

Thursday 21 March 2019

The President, **Mr Wilkinson**, took the Chair at 11 a.m. and read Prayers.

TABLED PAPERS

Government Administration Committee A - Special Reports

[11.03 a.m.]

Ms Forrest presented the following special reports of Government Administration Committee A - resolution to re-establish the following inquiries -

- Acute Health Services in Tasmania
- Horizontal Fiscal Equalisation System as assessed by the Commonwealth Grants Commission

Reports received and printed.

Government Administration Committee A - Sub-Committee Special Report - Failure to Provide Documents

Ms Forrest presented the Government Administration Committee A Sub-Committee Special Report on the Failure to Provide Documents into Acute Health Services in Tasmania.

Report received and printed.

STATEMENT BY LEADER OF GOVERNMENT

Deputy Leader of Government Business - Appointment

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, on Tuesday, 19 March, the Premier, the Honourable Will Hodgman, appointed the member for Prosser, Ms Howlett, the Deputy Leader of Government Business in the Legislative Council.

SUSPENSION OF SITTING

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is to continue the briefing on the Justice and Related Legislation (Marriage Amendments) Bill 2018 (No. 47).

Sitting suspended from 11.04 a.m. to 2.30 p.m.

QUESTIONS

Tasmania Fire Service - Reports

[2.32 p.m.]

Ms RATTRAY to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT

When the Tasmania Fire Service attends a fire and subsequently generates a report on the cause of a fire, can the Leader please advise -

- (1) What is the process for a property owner to access this report?
- (2) Is there a cost to a property owner and/or insurance company in accessing this report?

ANSWER

Mr President, I thank the member for McIntyre for her question.

- (1) The Tasmania Fire Service provides various reports, inspection services and direct brigade alarm monitoring based on a fee for service. To purchase a fire investigation report, people are directed that they need to write directly to the Regional Chief South, Tasmania Fire Service, stipulating the report or reports that are required, including payment.
- (2) The following reports are available -
 - Report A - \$287 - this is a fire investigation report that includes photographs referenced in the report.
 - Report B - \$530 - this is a fire investigation report that includes photographs referenced in the report and all other photographs taken at the scene.

It is rare that a member of the public requests a report. Most requests are from insurance companies, which are required to pay the same fee.

Public Hospitals - Patient Access to Televisions

Ms FORREST to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT

[2.33 p.m.]

Regarding access to televisions for patients in Tasmanian public hospitals -

- (1) What is the cost per day for patients to access a television at the bedside in each public hospital throughout Tasmania?
- (2) What company or organisation provides a television and the service in each hospital where patients are required to pay?
- (3) In hospitals where the service is provided by an external provider -

- (a) what is the average age of television units in each hospital?
- (b) what are the terms of each of the service level agreements, including -
 - (i) the length of each contract/agreement?
 - (ii) the replacement time frame for televisions?
 - (iii) response times for repairs?
 - (iv) maintenance schedules?
 - (v) determination of costs?
- (4) With regard to service agreements, including attending to equipment breakdown and the replacement of faulty equipment, are these agreements fully complied with? If not, how often are the agreements breached and what is the penalty?
- (5) How often are nursing and other hospital staff required to assist patients with access or repairs to, or problem-solving of, patients' televisions?
- (6) What will the arrangement be for patient access to bedside televisions in the new K Block at the Royal Hobart Hospital?
- (7) What, if any, other services provided to patients in Tasmania's public hospitals are provided by, or contracted to, external providers?

ANSWER

Mr President, I thank the member for Murchison for her question.

- (1) Contactors charge a maximum of \$10 per day for non-concession cardholders and \$9 per day for concession cardholders. This rate reduces to \$49.90 per week or a concessional rate of \$42.90 per week.
- (2) Hills Health Solutions and Merlon Technologies provide television services within the state's four major hospitals.
- (3) (a) The Tasmanian Health Service - THS - does not own the equipment and therefore cannot provide information as to the exact age of each unit.
- (b) Agreements include provisions around charges and the timely repair of televisions in the event of faults. The Merlon Technologies contract expires on 31 August 2019 and the original contract with Hills Health Solutions was allowed to expire, although the service provided by Hills Health Solutions continues as per the previous contractual terms. THS will consider the terms of the Hill Health Solutions agreement concurrently with the Merlon Technologies arrangements in the second half of 2019.
- (4) All agreements are fully complied with.
- (5) No records are kept but this is anecdotally considered to be very minimum if at all.
- (6) The Royal Hobart Hospital Redevelopment steering committee is working with the Tasmanian Health Service and the Royal Hobart Hospital on the best solutions for provision of patient

entertainment and technology requirements as part of commissioning planning for the new K Block.

- (7) THS purchases services from the private sector as required; these services include pathology, medical imaging and elective surgery.

Disability Service Organisations - Funding

**Ms SIEJKA to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT**

[2.37 p.m.]

A number of Tasmanian disability service organisations are currently funded through the Department of Community Services, and that funding is expected to conclude at the end of this financial year. The state Government has encouraged these organisations to apply to the National Disability Insurance Scheme through Information, Linkages and Capacity Building - ILC; however, this funding process has been put on hold by the NDIS.

- (1) Will the Government ensure these services to people living with a disability will continue to be funded in the interim, until such time as the Information, Linkages and Capacity Building grant funding is finalised?
- (2) What has the state Government done to advocate to the NDIS to ensure the grants funding process is not further delayed?

ANSWER

Mr President, I thank the member for Pembroke for her question. I have some lengthy answers here.

- (1) The National Disability Insurance Agency is responsible for delivering Information, Linkage and Capacity Building-type services. NDIA has advised this will be achieved through a commissioning approach consistent with the strengthening Information, Linkages and Capacity Building, a National Strategy towards 2022. The ILC Investment Strategy was released in December 2018.

ILC services, including support such as providing cohort-specific information linking people with disability to services, will be available to all people with disability regardless of whether they have an individual NDIS plan or not.

Commissioning has commenced for the ILC; however, NDIA has advised commissioning may not be completed before the end of the financial year. Therefore, the Tasmanian Government has negotiated with NDIA to provide transition, or bridging, funding for our existing organisations for a period of time while the ILC commissioning is resolved. NDIA has now committed \$26 million-worth of funding to be allocated across all states and territories to guard against funding gaps emerging, to support an orderly transition period.

Disability and community services representatives from the Department of Communities Tasmania have met with all providers that currently deliver ILC-type services to advise them

of this transition and also to seek information from the providers as to their intent to commission.

- (2) The state Government is determined to ensure that the full rollout of the National Disability Insurance Scheme is delivered in line with the bilateral agreement. We are committed to representing the interests of Tasmanian NDIS participants and ensuring they benefit appropriately from the scheme. We are equally committed to ensuring the organisations that provide vital services and support to people with disabilities are supported through the transition.

Therefore, in November 2018 the minister wrote to the Honourable Paul Fletcher MP, Minister for Families and Social Services, to express her disappointment about the delay in commencing the ILC commissioning in Tasmania and the lack of detail available at that time regarding the future of ILC commissioning.

In this letter, the minister outlined that the delay in ILC commissioning will significantly impact on business decisions for ILC-type providers and that the outcomes of these decisions will affect both provider and sector sustainability, jobs and services available to people with disabilities and their communities.

At the Disability Reform Council forum held in December, the minister took the opportunity to raise her concerns about the timing of the ILC commissioning and the lack of communication with the sector from the NDIA.

In February 2019, the minister again wrote to Mr Fletcher to reiterate that the timing of ILC commissioning was critical. She also advised in this letter that further information, including information sessions regarding the changes to ILC commissioning and the new ILC program, was urgently needed.

The minister further advised that it is imperative that the Disability Reform Council ensures adherence with the ILC time lines, as documented in the ILC Investment Strategy, to ensure that there are no further delays in the commissioning for ILC. These issues were again raised with Mr Fletcher's office in March.

Tasmanian Government representatives have also been working with the NDIA on the transition to ILC commissioning since the commencement of trial in 2013. This has included visiting all ILC-type providers with a local NDIA representative in September 2017 and inviting an ILC national representative to Tasmania in October 2018 to talk with ILC-type providers about the transition to ILC.

Tasmanian Government representatives have encouraged ILC-type providers, both in person and in written correspondence, to provide feedback regarding the impact of the timing of ILC commissioning on their services to the NDIA.

Prior to and post the release of the ILC Investment Strategy, Tasmanian representatives have been providing feedback to the NDIA in all available forums - both national and state - about the importance of the ILC commissioning process commencing as soon as possible within the time frames noted in the ILC Investment Strategy.

The Tasmanian Government will continue to liaise directly with the Australian Government and the NDIA to advocate on issues that arise to ensure that Tasmania's NDIS participants and providers benefit from the opportunity afforded through this most important national reform.

Post-Fire Infrastructure Replacement Costs

**Ms RATTRAY to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT**

[2.43 p.m.]

Where the Tasmania Fire Service is required to attend and where significant infrastructure is lost, as was the case recently at a property in the north of the state, can the Leader please advise -

- (1) Is there a process available through the Office of the Valuer-General where a property owner can seek an interim revaluation to assist with the financial burden, particularly in cases where there is no replacement of infrastructure or the replacement of infrastructure takes a significant length of time to rebuild?
- (2) If the answer is no, will the Government consider working with local government to identify a process that would address this issue of severe hardship?

ANSWER

Mr President, I thank the member for McIntyre for her question.

- (1) Section 21(d) of the Valuation of Land Act 2001 provides the Valuer-General the ability to undertake a supplementary valuation of any land by reason of destruction of buildings that materially decreased the value of the land since the making of the valuation then in force. A property owner can request the Valuer-General to review the valuation on the property after improvements have been destroyed by fire.

After the Dunalley bushfires, due to the large number of properties involved, the Sorell Council provided a detailed list to the Office of the Valuer-General of properties that had improvements demolished and supplementary valuations were then undertaken.

- (2) A process already exists for that.

The Friends' School - Sexual Abuse Investigations

**Mr DEAN to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT**

[2.45 p.m.]

My question relates to The Friends' School in Hobart and concern claims of historical sexual abuse and assault of students at the hands of a former head of the school during his tenure from the mid-1970s to the early 1980s. In November 2017, historical allegations of sexual abuse and assault at The Friends' School were reported to parents and former students. Formal complaints were also made by former students to Tasmania Police for investigation. Will the Leader please advise -

- (1) What are the results of the police investigation?
- (2) Is this matter ongoing, or is it over?
- (3) Has this matter been referred to the Director of Public Prosecutions - DPP - for legal assessment or prosecution?
- (4) What, if any, are the results of any deliberations by the DPP?
- (5) Are there any difficulties taking this matter further? What, if any, is the nature of those difficulties?

ANSWER

Mr President, I thank the member for Windermere for his question.

- (1) The minister advised that the Royal Commission into Institutional Responses to Child Sexual Abuse referred some matters to the Tasmania Police that involved historical allegations against a former principal of The Friends' School. Tasmania Police inquired into these matters upon receipt of the referrals.
- (2) The initial referrals related to some allegations that were bound by statute of limitations and could not be advanced under law. Other allegations were not bound by statute. Efforts were made to investigate those. The minister advised further that the investigations into the referrals have been completed without any charges laid.
- (3) to (5)
An assessment of the totality of the evidence resulted in the determination by police that the investigation could not be advanced to the point of consideration of charges. The matter was therefore not referred to the Office of the Director of Public Prosecutions. Those with a direct interest in the referral and investigations of these matters were contacted by police in late 2018 and advised of the results of their inquiries.

Ambulance Tasmania - Burnie and Wynyard

**Ms FORREST to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,
Mrs HISCUTT**

[2.47 p.m.]

With regard to Ambulance Tasmania staffing levels and procedures in the Burnie and Wynyard regions -

- (1) What is the average time taken for an ambulance to attend a 000 call-out in Burnie, Waratah/Wynyard and Circular Head municipal areas (listed separately)?
- (2) What are the current shift times? Please provide a breakdown of this data to identify wait times across each shift period. Please provide a breakdown of this data to identify weekdays as opposed to weekends.

- (3) What is the staffing profile of operational ambulance officers by shift, including during weekdays and weekends?
- (4) What on-call arrangements are in place in addition to the rostered shifts? How do these arrangements work?
- (5) What volunteer ambulance officers are engaged in supporting or are required to support ambulance officers/paramedics in these regions?
- (6) Are single ambulance officers required to attend call-outs as first responders? If so, when does this occur? How many times in the last 18 months, broken down by region, has this occurred?
- (7) What are the levels of overtime paid in the past 18 months, reported monthly? How often have double shifts been worked over the past 18 months?

ANSWER

Mr President, I thank the member for Murchison for her question.

- (1) The figures are provided for the 2018 calendar year and capture only emergency 000 calls, P1 and P0. In 2018, the north-west region's response time was 11.3 minutes compared to the state average of 12.7 minutes. In 2018 the north-west responses for the following areas were: Burnie, 11.79; Smithton, 16.56; and Wynyard, 10.62.
- (2) The current shift times are from 0800 to 1800, the day shift, and 1800 to 0800, the night shift. The day shift emergency P1 and P0 responses are: Burnie, 11.47 minutes; Smithton, 15.25 minutes; and Wynyard, 10.02 minutes. The night shift emergency P1 and P0 response times are: Burnie, 12.28 minutes; Smithton, 17.48 minutes; and Wynyard, 11.21 minutes. The data are provided for emergency P1 and P0 response times for weekdays, Monday to Friday, and weekends. Weekday response times are: Burnie, 11.62 minutes; Smithton, 15.61 minutes; and Wynyard, 10.32 minutes. On weekend days - Saturdays and Sundays - the response times were: Burnie, 12.23 minutes; Smithton, 18.15 minutes; and Wynyard, 11.71 minutes.
- (3) The staffing profile of ambulance officers varies in qualifications and experience. The model is consistent across Tasmania and is not varied by shift, weekday or weekend day. Emergency ambulances are generally crewed with two officers who are paramedics and/or a volunteer ambulance officer - VAO. Branch station ambulances such as Wynyard and Smithton are crewed with a paramedic and a volunteer. A paramedic may be dispatched alone as the closest ambulance response when a VAO is not available. Intern - that is, training - paramedics are supervised by a fully qualified paramedic or intensive care paramedic - ICP - at all times.
- (4) On-call arrangements are in place overnight for designated branch stations such as Smithton and Wynyard. The branch station officer - BSO - paramedic works a rostered day shift and this is followed by being on call overnight. BSOs work a four-day on, four-day off roster rotation. The north-west region is also supported by a rostered duty manager, who is on call after normal hours to further support any staff requirements. The Tasmanian Government has committed to providing an additional 42 paramedics in regional and remote areas of the state over this year and the next four financial years. In the 2018-19 financial year, three additional BSOs will be employed at Wynyard in response to increasing workloads. Recruitment to these

positions has commenced. The new positions will transition Wynyard to a 24-hour station and will eliminate the need for on-call provisions.

- (5) VAOs are extremely valuable to Ambulance Tasmania and work alongside qualified paramedics to support the local community as well as providing a first response in emergency situations. North-west branch stations that respond with VAOs are located at Wynyard, Smithton, Zeehan, Queenstown and Sheffield. There are volunteer-only stations at King Island, Strahan and Tullah, and a community emergency response team - CERT - at Port Sorell. A CERT is a vehicle rather than an ambulance response located in more remote areas where the nearest ambulance response time is impacted by geographical location, access and other factors. VAO recruitment is ongoing and induction courses for new applicants are undertaken regularly across all regions. VAOs are trained by Ambulance Tasmania and achieve qualifications at the following levels: observer, volunteer-in-training and VAO levels 1 to 4 in clinical skill sets. Level 1 and above can opt in for first-response activation. Current active branch station volunteer numbers are: Wynyard, 25; Smithton, 21; Sheffield, 25; Zeehan, 4; and Queenstown, 14. Current active volunteer-only location numbers are: King Island, 14; Strahan, 8; Tullah, 1; and Port Sorell, 7 (CERT).
- (6) Suitably qualified VAOs are permitted to act as first responders in emergency cases when the branch station primary crew is not available or is on another case. In addition, ICP paramedics across Tasmania at times operate as a dedicated first intervention vehicle - FIV - providing a rapid emergency first response. Extended care paramedics - ECPs - and/or other secondary support roles are routinely dispatched as single officers. Ambulance Tasmania also maintains volunteer CERTs in several regional areas across the state, including Port Sorell and in the north-west region. These units often operate alone or with paramedic backup which is dispatched to assist. In 2018, the Port Sorell CERT responded to 289 incidents. These data are very difficult to interrogate as any single officer paramedic response to emergencies is simultaneously paged to listening volunteers, and paramedic crews are also dispatched from the nearest location. This approach ensures rapid response and limits the duration of a single officer being on scene.
- (7) Overtime as a percentage of paid normal hours for the north-west region has ranged from between 7.7 per cent and 15.5 per cent of normal paid hours since July 2017.

