, but he had arrived just the day before, had slept in, woken up and decided to have some dinner before he went to the nightclub. He was about to leave the hotel to go to the nightclub when the bomb went off. Interestingly enough, Ewan has a number of lives, because when the volcano erupted in the Philippines a couple of years ago, he was on a tour that had been delayed by a couple of hours from going up to the volcano.

Ms E. Hamilton: Tell me where he's going next time!

Dr A.D. BUTI: Yes, where he is going next—exactly right!

In Australia there was the 2014 Lindt Café hostage crisis in Sydney, in which Tori Johnson and Katrina Dawson were killed. Did another die? I am not sure; it was at least those two, but it was a very traumatic experience for many, many people.

We have terrorism on our doorstep, so why would we not have it in Australia? It would be naive to think that terrorism would not come to Australia. As I said, terrorism in Australia goes back to at least the early 1970s with the Croatian separatists bombing attacks; I think there were three people killed in that attack. That is probably the most that have ever died on Australian soil in a terrorist attack, I think. There was also the shooting in Parramatta of a police employee; he was not a police officer. Terrorism is very hard to understand—to try to work out why people would engage in such activity.

When one is looking at terrorism, the definitions become very, very important. Under this legislation, one has to be charged or convicted of terrorism or be subject to an interim order under the commonwealth Criminal Code, or have been the subject of a control order within the last 10 years. We can always have a debate about what we mean by terrorism, and there is no universal definition. It is difficult to get universal acceptance of what a terrorist attack is. We have legislative provisions that will define what terrorism is, but in the geopolitical world it depends on which side you stand whether something is considered to be terrorism or not. For instance, I mentioned the 1972 Munich Olympics massacre. The United Nations was unsuccessful in trying to get universal agreement on what was meant by terrorism because some nations, particularly in Africa, Asia and the Middle East, were unwilling to label groups as terrorists because they sympathised with their aims and therefore did not want to see them being labelled as terrorists.

There was the example of the 1980s war in Nicaragua between the Sandinistas and the Contras. The Reagan administration referred to the Sandinistas as terrorists, while the Sandinistas referred to the Contras as terrorists. There is also the example of the African National Congress in South Africa. That is a really difficult one for me, I have to say. Of course, I thought apartheid was abhorrent, but I do not think there is ever a place for terrorism. However, to contradict myself, I think Nelson Mandela was a hero. There are some people I know who will say that Nelson Mandela was not a hero because he supported terrorism. But if one actually reads the history of Nelson Mandela, I am prepared to stand corrected, but I am not sure that he ever supported attacks on people. He supported attacks on physical structures, such as bridges, but not on people. But as I said, I will stand —

Dr D.J. Honey: His wife certainly did!

Dr A.D. BUTI: Yes—I am not talking about his wife, member for Cottesloe. The member for Cottesloe should get up if he wants to contribute. He has made two interjections during my speech and they have both been pathetic. I am not talking about Nelson Mandela's wife. His wife is not a hero in my eyes.

Several members interjected.

The ACTING SPEAKER: Thank you, members!

Dr A.D. BUTI: I cannot help the member for Cottesloe. What did he have for dinner tonight—something that has upset him?

My tortured feelings about Nelson Mandela are symptomatic of the issue of trying to determine a universal definition of terrorism, because it often depends on where people's sympathies lie. However, as I stated, I would never support attacks on civilians. I am trying to safeguard one of my heroes by saying that he did not do that and only attacked physical structures, but I cannot be categorical on that. One thing we know is that Nelson Mandela showed great leadership and statesmanship once he was released from prison and brought the nation together.

Even his detractors would agree that that was the case. It is a shame how things are panning out in South Africa now. The member for Dawesville was there last year, so I imagine that he would have first-hand knowledge of that. The point is that countries that are a one-party state will always end up with corruption. It does not matter who it is. As they say, power corrupts and absolute power corrupts even more.

The ACTING SPEAKER (Mr I.C. Blayney): Absolutely.

Dr A.D. BUTI: Academics and researchers—there is a real academic in the member for Cottesloe's family, being his wife, and I am sure she would be interested in proper research. There has been a very interesting intellectual discussion —

Dr D.J. Honey: You're discounting my PhD and publications—clearly.

Dr A.D. BUTI: Was the member's PhD only by publication? That is not a real PhD! I thought the member had a real PhD.

Dr D.J. Honey: You did not listen, member. I said that you discounted my PhD and my publications.

Dr A.D. BUTI: Scientific publications have about 20 people on the article, do they not? As the member's wife, Robyn, would well know, legal academic articles are generally written by one or two people at the most and have about 10 000 to 15 000 words, but scientific articles may have up to 20 authors and might be about 2 000 words. Anyway, I will move on. I am sure the member's wife is on my side on this one.

Walter Laqueur uses the simple, broad definition —

> … terrorism is the illegitimate use of force to achieve a political objective by targeting innocent people.

I think that is a pretty good definition. Tore Bjorgo states —

> … terrorism is a set of methods of combat rather than an identifiable ideology or movement, and involves premeditated use of violence against (primarily) non-combatants in order to achieve a psychological effect of fear on others than the immediate targets.

Fernando Reinares distinguishes three traits that define terrorism for the purpose of academic study. Firstly, it is an act of violence that produces widespread disproportionate emotional reactions, such as fear and anxiety, which are likely to influence attitudes and behaviour. Secondly, the violence is systemic and rather unpredictable and is usually directed against symbolic targets. Thirdly, the violence conveys messages and threats in order to communicate and gain social control.

The legal profession desires a definition that can be used for the prosecution of accused terrorists, so it is very important that we have definitions. For instance, in the United States, the Homeland Security Act 2002 emphasises the danger to human life, covers the critical infrastructure and key resources, but also includes the psychological and political aspects. The United States is an interesting case. I do not want to be seen as bashing the United States. I think that the United States is a great country and I would rather that it be the number one force in the world than any other country—besides Australia, but that is never going to happen. However, there is no doubt that the United States has sponsored terrorism, especially in Central America and South America. There is no doubt about it! During the 1980s I was travelling through Central America. There was no doubt that there was US-sponsored terrorism in El Salvador, Guatemala and Nicaragua. One remembers the Pinochet regime in Chile and the overthrow of Allende, which was sponsored and supported by the United States. I am not sure whether it can be argued that the state engaging in violence is a terrorist attack—it may not be—but the United States definitely engaged in violence against others who did not agree with its ideology.

Law enforcement agencies also want to have definitions and parameters of what terrorism is because they set up counterterrorism and intelligence services, such as the Federal Bureau of Investigation, the Special Branch of New Scotland Yard, and the Australian Federal Police. They all need definitions of terrorism as guidelines for their tasks and legal endorsement of their duties, so it is very important.

Governments and political parties have a reason to place importance on the definition of terrorism. Firstly, it is important to have a definition of terrorism for governments and political parties in their public relations with the community. Some would say that it is sometimes used as an excuse to engage in certain behaviour. Members will remember that after 9/11, President George W. Bush used the expression "War on Terrorism", which is a continuing war and is a very difficult thing to define. Secondly, governments and politicians can use definitions of terrorism to repress, victimise or demonise their opponents, civilians, political bodies and religions. It is interesting that so-called terrorist groups do not want to be known as terrorist groups. They want to be known as freedom fighters, guerrillas, insurgents, or revolutionaries rather than as terrorists. They say that they are involved in freedom and liberation or that they are armies, other military organisational structures, or self-defence

movements. Obviously, groups known as terrorist groups are not subject to and do not have the protection of humanitarian law as a result of combat—or military law. That is very important to understand.

The media also plays a part in referring to terrorism. As I think the term "bully" is being bandied around too easily with people saying that others are bullying—I think the member for Cottesloe mentioned to the media that the member for Perth was —

Several members interjected.

The member for Cottesloe said that the member for Perth was bullying him, and he was not even there yesterday!

The ACTING SPEAKER: Thank you, member!

MR M.J. FOLKARD (Burns Beach) [7.28 pm]: I rise to contribute to the second reading debate on the Bail Amendment (Persons Linked to Terrorism) Bill 2018. In the past I have had to search my memory to understand whether I have had any involvement in investigations into terrorism et cetera. I have not been involved in them in the last 30 years in Western Australia, but I can tell members of two circumstances in which I had exposure to terrorism when I was deployed to East Timor. The first person I will speak of is Senior Constable Tim Britten—now Sergeant Tim Britten—who won the George Cross at the Bali bombings. Tim replaced me in the next contingent when I deployed to East Timor. He was on recreational leave in Bali when the bombs went off.

Mr S.K. L'Estrange: He received the Cross of Valour!

Mr M.J. FOLKARD: The Cross of Valour—yes. George Cross and Cross of Valour—same thing. Tim is a lovely fellow who is very shy and modest. He won his citation for going into the bombing sites and dragging people out. His heroism saved at least half a dozen people, possibly more.