The pay periods as a percentage of overtime to normal paid hours are -

2019-01 - 9.2 per cent
2019-02 - 8.3 per cent
2019-03 - 9.6 per cent
2019-04 - 12.3 per cent
2019-05 - 7.7 per cent
2019-06 - 12 per cent
2019-07 - 12.4 per cent
2019-08 - 9.4 per cent
2019-09 - 12.5 per cent
2019-10 - 15.5 per cent
2019-11 - 12.1 per cent
2019-12 - 11.9 per cent
2019-13 - 10.3 per cent
2019-14 - 9.5 per cent

2019-15 - 9.5 per cent
2019-16 - 11 per cent
2019-17 - 12.3 per cent
2019-18 - 11.7 per cent.

Double shifts do not occur in Ambulance Tasmania.

GAS INDUSTRY BILL 2018 (No. 40)

GAS SAFETY BILL 2018 (No. 41)

Consideration of Amendments made in the Committee of the Whole Council

Amendments agreed to.

Bills read the third time.

GAS (CONSEQUENTIAL AMENDMENTS) BILL 2018 (No. 42)

ENERGY CO-ORDINATION AND PLANNING AMENDMENT BILL 2018 (No. 57)

Third Reading

Bills read the third time.

MOTION

**Justice and Related Legislation (Marriage Amendments) Bill 2018 (No. 47) - Referral to
Government Administration Committee B**

[3.01 p.m.]

Mr DEAN (Windermere) (by leave) - Mr President, I move -

That the Justice and Related Legislation (Marriage Amendments) Bill 2018 (No. 47) be referred to Government Administration Committee B for further consideration and reporting.

Mr President, talking through this matter and leading this motion, there is so much information available and so much information to support reasons as to why this matter should go to a committee. One does not really know where to start on it, but I will do my best to outline to members, and convince them of, the reasons this matter should and must, in my view, go to a committee for further consideration.

It has been interesting to observe the many claims and counterclaims regarding the marriage bill and its ramifications. Some would say this bill will only affect more or less than 2 per cent of the population and we should proceed with it. Others will say the bill will impact everybody and is an affront to the basic distinction between male and female and that, if passed, the bill will result in increased child abuse and social disruption.

As usual, I suspect extreme positions on one side or the other do not reflect the reality.

I do not know what the reality is, and the vast majority in the community who have contacted me do not know what the reality is. They are deeply confused as to what the bill with its amendments will do.

Unusually I have been flooded with letters and emails from my constituents urging me to move that this matter go to a position where they can have a say. I suspect other members have also. I have had stakeholders saying the same thing - they want to be involved. That is all they are asking for - some involvement.

Most members would have read the *Australian* of the 28 November 2018 - Jennifer Oriel, an experienced political reporter, stated what the majority of people had been saying when she said -

There is no greater strain on the bounds of credulity than the claim that biological fact is a fiction and birth sex doesn't exist. In the topsy-turvy world of transgender politics, nature is an obstacle to the fabulous fiction that a man is a woman if he feels so inclined.

She then goes on to make further statements - and I will not go through all of them - but I quote -

... instead of countering the fiction with biological facts, the State has begun to demand that we conform to a lie. We are being dragged into a state of mass delusion to avoid offending a state-protected minority group.

She also noted that the Prime Minister, Scott Morrison, had tweeted, 'Labor's plan to remove gender from birth certificates in Tasmania is ridiculous'. The federal opposition leader was then quoted as declaring he did not intend to change the way in which birth certificates are completed. However, others in the Labor Party, it would seem - if you believe the *Daily Telegraph* - recommend that states remove gender from identity documents.

It would appear, on my research, that the federal Labor Party itself, at this stage, or at that time - I am not sure if it has changed since then - is confused about where to go. Is it any wonder our community is confused? Is it any wonder people are confused? I am confused. I would be surprised if there were a member in this room today who could categorically say they are absolutely clear and know exactly where this legislation is going, what it will return and what it will do.

Jennifer Oriel reports that politicians who support making birth sex optional on birth certificates are insulting the intelligence of the public. She says -

... is there little wonder that surveys over the past decade have shown a decline in public trust in government and democratic institutions ...

She then proceeds to castigate the amendments in this bill to anti-discrimination law and finishes by saying -

We cannot tolerate the descent into a dark age where truth is suppressed to appease State-anointed minority groups.

No matter what side you take on her views, these are the types of things being raised in the community by constituents. The majority are angry and confused and want answers, which at the moment I cannot give them. I cannot give them the answers that they have been asking me for - I just cannot, because of the confusion around it. I have had people - and I suspect all of you have - who have broken down in talking to me because of what they can see is occurring. I think I am right in saying that many of them have that position because of the fact that they see this as being brought in and not wanting to involve them for some reason or another.

There is also a strong belief among many that consultation has not occurred. That is undeniably true. I will raise this point further because it forms the basis of this motion.

Madam Deputy President, a pivotal role I have observed in the Legislative Council over my 16 years here is that MLCs will not be bullied or harangued into making laws unless they are satisfied that appropriate consultation has occurred and there is a clear understanding of what a proposed law will or will not do, and further, who will or will not be impacted by that law. We hear these comments being made around this Chamber daily when we are sitting. We hear members making similar statements on many of the bills brought in here.

I am sympathetic to the people who briefed us already, but legislation is not to be made in haste, nor should it be based on emotion or personal opinions or personal positions. I am genuinely worried about the unintended consequences that may arise for the very people the proposed law purports to protect. I am not the only one. We were told that today by very senior legal people in this state; I will probably refer to that again.

This bill is being pushed, supported, despite knowing it is flawed in many respects. For what reason is it being pushed? For personal reasons? Because of emotional positions that some people find themselves in? I am emotionally concerned and disturbed as well. I want good legislation. I want the right legislation. I want legislation I know is not flawed.

I ask myself, and ask each member to ask themselves: What will the legal ramifications be? Is it lawful? There is much evidence to suggest it is not. I do not think there is a member in this Chamber who can say that they are 100 per cent satisfied that the bill that will be brought before us shortly is accurate, clear, good legislation - that it is legal and does not create other problems with other legislation that we have heard about today.

The next questions are: Is the age of 16 an appropriate age for children to decide whether they are male or female? Where is the evidence to support that? Is it right for a person to self-identify as the opposite gender to that of their birth gender?

Mr VALENTINE - Point of order, Madam Deputy President: are we getting in to the second reading speech?

Madam DEPUTY PRESIDENT - I am listening, member for Hobart. There was a claim that there was the evidence to back it. The honourable member needs to focus on the need to refer this legislation to a committee, not on the detail of the bill.

Mr DEAN - That is what I am putting forward, Madam Deputy President: reasons why this legislation ought to go to a committee.

Madam DEPUTY PRESIDENT - Then stick to the reasons it should go to a committee.

Mr DEAN - These are reasons why it should go to a committee.

Mr Valentine - Sorry, Madam Deputy President, I was referring to the fact that the last point the honourable member made did not have anything to do with that.

Madam DEPUTY PRESIDENT - We have dealt with that.

Mr DEAN - The next question people need to ask themselves is: has the consultation been adequate? In the other place amendments were brought in at very short notice, without too many really understanding them and knowing exactly what was going on.

On 28 November 2018, the bill was dealt a final blow, in my view, when a senior legal mind in this state and the Chief Parliamentary Counsel and the Registrar of Births, Deaths and Marriages told us there were huge flaws in this bill, that it needed a lot more investigation, and that inquiries should be made by the Tasmania Law Reform Institute, and/or committees, and/or both.

We were told then, members might recall, that the bill was beyond repair. The amendments brought in the other place were ruled outside the scope of the bill. That has never happened before in my time in this place. If it has, I do not know about it.

It is my position that politics are being played in this, and I do not want to be a part of that. It would be false and extreme to move forward with this bill in its current form. In fact, it would be plain idiocy, and would be saying that we really do not care whether it is legally right and lawfully sound. We are going to charge ahead, irrespective of the state of it.

Where will the 50 pages or so of amendments to this legislation take us? That is what there will be - probably more than 50 pages. One member has 28 or 29 pages of amendments; I have nine or 10 pages, whatever it might now be. Other members have a number of amendments.

Not only did we have a bill in the other place rewritten, I am not quite sure what is going to be the outcome when it proceeds through here. Another bill. In fact, a name change will be required, and that is one of the amendments. That is how vastly different it is. The legislation laws we pass must be robust, and must be within the law. In this case, none of us can proceed right now at that level of assurance.

The Government was forced to debate numerous amendments which created matters outside the scope of the original bill. These amendments were drafted in a way which we have found would not have worked if the Legislative Council had passed them last year, without the adequate time needed to see whether the amendments will conflict with other Tasmanian acts and also with other agencies and legislation interstate.

They are some of the things that have to be done. In a way, some of those things have been touched on. This is why we needed a committee to closely look at all of these issues and to come back with a good and a strong position with some good, strong legislation that will satisfy all the people concerned.

What normally happens with any bill that comes before this House is that either a minister or department brings forward either changes or ideas which they believe are in the best interests of the Tasmanian community. This may be a result of a study performed by the Tasmania Law Reform Institute and recommendations made by them. That happens in many situations. Whatever the

case, when a bill is in its infancy, it is given to the department to first obtain its opinion as to how the bill should be proceeded with. The department may then go to the affected stakeholders to see their opinion and seek their opinion and advice.

That advice would then be provided to Cabinet. Cabinet would then debate it, and then, if it were to proceed, it would ask for draft legislation to be prepared. That draft legislation would be prepared and then again sent out to stakeholders for their comments. After that process, which may take some months, a draft opinion will be provided to Cabinet for its approval, amendment or otherwise. Cabinet would then advise Parliamentary Counsel to prepare a bill to be put before the parliament. The parliamentarians would then have a copy of the bill, then speak with stakeholders and others who may have interest and they would then be able to publicly debate the bill knowing a thorough process had been conducted.

Did that happen with the amendments that came before the lower House and were then passed to the upper House? We know, in fact, that did not happen. This understandably has caused disquiet within the community. Many community members are pretty much up with what happens - or what should happen. Particularly, with social bills, they should be involved.

This is not the way legislation should proceed, and it only goes to prove if procedure is not followed, problems can and do occur. Even as late as last week we were provided with a letter from the Royal College of Pathologists of Australasia, which had justifiable queries about the bill. I understand Ms Banks has commented on that or somebody else has a position on it and says their concerns have been satisfied.

In my view, even though a number of members have spent much time preparing amendments, it would best if the bill were split - that is my personal view, but it is not going to happen - to enable the original three amendment bills to pass but for the numerous amendments passed in the lower House without the Government having any opportunity to vet them to be sent to the Tasmania Law Reform Institute for comment. That is my original position: that it go to the Tasmania Law Reform Institute. It has been referred to the institute. I will comment on that and the terms of reference shortly.

This is new legislation; it is challenging legislation. It is legislation that has upset and confused a significant number of Tasmanians. If ever a due process were needed, this is a glaring example of legislation being given to the Law Reform Institute in order that Tasmania can bring in a good law that is consistent with interstate and international laws. Legislation must be robust, and this does not meet that test.

I want to refer to comments of some of the people who have written to me, some of whom are well known and in quite senior positions in organisations. I believe all members heard received the letter from Professor Patrick Parkinson from the University of Queensland. I have met him and had a discussion with him about this matter.

I quote a couple of comments from his email, forwarded to us all -

In my view, the other changes being rushed through by means of amendments in the House of Assembly are both unnecessary and irresponsible. At the very least they ought to be considered by the Law Reform Institute and by a Parliamentary Committee that can hear from ordinary Tasmanians what they want on such

fundamental matters as birth certificates and the implications for women's sports and facilities of allowing gender to be a matter purely of declaration.

There may well be amendments that ought to be considered to better support those who identify as transgender or who have intersex characteristics, but they need to be carefully thought through to avoid unintended and negative consequences. Furthermore, having read the debates in the House of Assembly, I am concerned about how much incorrect information was presented to MPs.

Our role is to bring in good and sound law; it is not about games, stunts or anything else. The Legislative Council is not a political toy. We are here to ensure that the bills that come into this place from the other place are sound, robust and lawful, and that there are no unintended consequences that can be identified. One of our jobs is to do that.

We have heard compelling evidence - information from a leading legal mind in this state - and equally compelling evidence from the Office of Parliamentary Counsel that there needs to be a lot more work done here. I feel sorry for the Office of Parliamentary Counsel and applaud Robyn Webb for what she has done over the past months, during the Christmas period and up until now. Her capacity not to show any angst or frustration is tremendous. I dare say she could have, but has never shown it. She has just got on with her job.

Madam DEPUTY PRESIDENT - Let us focus back on the referral.

Mr DEAN - I wanted to recognise her position, thank you, Madam Deputy President.

The amendments being thrown around need to be discussed. They need to be robustly considered to ensure their legal status. The public must be given an opportunity to have a say. How can they be ignored and this bill be determined by a very small number of people? Is that democracy? Is that right? Is that sound? Is that good judgment? Stakeholders, in particular, need to have some involvement in this.

References have been made by a number of people about the position in Western Australia. They sent their gender bill to the Law Reform Commission of Western Australia, the equivalent of our Tasmania Law Reform Institute. That is the right way to do it. Discussion papers were sent out and the public was consulted. The Tasmania Law Reform Institute has accepted the referral of this bill and the terms of reference for consideration, but it will not be reporting on it until October this year. I understand that is the position.

Martine Delaney commented in the media about what the Tasmania Law Reform Institute has been asked to do on this bill. She identified it was cut down into very small parts of it. The terms of reference for the Tasmania Law Reform Institute are as follows -

In November 2018, the Attorney-General requested that the Institute investigate the following issues:

- What steps should be required to register a change of sex or intersex status on official documents?
- What categories of sex/gender should be displayed on birth certificates and other documents?

- What, if any, reforms should be made in relation to consent to medical treatment to alter a person's sex or gender?
- What, if any, reforms should be made in relation to the definitions or use of terms relating to sex and/or gender in Tasmanian legislation?

Those are the terms of reference the Tasmania Law Reform Institute is currently looking at.

Since we adjourned last year many amendments have been discussed. The stakeholders are entitled to look at them and have a say on them. I am not sure where the amendments will go, but we have amendments. We have amendments to amendments. I will be surprised if we do not have amendments to amendments to amendments. I think we will determine that in the Committee stage.

Madam DEPUTY PRESIDENT - The honourable member is going to send it to Government Administrative Committee B. Let us focus on that.

Mr DEAN - That is what I am focusing on, Madam Deputy President.

The Commissioner of Police has demonstrated his concern about the lack of involvement in the process as to how it will affect his organisation. This morning we heard the Tasmanian Bar say there needs to be a lot more work on this. I have also contacted the lawyers' association. Its position is that they had not been involved in this process at all and therefore they were not making any comment.

I have looked at what New Zealand has recently done with a similar bill making it easier for trans people to update birth certificates. They deferred it due to poor public consultation and legal concerns, both of which apply in our case. My opinion is that we are in a far worse position than New Zealand in both these areas.

As is the case with a unicameral parliament, their bill had already been sent to a select committee. Significant change eventuated from that select committee. People - stakeholders - had an opportunity to present evidence to the select committee. That is not the case here. The amendments moved there and the ones moved here bear no resemblance to the title of the bill, and the title needs changing.

We have an amendment coming up to change the title -

Madam DEPUTY PRESIDENT - Let us focus on the need to refer it rather than on the bill when the amendments are before us.

Mr DEAN - This is reasons why it needs to be referred.

New Zealand's Crown Law Office considered the bill. The Crown Law Office said -

The Crown Law Office had provided advice which recommended further clarification be made about when a person's sex or gender might need to be determined independently of the sex shown on their birth certificate.

These circumstances included enrolment in single sex schools, accessing services or women's refuges and the criminal justice system.

While the bill was being reworked, Martin has asked officials to look at ways to make the current process around changing a person's sex on birth certificates cheaper and easier as a temporary fix.