The second count in relation to terrorism was in East Timor. We were deployed to the eastern end of the island. Sergeant Toope, who is still a serving officer in the wheatbelt, and I had heard chatter that a couple of the local dissident groups were a little annoyed with the local Filipino police officers. We thought it was just a little bit of aggression, but Toope, in his wisdom, stumbled across a truck with four tonnes of ANFO as it was headed to the Baucau Police Station with the intention of blowing it up.

Mr S.A. Millman: What is ANFO?

Mr M.J. FOLKARD: ANFO is an explosive made up of fertiliser and diesel.

Mr S.A. Millman: You learn something every day!

Mr M.J. FOLKARD: You learn something every day. It is a very simple explosive. When it goes off, it goes off in a big way. I would suggest that four tonnes of it would leave a very big hole, and it was headed to the Baucau Police Station. I will not go into the details of the motivation of the particular group, because I think it would upset the member for Maylands, but it was over a gambling dispute that involved chickens. I will leave it at that.

In doing some research into this bill, I thought it might be useful to define "terrorism". I stumbled across this definition of "terrorism" in one of the international law journals —

> … the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives …

Let us think about that—force and violence against persons or property. It is pretty simple. The definition in Australia is found in the commonwealth Criminal Code Act. There is no definition of "terrorism" in our state Criminal Code, but it is found in section 100.1 of the commonwealth Criminal Code Act 1995. It is defined as an action or threat of action made with the intention of advancing a political, religious or ideological cause. It is simple but concise—an action or threat of an action. It does not necessarily need to be put in place.

In Western Australia, the first responders to an act of terrorism are our state police. They have ownership of it, and that is set out in a few different pieces of legislation, one of which is the state Emergency Management Act, which states that the police are the lead agency on terrorism. Because police are the first responders, they will determine the response. Casting our minds back to the definition set out in the commonwealth Criminal Code Act, state police make the determination on what, where, when and how. Let us look, for example, at the silliness that is going on in relation to the vegan individuals. According to the definition, it could be argued that their conduct is an act of terrorism, but because the states are involved in that space, they will make that determination first. Clearly, the commonsense approach is that it is not, and that is because the state has carriage of the investigation. That is important because the states will make the determination on whether the incident should be escalated so that it is considered to be a proper terrorism incident.

There are five types of terrorism. The member for Armadale gave us a very good historical line on some of the recent events. The first type is state-sponsored terrorism. These are terrorist acts conducted by a state or government against another sovereign state or government. There is an argument that a sovereign nation is responsible for the current attack on our IT system. Is that an act of terrorism? It is a good question to ask. At the moment, it is probably interrogating only databases, but imagine if that foreign state started interfering with our electricity grid. Would that be seen as an act of terrorism? What about interfering with, say, medical records at Fiona Stanley Hospital? Could that be seen as an act of terrorism by a foreign state? It probably could fit within the definition that I read out previously.

The second type of terrorism is dissident terrorism. These are acts conducted by terrorist groups that have rebelled against their government. The Irish Republican Army is probably the best example in recent times, but we have had it in Australia. The Hilton bombing in Sydney could probably be seen as a dissident terrorist act that occurred in Australia.

The third type of terrorism is conducted by terrorists who are based in right and left-wing groups that are rooted in political ideology. Do we have that here? It is not particularly strong, but it is worth noting and it is worth watching. In December, I travelled to the United Kingdom with one of our committees and received briefings from MI5 and a couple of other policing groups. In recent times in Europe and specifically around the UK, they have seen the rise of acts of terrorism from the right rather than the left. The National Front was one of the drivers in that space and it singled out individuals and assaulted them en masse. It was one of the techniques it used to intimidate, in particular, culturally and linguistically diverse groups within the community.

The fourth type of terrorism, which we have seen in Australia, is religious terrorism. We have the Islamic State of Iraq and Syria space, and Man Monis is one of the best examples. As part of our committee deliberations, I met with the coroner. Having read his report, I took the time to sit inside the Lindt Café and contemplate his findings in the place where the crimes were committed. There was mention of shootings at abortion clinics and some of the intimidation in that space. I know that it was not uncommon for the local police to receive bomb threats. Would that be an act or a threat of an act? Could that be seen as a terrorist incident? It fits within the definition, but we do see them.

Finally, the last type of terrorism is criminal terrorism. This is when terrorist acts are used to aid a crime or a criminal profit. It could be argued that one of the recent vehicle-borne attacks in Victoria was a criminal terrorist attack. It was his behaviour; he had gone off the rails. The one that stands out in my mind is the attack in which pins were put in fruit. When that was investigated, it was finally determined that it was a disgruntled employee. Picture that as part of an organised campaign across Australia. We saw a lot of copycats in that space, but what would happen if it was, for example, coordinated through the internet? That is a very effective method to influence a community. Bearing that in mind, it fits within the definition set out in the commonwealth Criminal Code Act. It is very simple and very effective. This is where we are seeing the trends with terrorism going.

They are going to the lowest and simplest form of effective delivery. At the moment, the English are very concerned about drugs, as are we, in that space. A young kid flying a drone into a plane could be just as effective as driving a truck down the centre of a crowded mall. It is the same thing.

Since 2014, the national threat level in Australia has been rated as “probable”. A couple of previous speakers spoke about this, but there are actually five threat levels in the terrorism space. The lowest is “not expected”. The only time I can recall when that was the case was when I was a young probationary constable. Next is “possible”. We thought we were in that space when the Bali bombings occurred. There was no chatter prior to that. We currently sit at the “probable” threat level; that is to say, we are probably going to see a terrorist attack. I have worked at times when the threat level for a terrorist attack was “expected”. One of the biggest fears we had locally, particularly when I was a supervising officer, was that one of our police officers would be cornered, attacked and filmed. The impact that that would have had on the community would have been so significant that the cultural changes towards some of the more vulnerable populations in our community would not have been acceptable. It was clearly out there—we expected that someone was going to grab one of our constables, attack them and film it. They went close to achieving that in Victoria. In Sydney, a police employee was attacked, but our concern was that terrorists would capture a uniformed officer and hack them to death on film. We were really concerned about how we would deal with that. It was part of the briefings we used to have in the morning. It is interesting that that was at the “expected” level. I have not worked in an operational environment in which the level has been “certain”, but I know that our English colleagues work at that level on a daily basis. Their threat level moves between “expected” and “certain”.

We do some things very well in Australia. Since 2014, we have had 14 major counterterrorism disruption operations. We know that 85 people have been charged in 37 counterterrorism inquiries and operations. We know that 40 people are before the courts. This next part concerns me. At least 220 people—I reckon that number is

grossly understated—were subject to investigation for providing support to these groups. Those situations have occurred here in Western Australia. We are aware that, on any given day, at least approximately 100 people are subject to security service investigations in this state. It is a rough number, but it fluctuates at around 100. We have seen supporters of terrorism, working in schools, who have funnelled off money here in Western Australia within the last 10 years. We are not immune.

When I was in the UK, a colleague placed in my hand a small button with "ACT" printed on it. I am actually wearing it today. ACT is an acronym for "action counters terrorism". No action is not an option. Of the counterterrorism operations that have occurred in Australia, 95 per cent have come about because of information received from concerned citizens. The English, who are seen as world leaders in this space, look upon that with envy. That percentage, in relation to our Muslim community, is clear evidence that our own community is identifying individuals and doing something about it. People are not being idle. They are saying, "Hey, listen. Johnny down the road is having problems. You should probably keep an eye on him. He is watching some strange things on Facebook and he is preaching some strange things to fellow members of his community." As a result of those things, and our information lines, we are having significant successes, and that cannot be forgotten.

One of the best strategies for countering terrorism is to be a vibrant community that is mature, tolerant and inclusive. If we are not, we will feed the dissidents in that space. We need to seek out those who are marginalised, engage with them and break down what is marginalising them. If we do not, those individuals will become a greater risk to us.

[Member's time extended.]

Mr M.J. FOLKARD: In recent times, in my committee work, we had some very interesting conversations about fixated threat and fixated threat units. Victoria and New South Wales are doing some serious work in that area, particularly Victoria, which is seen as the leader in Australia. These are groups of police, mental health services and community services that come together to look at marginalised individuals and set up strategies to counter their marginalisation. Victoria is having some very good successes. One of the best ways to reduce terrorism is through inclusive communities. It does not matter whether people are Christian or Muslim, if they are inclusive and everyone cares for one another, we can break down that marginalisation. To enhance that we need good laws, and this legislation addresses that. We need to have an engaged government, and all sides of the house should be down there listening to their communities and their concerns. If we do not, we cannot break the cycle. We need committed policing embedded in our communities, engaging with those communities. That is not a statement; it is something we need to be about. Our security services need to be out there, not policing the community, but being the community's police force. That is a significant change, and it is very important. How does that take place? Someone kicking a football with a kid, say, at the local primary school, will very likely build a relationship with that child as well as their parents. If the coppers are out there doing it, and our community services are out there, and our security services are listening to what our coppers are saying, and the young kid says, "Hey, listen, you need to keep an eye on that fellow down the road; he's talking nonsense", the copper gets off his arse and says, "Righto; what's going on there?" He goes in, engages and listens, recognises there is a problem and looks further into it. Without that, our threat level will increase, not to "probable" but to "expected", because we are not being part of our community.