More work is being done on their bill, even though it went to a select committee. The select committee came back to the minister, and the minister is still not satisfied with it. The minister has sent the amendments identified by the select committee out for further public consultation because she identified those amendments also have legal implications. It has gone back out again to the people, to give the people and the stakeholders a chance to have further comment.

Further, we can look at what a former magistrate, Don Jones, has said about this bill going out to a committee or being available to stakeholders and further commenting. I think we have all have his statement; he says -

It would appear there has been an indecent haste in attempting to bulldoze this legislation through, and its passage should be deferred until stakeholders and electors are given a reasonable opportunity to make an informed decision as to its impact and to inform the political representative of their view. I am firmly of the view that Tasmanians should be given a full unbiased briefing, so they have sufficient information to make an informed decision as to its merit. This legislation impacts on the right of every child, they should not be ignored.

He goes on to say -

This is a major alteration to our laws which impacts the life of every Tasmanian born after the day of it receiving the Royal Assent. It should not be railroaded through, ignoring existing laws and Conventions.

He said much more. I do not intend to go into all. He is a former magistrate and he has looked at this. I think he is trying to keep up with some of the amendments, and not sure how far he got with them.

Madam DEPUTY PRESIDENT - For the member's information, I went through my amendments with him, and he said I had done a very good job. He was very pleased with it. He thought it fixed all his concerns.

Mr DEAN - That is what a former magistrate said to me - there are reasons this bill needs to go back out to the public, to the people and to the stakeholders. That is what he is saying. To my understanding, he has not resiled from that position at all, under any circumstances. I would be surprised if this former magistrate said we do not need any further discussion on all of these new amendments.

Mr Valentine - It is the same with any bill, is it not?

Mr DEAN - I was hoping you would raise that. I was not going to raise that. I will let you raise it. You raised it with me by way of a question.

Mr Valentine - I said that is the same with any bill. You can always have more time to do different things to it, but if we did that, we would never get through any legislation.

Mr DEAN - In my 16 years in this place, no amendments outside the scope of the original bill have ever been moved, to my knowledge - others might have other information.

Mr Valentine - But it is not.

Mr DEAN - It is. The amendments brought into the other place were far outside the scope of the bill. All I am saying -

Mr Valentine - Sorry, I am talking about since it has reached this place.

Mr DEAN - There are so many amendments here. I do not know how many are outside the scope of the bill that is currently before us. I am not sure. There are over 50 pages of amendments. I do not know whether they are all within the scope of the bill. Maybe somebody else can tell me.

Mr Gaffney - In this place we are looking at the bill that has passed the lower House, so that is the bill we are dealing with.

Mr DEAN - I think one of my amendments is outside the scope of the bill.

Mr Valentine - We had better look for that. We will get rid of that one quick smart.

Mr DEAN - I do not mind telling you that. Pick it up.

Madam DEPUTY PRESIDENT - I understand that, in this House, we should not be reflecting on the scope of the amendments put in the bill. We are dealing with what we have on our Table. I would ask you desist.

Mr DEAN - Sure. The interjections are causing this.

Madam DEPUTY PRESIDENT - No, they are not. You can focus on the task at hand.

Mr DEAN - Madam Deputy President, many other people have come forward suggesting and strongly putting that this matter needs to go out for further consultation. The Anglican Diocese of Tasmania, amongst other things, made many comments on the reasons it should go to a committee. I will quote a couple of its comments. Its letter was mainly about why it should go to a committee.

We are however, concerned that the Bill in its current amended form does not yet express these protections in a carefully thought out way, and that it is unclear whether they carry community support. We are concerned that the Bill has not been submitted to the broader Tasmanian community for debate. We fear its passage without widespread public discussion undermines the freedom and opportunity of many groups to express their views on the important issues covered by the Bill. We ask that you call for community discussion and debate.

Our concern is that the Justice and Related Legislation (Marriage Amendments) Bill has not been sent out for public debate. Individuals and groups have not been given the opportunity to openly discuss the proposed legislation in an informed and robust way. More specifically, the Anglican Church of Tasmania's concern is that the Bill in its passage and potentially in its content could unwittingly undermine freedom of speech, expression and religion. We suggest that dialogue

be promoted amongst the general public as well as amongst political, social and legal academics.

This letter goes on to talk about why it should go out to a committee.

Another reason the Anglican Diocese of Tasmania says a committee should look at this is -

In addition, the Anglican Church of Tasmania is concerned that there is insufficient research into the causes of distress and mental illness that some individuals experience as a result of gender dysphoria. All forms of human suffering are a concern, especially when caused by social attitudes.

It is giving these reasons why it should go out. In fairness, it says this -

We share the parliament's concern to provide adequate protections under the law for all vulnerable groups including those with gender dysphoria and we think the best way to achieve this is through careful consultative law.

They are concerned and want to talk.

A member of the public, John McCrae, among hundreds - I have not counted them up and have picked out a couple - says this -

I implore you not to pass this bill in the Upper House. These proposed changes are being rushed without enough debate in our society and will have many unforeseen consequences and will be hard to reverse in the future. Other states aren't rushing new legislation and the Federal government isn't mandating it, so why does Tasmania have to be a trendsetter?

A Greens Party member, who was asked not to be identified, commented -

I work for the education department and have been concerned about the changes to the Birth, Deaths and Marriages Act as well as changes to the Anti Discrimination Law.

She goes on to say she is a member of the Green Party -

I am actually a Green Party Member and I can't really speak out against it due to fear of being called a bigot. However I hear people questioning it at work and in the community and I agree with them. I found myself politically estranged ...

She goes on to say that this bill needs a lot more consultation -

Second, I think we need more debate on how we can best legislate without 'swallowing' the 'new language' wholesale.

The bill, as amended in the other place, is a new bill. It became a new bill because of all the amendments. As with all new bills coming here, there needs to be further consultation.

We deal with amendments all the time in this place, and amendments are passed without consultation with stakeholders and the public - I accept that. Amendments impacting on the working capacity, powers and authority of a department are in most cases discussed with the department. Those amendments have always been made within the scope of the bills and debated and, therefore, there has normally been more discussion around them and no surprises. I want to make clear that this it is not the first time I will be dealing with amendments, but it is the first time I will be dealing with 50 pages of them. The forestry bill did not have that many pages.

Mr Gaffney - Yes, it did.

Ms Forrest - The integrity commission bill.

Mr DEAN - All within the scope of the bill and after the forestry bill had gone to a full committee of this place, so it was 99 per cent. That went through the Committee stage, which was a great process.

I support change, very clearly. There should not be any discrimination.

The public were left out of this and to me on a social bill that is unconscionable - an insult to the people, cruel and unacceptable. It is a position I will not accept, which I will make clear to the members who are behind this move and who have orchestrated it. I will feel uncomfortable and will be significantly embarrassed should we not go to a committee and get all of those facts, figures and details and give everybody an opportunity to have a look at it.

Obviously, I will be interested to hear what the Labor Party says about this. There was a recent release in the *Examiner* on Monday, 11 March. They are concerned about the consultation process with the protest legislation. They have joined with the unions to require more consultation. The protest bill went out for consultation for five weeks. As I understand it, it is normally only two weeks.

Mr Willie - How did you vote on the first bill?

Mr DEAN - I supported the first protest bill. I believe that businesses should be protected and should have the right to work. I will always support businesses and people operating businesses. The protest bill went out to 51 stakeholders.

Mr PRESIDENT - As members will no doubt be aware, they cannot reflect on a person's vote in the Chamber.

Mr DEAN - Mr President, I am outlining the process of consultation that bill went through and the process that this bill has gone through to try to get some members in this place to support the need for it to go to a committee. I am trying to identify the consultation process on the current bill, which has not gone through a similar process. I will be referring to that in a moment.

There were more than 400 submissions on the protest legislation. They will be available to the public in due course, if they are not identified as confidential.

The consultation process was undertaken by Robin Banks. On 12 February 2016, it was sent out for consultation. The return date for submissions was 4 April. Seven weeks were provided for feedback. As I understand, it was not provided to any stakeholders - if I am wrong, please correct

me. It was provided to the then attorney-general, Vanessa Goodwin. I understand that public submissions received on what Robin Banks sent out have never been made public. I have not been able to find them. Again, if I am wrong, please tell me. Was a final report done? To my knowledge, there was not.

If you compare the protest bill and this process here, there is a vast difference. Many people are concerned that they were not aware of the consultation period and the fact that it was available for submissions. Many of those people were stakeholders.

Mr President, if you were not convinced that this matter should go to a committee, what is your position on the Solicitor-General's statements this morning? He believes that this legislation, if passed, will impact other legislation in place. He says those matters have not been properly considered. He referred to some areas it will have an impact on, but he then comments that there could be more. He did not go into all of it. That is the second top legal mind in this state telling us that. How can you go down this path of supporting this bill knowing this is the situation? I cannot understand or reconcile this at all.

We also heard good information from another senior lawyer in this state, barrister-at-law Chris Gunson, on his concerns with this bill as it is currently presented. Do we put ourselves over and above all those people? Is this what we should do? I am certainly not going to that. They know much more than I do when it comes to the law and I am not going to argue with those people. You might recall what Robin Banks said this morning when I asked her a question about whether she was in any way challenging the position or the statements made by the Solicitor-General. Ms Banks said no, she was not, or words to that effect. From that I deduce she pretty much accepts what the Solicitor-General has said.

Ms Forrest - I think that is verballing.

Mr DEAN - I am not verballing anybody. Robin Banks said she is not challenging in any way - as I understand it - the position and statements made by the Solicitor-General. You can gather from that what you want. If I were seen as verballing Robin, she is certainly not disputing what the Solicitor-General said, otherwise, one would have thought she would have said to my question, 'Well, I am; he is wrong.'

Ms FORREST - Point of order, Mr President. The member is reflecting on another member of our community. We were all there - she was saying she could not really comment because she had not seen the request for the advice or the full advice. We are going very close to speaking about someone who cannot defend themselves in a way that misrepresents what they said.

Mr PRESIDENT - People were there during the briefing. I would not call it a point of order at the moment, but certainly the explanation is much -

Mr DEAN - Thank you for the ruling, Mr President. The statement was made; people were there and they heard what was said anyway. I specifically asked the question about whether she was challenging what the Solicitor-General had said.

It is pretty powerful stuff from those people. That in itself convinces me this matter must go to a committee. It must go out for that process. It fits into the area of the Government Administration Committee B. Any number of members can substitute onto that committee - three, four, five could substitute onto the committee from the other committees in this place. We are

bound by the numbers and there can only be seven on the committee, but any number can substitute on to it. I am not sure whether it could be the whole seven substituted, probably not.

Ms Armitage - Maybe it should be a select committee.

Mr DEAN - No, my advice is the sessional committee is the way it should go.

Having said that, I urge members to look at the whole of this. I am not opposed to supporting these people, but we can obtain better legislation and a better position for the trans people. A better position for everybody. If it goes to an inquiry and the process goes in the right direction, generally we will be able to take the people with us. Currently we cannot. They are making it very clear. It is not a minority group. Martine Delaney has said it is a minority group. It is certainly not a minority group. Everywhere I have been, everybody I have spoken to, bar a very few people, have strongly indicated in most cases their anger, and are asking every effort be made to give them a chance to say what they want to say. I urge members to support the motion currently before the Chamber.

[3.55 p.m.]

Ms LOVELL (Rumney) - Mr President, I will keep my contribution brief because we have wasted more than enough time on this bill. I will not be supporting this motion, which I do not think that will come as any surprise.

I too have been flooded with email, as I am sure we all have. The top number of emails I have received on any subject I have received on this topic. The member for Windermere claims that these are people who want to have a say. The emails I have received have been clearly based on misinformation. The people opposed to this bill do not understand what the bill is going to achieve.

Mr Dean - That is the reason it needs to go to a committee: they do not understand it.

Ms LOVELL - No, it does not. I let you speak without interruption, member for Windermere, so I would appreciate the same courtesy.

The member for Windermere claims that stakeholders want to have a say. Who has a stake in this? Who are these stakeholders?

Mr Dean interjecting.

Ms LOVELL - I let you speak without interruption, and I would appreciate the same courtesy. Generally, when a member is standing at the podium, that member has the call.

Mr PRESIDENT - The member always has the call, unless somebody wants to make a point of explanation or a point of order.

Ms LOVELL - Thank you, Mr President. Who has a stake in this? Who are these stakeholders? The people who have a stake in this issue are transgender and gender-diverse Tasmanians, their families and their loved ones, and they are saying loud and clear, 'Let us get this done'.

The member for Windermere says the community is confused, and I agree. There are members of the community who are confused, but that is because they are hearing misinformation from

organisations seeking to discredit transgender and gender-diverse Tasmanians and the organisations that represent them. If the member for Windermere thinks that sending this to a committee will stop this misinformation being circulated, he is mistaken.

I too have spoken to people who have broken down, and they are people who are dealing with the kind of prejudice, stigma and abuse that people are receiving in the community, and this is a step we can take to reduce that.

The member for Windermere argues that consultation has not been adequate. We have been consulting on this bill for many months. We consulted on this bill for months before it went to the lower House. We have now had a break of four or five months where we have been consulting on this bill. We all have been consulting on this bill. How long does this need to go on? Whether or not stakeholders need to have a say on amendments, that is not our normal process. We often move amendments on the Floor of the Chamber. In fact, the member for Windermere moved amendments yesterday. I do not know that he consulted with stakeholders on those. That is not part of our normal process.

Ms Forrest - He disagreed with the police commissioner.

Ms LOVELL - Exactly. The member for Windermere might not have a clear idea.

Mr DEAN - Point of order. On the interjection, if I can. I said that 'must' was a better word than 'may'. The police were saying that they would prefer 'may'. There was nothing to say that they would not accept 'must' either. It was their preference. I was not disputing or denying the position of the Commissioner of Police at all.

Mr PRESIDENT - It is not a point of order, it is a point of explanation.

Ms LOVELL - Thank you, Mr President. The member for Windermere might not have a clear idea of what this proposed law will do, but I have a very clear idea of what this law will do. This will make life easier for a small number of Tasmanians. It will not make anyone less safe. It will not put anyone at risk. It will not erase anyone's rights. I am yet to hear from anyone who will be impacted in any other way than having an extra box to tick on an application form and who wants this bill to go to a committee.

I urge members to oppose this motion because this is our opportunity to get this done.

[3.59 p.m.]

Ms RATTRAY (McIntyre) - Mr President, mine will also be a brief offering on this motion. I rise to support the member in his attempt to send this to a committee. It is complex legislation. We have had 50 pages of amendments. This morning we heard there is possibly still another amendment to come forward. I have been around this place a while now. It is an unusual process we are dealing with, but it is the one we have.

I would like to make a couple of points about the reasons I believe this should go to a committee. It appears to me, and it has done right from the beginning, that we are using a sledgehammer to crack a nut. There must be a simpler way to achieve the outcome we are looking for. I do not have that on good authority. I certainly cannot say that is exactly the case, but I have been led to believe there are simpler ways of dealing with this matter. If so, would not a committee be the appropriate place to explore that, rather than trying to do it on the Floor of the House, through

the Committee stage, with amendment to amendment to amendment? That gets pretty untidy, particularly if it is later at night, when people are starting to get tired and the focus is not 110 per cent, which is what we hope to have most of the time. We should get a better outcome.

A comment was made about months of consultation before the bill went to the lower House. I was not aware of months of consultation with community stakeholders before the bill arrived in the lower House. I first knew of it when it came to the Chamber through the process we all know about.

My consultation has been with the general public over the Christmas break. Possibly there are people who do not understand, but I have not felt in a position to make any clearer what we would be passing. We have 50 pages of amendments. We do not know how they may affect the bill we have in front of us or how they may affect other bills.

I cannot explain that. I will be looking to have a committee process. The member for Murchison should be very proud of the committee process. She really drove it in this parliament. It has worked very well in the past. I do not say that it is the be-all and end-all, but in this instance, I think it would be very beneficial. I support the member's motion.

[4.03 p.m.]

Mr VALENTINE (Hobart) - Mr President, I understand the member for Windermere's motion to defer this legislation, but in this instance, it is the number of people who are affected. I think the member for Rumney pointed out that people have ideologies - they are either ideologically opposed to this or they are for it.

You could give it another six months of consultation and their positions would not change because they are ideologically opposed to what is trying to be agreed upon. What happens if you do that? People waiting for these things to pass are then continually bombarded with hate mail, posts on Facebook, and their kids are living their lives without being able to truly identify with the gender they are putting up with. All that is heaped on them, simply because we are not getting on with this bill.