This bill is significant. It brings about some consistency driven by the Council of Australian Governments, so it is a national approach; it is not just Western Australia. This bill amends the Bail Act. If a person is charged with a terrorism-related offence, only a magistrate can grant bail—not a copper or a Justice of the Peace; it cannot be overridden. I have filled out countless bail applications in the past. An individual would be subject to investigation, charged by the arresting officers and brought before me and fill out what we referred to as the Bail Act form 5. Under this bill, bail would be refused by me, because I would have no opportunity to take any other course, and that is proper. The offender would then go before the magistrate and would have to convince the magistrate of a good reason why they should not be incarcerated. That is the presumption. Also, information could be given to the magistrate when considering whether to grant bail. That information is protected, so the security services could say, "Mr Magistrate, this is what we are thinking about this particular individual. We don't think he should get bail." That is protected. No-one can walk up and look at that information. Defence counsel cannot look at it, or anything along those lines. That is a good thing because the presiding officer or the magistrate will have the full picture of what they are looking at and can give a proper account of the reasons given when bail is granted or not granted. That empowers our police, government and security services. It puts them on the front foot in prevention and response. We identify the individual. He may be charged. We can link that charge to a terrorism act within the legislative framework. The best thing about the bill is that it strengthens protections for our community and public places. It is a good thing. Finally, it puts us on the front foot in the prevention of radicalisation. It is a simple thing. There is not much to the bill. I have read it. Its application on the floor or where our police officers and security services will use its provisions is fairly simple. The practices will not change much at all.

Maybe the Attorney General will reflect on this. With the protection of information, I recall that there is something along the same lines in our organised crime legislation. I may be incorrect but I think we have similar laws. It is not like we are reinventing the wheel. The presumptions will change.

I think this is a good piece of legislation, a strong piece of legislation and a simple piece of legislation. I hope we never have to use it. With those comments, I commend the bill to the house.

MR P.J. RUNDLE (Roe) [7.51 pm]: I rise to make a brief contribution to the Bail Amendment (Persons Linked to Terrorism) Bill 2018. Unfortunately, I believe that terrorism is becoming more relevant every day. When I look back to my childhood or the 1980s and 1990s, terrorism was not something that came into our consciousness. Unfortunately, given the way that society and the world have developed over the last 20-odd years, it is something that we now have to contemplate. As the member for Burns Beach said, terrorism is defined as an action or a threat that is based on political, ideological or religious values that threaten the community and our society. My biggest concern is that certain groups of people are bringing their religious beliefs and ideologies into our country and inflicting them onto the citizens of our country and our communities. I think just about everyone in Australia is pretty dissatisfied with that. We do not want to have to think about that. We do not want to have to worry about our immigration officers working through these applications and wondering whether a person is a potential terrorist threat. That is probably our biggest concern. If people have those beliefs and they want to create grief and cause these attacks, I would be more comfortable if they stayed in their own country, quite frankly.

There are different types of terrorism, including criminal terrorism, religious terrorism, political and ideological terrorism, dissident and also state-sponsored terrorism, which is something that seems to have developed more recently with the cyberattack that occurred in federal Parliament in Canberra in the last few days. The Labor Party, the Liberal Party and the National Party were potentially attacked on a cyber-level. In recent years, we also witnessed cyberattacks on the Bureau of Meteorology, which really makes us wonder.

We all remember the 9/11 attacks and where we were when they occurred. They were not the first acts of terrorism but they were the ones that we all remember and that brought terrorism to the front of our minds. The Bali nightclub bombings in October 2002, which the member for Armadale spoke about, certainly affected many Australians and Indonesians. Another act of terrorism was the sarin gas attack on the train system in Japan, which was quite an insidious act of terrorism. More recently in Australia, we remember the Lindt Café siege conducted by Man Monis, who was well known to police. That was quite disappointing for me. He had both mental health issues and issues with the immigration department. He was identified as a threat and somehow the authorities did not clamp down on him as being a threat. Unfortunately, Australians lost their lives during that siege. More recently, a truck drove into crowds of people celebrating in Nice, France. A lot of people were taken down. The Melbourne car attack was also quite a concerning development, and probably a trend that almost seems to be developing. They are probably the main terrorism attacks that stick in the front of people's minds.

It was good to see a commitment to dealing with terrorism from the Council of Australian Governments in 2017. I think that was the first COAG meeting that our current Premier attended. Terrorism was obviously front and centre with all the states.

The purpose of the bill is to instruct judicial officers to presume that the defendant is guilty of the offence and therefore deny bail applications. Quite frankly, I am okay with that. The reasoning is to prevent potential harm to the broader community through these terrorism acts. This is obviously a different scenario from the normal "innocent until proven guilty". This bill is turning it upside down, so it will probably be more "guilty until proven innocent". In the case of terrorism, that is well warranted. I certainly agree with the new provision introduced in the bill that will increase the grounds upon which the prosecution may issue an arrest, especially in relation to new evidence or circumstances.

Turning to the COAG agreement, I think pretty well every state has now progressed. New South Wales assented to its cognate terrorism (police powers) bills on 28 November 2018. South Australia passed a bill in 2017, and that has been assented to. Queensland introduced a private member's bill in 2017, and that has been assented to. Victoria introduced its relevant legislation in two stages. Stage 1 was assented to in June 2017. The second reading of the bill introduced in stage 2 was moved in December 2017. Tasmania introduced legislation in 2017 and 2018. The Northern Territory and the Australian Capital Territory appear to be covered by federal legislation. I guess the erosion freedom could be deemed a risk with, as I have said, being presumed guilty until proven innocent, instead of the old maxim of being presumed innocent until proven guilty. In the last 20 years I think we have moved into a new paradigm. We are all much more conscious. In my home town of Katanning we have 43 different nationalities and, quite frankly, I walk the street and I do not think about it, but now when I go to a crowded place such as Optus Stadium or to some public event, I certainly do not feel as comfortable. I think that is the mindset into which all of us have now entered. To be honest, I think this bill works towards quite a good solution. At this stage I am supportive.

MR S.A. MILLMAN (Mount Lawley) [8.00 pm]: I start my contribution to the debate on the second reading of the Bail Amendment (Persons Linked to Terrorism) Bill 2018 with a "Who am I?". In 2008, I received a dean's award for best new researcher from Edith Cowan University. In 2009, I won a publication award from the Australian Institute of Professional Intelligence Officers and I was appointed to the Council of Australian–Arab Relations at the Department of Foreign Affairs and Trade. In 2011, I was inducted into the Western Australia Women's Hall of Fame. My research has been funded by the Australian Research Council Safeguarding Australia initiative. I am the founder of People against Violent Extremism and an associate professor and research fellow at Curtin University and an adjunct professor at ECU. I have written on terrorism recruitment and counter-messaging, and the involvement of former white supremacists and spoken out against violent extremism. In 2014, I was a panellist on Islam and terrorism at an Australian Coalition meeting, and in 2015, I announced that my organisation, People against Violent Extremism, had raised $40 000 for a mentoring program for young activists. The mentoring program includes training through MyHack, which trains university students to brainstorm and develop counter-messaging to extremist propaganda online.

I am an active member of Curtin University's Centre for Culture and Technology, including leading its countering violent extremism online research program. The member for Kingsley nailed it about three seconds in. This is the curriculum vitae of none other than Dr Anne Aly, federal member for Cowan. I listened with great interest to the comments from the member for Burns Beach when he said that if we are going to tackle terrorism we need to build inclusive and committed communities. We need to steer away from fear, hatred and xenophobia. I urge members to have regard to the experts in the fields—people like Dr Anne Aly—and to listen sensibly and with maturity to the contribution she has to make.

I do not mean to go over a great deal of the terrorism aspects of this legislation this evening. A lot of it has already been covered by earlier speakers. Rather, I want to have a look at bail—where it sits in our criminal justice system, the importance of bail and precisely what we will do by passing this legislation. This legislation is directed to fundamental rights and liberties. I must take issue with the comments from the member for Roe. It is a fundamental tenet of our common law system that one is innocent until proven guilty. It has been so since the time of the Magna Carta. A person is presumed innocent until they have been proven guilty in a court. This is a basic tenet of the rule of law. Margaret Thatcher said, "Where the rule of law ends, tyranny begins." Following on from the presumption of innocence is that a person charged with a crime may not be guilty of that crime and therefore should not be held in custody before or during the time the case is heard by a court.

The problem we have is directed to the heart of the Western Australian Constitution. In this place we are empowered by section 2 of the Constitution Act to make laws with respect to peace, order and good government. I submit that that requires us to balance the consideration of community safety on the one hand with individual liberty on the other. The reason I say that this is such an important piece of legislation is that it is directed precisely to that balancing act. Am I confident that this legislation discharges that balancing act effectively? Absolutely. What is the basis for that confidence? It is threefold. Firstly, it is the work of the McGowan government generally since it was elected to office in dealing with issues of law reform, a law reform agenda and the criminal justice system. Secondly, the way in which the legislation has been drafted protects existing rights and entitlements, but also constrains them when people have a connection with terrorism. Thirdly, the bill is being introduced by an activist Attorney General who has been diligent and assiduous in making sure that a law reform agenda is prosecuted effectively. It is very easy, as some have done, to say that bail should not be granted in as many circumstances as possible; that is, we should move away from the presumption of innocence, people should be guilty until proven innocent and we should throw out 800 years of common law history and heritage. I say absolutely not. Our freedom, our liberty and our right to the rule of law are incontrovertible. They should be the tenets we never let go. I am sorry, but I disagree with the member for Roe. We must always preserve the presumption of innocence until proven guilty, and that is why we need to preserve bail and the right to bail except in extreme circumstances.

Looking at what this government has done to ensure the security and safety of the community, I see the Minister for Police, and I recall the question I asked of her in March last year. I asked —

> I refer to the McGowan government's support of WA police officers to ensure they have the necessary powers to respond to a terrorist situation.
>
> (1) Can the minister outline how changes to police powers will provide confidence to our police officers in their efforts to protect Western Australians?
>
> (2) What prompted these changes?
>
> (3) Can the minister advise the house when these changes were first raised?

We had questions again today in question time. We have a Minister for Police who is dedicated to her job and ensuring that our police force has the powers necessary to tackle terrorism and that all of the support and resources required are at its disposal. That is my first point. How do these laws work? They work because we have a government committed to making sure we get the balance right between community safety and freedom.

As other members have said, and I do not need to traverse, these laws are part of a coordinated commonwealth government approach to tackling this issue. We only need to look to November last year when we were debating the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2018—this is the change-of-name bill that you might remember, Mr Acting Speaker. The problem of Man Haron Monis in the Lindt Café siege, which other people have alluded to, was contributed to by the fact that this person undertook name changes. In my contribution to the debate on that bill I said he had had as many as 31 aliases. That bill was just part of the package of reforms that this Attorney General has brought to this place either separately to the national law reform agenda or as part of Council of Australian Governments–negotiated agreements. We see this bill as part of that package of reforms designed to deal with terrorism. When a person is charged, they have the right to bail. They can be released until they are brought before the court for their trial. That is because in this society we believe that one should be innocent until proven guilty. It is a very simple equation—a person who is charged and brought before the court can get bail and is free to go about their life until the trial is finished and they are either acquitted or convicted. This legislation proposes to reverse the presumption that the person has a right to bail. That means that people who are charged under this legislation will be deprived of their liberty. That challenges the liberty and freedom that we all hold so dear.

If we are going to take away that freedom, we have a corollary obligation. This is not an obligation that I am making up. This obligation is contained in the Bail Act. The Bail Act provides that the person should be brought before a court as soon as practicable. That raises the question: is our judicial and criminal system functioning ever more effectively and efficiently and bringing people to trial sooner? I submit that the answer to that question is yes. That is because this state has an activist, dedicated and hardworking Attorney General who has introduced a package of legislative reforms to facilitate the expedition of the criminal justice system. That package of legislative reforms is large and diverse. It ranges from the Legal Profession Amendment (Professional Indemnity Insurance Management Committee) Bill to the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill, Child Support (Commonwealth Powers) Bill, Courts Legislation Amendment Bill, National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill, Suitors' Fund Amendment Bill, Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Bill, Courts Jurisdiction Legislation Amendment Bill, Coroners Amendment Bill, Domestic Violence Orders (National Recognition) Bill, Sentence Administration Amendment Bill and Misuse of Drugs Amendment (Methylamphetamine Offences) Bill. The activist, dedicated and hardworking Attorney General, has brought all these pieces of legislation before this place to facilitate a more expeditious criminal justice system. That means that cases are being decided more quickly and people are being brought to justice more readily, and our justice system is operating for the benefit of the whole community. That stands in stark contrast with the eight and a half years during which the former government was in office.

In addition to the more effective and efficient legislative regime in this state as a result of the work of the McGowan government, the Attorney General has made no less than 23 new judicial appointments. In the Family Court of Western Australia, we have Chief Judge Sutherland, and magistrates Martino and Glass. In the Magistrates Court, we have Magistrates Ayling, Coleman, Ward, Darge, Miocevich and Maclean. In the District Court, we have Judges Burrows, Gillan, Glancy, Vernon and Lonsdale, excellent appointments, as well as Judges Quail and Prior. In the Supreme Court, we have Justices Archer, Smith, Vaughan and Derrick. In the Court of Appeal, we have Justices Beech and Pritchard. The new Chief Justice is Hon Justice Quinlan. That is an incredible 23 new judicial appointments by this Attorney General, more than half of whom are women.

Mr P.A. Katsambanis interjected.

Mr S.A. MILLMAN: I did not make one interjection while the member for Hillarys was on his feet.

Mr P.A. Katsambanis: I'm being positive!

Mr S.A. MILLMAN: There have been many appointments by this Attorney General. Do members know why? It is because not enough appointments were made by the previous Attorney General. There were vacancies in both the Supreme Court and the District Court. This government has reformed the jurisdiction of the courts to expedite cases, and provided for a proper allocation of responsibilities between the court hierarchy. This has facilitated the more effective operation of our justice system. That means that people who, rightly, are not entitled to bail—because we have done the balancing act to which I referred earlier when it comes to terrorism offences—will not be held in indefinite detention awaiting trial but will be brought to trial expeditiously. As I have said, a fundamental principle of our justice system and rule of law is that a person is innocent until proven guilty. Therefore, although

the changes proposed in this bill militate against that general principle, they do so appropriately having regard to our constitutional obligation to make laws with respect to the peace, order and good government of the state of Western Australia. We have been able to rebalance the scales of justice in that way only because of the excellent work of the McGowan Labor government across the portfolios of attorney general, police, corrective services and communities. I commend the McGowan government and those ministers for the fantastic work they are doing. I also commend the Attorney General for this legislation and hope for its speedy passage.

MR M. HUGHES (Kalamunda) [8.15 pm]: I am pleased to contribute to the debate on the Bail Amendment (Persons Linked to Terrorism) Bill 2018. I make it clear from the outset that I support the proposed amendments to the Bail Act. I wish to make some general observations about the application of bail and what I believe will be an increasing number of prisoners across Western Australia who have not been sentenced but are on remand, particularly as it affects our Indigenous population.

This bill is the Western Australian government's response to the 2017 Council of Australian Governments' agreement on the presumption against bail that applies to persons with links to terrorism. This evening, various speakers have undertaken a comprehensive examination of the issues that gave rise to the view of the principal ministers and Premiers in each of the states and territories that we need to reinforce the protection of our community against those who are intent on committing terrorist acts and those who have been confirmed as having engaged in terrorist activity and are subject to an interim order.

I do not want to rove over the debate yet again, nor examine the contributions made by individual members. I listened with interest to the contribution from the member for Burns Beach, and I echo his comment that the strength of our society depends upon the inclusivity and engagement of people in our society. I also want to talk about the increase in the prison population across Australia of people who have not been sentenced and are on remand and have failed to obtain bail. This piece of legislation will touch upon that particular statistic, in what numbers remains to be seen.

The measures contained in the bill are intended to strengthen a nationally-consistent approach to countering the evolving scale and temper of the threat of terrorism in Australia. This evening, we have heard a lot about balance. These measures seek to balance the rights of the individual against the safety of the community—of course, the safety of the community should be our paramount consideration. Apart from this debate, we should remind ourselves of the purpose of bail, which the member for Mount Lawley embarked upon in his contribution. We need to understand that, broadly, custodial remand in each of the states and territories that make up the commonwealth of Australia seeks to achieve and balance three often conflicting goals—ensuring the integrity and credibility of the justice system; protecting the community; and safeguarding the best interests of the defendant.