I think you made the statement that pollies are insulting the intelligence of the public. I recall, back in the same-sex marriage debate, that over 70 per cent of Tasmanians supported that bill. I think Tasmanians appreciate there is a need to deal with these sorts of matters before us. Yes, we will have a difference of opinion as to how long we need to examine the legislation, but it is important.

Regarding consultation, I was told these matters were brought to the Government some two years ago but that the Government chose not to deal with them, for whatever reason, and that is its right. If the Government did not want to deal with them, that is fine to some extent, because of its party position. The fact is the Government could have consulted and the consultation could have been well out of the way. In this debate we are seeing this profiling in the community and people are being harmed by putting this off.

That is the thing that gets to me. That is why I would not want to see this put off any longer because of ideologies. We have to deal with it. It is either right or it is wrong. Yes, there are always going to be amendments. I was looking through the list of bills dealt with during 2018 and two-thirds of them were amendment bills - 40-odd out of 60-something, if you go to the website and look.

We are amending things all the time. Even in the original bill that the Government brought into the other place, there was a period of 90 days to make changes. This is no different in that regard. You are never going to get any bill perfect. We know that because amendment bills keep coming to us. It is never going to be perfect.

Madam DEPUTY PRESIDENT - Every year we get a justice and related legislation bill and a tax and related legislation amendment bill.

Mr VALENTINE - We are concerned to get it legally right. That is why so much effort has been put in with the Office of Parliamentary Counsel - to make sure that we do get it legally right. If you remember, we had a briefing on this bill prior to Christmas and some real concerns were raised. A number of us have sat down with OPC -

Mr Dean - But you still wanted to push it through then, despite those concerns.

Mr VALENTINE - No. I beg your pardon - I wanted to deal with the Office of Parliamentary Counsel. We wanted access to the OPC; that was not granted in the first instance. Can you remember that?

Ms Forrest - We are being verbaled here. I actually sought OPC access legitimately, through the proper channels, and I was denied it until a point came when it was too late to do it, and that is why it was delayed. That is the explanation.

Mr VALENTINE - The other point was about the Tasmania Law Reform Institute. Yes, they will receive a reference and they may accept a reference, but they are not going to do the research while the bill is before the House, as far as I am aware. That is what I am told. Even if you put this off and go to a committee, TLRI will not act on that until such time as the bill is away from the House. That is what I am led to believe, unless someone can correct me.

Ms Forrest - That is correct.

Mr VALENTINE - It really concerns me that it provides a greater opportunity for vilification. The people who are affected by this simply want to know what the parliament is going to do. We will listen. Everybody here will listen to debate, they will listen to amendments and go through the bill, as we normally do. It might not get through. If it does get through, there is always that 90 days. It is never going to be that exhaustive. Even with the briefings we had this morning, there has never been an exhaustive search of the acts. It was not even undertaken for the original bill, I believe.

Ms Forrest - I thought it was for the amendment act from 2001.

Mr VALENTINE - No, I am talking about the original bill we are dealing with now. There was not an exhaustive search to find all of the acts that needed changing as a result of the original bill coming into the lower house. We are never going to get things perfect. I find it hard to believe the committee would be wanting to trawl through all the bills under the sun. That is all I have to say. Because of the ideologies involved, I do not see any benefit of having it pushed further and further out. We either agree with the ideology or we do not. That will be made clear when the vote is taken in this house and there will be some time for operational matters, which always come out when you change technology in departments when new systems are being brought in.

Operational changes are continually being made. The legal aspects were told to us this morning; I do believe they can be addressed in the fullness of time and no doubt there will be some people going to the statutes and making sure we have other amendments coming forward to correct issues, if there are any.

I note something in the order of 15 countries have done this before us. It might be new in Australia, but it is not new internationally.

[4.12 p.m.]

Mr GAFFNEY (Mersey) - Mr President, there is an email from Ms Banks for the member for Windermere so he might want to read that.

Mr Dean - I have read the email.

Mr GAFFNEY - As long as you have the email from her.

I will not be supporting the member's motion due to the fact that the bill before us was passed downstairs by 13 members, Labor, Liberal and Green, to get to this place. Therefore we are faced with the situation we have to address the bill in front of us. All laws can be challenged. Not long ago in this place we passed the anti-protest laws. Five of us voted against it and nine voted for it and it was found to be wanting when it went to the High Court of Australia. All laws can be challenged.

The member forgets there are always amendments that come to this place as we get new information. It was interesting this morning, listening to one of the speakers in the briefings who was not aware of parliamentary process and how that works, how our amendments will impact other amendments - no wonder some of the changes have been made. I acknowledge the members for Murchison, Launceston, McIntyre and Windermere who are able to give us as much information about their amendments as early as they can. Especially the member for Murchison, whose amendments we received four or five weeks ago.

Ms Rattray - I could not send mine on until after the member for Murchison.

Ms Forrest - That is why I sent early.

Ms Rattray - That was because OPC did not know how to deal with it until the other one was completed.

Mr Valentine - Mine were gazumped by others.

Mr GAFFNEY - When we adjourned this debate prior to Christmas, we made it very clear to everybody here that this bill was going to come back in this sitting and was going to be debated. We met in January to get our ducks in a row, so it would be a streamlined process to ensure that when we came here we were not repeating amendments. It was building on one another. It has been a different process but this is the place where we find ourselves. Now I am concerned we are thinking about putting it off to a committee to delay the process once again. The TLRI is not going to deal with it as a committee; as the member for Hobart alluded to, it will not do that. This is the situation we find ourselves in.

As we know, committees comes back with recommendations the current Government either takes on board or does not. There is no guarantee with any recommendation that comes back. If it does not satisfy the government of the day, it is not going to advance those recommendations. Why not be the group that breaks new ground? Why not be the group that goes into new territory?

I think it is really important this place is not just seen as the House of review. I do not believe that my role in parliament is to review somebody else's work. My role in parliament is to make sure that it is proper, is innovative and helps the marginalised groups in our community who do not get a voice.

That is what is happening at the moment; we are marginalising a group that does not have a voice in this place. It does not mean this bill will pass in its current form. It may not get through, but it means it can be dealt with now so that the group of people we know are being affected can go forward and get on with their lives.

I am not supporting this motion because there are groups growing out of this all the time. One group we listened to this morning, the Tasmanian Coalition for Kids, does not include all our kids. It does not include the trans kids. That is a really important point of view that we have to get through; in this place it does not matter if it affects just one person, legislation has to be equitable and has to be fair.

For that reason, I look forward to the debate we probably will not be having until next time we sit. Regardless of your point of view, I hope we do not delay this process by putting it off to a committee. That would be an insult to the people who have sent us their thoughts and have contacted us on both sides. I will not be supporting the motion.

[4.17 p.m.]

Ms ARMITAGE (Launceston) - Mr President, first, I would like to state to the member for Hobart that I am not ideologically opposed to what is happening here. I will support anything that is without -

Mr Valentine - Through you, Mr President, I wasn't referring to the members around the Table.

Ms ARMITAGE - That is all right. I will support anything, without known unintended consequences, that discourages discrimination and assists marginalised people in our society, whoever they may be. We have inquiries all the time to make sure we get legislation right. We receive bills all the time from the other place that we find we have to send to committee. We often say in this place that they just send things up to us for us to fix. I am sure every member here has said that at some stage about the other place.

We do, on occasion, find that legislation we have passed is flawed and needs amending. We do that, but at the time we passed it, we were not aware it was flawed. That is the part I am struggling with. When we pass legislation found to have problems, we are not aware of those problems at the time. That is my concern. We have been told by senior legal people in this state that this legislation is flawed and is likely to cause unintended consequences to several state laws.

I am concerned that unintended consequences will apply to the very people we are trying to help. I think that is really important. I feel very much for them. I understand how the parents feel. They have spoken to us; they are talking from a personal point of view. These are their children.

Of course they want this fixed as soon as possible, but they do not want any unintended consequences either. They want to make sure that when it is done it is right.

Personally, I would like people to have something other than a birth certificate that they could use so that they did not have to go through any of that. When you are going for a job or to school, you could have some form of identification that says 'This is my name, and this is my - whether it be gender - something'. We would not have to muck around with birth certificates.

Mr Valentine - That identifies them.

Ms ARMITAGE - That identifies them legally instead of a birth certificate.

Mr Valentine - That is what the problem is.

Ms ARMITAGE - I realise that. These are the things we do not know. Perhaps these are the things the committee could look at. It has been mentioned that this bill has been sent to the Tasmania Law Reform Institute, with it reporting later in the year. I think that is a good thing.

The member for Rumney said that people are opposed because of misinformation in the community. I think we have all spoken to people; we have had that period. We have already seen lots of emails both sides, but I do not believe the Solicitor-General nor the President of the Tasmanian Bar are confused. They know what they are talking about. I do not think they are confused with this information. I really do not. When they come and talk to us, they are actually aware of what they are saying. They are the people I am referring to, not the people who think something is going to happen because of a birth certificate or not a birth certificate, but these people who say this is flawed.

We have repeatedly been told there could be unintended consequences, and my question is: can we ignore them because we know better? Well, I do not know better. I am not a lawyer. I do not know better. I have tried to put a few amendments up that hopefully will help the bill - the amendment to do with changing gender that is not reassignment surgery, but not nothing. I simply tried to put a few up. My preference is to split the bill and make sure we have this other part of the bill correct and right.

I understand the urgency for many in this state who are affected, but as we were told this morning by Chris Gunson, the President of the Tasmanian Bar, we need good legislative processes. It is better to get it right the first time.

Why would you pass potentially problematic legislation? As difficult as it is, a committee is the correct process.

[4.21 p.m.]

Mr ARMSTRONG (Huon) - Mr President, as one member mentioned: who has an interest in this? It is a very small minority group. Every Tasmanian who has a birth certificate has an interest in this legislation - everybody who has a birth certificate. I will support the motion by the member for Windermere for a committee because we need to go out and have further consultation. The number of emails I and other members have received has been enormous. A committee process will gather the information, then we can come back and make good legal legislation. I will support the committee.

[4.22 p.m.]

Mr FINCH (Rosevears) - Mr President, reflecting on the process we have been through up to this point, it has been interesting this issue came to most of us in November. We are now in the middle of March, but it was signalled in early 2016 that this was going to be an issue the community and lawmakers in parliament should embrace. Then all of a sudden we have a situation where we do not understand what is going on with this. If I look at my own experience, in November we had discussions, debates and briefings that opened up a Pandora's box; then we had the rest of November, December, January, February and now we are in the middle of March. Not a day has gone by in that time when I have not thought about this issue.

I have spoken with Archbishop Porteous, who briefed us. I have spoken with Launceston Christian School and the Australian Christian Lobby. What research I have needed to do, I have done in that time to understand as best I can the facts of the matter so I could present how this has affected me and how I feel about it. In my contribution to the second reading debate, I referred to how I feel about the people who are affected and how we go about the business of developing our legislation that will have some satisfaction from what we produce here.

As members all know, we have had the opinions from both sides, and if you have not the information now, you will never have it.

Mr Dean - That will come back to haunt you.

Mr FINCH - Why would it haunt me? I am making a statement. What would you do with that information, member for Windermere? Why would it come back to haunt me?

Mr Dean - When we start looking at other bills, with suggestions being made for further consultation.

Ms Forrest - You cannot reflect on a member's previous votes.

Mr FINCH - Are you going to tell me about the member from my electorate who trawled through all my speeches and found a reference I had made to unintended consequences five years ago? That is what we are dealing with. That is true, as I stand here - trawled through my speeches to find where I had mentioned unintended consequences. That was the big stick that was bong, bong, bong at me to say, 'You have spoken about unintended consequences, why are you not thinking about them now?'

Mr Dean - Who was that?

Mr FINCH - I will not mention names - the person who knows will be watching and will know who it is. I can tell you privately, but I do not have permission to reveal the person's name.

Enough of the diversion, member for Windermere, because we did not divert you too far from what you were trying to say when you were trying to put your thoughts together over a very elongated time. I thought you were going to keep going until seven o'clock. This will give us some indication of what we are going to put up. I realise, Mr President, that I am digressing. This is an indication of what we are going to put up with when we get into the Committee stage of this legislation. 'Filibuster' is the key word we are going to have - filibuster to elongate this out. Good, okay, I do not mind because what we have to do is get this on the Floor of parliament and get the

debate going. We need to have the amendments up before us so I can hear the arguments you people are going to put forward, whether they make sense or do not, so I can vote accordingly.

Bring the amendments on. I know people have worked hard on them, so I am looking forward to what people have promulgated to convince us we should come to their way of thinking. That is the process we should be heading to now; that is our job and what we do. We do it here on the Floor of parliament and take the evidence. Now, if we have concerns about our amendments, we can call in Chris Gunson to give us another briefing or the Solicitor-General to give us further information rather than sending it out to a committee. We all know where a committee is going to go and it will take a long time. I do not think I have been on a committee yet that has done a deliberation under 12 months.

Where does that leave our people who are urging us to move forward with this debate because they are suffering? It is a plea from them to do it. I am prepared to push forward and I am not thinking of the end result - I am thinking we have to do our job and make sure we are doing it as efficiently and effectively as we possibly can. This means we start the debate now, not stalling and putting this off. We have to take action and, as I have mentioned to the Leader, we need to when we come back because we are not going to make much progress with our second reading speeches at the moment. When we come back, we need to make a start as soon as we can and work as diligently as we can to make sure we cover all the nuances, the misinformation and the truths, and get all of that right here on the Floor of parliament.

We do not need to go to a committee to achieve what we need to achieve to get a result with the facts of the matter.

Mr Dean - Do you know what the unintended consequences are then?

Mr FINCH - That is quite a ridiculous sort of thing to say. When we get into the Committee stage we will explore and investigate the amendments that come forward to try to achieve a result, and we will explore the unintended consequences that may occur. What the hell do you think the Committee process is all about in this House? It is about trying to cover the unintended consequences. Sometimes you win; sometimes you lose. You have been here when we have had unintended consequences occur.

Mr Dean - Are we going to have the Solicitor-General here during the Committee stage? Are we going to have Chris Gunson here?

Mr FINCH - We can make the request to the Leader if we get bogged down in the Committee stage. I do not know, when we have had contentious -

Mr Dean - Come on, be fair.

Mr FINCH - Do not start to get ridiculous by interrupting just for the sake of it. When we have a circumstance where debates need to occur, we seek the Leader's help so we can clarify what our amendments mean. We have a briefing and we do that; that is where we start to do our work as legislators.

To save the member for Windermere continually interrupting me, I will say now that I am not supporting his motion.

[4.31 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I want to put on the record the opinions of the Government. Our opposition to the bill is predicated on the critically important need for our laws to function as they are intended. We need for them to be developed and executed in a way that they deliver a clear policy intent and that they are thoroughly consulted wherever possible.

I ask members in this House to please consider this motion based on the need for there to be proper process, proper consultation and good law reform and legislation. We cannot support a bill of this magnitude in these current circumstances without the TLRI's findings or a committee's findings. To give an update, the TLRI has accepted the reference and preliminary work is underway.

Nobody wants poor law reform. What we have here is fundamental changes to an important document. As we have heard, it needs to be properly considered and it is the responsibility of this House to allow that consideration. It is important that we do not inadvertently do anything to undermine the integrity and security of our birth certificates.

It is important we ensure that any legislative amendments affecting birth certificates are carefully and thoroughly thought through. No Australian jurisdiction has removed gender markers from birth certificates. Like it or not, these issues are contentious. What is proposed is a fundamental shift in how the state manages issues of sex and gender. All Tasmanians have an interest in that.

The Government acknowledges that the reform proposed in the amended bill is important to many in our community. We know these are sensitive issues and we want the matters before us to be considered properly through a specialised law reform process.

Members of the Council have heard from individuals whom this legislation is intended to support and their families, as well as advocates for the broader LGBTI community. I know that those stories are compelling and emotional, and that some in the Chamber are minded to do what they can to support those people.

If members of the Council are not minded to allow the TLRI to respond on the issues before making a decision, dealing with it through a committee may be a better option. The Government will certainly not be opposing the motion.

Mr Valentine - Mr President, can you clarify whether the TLRI has the bill?

Mrs HISCUTT - It has accepted the reference and started preliminary work.

[4.34 p.m.]

Mr WILLIE (Elwick) - Mr President, the Leader might be able to do this through interjection; I will certainly pursue it in the second reading. What referral has been made to the TLRI?

Mr Dean - I have told you the terms of reference.