For a moment, I want to remove the links to terrorism from this debate. It has been noted by members of the legal profession and law academics that the legislative and operative changes to bail laws across Australia in recent years have led to a shift from the primary concern the first outcome, which is ensuring that the accused does not abscond, to the second outcome—that is, preventing offending while on bail. As David Brown puts it in his publication "Looking Behind the Increase in Custodial Remand Populations", since the 1980s, conceptions of bail have shifted from a basic procedural mechanism to a substantive, independent forum in which crime prevention aims are pursued through the rise of risk-based mentalities. I argue that the recent deliberations in the Council of Australian Governments meeting that took place in 2017 are merely part of what has been an inexorable move away from the presumption of bail to a position in which bail is often not granted. It has been argued that the shift has occurred in response to the public discourse about crime prevention and not being soft on crime and the political response to that debate. The result has been an unprecedented rise in the unsentenced prison population in Australia.

The following figures are taken from the Australian Bureau of Statistics "Corrective Services, Australia, September quarter 2017". With your indulgence, Mr Acting Speaker, of the 41 304 adults in prison around Australia in the September quarter, 13 020 or 32 per cent were unsentenced. That statistic in 2017 took Australia out of the list of countries with a 15 to 30 per cent range of unsentenced prisoners, which includes the United Kingdom, USA, Canada, Russia, Israel, Poland, New Zealand and Germany, and placed it in the list of countries in the 30 to 50 per cent range, which includes Brazil, Thailand, Papua New Guinea, France, Kenya and Mexico. ABS figures provided for the June 2017 quarter show that the number of unsentenced prisoners in adult corrective services has increased by seven per cent since June 2016. In June 2018, the adult prison population in Western Australia increased by a further two per cent. Within that, the adult imprisonment rate in Western Australia was 344 per 100 000 adult population compared with 340 per 100 000 adult population in 2017. This was significantly higher than the national average of 221 prisoners per 100 000 adult population across Australia. It bothers me considerably. Why? It is because of the significant over-representation of Aboriginal and Torres Strait Islanders in Western Australian prisons. They comprised 39 per cent, or 2 710 persons, of the adult prison population at 30 June 2018.

The Aboriginal and Torres Strait Islander age standardised imprisonment rate was 16 times more than the non-Indigenous age standardised imprisonment rate—that is, 3 717 prisoners per 100 000 Aboriginal and Torres Strait Islander adult population compared with 225 prisoners per 100 000 adult non-Indigenous population. That is a shocking statistic. The unsentenced prison population in Western Australian prisons was 28 per cent of the adult prison population. That was somewhat below the national figure, which stood at about 32 per cent. Importantly, we have a significant number of unsentenced prisoners in our prisons on remand and a significant proportion of them are of Aboriginal and Torres Strait Islander descent.

The other important statistic in all this is that the median time spent in Western Australian prisons on remand is 3.4 months, which is somewhat higher than the national average of 3.2 months. I am interested in the contribution that this legislation will make, as small in number as it may be, to the increasing trend for prisoners to be on remand across jurisdictions in Australia.

It is interesting to note that as recently as 1997—it is "recently" in the scheme of things—only 14 per cent of the Australian prison population was unsentenced. Between 2007 and 2013, the unsentenced prison population as a proportion of all prisoners hovered between 24 and 25 per cent. From 2013 onwards, in Australia, the unsentenced prison population was up to 32 per cent. We are talking about a third of prisoners incarcerated simply being on remand. We cannot be happy about that. This trend shows no signs of slowing down. I doubt that that is indicative that Australia has become more criminally inclined since 1997. Rather, I argue that our approach to dealing with alleged offenders has become more risk-averse and, therefore, more severe in response to public opinion about the courts and decision-makers being soft on crime and the need to make presumptions about the propensity of the accused to be likely to commit offences while on bail.

Without detracting from the importance of this legislation, which goes to the country's security and the need to protect us from those within the community who have been radicalised and would do us harm, I put the point to members present that this is part of a trend that has occurred over time. There has been a shift away from the principles that someone is innocent until proven guilty. The member for Mount Lawley made this point in a much more erudite fashion than I could possibly make it. I wish simply to offer an observation about the significant justice and human rights concerns relating to the increased number of accused prisoners held in custody. Some of these factors are important. The statistics are quite alarming. Victorian research has shown that 40 per cent of remandees will be either found not guilty or sentenced to a period equal to or less than the time that they have already served on remand. We cannot be happy with that. Similar research in New South Wales found that 55 per cent of people held on remand were subsequently released without conviction and not subject to further custodial sentence. In the context of the current bill —

Mr Z.R.F. Kirkup: You're not supportive of the current bill.

Mr M. HUGHES: I am supportive of the current bill, but I want to make a point about the kind of society that I am not interested in being a part of.

Mr Z.R.F. Kirkup interjected.

The ACTING SPEAKER: Members!

Mr M. HUGHES: That is the kind of reaction that we have about the public discourse about offending, and the only solution is to abandon the principle of innocent until proven guilty in respect of far many more people than are covered by the act that will be in operation as a result of the amendments that this bill seeks to bring about. We need to make it quite clear that we are taking action through the Bail Amendment (Persons Linked to Terrorism) Bill 2018 for a particular category of persons who have demonstrated intent or have been subject to interim orders or confirmed orders, who have links to terrorism. That is one aspect of the actions that governments have taken that seek to protect the community from a threat from within. I have no difficulty with that, but as other members have said this evening, it is a question of how we balance that principle against the rights of the individual.

The point I am trying to make is that the continuum of movement away from a position in 1997 of 14 per cent of prisoners across Australia being unsentenced to the position now of nearly a third of the prison population being on remand is something we should be concerned about. That is the point I am trying to make—not as eloquently as the member for Dawesville might, and certainly not from the kind of legal background that other members have, but I have a great deal of respect for the contributions that members from both sides of the house have made to this debate.

I am making the point that there has been a fundamental shift in the ways in which lawmakers have responded to a sense that there is a public discourse to the effect that we are soft on crime and, as a result of that, we are filling our prisons with people on remand. In this state, the people who occupy those beds in our prisons are significantly over-represented—about 39 per cent of the adult prison population in this state is Aboriginal or of Torres Strait Islander descent, and that is a disgrace.

Mr P.A. Katsambanis: Would you take an interjection?

Mr M. HUGHES: I will take an interjection.

The ACTING SPEAKER: Sorry, member. Did you say you are taking an interjection?

Mr P.A. Katsambanis: He said yes. Is it legislative change that has driven that increase, or are there other factors that have driven that increase?

[Member's time extended.]

Mr M. HUGHES: It is a combination. The point I am trying to make is that the presumption of innocence, as the member quite rightly pointed out, is fundamental to our criminal justice system. It has been described, member for Morley, as the golden thread of our common law, and it has been eroded —

Mr S.A. Millman: Mount Lawley!

Mr M. HUGHES: You made the contribution, member for Mount Lawley. I turned to you!

It sets us apart from the arbitrary detention and the absence of justice and fairness that are regularly on display in the totalitarian regimes that we so rightly condemn. I am not in any way detracting from the import of this bill, but we must not abandon the essential precepts upon which our democracy is built and which terrorists threaten to overthrow. We have to be careful with the changes we make to our legislation to accommodate the protective measures needed to avoid that threat.

That is the point I wanted to make, but in doing so, I want to take this opportunity to say that this is in part to do with a trend that has taken place across the commonwealth of Australia over the last 20 years —

Mr P.A. Katsambanis: The trend has been a judicial response to certain instances —

Mr M. HUGHES: It has really been a legislative response.

Mr P.A. Katsambanis interjected.

Mr M. HUGHES: No, it has been legislative change. I do not really have the time nor probably the expertise to —

Several members interjected.

The ACTING SPEAKER: Members!

Mr M. HUGHES: Can I just make this point? I refer the member to Bartels, Gelb, Spiranovic, Sarre and Dodd in the article "Bail, Risk and Law Reform: A Review of Bail Legislation across Australia" published in May, 2018 in the *Criminal Law Journal*. They postulate that over the last decade a number of Australia's legislatures have directed the judiciary and the police to become more risk-averse when it comes to bail decisions, with only a few non-punitive reforms being the exception in NSW, Victoria and Queensland. They argue that the bail legislation around Australia has been significantly tightened and that this has happened primarily in response to a number of high-profile cases in which the decision to grant bail was, with the benefit of hindsight, the wrong decision; so there is academic analysis of this situation.

I am concerned about the need to ensure that we have a society that responds in a way that is sensitive to the real-life circumstances of a significant section of the population. We talk about the need for a harmonious and connected community. We need only look at the contributions that were made in debate in the federal Parliament in response to the Closing the Gap report to know where we stand with regard to a large section of our population who are significantly disadvantaged. We are not making any changes to the circumstances that they face, and they crowd our prisons in numbers that I think are shameful, and we have to do something about that collectively, across both sides of this house.

A member interjected.

The ACTING SPEAKER: Member, you need to be in your seat.