Mr WILLIE - I was about to explain my understanding, member for Windermere, that the TLRI is not conducting an inquiry into the bill; it is looking at criminalising unnecessary intersex

surgery, which is not in the bill, and what regulations are needed if the current bill passes. Can you confirm whether that is correct, Leader?

Mrs Hiscutt - I will have to seek that information.

Mr WILLIE - I will certainly pursue it in the second reading because you have been very ambiguous in what you are saying has been referred to the TLRI and I would like some clarification around that. I think it has been a deliberate attempt.

Mrs Hiscutt - I have said they have accepted the reference so what you are asking is: what are the terms of reference?

Mr WILLIE - No, I am asking whether you can confirm the statement I just read out.

Mrs Hiscutt - Read it out so I can hear it again.

Mr WILLIE - The TLRI is not conducting an inquiry into the bill; it is looking at criminalising unnecessary intersex surgery. What regulations are needed if the current bill passes?

Mrs Hiscutt - The terms of reference have already been read out by Mr Dean, and they have been accepted.

Mr WILLIE - The terms of reference as read by Mr Dean are what has been accepted?

Mrs Hiscutt - I am led to believe that is correct.

[4.36 p.m.]

Ms FORREST (Murchison) - Mr President, I was not going to speak but I will, briefly, on this point and make a couple of other points. This does need to be clarified; we might not be hearing the full story here. I understand the TLRI has a policy not to inquire into legislation currently before the parliament. I also understand, and have checked myself, that the terms of reference for this alleged inquiry are not published on the website, so I do not know where the member for Windermere got them except perhaps from the Government. Where else would they be? They are not published.

This disingenuous stuff that is going on at the moment, and some of the mistruths that are being spread about a whole range of things by some people who would prefer to see this delayed further, is very disturbing. People being verballed - and I expect the member for Windermere may respond to a request to have the record corrected on that - is unacceptable.

Mr Dean - I did not bring them anyway, if that is what the suggestions are.

Mr PRESIDENT - I understand the member for Windermere has the right of summing his motion up. Rather than interrupting at this stage, it may be best, if you wish to say anything in relation to that, that it is stated during the summing up.

Ms FORREST - Mr President, it is very distressing when there has been consultation undertaken with TLRI that has directly suggested this is the situation as I have described. We are hearing different accounts from the Government and other members; if that is what people are hanging their hat on, I think we are on a fine line here. The principle of this legislation that we are

dealing with right now has been on the Table for some time. It has been consulted for many years. The current Attorney-General and previous attorneys-general have had discussions with the transgender community and others for a number of years on this. It is not that it has suddenly appeared as an issue.

Three other states have already removed the requirement for sexual reassignment surgery already. The Commonwealth has already dealt with that in terms of its passport applications and issuance. If, as I believe, the policy intent is sound, I hope we will get to that in a later time. The main issue with the policy intent is that the amendments that have been drafted do not alter the policy intent. The member for McIntyre says that it may be done more simply. If it could be done more simply, OPC would have done it more simply. They are not into writing reams and reams of legislation for the sake of it. I do acknowledge the work of Robyn Webb in OPC. We have worked for hours and hours to make sure that it is right and reflects the policy intent, and does not have those unintended consequences by inserting things such as transitional provisions, additional time for the registrar to get the work done that she would need to do, and other matters relevant to that.

I do not support the referral to Government Administration Committee B because this has been consulted widely. In fact, I was going to mention in my second reading contribution that the previous attorney-general, our own member, the Honourable Vanessa Goodwin, was in support of a number of these changes. Unfortunately, she was unable to proceed with them. Let us show her some respect.

[4.40 p.m.]

Mr FARRELL (Derwent) - Mr President, it is no surprise I do not support sending this to a committee. I proposed to do the same with a piece of legislation some time ago to get my head around bits and pieces of it, and it was severely beaten in that wish. We went ahead and proceeded.

I am really not surprised we have come to this point. You could almost see it unravelling from the start of the week. Although we always appreciate briefings, many were a rehash of previous briefings. The intent of the briefings was to have more response to some of the proposed amendments so we could move forward with the piece of legislation before us.

Rightly or wrongly we have ended up in this House with something we need to sort out. There are a number of issues with this. Rightly or wrongly it has to come through this Chamber, then as an amended piece go back down to the other place to be ratified down there and passed if that is the wish of the members.

There is a level of hypocrisy with the quotes around passing good pieces of legislation. Other members have mentioned it - I am only harping back to this legislation to make a point - but we were told by several legal authorities on constitutional matters about the anti-protest laws. We were told about this and we were told about the consequences, but we decided to pass a particular piece of legislation that later unravelled in the High Court of Australia.

If we are passionate about some issues, we can push things through, then we have to treat everything fairly. Some comment was made about this particular legislation only affecting a small number of people. Well, when you look at the people this legislation affects, it is probably a similar number to the timber workers in the bush who were affected. I am not decrying timber workers in the bush being protected, in case anyone thinks that is a path I am trying to go down, or wants to misquote me. It is vitally important. But this affects many people. It is not only the people directly

affected - it is families, relations, schools, all sorts of things. We have to make sure we do not say things like it is only a small group of people because that lessens the value of the bill.

I have thought over the past few years we probably do not do enough work in this Chamber as far as doing the work inside the Chamber. I know we all work very hard, but we do a lot of things outside the Chamber. Many of our briefings are held elsewhere, so there is no real record of what we have learned. In the same way, even though a committee is another process and it is generally open to the public, it is not something put down through the Chamber process. We really need to be very careful going forward.

When we left off this piece of legislation, more than 100 days ago, there was, I thought at the time, a genuine wish and commitment by the Government that we would come back and handle this. There are people who have to deal with issues around this legislation on a day-by-day basis. Every day we delay it there is another day of pain and heartache for Tasmanian people. I do not think we should be following the trend we see in the rest of the world where divide and conquer seems to be the big thing. We should be uniting people and trying to make an understanding. I cannot understand why some groups based on love and understanding are the ones that are very fearful and scared of some of the issues raised in this legislation.

We are elected to this place to make decisions. That is why we are here, otherwise we would have some all-encompassing citizen ballot system. Sometimes we have to proceed with what is ahead of us. It is done in a proper process on the Floor, members make their decision -

Mr Dean - Even though it is probably flawed and has unintended consequences?

Mr FARRELL - Do you remember the forest protest bill? We had several briefings on that.

Mr Dean - We had a full committee in this place. Except one. Sorry.

Mr FARRELL - No, that is the wrong bill. That was the TFA. I am talking about the bill we had early last year.

Ms Forrest - The protest bill.

Mr FARRELL - All sorts of legal minds told us that this bill was flawed. It still passed through this place. It went to the High Court; it failed in the High Court. People sued and got money. That is how it happened. While it was all right for that, as that may have been closer to some members' hearts than others, we cannot make a ruling for one piece of legislation and not a rule for another piece of legislation. This is just something -

Mr Dean - Who was telling us this legislation was flawed?

Mr FARRELL - We had legal experts -

Mr Dean - Tell us who it was.

Mr FARRELL - I can get the bill. I will take that on notice, Mr President. I remember at the time that we had a number of briefings.

Mr Dean - Without that good advice, I would never have supported the bill.

Mr FARRELL - You must not have been in the briefings. We were all in the briefings. We went to the old committee room back then. It was not one of the new flash ones.

Mrs Hiscutt - To change the subject totally, would you permit me to read in the terms of reference for the TLRI while the member is on his feet? I mean to help you.

Mr FARRELL - What, through interjection? I seek your learned knowledge, Mr President.

Mr PRESIDENT - The honourable Leader does not have the Floor. The member has the Floor. If he wants to ask her that question, he can. But it is up to him. He is in the driver's seat.

Mr FARRELL - Thank you, Mr President. My colleague, the member for Elwick talked about the terms of reference for the Tasmania Law Reform Institute. I was wondering if the Leader might be able to clarify the terms of reference.

Mrs Hiscutt - Thank you for your question. The terms of reference are -

- (1) What steps should be required to register a change of sex or intersex status on official documents?
- (2) What categories of sex/gender should be displayed on a birth certificate and other documents?
- (3) What, if any, reforms should be made in relation to consent to medical treatment to alter a person's sexual gender?
- (4) What, if any, reform should be made in relation to definition or use of terms related to sex and/or gender in Tasmanian legislation?

Thank you.

Mr FARRELL - Thank you, Leader, that makes it a lot clearer in my mind and in others' minds.

The other thing with the committee - I wonder what we are going to source. I could read out quotes from the newspaper but I am not a fan of that. In many cases newspaper articles are journalists' opinions and are not always properly researched. The newspapers quoted, *The Australian*, *The Examiner* and the *Daily Telegraph*, have never been referred to as left-wing publications and would probably sit a bit over on the other side. I can stand up here and quote information from different people supporting my argument, but it needs to be fairly considered as a whole picture. I would much prefer to see this Chamber work as it is meant to work with a piece of legislation which has been presented. We do our second reading speeches; if is agreed, we go into a Committee process and work through the amendments and come out with something at the other end.

The longer we drag this on, and I have a feeling in the back of my mind that once we have the committee, we might have to refer it to something else somewhere else -

Mr Dean - That is a possibility.

Mr FARRELL - That is what I am thinking -

Mr Dean - To get it right. Is there anything wrong with that to get it right?

Mr FARRELL - Do we do it with every bit of legislation?

Mr Dean - If we are told by people with the knowledge and background.

Mr FARRELL - When I was in government, it was not always the case with the things we put but, anyway, that is my memory. I will not be supporting the committee, Mr President.

[4.51 p.m.]

Mr DEAN (Windermere) - Mr President, first, I thank members for the robust discussion. There is nothing wrong with this provided we do not become personal. That is a very important part. There is nothing wrong with this to get our point across. On that I will make a comment quoting an email sent to me by Ms Robin Banks at 3.56 p.m. I quote -

I want to clarify that I did not indicate I agreed with or disagreed with the SG's advice. I made it clear, I thought, that I couldn't comment on the SG's advice as I had not seen the SG's advice. What we have all seen is at best a paraphrased version of the SG's advice.

I ask that you correct the record.

It is signed Robin Banks, PHD candidate, Faculty of Law, University of Tasmania.

If I made any statement that was not correct, I would certainly withdraw it and make sure I got it right. I did ask the question and my words were: was she challenging anything the SG had said in that letter? I had difficulty phrasing my question properly because it was a letter from the Attorney-General saying what the Solicitor-General was saying or supporting.

I will make a few comments on what some of the members have said going through this. The member for Rumney - by way of interjection I tried to get her to go through who the stakeholders were in this matter. I see a number of stakeholders in this matter. Certainly, she was right. The trans movement, the transgender people, are very important stakeholders. There are no bones about that. Also, do you not see the Education department is a very important stakeholder in this? Do you not see police are a very important stakeholder in this because of the things they will have to work with and deal with? You do not. I am wasting my time going on, I will not even continue to go down that path, Mr President.

Women's groups: you do not see them as a stakeholder?

Ms Lovell - We have heard from many women's groups.

Mr DEAN - Do you see women's groups as being stakeholders in this case?

Ms Lovell - Not in the reform that is being presented.

Mr DEAN - You do not see -

Ms Lovell - Women's groups will not be affected by these changes in any way that they are not already impacted. We have heard from women's shelters; we have heard from the Women's Legal Service. We have heard from women's health. None of these services will be affected by the changes. They are already providing services to transgender women.

Mr DEAN - I am wasting my time.

It goes on, Mr President. A number of stakeholders in this process ought to have been consulted in moving this bill forward. Statements have been made that people are being harmed by this being put off. My position is that if we get this wrong, if this bill is not right - and that is the information we have been given. Again, I refer to the Solicitor-General and Mr Gunson from the Tasmanian Bar. They are saying that it has and will have a number of issues that are very risky. I think they used the word 'risk' in their statements.

Let me quote the letter written to us by the Attorney-General, which the Solicitor-General told us this morning was accurate -

It is the Solicitor General's advice that the effect of a number of the proposed amendments, if passed, will bring a risk of serious and unintended legal consequences.

This morning he agreed that was his position -

He has indicated they will affect the interpretation of all Tasmanian legislation that has, as a criterion for its application, the sex or gender of a person.

There are not too many acts of parliament that the police deal with that do not have the sex of the person as a criterion. If we look at the Criminal Code, with all those sexual offences, charges of defilement and so on, I assure you the police have a huge role to play in dealing with this. He goes on to say -

Based on an initial review of Tasmanian legislation, the Solicitor-General has been able to provide me with three examples of the reach of the amendments, though he hastened to add that there are no doubt more.

He goes on and agrees with the next statement too. The next paragraph in this report states -

First there are a range of statutes that provide that full searches must be carried out by a person of the same sex as the person being searched. This is likely to cause difficulties if the person to be searched is registered as non-binary, indeterminate, or by some other word or phrase used to indicate the person's perception of self, neither entirely male nor female. In those categories, the power of search is likely to be compromised or negated.

I will not go on any more. I seek leave to table that document.

Leave granted.

Mr DEAN - A comment was made along the lines of 'we will not get every bill perfect' -

Mr Valentine - I think I made that comment; I will own up to that one.

Mr DEAN - Of course, we will not. But in these cases, we are never aware that there are problems. We are never told that there are possible or real risks of problems with a bill. We do not plough on with the knowledge that there are real risks and problems with that bill. In this case, we know.

Mr Valentine - That why there is a 90-day period.

Mr DEAN - We are told by the second most powerful legal officer in this state that there are real risks with this legislation. We know it. I am not about to move forward and pass a bill knowing that. I am not going to do it. I will not do it.

I think the TLRI issue has been cleared up. Members raised it and the terms of reference -

Ms Rattray - I do not think it has, honourable member. Another email has come in. But we will not talk about it.

Mr DEAN - I take a little umbrage that it was suggested that what I was quoting was incorrect. The member for Murchison made a comment about that as well. I asked for the terms of reference to the TLRI. Did the member for Murchison ask for the terms of reference to the Tasmania Law Reform Institute? Maybe she will answer that. I did and I got them. I have no doubt any of you could have got those terms of reference.

The suggestion that I was being favoured, or however you might want to put it, is an absolute nonsense. I worked hard to get those terms of reference. I worked hard to get the report from one of the senior barristers in this state, Chris Gunson. I worked hard to get a position from the law association as well, but I was not successful.

Mr Finch - Mr President, I am a little confused and I seek some clarification. The honourable member has the terms of reference that went to the TLRI, but did not somebody say they were not going to proceed with the terms of reference? That there were only 'other areas' that they were going to explore?

Mr DEAN - I think the member for Elwick was suggesting that some other statement was made to them. Maybe he would like to correct that or tell us what it was all about. He could do that by way of interjection. He was suggesting that something was amiss.

Mr Willie - I was asking the Leader to confirm the statement I read out.

Mr DEAN - What was that statement?

Mr PRESIDENT - The Leader read out what the question was.

Mr DEAN - Yes, she did. The terms of reference. Where did the member for Elwick get that from?

Mr Gaffney - The terms of reference the member read out were not the same as the ones we received. I have some confusion. Where were your terms of reference, which were different to mine?

Mr DEAN - No they were not. You tell me where they were different. I followed our Leader when she read them out. They were word perfect.

Mr Gaffney - My apologies.

Mr DEAN - Check the *Hansard*. Absolutely word perfect, I can assure you of that. If they were not, I would have challenged the Leader.

A lot of suggestions were made about my integrity and the integrity of others, which really concerns me.

The member for Rumney mentioned misinformation being distributed. Misinformation was distributed by all sides. Some misinformation - I am not saying deliberately and/or not - has been given by other people as well. For instance, there was a reference by the trans movement to the Western Australian and Northern Territory positions, comparing them with Tasmania. There are vast differences. People have said to me that they understand that the Northern Territory's position is the same as ours, and they have passed theirs. They understand that Western Australia has gone through exactly the same process we are going through, and it could be passed there as well.

That is not true. What they are saying has been passed on by the trans movement. There has been misinformation passed by both sides. There are two sides here, not just the trans movement. There are the people who make up 99 per cent of the other group or thereabouts; there are two sides -

Mr Valentine - The information received from the trans movement was about the removal of the need for surgery to be able to change the birth certificate.

Mr DEAN - We might have received that also. I am simply saying there has been misinformation passed; I am not saying it has not been passed by those outside the trans movement.

Ms Lovell - It is also possibly the information was correct but has been misinterpreted.

Mr DEAN - But you would agree it has been passed by both sides?

Ms Lovell - No.