Mr M. HUGHES: The move towards increasingly stringent bail regimes has occurred and I am suggesting to members that that was well and truly evident prior to the western world's response to the rising threat of terrorism following 9/11 and everything that has occurred since. That has been explored fully in the contributions that have been made in this chamber this evening. Mercifully, Australia's experience of terrorist incidents on our own soil has been rare in recent times—that is, from the 1970s. The member for Armadale commenced his contribution to the debate by relating the number of incidents that had taken place in Australia, beginning with a particular incident that took place in 1972.

Until recent times we have been effectively free from organised groups, or individuals claiming an association with groups, that have carried out acts of violence. We have been relatively free from that; nevertheless, the incidents that have taken place are dreadful, and this legislation seeks to insert additional provisions within the

legislative regime in a consistent and coordinated way across the commonwealth to ensure that we tackle threats to our communities from those within them who would do us all harm.

However, in arming ourselves against terrorism, we have to be careful not to undermine the very systems that terrorists seek to overthrow. The presumption of innocence until proven guilty is the backdrop of our justice system, and we should not yield on that lightly. I do not believe we are doing so lightly. The legislation is very carefully constructed to ensure that. But make no mistake: it occurs against a backdrop of a significant section of people in our population who are on remand, unsentenced or have failed to receive bail, and are over-represented in our prisons. We need to ensure that we do something about that. Of all the things we debate in his house that would excite interest from the public, none could be greater than terrorism. We need to put before us that section of the community that in fact constitutes almost 40 per cent of the prison population. Of that prison population, 28 per cent are on remand. With that, I will sit. I thank Mr Acting Speaker for his indulgence.

MR J.R. QUIGLEY (Butler — Attorney General) [8.39 pm] — in reply: I rise to briefly thank all members for their contributions to the Bail Amendment (Persons Linked to Terrorism) Bill 2018. It will not be a question of my advocacy that gets this bill across the line because, listening to all members, we are in agreement with the central principle of this bill; that is, that people connected or charged with a terrorism offence will have a presumption against bail, except in exceptional circumstances. The member for Hillarys noted that the precipitating event for this legislation was really a special meeting of the counterterrorism section of the Council of Australian Governments on 5 October 2017 that affirmed an earlier decision. Finally, on 7 November 2017, it was resolved that there should be a national scheme because there were disparate schemes around Australia. There were slight variations in South Australia and Victoria. The national scheme would be a presumption against bail for people charged with terrorism or terrorism-related offences in the manner that has been adequately described by members so far—having been the subject of a control order or a recently expired control order, within the last 10 years. In those circumstances, the presumption against bail should run; however, there would be an exception, as there always has to be in the administration of justice, that if an accused could demonstrate exceptional circumstances, the court could extend bail to a person charged with one of those terrorism-related offences.

The exceptional circumstances test is not a new concept of law in Western Australia; it applies to all people who have been charged with murder. A person charged with murder has a presumption against bail unless they can demonstrate an exceptional circumstance. What we will be passing on to the courts, after this legislation passes through both chambers of this Parliament—I am being a bit anticipatory here, but I believe that this bill is also likely to receive support from the majority of members in the other place, if not unanimous support—is a law that says if an accused is charged with a terrorism offence or a terrorism-related offence, there will be a presumption against bail. This presumption will, of course, relate to a person who has not yet been found guilty. That is not a new concept in Western Australia; it already applies to the charge of murder. An accused charged with murder will be held in custody unless there is an exceptional circumstance; although this seems to be a harsh reality for people who are ultimately acquitted. The fisherman charged with the murder of another person at East Fremantle foreshore by allegedly deliberately stabbing him in the ear or the brain with a screwdriver was held in custody for 21 months before the jury took just on an hour to unanimously acquit, and he went home to his family. We balance that out because there is a very high conviction rate for persons charged with murder. The object of the Parliament and of the community is to protect the safety of all innocent members of the community. We do not want alleged murderers running around with the capacity to visit their deadly violence on others; therefore the presumption runs against them. I reinforce that this is therefore not a new concept that we are passing on to the courts.

In my reply to members I would like to quote from the joint submission to the Independent National Security Legislation Monitor titled "Review of the prosecution and sentencing of children for Commonwealth terrorist offences". I quote —

> Since 12 September 2014, when the national terrorism threat level was raised to 'Probable', there have been six attacks in Australia and 14 major counter-terrorism disruption operations in response to potential attack planning in Australia. Since September 2014, 85 people have been charged as a result of 37 counter-terrorism related operations around Australia. There are 40 people currently before the courts for terrorism related offences, of whom three are children or young persons. Further, around 220 people in Australia are being investigated for providing support to individuals and groups in the Syria/Iraq conflict, including through funding and facilitation, or are seeking to travel to join these groups. The overwhelming majority of these are young men and women.

The Council of Australian Governments correctly identified the need for these laws. People charged with terrorism or terrorism-related offences applying for bail before the courts will face the same test as a person charged with murder. That is an exceptional circumstance. They are as rare as hen's teeth—not many people who are charged with murder are bailed. I can think of a couple of circumstances. One was a gentleman in his 80s who had dementia and was charged with murdering his wife of 60 years. It was thought that he would not survive in prison because

he needed ongoing medical care. He was ultimately discharged under the Criminal Law (Mentally Impaired Accused) Act as being unfit to plead, but that is another point.

Mr P.A. Katsambanis: Given my previous history in a different jurisdiction, I am aware of circumstances in which bail was granted in murder cases because of delays in getting to trial, some of which are now being ventilated in a royal commission.

Mr J.R. QUIGLEY: Yes, but none in Western Australia.

Mr P.A. Katsambanis: None in Western Australia, thank goodness, and we hope we do not get any.

Mr J.R. QUIGLEY: Yes, we do not care if it is delayed. We do our best not to delay them, but that is not an exceptional circumstance. I suppose if a person had terminal cancer or a serious cancer and they were under treatment and had to be in a tertiary hospital—they might still be in custody, but that is another point. It has to be exceptional circumstances, which is not a new concept to the judiciary of Western Australia.

The other important point referred to by members, especially by the member for Hillarys, related to what will be section 66C; that is, the protection of materials put before the courts—the secrecy provisions—so that the court can hear these in private without disclosing the information. To do otherwise would not only imperil police work in investigating a suspected terrorism offence, but also be a major inhibiting factor for other jurisdictions to share their intelligence with the Western Australia Police Force, which could not guarantee, without this provision, that the intelligence provided would not find its way into the public domain and therefore despoil ongoing investigations. As I said, people are not in furious agreement; they are in calm, deliberate agreement that this bill will pass this chamber without a dissentient voice. I thank all members. Obviously, some bills come before the Parliament as matters of political ideology, because we believe in this or that—it might be same-sex marriage or whatever, although that did not come before our Parliament—and other bills come before the Parliament for the maintenance of good order and safety in the community. This is such a bill. It has been recognised by my parliamentary colleagues on the other side of the chamber as being such a bill. It deserves their support. On behalf the government, I personally wish to thank all members for their voiced support.

Mr P. Papalia interjected.

Mr J.R. QUIGLEY: Thank you very much, member, but one thing I would take issue with is that you did not voice. I will take your thanks anyway.

Mr P. Papalia: I did in spirit.

Mr J.R. QUIGLEY: You did in spirit, but I thank those members who got up and spoke in support of this legislation, and their parties in the Parliament, for recognising that this bill has nothing to do with politics. Around the nation, we are at one, and this legislation will be replicated in other jurisdictions to make sure that, once an alleged terrorist or a person connected with terrorism is arrested, they will be held securely until verdict or sentence. With that, I conclude my second reading remarks.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mr P.A. KATSAMBANIS: This is the commencement clause. Obviously, clauses 1 and 2 commence on the day on which this bill receives royal assent, and the rest of the bill is to commence on a day fixed by proclamation. We often talk about this. There are two traditional ways. One is for the rest of the bill to come into force on the day after royal assent, and the second way is the way that is being used with this legislation. I seek an explanation as to why we will have a day fixed by proclamation, rather than determining a commencement date. I seek the Attorney General's indulgence about what might be the hold-ups. There does not appear to be any need for any regulations to be put into place before the legislation can come into force. Also, I note that the Victorians, in their legislation, have left the proclamation date open, but have included a drop-dead date of, I think, 1 May this year. If it is not proclaimed before then, the legislation comes into force automatically. Why has the Attorney General chosen this mechanism, and what steps need to be put into place before the operative sections of the bill can be proclaimed?