Mr DEAN - Not at all? You would not agree at all there has been misinformation passed by -

Ms Lovell - Is this is your contribution?

Mr DEAN - Oh dear, oh dear.

Ms Lovell - I have not seen any misinformation.

Mr DEAN - Well, I have told about some - check up what has been said. It might have been Martine Delaney and others. That is because you do not want to. You give me a reason you have not heard of any.

Mr Valentine - I think for the member to verify what he is saying -

Mr DEAN - I am verifying what I am saying; I have referred to one case.

Mr Valentine - Misinformation - I would be interested in seeing it.

Mr DEAN - I have referred to one. I referred to others in my speech on misinformation, not only by them but also by members. Incorrect information has been passed; despite opportunities to correct it, that has not occurred.

A number of members have said today this matter has been consulted on widely. If the criterion for consulting widely is to simply know about a bill, that bill has not been circulated widely. We know in this case, through what the previous anti-discrimination commissioner did, that the bill was sent out for consultation for seven weeks and only about 23 submissions received. This really does identify questions to me as to why there would only be 23 submissions. Why were they not publicly displayed? Why were they not on the public record for us all to see? Why was a report not done? Now if all you people are saying that process has had sufficient consultation, I do not think we will ever send any bill that comes into this place back for further consultation or for committee or so on. Do not think it can ever happen, if that is not demonstrating and supporting hypocrisy -

Mr Armstrong - What year was that?

Mr DEAN - In 2016, three years ago.

Mr Gaffney - Sorry, are you talking about the anti-discrimination officer's report?

Mr DEAN - It was the report by anti-discrimination commissioner, Robin Banks, which was sent out for consultation.

Mr Gaffney - I thought she explained it was a very personal information for her to collect and for trans people to provide without fear of their submissions being -

Mr DEAN - So you are saying there was no consultation and it only went out to a select group?

Mr Gaffney - I am not saying that at all. What I am saying is that you need to be careful, and you are saying that there might have been a reason. You need to contact the former commissioner and ask why they were not.

Mr DEAN - I took it from the report. What I am saying, I took from the report. It was a report coming from that office, so I did not think I needed to ring and confirm that with the commissioner, either the former or the current one.

Mr Gaffney - I think it is to protect the people involved in it.

Mr DEAN - It came from an official report. If I cannot accept that and believe the content of that, I am not quite sure -

Ms Forrest - They do not publish all the statements of victims of sexual abuse online from the Senate inquiries either.

Mr DEAN - I have just looked over the back of my chair. I ask members to look across the back of their chair at the number of amendments on the Floor. I am very pleased that we did not

shut forestry off completely because there is about two trees' worth standing behind us in paper, in amendments. It is a huge number of amendments. Have a look before you leave - it is amazing.

Mr President, I want to make this statement, for myself and where it has been attributed to other members who have put forward some support for this motion before you. My position, and their position - they will correct me if I am wrong - is not about holding up the bill at all -

Ms Rattray - It was referred to as stalling.

Mr DEAN - Or stalling. I get annoyed at that. They throw that up, 'The reason you are doing this is to stall the bill'. As if the facts we are putting forward are made up, not accurate, not right, not worthy of discussion or debate, that we are making it up just to stall this process. I get quite annoyed at that. It is an attack on our characters.

Mr Gaffney - No. The debate can be held here, in this Committee process. It does not have to go out to an external process.

Mr DEAN - If you are saying I am deliberately trying to stall this -

Mr Gaffney - No, I said that if it goes to a committee, it will be stalled. It will be a long process. I am saying that in this Committee process, here, we can deal with it. It is nothing about questioning the integrity of the members who are asking for it to go to a committee. That is wrong.

Mr DEAN - Mr President, I can assure you there is no desire on my part to slow this process down or to stall this process, not at all. By it going to a committee, that is not my intention at all. It is my intention to get good, robust, strong legislation, and for us to be able to sign off on that position. I said prior to Christmas that I would dearly like to see legislation coming through here in due course that we can all support. I think the member for Huon might have said that as well. Legislation that we could all support would be a great move to go forward with. I will not be able to do that with the advice I received this morning.

Ms Rattray - I appreciate the honourable member's putting my thoughts on the public record. I am on committee B, so I know how much work there is.

Mr DEAN - I thank members for their comments. I do not thank members for suggestions that things were not as they should be, but anyway. This motion is to ensure that we can move forward with confidence that we are dealing with a bill that is robust, that it will meet all the intended requirements from that bill, that it will not impact unintentionally on all the other legislation that we have around, and that it will not cause problems in those areas. That is the reason for this.

With that information having come from very learned people indeed, I am not about to question their position until I can at least inquire and have a good look at it. I certainly have not been able to. I can assure all members in this place that I will be putting my name clearly in divisions on just about everything that happens in here on this bill. I can read the numbers around this place. I do not need to be a Rhodes scholar to do that. I am not.

Having said that, I put the motion to the members and ask that they support the motion.

The Council divided -

AYES 6

Ms Armitage
Mr Armstrong
Mr Dean
Mrs Hiscutt
Ms Howlett (Teller)
Ms Rattray

NOES 8

Mr Farrell
Mr Finch (Teller)
Ms Forrest
Mr Gaffney
Ms Lovell
Ms Siejka
Mr Valentine
Mr Willie

Motion negatived.

**JUSTICE AND RELATED LEGISLATION (MARRIAGE
AMENDMENTS) BILL 2018 (No. 47)**

Second Reading

[5.21 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

The bill be now read the second time.

The Justice and Related Legislation (Marriage Amendments) Bill 2018 introduced by the Government in the House of Assembly sought to make a number of consequential amendments to various Tasmanian acts as a result of the Commonwealth Marriage Amendment (Definition and Religious Freedoms) Act 2017.

Following amendments by Labor and Greens members in the House of Assembly, the Government opposed this bill in the House of Assembly and we continue to oppose it now. The bill in its amended form bears little resemblance to the bill the Government brought to the parliament.

We have made our commitment to bring this bill on for members to debate. It will be a matter for Labor members in this place to speak to the purpose and function of amendments inserted by their party in the lower House. The Government maintains the issues raised in the amended bill are substantial. The House of Assembly amendments fundamentally shift the way in which Tasmania deals with matters of sex and gender. They should not have been rushed into the bill and these issues should be considered by the Tasmania Law Reform Institute - TLRI - prior to any further legislative progress.

Mr Dean - Before you sit down: who will answer the questions we have during the second reading debate?

Mrs HISCUTT - I will find the part in the speech again. It will be a matter for Labor members in this place to speak to the purpose and function of amendments inserted by their party in the lower House.

[5.21 p.m.]

Ms FORREST (Murchison) - Mr President, I would clarify that I understand from direct communication that the TLRI cannot consider a bill currently before the House. They need this resolved before they can undertake their work, and referring it to a committee would have left it on the Table and they could not have done the work. That is the reality.

Mr President, we have a bill before us that seeks to achieve a number of changes, the intent of which I fully support. Tasmania needs to be compliant with Commonwealth law, in this case the Marriage Act 1961. The so-called no-forced divorce provision contained within this bill needs to proceed as soon as possible. We are already noncompliant since 10 December last year.

When the debate last year did not occur on the second reading, all members of this place made speeches on the adjournment regarding this, and I will not revisit that matter at this time. I was, as I assume most other members were, ready to debate the second reading of the bill but we did not get that far.

We are here to debate a bill as it has been presented in this House, which is not supported by the Government. A unique and unusual occurrence. I and other members have a significant number of amendments to this bill to deal with should the bill make it to the Committee stage. At this time I will confine my comments to the broad intent of this bill with some reference to those amendments as appropriate.

I circulated these amendments as soon as possible after the drafting of the amendments, so members had a copy of them to enable full consideration and time to consult, as well as provide the opportunity for other members to seek further amendments to those I presented if they wished to. I know other members have done this.

The bill has created a significant debate among members of the general public. In many ways this is a good thing. It has not been such a good thing for some. However, some of the mistruths and cases of outright lies being peddled by some in the public discussion last year have been appalling and have led to a great degree of confusion for members of the public. I cannot for the life of me understand why we need to spread such hate and fear about a matter that will not directly impact the majority of Tasmanians.

Perhaps we should reflect on the year before the last Victorian election where the politics of fear were rejected. An agenda based on exclusion, judgment and fear was rejected. I believe we should consider that as we consider this bill and the policy intent behind it.

To reflect briefly on the history of this bill, it originated in another place by the Government to act on addressing the national consistency requirement following the passage of legislation related to marriage equality, and address the so-called no-forced divorce requirement that will result with the removal of an exemption for Registrars of Births, Deaths and Marriages, thus enabling them to solemnise marriages between two people regardless of their sex or gender.

The requirement to change state and territory legislation to remove this inconsistency with Commonwealth law had been known about by all states and territories for 12 months, when it was brought to us last year.

As a second reading speech delivered by the Attorney-General in another place stated -

On 9 December 2017, the Commonwealth Marriage Amendment (Definition and Religious Freedoms) Act 2017 amended the Marriage Act 1961 to allow same-sex couples to marry ... The states and territories were given 12 months, until 9 December 2018, to change their own laws to ensure they are consistent with Commonwealth legislation.

The Government has been well aware of these requirements since late-2017. Last year, at the final hour of our last sitting week we were seeking to address this necessary and time-sensitive issue.

Among other things, the legislation before us seeks to ensure that transgender people who have gender reassignment surgery cannot be forced to divorce. The Commonwealth Marriage Amendment (Definition and Religious Freedoms) Act 2017 repealed the forced divorce exemption in subsection 40(5) of the Commonwealth Sex Discrimination Act 1984. The bill before us seeks to amend section 28A and 28C of the Births, Deaths and Marriages Registration Act 1999 to remove the requirement that a person applying to register their change of sex not be married.

The bill as presented by the Government also included a range of amendments to other acts, including the Civil Liability Act 2002, the Anti-Discrimination Act 1988, the Criminal Code Act 1924, the Adoption Act 1988 and the Status of Children Act 1974.

When the bill was presented in the other place, some argued that a number of these changes were not necessary, such as using the gender-neutral term 'parent' rather than 'father' or 'mother'. That may be something that is progressed further in Committee. I understand the Government brought that in on the advice of Parliamentary Counsel, who prefer to use one term when you do not need to use three - 'parent' as opposed to 'mother' or 'father'.

A number of other amendments were inserted into this bill that directly relate to transgender and intersex people by parties other than the Government. In the form the Government presented this bill, it referred to gender because it was removing that forced divorce component for transgender people. The amendments were supported in the other place by a majority and thus we now have the bill before us.

Whilst there has been quite a degree of angst regarding some of the government proposals in the bill, there has also been a degree of public comment and concern expressed about the non-government amendments. The majority of amendments to legislation moved and supported in this place are also non-government amendments. The majority are supported, and they go back downstairs - not all of them, but a lot of them. Sometimes these are not supported by the Government, but are supported by this House and ultimately accepted by the Government in the other place and become law. That is how it works.

My job here is to assess the bill before us on its merits. To focus on the additional changes made to the bill in the other place, I note there is a long international history of need for change, similar to that proposed in the bill before us. Sweden was the first nation to allow legal change of

gender in 1972. The current best practice in terms of international human rights was to leave gender markers off identity documents in the same way we leave off race.

The federal government also made changes to the requirements for surgery regarding areas covered by the Commonwealth, as have the ACT, Western Australia and South Australia in their state and territory legislation. Gender markers have been off driver licences in all states for over a decade. The sun has still come up each day and there has no loss of awareness of gender.

Let us look at the bill before us, particularly if amended as I seek to do, what it actually does as well as what it does not do.

First, this bill will remove the requirement that a person applying to register their change of sex not be married. That is, they can be married to another person of the same sex.

Second, this bill will give parents the choice of having the gender of their baby recorded on the birth certificate or not having the gender recorded on their birth certificate. This bill will enable a birth certificate to be issued with the current and relevant details, including name and date of birth of the person without any details such as an incorrect name and/or gender also being recorded on the birth certificate when issued.

This bill will enable transgender people to change the gender on their birth certificates without the need to undergo major and risky surgery when they identify as a gender different to that on their birth certificate at the time.

This bill will not change the way transgender or intersex people live, or what they do from day to day. It will not make people become transgender. This bill will not stop the registrar recording the gender or other relevant birth details that the Registrar of Births, Deaths and Marriages is legally required to have to ensure historical records are maintained, if my amendments are supported.

This bill will not enable details of birth as recorded to be erased from the historical register that must be maintained by the registrar. This bill will not give transgender people who have not undergone gender reassignment surgery access to any areas they cannot access now. People who do register a change of gender will still be required to abide by all the laws of this state, as we all do.

Two main areas of concern have been raised. First, the fact that the gender may not appear on birth certificates. This upsets some people, even though anyone who wants their gender noted on their child's birth certificate can easily do so. You will hardly notice any change. The certificate will effectively look the same. I believe the vast majority of people will select this option and thus nothing will change. A birth certificate issued will essentially be the same as it was. It will not change.

Second, the other concern relates to whether transgender people should be able to change gender without surgery. It seems a lot of people have a strong opinion on this matter. I acknowledge and thank all those who provided briefings to us last year on this topic, and those who assisted in drafting amendments to the bill before us.

I have consulted broadly on this bill and the amendments I have prepared. I particularly wish to thank again Robyn Webb from OPC for her professionalism, her insight, attention to detail and steadfast approach to ensure our laws achieve the policy intent and do not create conflicts as much

as any draft legislation can. Her reputation is on the line. Constant criticism would be quite distressing for her to hear.

I have also consulted with the children's commissioner, the Australian Christian Lobby, other groups and individuals opposed to these changes, including representatives of Women Speak Tasmania. For me, the most powerful group we heard from last year was the parents of trans kids. Some of them are in the Chamber this evening. They are people with a very real lived experience and have a real insight into the need for this reform. They are the ones who are feeling the pain with delays.

Over recent months we have met people like Roen Meijers, Martine Delaney and Dede River, people who also share a lived experience, who are older and perhaps more articulate than some of our younger people may be. I have had meetings with parents of trans children and young adults. I have had many lengthy meetings with people who are experienced in presenting arguments that are often technical about amendments, data processing and so on. They have real expertise in this area and we should respect that.

The older members of the trans community have had years of dealing with these challenges and have worked in areas that might provide insight into drafting of legislation and data collection and storage, for example. I have sought that advice and knowledge. It is easy to forget that in many cases the trans community are young people and that they may feel insecure and even threatened in being put in the spotlight. Almost all, if not all, trans people have experienced prejudice, discrimination and harm during their lives directly related to their gender identity. They certainly have to be brave to assert their gender identity in schools or with their parents.

Parents do not ask to have trans kids. Children do not ask to be trans. It is something they are and often struggle with. Saying to anyone, parents, peers or whoever 'I am trans', or 'I am really a girl or boy' is an incredibly difficult thing for a child to do, or an adult even to do. It is likely to be an inner struggle to say to oneself, then a major struggle with the world. It is likely to lead to bullying and ostracisation. Evidence suggests it may lead to threats and assault, and there is plenty of evidence of this. It will almost certainly mean hearing hateful comments and haven't we seen this over the last little while.

While these kids have to be brave, it is often inner desperation, not courage that leads them to speak. Once they do most just want to keep their head down. It is not the way they want to have the attention focused on them. It is not the kind of attention they want.

When they can, a lot of people prefer not to have to think about being trans, they just want to be themselves, as we all do. This is what this legislation is all about, allowing people, especially young people, to be themselves. Not putting a spotlight on them, allowing them to be themselves without having everyone prying into their gender or genitals.

For many trans people the most significant part of this legislation is the elimination for the requirement of surgical and medical approval. That and the ability to say what their gender actually is. The surgery requirement is one that stops almost all trans people from changing their legal identity on the birth certificate or on the register. I would ask why we should require people to undergo major, invasive and complex surgery with all the inherent risks if they do not wish to, especially to meet the expectation of broader society that expects them to look a certain way. We do not and I do not believe we should require all morbidly obese people to have risky bariatric surgery to conform with the view we have of a normal, healthy body.

This current requirement which impacts all people to change their legal gender is a major barrier for transgender men. It is a problem for non-binary people and anyone who does not feel their gender resides in their genitals. Some people have other underlying medical conditions that mean they cannot have such major surgery. It is a problem for those who cannot do this for medical reasons. The surgery requirement is even a barrier for those who want such surgery.