Mr J.R. QUIGLEY: I can give the member a target date—everything will be completed within six months. This bill will be up and running as a law within six months of passing through here and the other place. The

Western Australia Police Force has advised the department that it will need to update its systems to flag people with terrorism convictions, specifically, because it will not apply only to terrorism convictions within Western Australia. Someone might be arrested here who has come from Sydney. We must have our database solid here for everyone who has been the subject of a terrorism conviction. We will then have to make sure that the database has also flagged those with current commonwealth control orders, because those are the terrorist-related people, and also people with control orders that have expired within the last 10 years. That sort of work is to be done, and the police do not want to undertake all that work within their information technology system, in case those over there frustrate our good intentions here. It is unimaginable that they would go around doing this before this becomes law. This information must be collected from different state jurisdictions and the commonwealth. Also, the Chief Justice, Hon Peter Quinlan, SC, has also advised that they are making sure that the right internal court procedures are developed to ensure that the court itself complies with the strict confidentiality provisions of the legislation. The member will appreciate that a lot of what happens in courts is in open court or online. I have not got a drop-dead date. We are not dropping dead; we are going to get this through as quickly as we can.

Mr P.A. KATSAMBANIS: On the need for updating the police database, as we know sometimes updating these big databases can be cumbersome and costly. Will there be any resource implications for the police, and, if so, how will that be funded?

Mr J.R. QUIGLEY: We are confident that this can be managed within the existing budget of the WA Police Force. The work involved is time-consuming but not overly burdensome; that is, going around to the different jurisdictions and getting advice from them of everyone who either has a current control order or is the subject of a control order that has expired within the last 10 years, or has a terrorism conviction. I was going to say, someone on bail for terrorism, but this is around Australia, so we cannot imagine they will be in the database. The police have not asked for any extra resources. That sort of research can be done comfortably within their existing resources.

Clause put and passed.

Clause 3: Act amended —

Mr P.A. KATSAMBANIS: Clause 3 states that this bill amends the Bail Act 1982. That is very straightforward. If the Attorney General will indulge me very briefly, I mentioned in my contribution that New South Wales has gone a bit further and made amendments to its parole jurisdiction to bring in similar presumptions against the grant of parole. Is there any intention in Western Australia to follow suit? Of course, I note that New South Wales has a problem that perhaps does not exist in this state at the moment but, for completeness, is any consideration being given to following that New South Wales path and extending the presumptions being placed against the granting of parole?

Mr J.R. QUIGLEY: Yes, there certainly is because that is part of the COAG agreement. Western Australia will definitely be doing that. We are working with the department, the State Solicitor's Office and the parole board on how best to give effect to that. As the member knows, with serial killers and mass murderers, we did that by giving the Attorney General the capacity to issue directions, and I have issued directions on three occasions in relation to those. It is a question of how the mechanics are going to work in relation to that. We do not feel under that pressure at the moment because no-one is serving time for a terrorism offence. If someone is convicted of a terrorism offence, we think it will be longer than the end of this year before they would be looking at parole. We will get this done. I give the Parliament an undertaking that we are still looking at the best way to implement that in our Sentence Administration Act.

Mr P.A. KATSAMBANIS: That is heartening. Obviously, there are some issues around the nature of the mechanism used. I look forward to seeing that legislation. As the Attorney General pointed out, it is part of the COAG agreement. As I said in my question to him, there is a bigger imperative in New South Wales than there is here. It is always good to close off these matters on these very serious types of issues that we are dealing with.

Clause put and passed.

Clause 4: Section 3 amended —

Mr P.A. KATSAMBANIS: Clause 4 is the definitions section, though the modern terminology is "terms used". I still use the term "definitions section".

Mr J.R. Quigley: Me too.

Mr P.A. KATSAMBANIS: The first definition, "Commonwealth Criminal Code", is defined as meaning —

> … the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* (Commonwealth);

That is all well and good. It is not our jurisdiction. The commonwealth is at liberty to update its code act and create a new act. Are there any savings provisions or ability to deem a new commonwealth act in the future to be automatically subsumed into our scheme or if the commonwealth gets rid of the Criminal Code Act 1995 and replaces it with a new or consolidated act in the future, will we have to re-visit this legislation and amend it?

Mr J.R. QUIGLEY: In the definitions section, we are talking about a whole part of the act—an offence against part 5.3 of the commonwealth Criminal Code, except certain offences. I can go through those at length if the member wishes. If there is an amendment to that part, we are still safe.

Mr P.A. Katsambanis: That was not my question.

Mr J.R. QUIGLEY: If the commonwealth withdraws the Criminal Code —

Mr P.A. Katsambanis: And replaces it with a new one.

Mr J.R. QUIGLEY: — we will have to come back here. I cannot imagine the Criminal Code being withdrawn and not being replaced with something else and not having terrorism offences, if the member gets my drift.

I also draw the member's attention to paragraphs (h) and (i), which state —

> (h) an offence under a written law or a law of the Commonwealth, another State, a Territory or another country, that substantially corresponds to an offence in paragraphs (a) to (e) and (g); or
>
> (i) an offence of attempting, inciting or conspiring to commit an offence ...

If it is a law in another jurisdiction that substantially corresponds, we are still safe. If the whole code was withdrawn, we might then have to look at amending our legislation. It is unimaginable that the commonwealth would withdraw the Criminal Code without notifying this state.

Mr P.A. KATSAMBANIS: It is not really a matter of withdrawing it; it is more about replacing it with a modern act. We do not do it here in Western Australia that often. We do not consolidate acts into new acts; we tend to amend the existing acts. Other jurisdictions do, and the commonwealth has. It did it in 1995. It had a criminal act before then. I would have thought that one mechanism to protect the integrity of the bill that we are passing would have been to allow a regulatory power that would substitute any commonwealth legislation for the existing legislation. I take the Attorney's explanation that paragraph (h) of the definition of "terrorism offence" rather than the definition of "Commonwealth Criminal Code" would work, just in a cumbersome way.

Clause put and passed.

Clause 5: Section 6 amended —

Mr P.A. KATSAMBANIS: I have an issue with clause 5. I had a similar issue in the definition of written law in clause 4 and a similar issue again in clause 8. It really relates to some of the terminology used. In clause 5, the term "justice" is used. This is the section that we discussed in the second reading in which a justice of the peace is not able to make determinations for bail in circumstances in which there is a presumption against the granting of bail for persons linked to terrorism, and we all tend to agree that is a good idea. Clause 5, which amends section 6 of the Bail Act, simply refers to "justice" rather than "justice of the peace". When I asked in a briefing where the definition of "justice" is, I was told that it is in the Interpretation Act 1984. That is all well and good. I was provided with similar information in writing in the responses that I received earlier this afternoon to the questions we asked at the briefing. It was a similar answer to the one given about written law in clause 4, in the definition of "terrorism offence" and, again, for completeness, the term "justice" is used again in clause 8. I would have thought that legislation that uses a term such as "justice" or "written law" would have a reference in some definitions section saying that the terms "justice" and "written law" are as defined in the Interpretation Act. We lawyers get that. We know that the Interpretation Act exists but, for usability, would it not have made some sense to at least provide a definition, whether it repeated the definition in the Interpretation Act or otherwise just simply pointed to the Interpretation Act as the place where one can find the definition?

Mr J.R. QUIGLEY: This particular provision is not unusual in legislation. The reliance upon the definitions in the Interpretation Act is not unusual in legislation. I point out that in this particular bill, this definition is not for the user. When I say it is not for the user, it is not for the terrorist; the terrorist does not need a pointer to the Interpretation Act. The definition is for the Supreme Court judges, who will be determining this matter. They would all be absolutely aware of section 5 of the Interpretation Act, which defines a justice of the peace or justice or JP; that is, any term that is justice of the peace or justice or JP means a justice of the peace appointed under the Justice of the Peace Act 2004. I do not know which person was making the contribution when they said "so it has to be a judge". It can be a magistrate as well but also in most cases involving murder. Even in the Magistrates Court down at the Supreme Court Gardens, they defer that decision, for very good reason, to a Supreme Court

judge. I am absolutely confident that when the legislation refers to "justice", every Supreme Court judge will know that. Earlier on the member mentioned the reference to written law in clause 5 —

Mr P.A. Katsambanis: It is actually in clause 4.

Mr J.R. QUIGLEY: I am sorry, clause 4. Of course, that is also defined in section 5 of the Interpretation Act, so the drafters are relying on the definitions in the Interpretation Act. I will just read the definition from the Interpretation Act for Hansard —

> ***written law*** means all Acts for the time being in force and all subsidiary legislation for the time being in force;

There we have it in legislation passed by this Parliament.

Clause put and passed.

Clauses 6 to 10 put and passed.

Clause 11: Section 66C inserted —

Mr P.A. KATSAMBANIS: Clause 11 inserts a new section 66C into the Bail Act. It is the clause that effectively allows for terrorist intelligence information and any bail proceedings to be provided for in private so that it does not become public knowledge and prejudice ongoing intelligence operations or criminal investigations. I will read the operative part of the proposed section. Proposed section 66C(1) says —

> In proceedings on a case for bail, the judicial officer must take all reasonable steps to maintain the confidentiality of information that the judicial officer considers is terrorist intelligence information, including steps —
>
> (a) to receive evidence and hear argument about the information in private and in the absence of any person other than the prosecutor and any other person to whose presence the prosecutor consents …

Then there are proposed paragraphs (b) and (c)(i) and (ii). In relation to who gets an automatic right to be there, once a judicial officer, a magistrate or a judge, determines that the information ought to be heard in private, the prosecutor must be there and any other person to whose presence the prosecutor consents. In the ordinary course of events, we would imagine that the prosecutor would consent to the defence attorney being there.