The cost of this surgery for transgender women is over \$25 000 and it is not covered by Medicare or private health insurance. That is the base cost for the simpler form of surgery. This cost does not include other costs associated with time off work or the fact there are almost no surgeons in Australia that perform such surgery. Surgery usually entails overseas travel, with all of the associated travel costs.

Granting permission to have surgery involves at least one year of living as the gendered identity whilst being monitored by a psychiatrist with regular visits and then getting a second psychiatrist to grant final approval. I am not suggesting this should change. What I am suggesting is this is a very long and convoluted process living with an identification document that is not a true representation of who you are.

Enabling people to have their gender removed from or changed on their birth certificate, or on the register and thus their birth certificate, enables them to live as they are subject to all the laws that apply to all of us. Trans people who have not had surgery may take the opportunity to remove or change their gender on the birth certificate but will still require Working with Children and Vulnerable People checks if they are working or volunteering in any areas where children or vulnerable people are. They will be subject to prosecution if they assault anyone for whatever reason. They will need to abide by policy set by schools, sporting organisations and other organisations they interact with, as we all do.

Currently the law requires sexual reassignment surgery to change gender on a birth certificate. In spite of what some suggest, a hysterectomy, for example, and thus sterilisation would not be good enough. The law says sexual reassignment surgery means -

... a surgical procedure involving the alteration of a person's reproductive organs carried out -

(a) for the purpose of assisting the person to be considered to be a member of the opposite sex; or

(b) to correct or eliminate ambiguities relating to the sex of a person ...

A hysterectomy does not rearrange genitals in a way that assists the person to be considered a member of the opposite sex and probably is not even necessary. A full sexual reassignment surgery would require surgery that costs around \$100 000 and takes a number of months. I have been told this is not available in Australia. Many trans people feel they do not want or need such invasive surgery, even if they could afford it. Removing this surgical requirement has been done federally and in the ACT, Western Australia and South Australia.

The change for gender markers on birth certificates will have a particularly strong impact on young people. They are the people who need birth certificates to prove their age and to generate photo ID. If their birth certificate includes their original name and gender, and the children do not look like the gender on their birth certificate, this can be very confronting and it is unnecessary to

prove your identity. Your gender is not part of your identity for the purposes of an identity document. The ability to have no gender on a birth certificate means someone can check a child's age and take their gender to be exactly what it seems if they choose not to have it on. I believe many transgender young people will choose to have the gender they identify with on their birth certificate.

The ability to have the right name means the same. The changes will assist and possibly impact on children the most. Interestingly, a parent cannot change a child's name without the child's consent after the child is 12 years of age. So children as young as 12 can make a decision about that. In terms of identity, that is more significant than your gender.

It will help older trans people, of course - young women and men - but they will often be able to use their drivers licence or a passport for ID. As we age, the birth certificate becomes less important. Of course, older people face problems when a birth certificate says they are gender different to the way they look and this opens them up to discrimination.

The birth certificate is an identity document. It is not intended to confirm a person's gender. It does not confirm or reflect genetic heritage. There is no paternity test undertaken prior to registration of the birth. As a midwife, I know this can be a challenge at times because we do not actually do paternity testing. We put the father's name on there and just assume it is right. We do not; the parent does. Because the parent or parents are not necessarily blood relatives, a birth certificate cannot be used for heritable conditions, except as ID for obtaining medical records. Health records track health information for a child. The registrar does not collect information regarding the health of the person.

A birth certificate is used in various contexts as an identity document. In these contexts, it is used for young people as proof of age, for people requesting government services as proof of citizenship when a place of birth is relevant, and for international travel documents as proof of citizenship where place of birth is relevant. A birth certificate has no identifying information tying it to a particular person other than the parents' names. This is how people have stolen the identity of a person who died in childhood. It is actually the start of a paper trail.

For other legal purposes, legal identification papers are not changed without legal process, applications or statement of change. Whether a change of name is on a birth certificate or by deed poll, there is a paper trail. When it is changed on a drivers licence, there is a paper trail. When it is changed on a passport, there is a paper trail. If gender is changed under the amendments proposed, there will be paper trail.

It is not necessary to include former names on a person's ID. Law enforcement agencies rarely need to go to the birth certificate to identify someone unless the paper trail is in doubt or in cases of identity theft. They go to more recent documents, preferably with photos and facial recognition. Identity has become a more central issue to policing. There is currently a raft of elements to help build an identity profile of a person, including facial recognition software, voice recognition and data matching with phone records, social security, taxation, land ownership, car and boat registration and bank records to identify and track flows of income, for example.

Who will these changes impact, why does it matter so much and who does it matter to? In some cases, the need for these changes goes beyond the exclusion and harassment of trans people's experience. It matters for people like Rosemary Harwood and her daughter Marjorie, known to her as Marty. For Marjorie Harwood, it meant that in spite of policies intended to keep trans people

from harm, Marjorie was sent to the Risdon men's prison. She had transitioned in the 1980s and faced a lifetime of bullying and discrimination, and ultimately turned to drink and petty crime. Marty's change of gender was not recognised by the justice system in Tasmania and she found herself facing imprisonment for the crimes she had committed. This matters because in spite of pleas from her mother, she was apparently sent to the male section of Risdon Prison Complex on the strength of the gender listed on her birth certificate. While there, according to *Lawyers Weekly*, she allegedly was gang-raped, resulting in injuries severe enough to require a colostomy. I ask members to try to imagine and reflect on the brutality of these rapes and violence she experienced to cause so much physical harm. According to the article, she was hospitalised, and the prison hospital did not report the assault. Marjorie who had also suffered from childhood with a kidney disease ended her own life by refusing dialysis or other treatment. Her stated intent was to die and in July 2017, she did so.

I understand there are policies in place aimed at preventing this sort of event. However, if one puts a trans woman in a men's prison, assault is almost inevitable, rape is likely and death is clearly possible. Likewise putting a trans man, who because of the current requirements of surgery is likely to have a vagina, into a men's prison will also almost inevitably lead to assault, will probably lead to rape and possibly again the death of that person.

This is why prisons need to take trans people on a person-by-person basis, with the primary obligation being duty of care. This bill matters to people like Marty and the law needs to change to create a safer society for transgender people. It matters to the parents of transgender children, as well as those children themselves. This law reform matters to a 15-year-old transgender person seeking their first job so they can be taken as they are, who they are, rather than be outed by a birth certificate that is wrong and misrepresents them and creates the very real risk, and in many cases the lived reality, of discrimination.

This is the real and lived experience of the people this bill will impact. One of those parents who met with us last year emailed me following the meeting. I will share just a small, de-identified section of the email to highlight why this is important, from the heart of a parent -

I feel I need to do everything I can to help my child so I write to you now to back up what we said today about this legislation change being a way to make the world a safer place for our children. Our children didn't make a choice to be the way they are, it is in their genetic makeup and their identity and their identity is their own. They cannot deny who they are. These amendments will allow them to change their birth certificate without having to have invasive surgery to remove their reproductive organs - what a barbaric thing to expect them to have to do.

This parent also mentions the principle of harm reduction writing -

... it is inevitable that enlightened people will also see that people should not be forced to have invasive surgery to prove that they are the gender they identify as, ... in fact the majority of people will not even know there is any difference, these changes simply won't affect them. But for the 2% of people who are transgender or born with indeterminant sex or intersex this will have an immense benefit in improving their lives and easing the stress they go through negotiating a world which holds a lot of prejudice towards them.

I know we have all received many emails both in support and opposing these changes. Many opposing have been on the basis of the removal of the terms 'mother' and 'father', certainly at an early time and a number showing an unfortunate lack of understanding of the intent of the proposed amendments. Unfortunately, at the time this bill was presented in this place, many of these matters were being misrepresented in the media with much comment on these important matters being anything but accurate. Personally, I believe some of this may have been deliberate. Comments from senior politicians right up to the Prime Minister have fuelled this misinformation. This confusion has led to emails from Tasmanians expressing concern.

I have personally called a number of my constituents who have expressed concern regarding the bill before us to talk to them about the proposed changes and, by and large, when they understand the application of these proposed changes, they accept they have misunderstood and their concern was based primarily on media comment. I have also informed members of the public I recognise a number of concerns regarding the current drafting, as I had mentioned earlier. Again, I sincerely thank OPC for significant assistance in drafting a set of amendments to maintain policy intent and maintain the integrity of the register.

The pleas from members of the public to support this change have come from a wide range of people, with the majority of people being directly impacted one way or another, being transgender, intersex or non-binary themselves, or having a family member who is, but not only those people. An example of the type of email requesting support includes in part these comments, I quote -

We are fifty-six and sixty years old respectively and while childhood is a long time ago neither of us can recall a time that we or anyone close to us required a copy of our birth certificates to establish our sex ...

It is pretty clear to us though that having details of their sex at birth on people's birth certificate has made life very difficult for a number of people in our community. These people already face lots of hurdles and problems ...

What I find interesting is the level of misunderstanding within the community about this issue in the broader sense. Some seem to believe they will have to fill out a statutory declaration confirming the sex of their baby at birth or at other times to register the baby's birth and/or get a birth certificate. All wrong. Others believe no gender will be recorded at all in the birth details. Completely wrong. Others believe this will prevent them from including gender on their own birth certificate or the birth certificate of their child or other children. Completely wrong.

Many people opposing these changes appear not to appreciate the very real challenges parents of intersex babies face when they are required to identify the sex of their baby and decide on a name for the baby within 60 days. It may be the sex of the baby cannot be determined until much later. The registrar does have the power to accept late registration and power to correct an entry when it is necessary to do so, but I still support the extension for the parents to register the birth to 120 days to enable extra time, if it is needed.

I absolute support the view parents should not be forced to decide about the sex of their baby when it is unclear and no baby should be subject to so-called corrective surgery until they are in a position to give their own consent.

Many parents also wish to, or need to, apply for a birth certificate for their child to access services. Removing the requirement to include a gender mark on the birth certificate will assist the

child and the parents at a challenging time or at least they will be able to have the right gender they identify as on their certificate if they register a change.

Gender was removed from driver's licences over a decade ago. The only time gender, as an identifying feature, has been used in the past for this purpose was prior to the passage of the legislation supporting marriage equality, where a celebrant may have needed to confirm they were not marrying a couple who were of the same sex. This requirement is no longer necessary and this is the reason we find ourselves here dealing with this legislation, including the original bill from the Government, so there is no need at all to include it.

To give people the choice of whether to include gender on their birth certificate enhances and provides real parental choice and will have absolutely no impact on those who wish to have it included.

The change will have significant impact on parents of intersex babies, parents who choose not to list gender for whatever reason and, importantly, young people who are transgender who are required to use their birth certificate to gain employment, enrol at schools, open a bank account or a range of other requirements when they need to prove their identity. That being their name, date of birth and place of birth. These are all occasions when they are currently being disadvantaged and discriminated against by having a former and no longer accurate name and/or gender recorded at the top of their certificate.

Parents have explained the desire for these changes describing the experiences of their children seeking employment. One parent wrote and I quote -

She recently enquired into the application process for the local employers in our area, and all have required ID in the form of her birth certificate and/or passport. Her birth certificate, despite having gone through the process of a legal name change at significant financial cost, records at the very top of it her former name and an incorrect gender.

It is a useless document for her - as it outs her immediately - leaving her open to potential discrimination, bullying and unnecessary public scrutiny, in relation to her private gender identify.

Sections of another sharing the lived experience of their child -

We write to you as proud parents of an equally proud transgender daughter.

We are the minority who this past week have continued to witness examples of the hatred that we fear our innocent daughter is inevitably going to experience throughout her life. The hatred that to date we have been able to shelter our child and her siblings from while at the same time delivering a message of acceptance to those that we encounter who might display reluctance to accept who our family is.

...

The opportunity which you currently have is one that can deliver a message to our children that their welfare is as important as every other child by helping to

prevent the discrimination that those before them have had to endure and in turn lay the foundations in the community that acceptance and tolerance is more important than what is written on a piece of paper.

While the majority of people will not be affected by the changes before you, the benefits to those impacted are immeasurable. They will be afforded a chance of normality and the freedom of being who they are and choosing who they share their story with, something which admittedly, most of us take for granted.

...

We want what every other parent wants and that's for our children to experience everything that life has to offer. The changes proposed will allow us this.

Mr President, I could read many other accounts, including the voices of families directly impacted; other members may do so, but we have all received pretty much the same emails and letters with heartfelt pleas.

These are the real and lived experiences we must consider in our decision-making. It does not mean we do not listen to other people, but we must listen to these people. If we do not stand up for the people from minority and marginalised groups, who will? Who will stand up for these marginalised and disadvantaged groups in the community if we do not, if I do not? That is what I am doing: I am standing up for these people who are not represented in this place.

The examples of such personal experiences are more common than many members and the public believe or realise. These young people and children experience challenges that we who are not transgender cannot understand.

We must also listen to those who have opposing views as they can also shed light on some of the potential challenges a change to legislation may bring. I have done this as well and responded to a number of those who have raised legitimate concerns. I have listened to all of those people. I have listened intently to all people who have spoken and communicated with me on this matter, including going to a public forum that Women Speak Tasmania held the other evening. I have assisted in the preparation of the amendments I propose to move if we get to the Committee stage. The best we can do is to believe those who have the real lived experience - believe in them -

Members interjecting.

Mr PRESIDENT - Order. The member for Murchison has the Floor. Your voices are not too loud, but the member would rather proceed without interjection.

Ms FORREST - I find it disrespectful, Mr President. I will go back. Of course, we must listen to those who have opposing views as they can also shed light on some of the potential challenges this legislation may bring. I have done this, as well as responding to a number of those who have raised legitimate concerns. I have listened intently to all people who have spoken and communicated with me on this matter. This has assisted in the preparation of the amendments I propose to move if we get to the Committee stage. This is why the transgender community does not fully support the amendments I am proposing. I have listened to a range of voices, not just them. Even though their voice is very important in this, I have listened to all voices. I worked very

hard with Robyn Webb of OPC to make sure we get legislation that is workable and legally correct but meets the policy intent.

The best we can do is believe those with the real lived experience - believe in them, do what we can to remove obvious avenues for discrimination and disadvantage, and support them to be themselves and achieve their full potential. After all, is this not what we want for our own children, our nephews, nieces or grandchildren? Is that not what we want, the best for our children?

There have been some comments, mainly in the briefings, from some who oppose these changes, about the threat of people being able to self-declare that they are transgender or of different gender without surgery. According to some, this change will be used by men wanting to prey on women. We, and the broader public, need to remember that legally changing gender means doing so in your full legal identity. It is not confined to one piece of paper. Even with a birth certificate a person could only go so far if they did not seem to be serious.

There is talk - ignorant talk - about men using legal gender change to allow them to enter women's spaces. First, men rape and assault women in women's spaces now. They do it without wearing women's clothing or taking on aspects of a female identity.

Members will recall the shocking incident that occurred in Western Australia in 2006. A little after 4 p.m. on 26 June 2006, Dante Arthurs followed eight-year-old Sofia Rodriguez-Urrutia Shu into the toilet in the Livingston Shopping Centre - I remember this - in Canning Vale, Western Australia, where he sexually abused and killed her. He did not wear women's clothes.

On 15 December 2017, a man sexually assaulted a seven-year-old in the toilet of a Sydney dance studio. He was stopped by the intervention of another man, who was stabbed in the struggle before others overcame the attacker. Again, the assailant did not wear women's clothes.

One woman a week, and sometimes two a week, are killed by their male partner, who does so often in their own home and does not need to dress or claim to be a woman to do so. Violence against women is wrong anywhere, anytime, any place. Trans people, regardless of whether they seek to change their registered gender or whether their gender is noted on their birth certificate, will still be subject to all our laws.

Assault and rape are crimes regardless of who, where or when the crimes are committed. Men do not need to, nor do they, wear women's clothing to assault women. Men do not wear women's clothing to enter a women's toilet, if they have this intent. The idea that someone would go to the trouble not only to dress up but to legally change their gender is ridiculous. No-one needs to legally change their gender to wear a disguise. Men who assault women often do not disguise themselves as women, but they may without any change to the legislation. That happens now. No-one asks for a birth certificate before entering women's spaces.

Mr President, claims are being made that these changes will mean we will see men complete a statutory declaration to enable them to enter women's spaces, such as women's toilets, women's shelters and other spaces. They are nothing more than scaremongering and wrong. I ask these people who say that - how will it enable this?