Mr J.R. Quigley: No!

Mr P.A. KATSAMBANIS: The Attorney General says no. That might be the case; however, how can an accused person rebut any evidence provided in private if they are not aware of it? This is something that is really important. Are we going to be in a circumstance in which a prosecutor walks in and says, "I want you to take this in private, Mr Judicial Officer, and I do not want any other person to be in the court. I do not want the defendant to be there or the person making the application for bail"—the applicant actually—"or the applicant's counsel." If the prosecutor says no, they cannot be there. I want the Attorney General to clarify whether that is the intention here; and, if it is, why?

Mr J.R. QUIGLEY: It is most certainly the intention. There is a two-staged process involved in this. First of all, the court has to be satisfied that the information meets the requirements of the proposed section—that is, what is about to be discussed is intelligence to do with terrorism. We will just go through that. Clause 4, which we have dealt with, refers to material that will be before the court, material that is likely to prejudice national security or endangers a person's life or physical safety, threaten significant damage to infrastructure or property, prejudice a criminal investigation—that one, paragraph (d) is very important—reveal intelligence-gathering methodologies, investigative techniques or technologies or covert practices, or to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement. These matters are a question of balance. Once the court is satisfied that any of those half a dozen criteria apply, it must do all within its power to protect that information. I said no for this very reason. The prosecutor might not trust defence counsel to abide by an undertaking he gave to the court. We know out of the royal commission that has now been inaugurated in Victoria that defence counsel were doing all sorts of funny things over there. I also hasten to add that I am not aware of any sort of conduct happening in Western Australia.

Mr P.A. Katsambanis: Have you sought reassurance?

Mr J.R. QUIGLEY: Absolutely, and if the member was in my shoes, he would be seeking reassurance himself.

Mr P.A. Katsambanis: I am vitally interested.

Mr J.R. QUIGLEY: That is right, so the member knows that I have written and he knows I have sought that reassurance. However, it might be that a barrister is appearing before the accused in whom the prosecutor poses

total trust and he allows the person to be present after giving undertakings. That is up to the prosecutor at the time. For example, there are a number of fine defence counsel. I can think of some at the moment such as Mr Urquhart or Mr Sam Vandongen, SC—a lot of these people. They have even spent most of their working lives working for the Director of Public Prosecutions. I am sure that if people of that calibre gave an undertaking to the DPP—I am not excluding Mr Percy, QC, or singling out people; I am just trying to give examples—the prosecutor might say they trust that counsel implicitly and do not mind him or her being present. On the other hand, they might say it is a bit iffy and it is so important for national security, it is so important for our terrorism investigation and it is so important for keeping the way we gather intelligence. I was stunned, for example, to read in the paper following the murder of Khashoggi, the *New York Post* columnist, in the Saudi Embassy in Turkey, that it has been revealed in the United States the number of phone calls that were had by the crown prince to the adviser. How do they know about all those texts and phone calls that the Crown Prince of Saudi Arabia was having with his adviser who is in Turkey? They will never reveal that; similarly, nor would Western Australian authorities want any of that information at risk, because other jurisdictions will not share intelligence with us if they think there is any possibility of risk. That is why I said no; if the prosecutor has any concern, he can also exclude defence counsel. I will raise one more point in that regard. I hope somebody keeps me talking; it would never be my wife!

Mr C.J. TALLENTIRE: I would like to hear more from the member.

Mr J.R. QUIGLEY: I am aware, for example, that in a case not to do with terrorism laws, but the failed criminal organisation anti-association laws under a very similar provision heard before Mr Justice Peter McClellan in New South Wales to do with the Hells Angels, he said that because no-one else was present and because this involved police intelligence, it put upon the court an extra burden to scrutinise what was being put before it, mindful that there will not be anyone arguing the counter point of view. We are comfortable that when we are dealing with national security, and with terrorism intelligence and methodology, it should be held strictly secretive unless the prosecutor consents to someone else being present. That is because that prosecutor would be acting upon the advice of his arresting officers.

Mr P.A. KATSAMBANIS: I have no issue with keeping our national security intelligence protected at all times. However, I am also concerned about protecting the provisions of this bill, which will become part of the Bail Act, from any challenge. I take on board the issue about defence counsel, or, in this case, the applicant's counsel, in an application for bail. We have examples in other Australian jurisdictions of counsel who have been compromised. That is very unfortunate. I am extraordinarily reticent to comment on that, given my personal situation—I guess I know some of the people involved in the royal commission.

Mr J.R. Quigley: You probably know her!

Mr P.A. KATSAMBANIS: I could not possibly comment. I will take the Francis Urquhart on the Attorney General's interjection!

I am concerned about ensuring that the provisions in this bill stand up to any challenge. If the defendant, or the applicant in the case of a bail application, is precluded, are we at any risk that this legislation will fall over because of a denial of natural justice, particularly if this ends up in a High Court challenge?

Mr J.R. QUIGLEY: I will make two comments, if I may. I go first to proposed section 66C(1). It states that the judicial officer must take all reasonable steps —

> (c) to order that the following documents must be provided in a redacted form —

So it will not be the case that all documents will be blanked out —

> (i) an approved form given under section 8;
>
> (ii) a report made in accordance with section 24 or 24A.

Section 8 of the Bail Act, "Accused is to be given information and approved forms", states, in part —

> (1) Subject to subsection (4), a judicial officer or authorised officer who is called upon to consider an accused's case for bail, on the first occasion when it arises in relation to an offence or group of offences for which an accused is required to appear, shall ensure that the accused is, or has been, given —
>
> (a) such information in writing as to the effect of this Act as is prescribed for the purposes of this paragraph;
>
> (b) an approved form for completion, designed to disclose to the judicial officer or authorised officer all information relevant to the decision; and

(c) where the accused is unable or insufficiently able, to read, speak or write English, such assistance as he may reasonably require in order to have communicated to him the information mentioned in paragraph (a) and complete the form referred to in paragraph (b).

The starting point in section 8 of the Bail Act is a positive duty of disclosure. Proposed section 66C then places on that the heavy caveat to protect intelligence-gathering methods and the like.

We also took advice from the Solicitor-General of Western Australia, Mr Joshua Thomson, SC. The Solicitor-General advised that the legislative reversal of the onus of proof in relation to exceptional circumstances is not unconstitutional. He also opined that proposed section 66E, which provides that a judicial officer may receive and have regard to confidential terrorist intelligence information, with the effect that a party to bail proceedings may not know all the information, is the basis for denying bail. Additionally, with regard to the related requirement in publishing his reasons for decision for determining whether to grant bail, a judicial officer is not to disclose any terrorist intelligence information. The Solicitor-General considered that these protections to the terrorist intelligence information would not require a judicial officer to act inconsistently with chapter III of the commonwealth Constitution and are therefore not invalid. I defer to the legal opinion of Mr Thomson, SC, on that matter. I was not reading from the opinion. I was reading from my notes derived from the opinion.

Mr P.A. KATSAMBANIS: Just a question on that last comment—you were not reading from the opinion; you were reading from your notes relating to the opinion? Just for completeness more than anything else, I have no issue with the current Solicitor-General or the former Solicitor-General. The Attorney General referred to the current Solicitor-General as having provided the advice. Given the events that have taken place since the Attorney General obtained instructions to draft and brought to Parliament the bill that we are now considering, did the current Solicitor-General provide the advice to which the Attorney General referred in his notes, or was it the previous Solicitor-General?

Mr J.R. QUIGLEY: The previous Solicitor-General is, of course, the current Chief Justice of Western Australia.

Mr P.A. Katsambanis: That is right.

Mr J.R. QUIGLEY: It was not Mr Quinlan. It was Mr Joshua Thomson, SC.

Mr P.A. Katsambanis: That is okay.

Mr J.R. QUIGLEY: I wanted the member to hear whether we are getting it from the chief, or from number 2, as he affectionately refers to himself, and calls me number 1. I do not know whether that is the right way around, but that is another point.

Mr P.A. Katsambanis: It sounds very James Bondish!

Mr J.R. QUIGLEY: In referring to the first legal officer and the second legal officer, that is right.

The opinion is from Mr Joshua Thomson, SC. I have to say that Mr Joshua Thomson was appointed to the position of Solicitor-General not only because he is an excellent barrister, but also because of his encyclopedic knowledge of constitutional law.

Clause put and passed.

Clause 12 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr J.R. Quigley (Attorney General)**, and transmitted to the Council.