I have never been asked to show a birth certificate to prove I am female to access one of these spaces and I have accessed a lot of them. I have never been asked to show my birth certificate to access a male toilet, which I have done in the past, both deliberately and accidentally. If a man with

a malicious intent wishes to do this, he can now, as shown by the previous examples. If this occurs it is, of course, a serious matter and needs to be dealt with accordingly. Allowing these proposed changes will not change that. The responsibility to not assault people remains.

The reality is that trans women are more likely to be assaulted than non-trans women. They are assaulted as women and assaulted because they are transgender. There have been various cases of trans women being assaulted as women and killed when they are found to be trans women who had not had surgery.

Research from overseas has clearly shown there is no evidence that trans people represent a danger in bathrooms. The claims that some men will use the opportunity to access safe women's spaces, including women's health and legal services, also have been addressed in a letter we received last year co-signed by two women service providers. The letter states in part -

It is our position that transgender women are women and they are welcome at our services.

...

WST also argue that transgender women pose a threat to women's safe spaces.

There is no research or service experience to suggest that men who seek to harm women change their gender or masquerade as transgender women in order to do so.

Acknowledging in law the human rights of transgender people does not reduce the human rights enjoyed by non-transgender people.

Protecting women's rights and supporting transgender people are not mutually exclusive.

Through our collective experience of providing legal, health, domestic violence and housing services to women, we are already successfully supporting transgender women who, it should be noted, are often themselves victims of violence and targeted by people who use abusive behaviour.

Arguments such as those promulgated by WST only result in greater danger, including physical assaults to transgender women, non-binary individuals, and women, who do not conform to stereotypes of femininity.

Mr President, we only have to see that photo of the amazing AFLW footballer, Tayla Harris, and the disgraceful behaviour that went on around that magnificent athlete.

To go back to the letter, Mr President -

These attitudes also stand as barriers to gender diverse people accessing services and as such, they remain at greater risk to violence and abuse.

...

Our organisations have always been a safe and welcoming place for all women and they remain so.

Mr President, women's health and/or legal services and refuges for women currently enable access to these services for all women, including transgender women and this will not change.

If problems exist now, they will be the same in the future. As we have heard, it has not been a problem. Furthermore, as I have previously mentioned, I am unaware of any instances where individuals have been asked to produce a birth certificate to access gender-specific areas - whether they be public toilets, women's services or other spaces, and this remains unchanged.

There is a lot of scaremongering and fearmongering. The reality is that even without the medical barriers changing legal gender is not easy. Either one must live as the gender on their documents or face a situation where the documents point to a different gender. Again, this means changing gender and usually one's name on all records in a person's life and facing the questions and attitudes of people. It is not and never will be something a person does casually.

It is also disappointing when claims are made in relation to this matter in the absence of checking the facts of the matter. Many of the claims made by the representatives of Women Speak Tasmania suggest we are on a slippery slope if we pass this law. A number of their claims are based on taking information out of context. An example used in the briefing from WST related to language used by various midwifery organisations, including organisations in Australia, UK, USA and Canada. The use of gender-inclusive language is accepted and widely used. It is important when issues arise that may not be covered in current policy documents of organisations providing services to women and men, that these documents should be reviewed to ensure matters that need to be addressed are addressed.

All the organisations referred to in that briefing last year by Women Speak Tasmania, despite what they said, continue to use the words woman or women, breast and breastfeeding and other female-related terminology in their policy documents. Some include advice to assist in determining gender-neutral language to care for transgender men, who have not had gender reassignment surgery and can give birth or breastfeed. That is entirely appropriate that gender-specific language is used there. This advice is specific and appropriate in terms of its intended use. When you go to those policy documents and look, it is specific and appropriate for the terms of its use.

There were questions asked, rightly in my view, about this inclusion to ensure women and women-related language is not removed. I absolutely support that. I believe it is very important, as a woman who has had to struggle with some other discrimination women have faced over the times. In the policy documents of these organisations, women-centred language has not been removed as suggested. I am happy to show members a response to the letter referred to by the representatives of Women Speak Tasmania supporting the inclusion of gender-neutral language where appropriate, if they wish to see that.

Scaremongering and the use of information out of context does very little to give credibility to an argument. Concerns were also raised about the competitive advantage transgender women may have in competitive sports. I acknowledge and accept this can be the case. As a result, organisations from the Olympic level down, the AFL, and other key sporting bodies are working on policies to address this reality. This is a reality now. Changing this law does not change that. Of course, it will take some time in some cases. The policies may need amending over time, as more is known. Policies do that. It is already being addressed and it is currently the case for transgender people who have gender reassignment surgery.

This is a matter being considered and dealt with now. This change, if successful, will not impact on it. An email I received claimed -

This Bill will have serious ramifications for sports where women will be the big losers! Biological men can just say they are women and clean up in every field and perhaps possibly injure someone else.

I am not aware of any man who simply turns up at a footy club and claims to be a woman so he can compete in the women's team.

We have seen serious injuries and the occasional tragic deaths at all levels of sport now, male and female. It happens in gendered sports, single genders. It is tragic. We need to do whatever we can to prevent this across all sports. We continue to take measures such as improved helmets for cricketers, changes to AFL rules to better protect players' heads and so on. This ongoing review will continue to deal with the very real risks associated with contact sports - that is why I do not play them.

Another claim was that it would -

... compromise the safety of children in schools when it comes to teacher supervision, change rooms, dormitories and accommodation on school camps. It also puts teachers in jeopardy and at risk of having serious sexual allegations made against them if they have to supervise children that are not of the same gender.

I am personally glad to see more male teachers in our primary schools. It is a reality that many children lack the influence of positive role models in their lives at this important age. This is being provided now more in our schools. All teachers have Working with Children checks and have professional standards to maintain. It is an insult to our male teachers particularly to suggest they would be paedophiles, which is essentially what that was suggesting. This is a matter which is managed every day in our schools, change in the law or no change in it. All teachers, regardless of their gender, must comply with all laws of this state and with Commonwealth laws.

Another claim I really cannot explain is that the defence force would be compromised along with so many other areas. I cannot for the life of me understand how the defence force would be compromised as so much work has been done in the service to foster inclusion, diversity and acceptance. These claims are based on fear and misunderstanding, in my view. I am happy to hear the views of others and will listen to their concerns. I hope those who make them will also be happy to hear my views. While we may agree to differ, and we have agreed to differ, I hope we can at least have an honest debate. That is all I want: an honest debate.

Many are saying this matter should have been properly considered and that there has been no public consultation. That is not the case. This is an area of law reform that has been subject to review and a report by the former anti-discrimination commissioner. This review included public consultation, including with such organisations as the Australian Christian Lobby and other mainstream churches. This is not a new issue. Transgender people have been meeting with attorneys-general since 2004 seeking to update our laws. The Government has been consulted numerous times, including on amendments to reflect the change we now see in the bill before us.

As I mentioned earlier, our friend and former colleague, the late Honourable Dr Vanessa Goodwin, committed to making a number of these changes and since her untimely death, the Liberals have not acted on these changes. The Government also left dealing with the necessary no-force divorce provisions that they knew had to be finalised by 9 December last year until the last sitting week of that year. They had an opportunity with this bill and at other times to progress the changes that Vanessa Goodwin had committed to. These changes have also been discussed with attorneys-general since 2004 and with the current Government, including similar amendments to what we see in the bill proposed, in May last year, with no action. There have also been reviews done in other jurisdictions, including Western Australia and the Northern Territory, with similar recommendations being made.

The challenges facing trans people are real, and removing avenues for discrimination is important in a tolerant and inclusive society. It is particularly young people that these reforms will help. I am certainly not suggesting that these reforms will stop violence and transphobia - they will not. What they will do is reduce the situations where being trans becomes an issue for young people. The reality is that some people are trans; it is not a choice. Most trans people say being trans is difficult, but it is far better to address their issues and they are happier when they do.

We have seen parents of young trans people, we have met older trans people and we are far more a problem to them than they are to us. The parents we met are the ones who support their children and see that when they allow their children to be themselves they can flourish. Although they may face many challenges, with supportive schools and supportive friends they can just get on with being happy, productive people. There are also young people who are not supported by their parents; we need to cater for those young people as well.

The reality is that trans people are just people. Some people happen to be trans and are part of the diverse humanity to which we all belong. Sexual orientation is not something that people choose, it is part of who they are - it is how they identify, it is their identity. Throughout history there have always been trans people. Trans people are not seeking to erase gender or sex, as suggested by some. They know that sex is something we are born with. What they seek is an inclusive society where they can be free to be who they are without judgment - just as I as a woman and each of you are free to be who you are, without judgment. They are seeking a freedom to live as they are, without unnecessary and potentially harmful discrimination in a way that harms no-one else. Providing choice for all parents, including parents of trans and gender-diverse people, is a positive step. This bill expands choice rather than diminishes it.

Mr President, I support the intent of the bill as presented to the House and will certainly support it to the Committee stage as I believe amendments are necessary to address some of the areas of concern I have had with the bill as presented. Much of this could have been avoided if access to Parliamentary Counsel had been granted to members of the other place seeking to make the amendments and earlier to us last year.

The provisions in this bill will enhance choice for parents and adults. The provisions in the bill will not hurt anyone and will help a number of people directly.

Much comment in the media has completely misrepresented the policy intent and impact of this proposed change. Much of the commentary has been untruthful, scaremongering and very harmful to the trans members of our community, who are Tasmanians, just like us.

I wish to conclude with some words by Dr Tim Soutphommasane. He is an Australian academic, social commentator and the former racial discrimination commissioner. He made these comments in recent days related to an act of extremism, hate and prejudice. While it was a different event, these words absolutely apply here -

Sometimes the most powerful thing for those feeling vulnerable is to know that there are people who stand beside them. Those who feel vulnerable can often forget that the majority of people are people of goodwill and understanding. If you hear or see something hateful and it's safe to speak out -

It is safe for me -

you should do so. It makes a big difference for people to hear that others will stand up for what's right. It's powerful to hear others reject intolerance and prejudice. It's not always as simple as having good intentions. There are plenty of examples of people meaning well, but missing the mark. Avoiding that is best done when people take the time to listen closely to what those affected by an issue feel and experience.

Extend the hand of friendship, have a chat, it doesn't have to involve rocket science.

Mr President, if this bill is supported with some amendments, it will advance our just, tolerant, inclusive and diverse society, and that must be better for all of us.

[6.17 p.m.]

Mr FINCH (Rosevears) - Mr President, the bill before us started off as an additional simple amendment to allow individuals and parents of children who wish to live as a gender different to their sex at birth the option of having either the correct gender or having no reference to their gender on their birth certificate without the need for invasive surgery, and to allow more time for parents who had doubts about the sex of their newborn child to register the birth and choose whether to have the reference to it on the birth certificate. So simple and seemingly without controversy. To my mind, the amendment would help those with gender uncertainty as they grow up to avoid some of the pain of that uncertainty. I am adamantly dedicated to that aim.

Unfortunately, these amendments have attracted the ire of people in our community and a long, controversial argument has entailed. As always on controversial issues I have looked carefully at the arguments. I have taken pains to evaluate their validity. Many arguments against this bill are furphies, red herrings at the very least.

Mr Dean - Does that go for those supporting it as well - red herrings?

Mr FINCH - When the member for Windermere mumbles, I cannot hear a thing he is saying. He did that while the member for Murchison was trying to speak. She is right; it is very disrespectful. If you have something to say, speak up so we can hear what the hell you are saying.

Mr Dean - I thought I made it clear.

Mr FINCH - Go on, what did you say?

Mr Dean - I said what I said.

Mr FINCH - Speak up.

Mr PRESIDENT - This is not a game.

Mr FINCH - This is what the member for Windermere is turning it into, with this mumbling that goes on. You have spoken to him about it, but he keeps going on with interjections.

Mr PRESIDENT - We will keep our eye on the ball and continue.

Mr FINCH - Thanks very much. It is disrespectful and it is off-putting when you try to present your arguments.

At this stage, I want to refer to the full-page advertisement funded by the Catholic Church on Tuesday. Most of you will have seen that. The advertisement claimed that this bill would compromise the integrity of people's identity, have serious implications for children's and women's safety, and make it difficult to get a passport.

I cannot for the life of me see the implications for children's and women's safety. Do those who funded and framed this advertisement think Tasmanians are not in touch with reality?

I want to read a letter all members received. I am sorry if I have gazumped anyone by reading this into *Hansard* ahead of them. We received so much information, and there are so many useful quotes I could read in, but I am not going to labour the point.

I want to read this one in response to that advertisement -

I apologise for including you in one email.

I am alarmed that a group called the 'Tasmanian Coalition for Kids' has been formed to lobby the Upper House on amendments to the Births, Deaths and Marriages Registration Act that would make gender optional on birth certificates in Tasmania.

I am writing to you to urge you to support the Bill.

I note, too, that the Catholic Archdiocese of Hobart has contributed to a newspaper advertisement, placed in the Media this week, that supports the lobby group mentioned above.

While the Archdiocese has a right to its point of view on religious grounds, I find it curious that in a statement, it does not mention an objection in that sphere but on the grounds of what it perceives as 'public concern'.

My concern is for anyone who is transgender and not for the perceived reasons expressed by the Church and groups acting against the well-being of transgender people.

Not that it should make a difference, but I am a Catholic and I am also concerned that, rightly or wrongly, the message being sent to parents with transgender children in Catholic schools, is that their child is somehow inferior, somehow wrong and somehow a freak. A child who is not given the right to be who they

are, as is every other child, must be unbearable. I can only imagine how those parents and children feel. They need community support not condemnation.

Respectfully,
Jeff Kevin

I phoned Jeff and asked if I could use his name and put this in *Hansard* and he agreed.

I spoke of red herrings earlier and some of these need to be addressed. To be charitable, you could term some of them misconceptions or ignorance, because, like me, people have not had to embrace the issue before. Most people have not had to think about our transgender community. It has been asserted birth certificates are an historical document and are needed for genealogy. Birth documents and birth certificates are not historical documents. They are identity documents. Historical records are preserved by the registrar and will continue to be preserved under the amendments as described in section 28A(1). Genealogical and historical needs are met by the notification of birth and registration of birth forms rather than by birth certificates.

Another red herring: doctors and medical professionals will not be able to do their jobs. Medical practitioners do not use birth certificates in any way. Any sex-specific risk factors are determined in conversation with the individual and through medical histories.

Another criticism is the term sex and gender are used interchangeably and inconsistently in the bill. Sex and gender are distinct terms used carefully and specifically. The definition of gender created in the amendment, which includes the apparent sex of an infant at birth, ensures most individuals who do not eventuate to be transgender, gender diverse or intersex and will therefore have no reason to complete a gender affirmation declaration and will be unaffected. This definition also ensures the historical birth-sex data will be available to meet statistical and data-linkage requirements, if needed.

I could continue, Mr President, but I assume you and other members are sick of the red herrings.

I remain firmly supportive of the principles of this bill and what it is intended to achieve and I want to detail some of the reasons for my position.

Some opponents of this bill argue this House should be spending its time on what they say are more important issues like the economy. I agree, but those same opponents have been mounting a campaign to make what are simple amendments into an issue which they feel could cause the sky to fall in.

Also, I might point out at this stage, we do not run the agenda of the legislation here. We were getting the blame for this issue coming to the upper House. It is not of our making; it has come from downstairs. It might not be the normal process we are used to, but we do not call the shots on what legislation we do, unless it is a private member's bill, so this is not of our doing. It is our work to try to fix up what has come before us.

In my 17 years in this House, I have striven for justice for human rights and to minimise potential hurt to individuals who feel they are different from the overall society, and that, of course, includes issues like marriage equality. This bill is right in there. Perhaps I should start this argument with a question: why should our society tell individuals how they should feel about their gender?

Obviously, this bill will have positive impact on transgender, intersex and gender-diverse communities. Yes, they are perhaps a small minority. I have heard one in a 1000 at one stage, but then it is blown out to one in 1500, to one in 2000. It is a small minority, but their feelings are their interactions with the whole community and are concerns we must address.

Apart from allowing parents to decide whether to have a child's gender recorded by the registrar on the child's birth certificate, there was also provision to amend identification documents to reflect the person's lived gender without the need for gender reassignment surgery.

I want to digress by mentioning the situation in Spain, a country which we sometimes perceive as very conservative in these matters. Spain had marriage equality years before we did. The current situation with sex recorded on birth certificates: it is recorded on birth certificates, but as soon as an individual is eligible for an identity document, they have the option of putting on it whatever they feel their gender is.

Germany, since 2013, has allowed a blank space denoting gender on birth certificates for babies born with undefined sex characteristics. Since 2017, people have been allowed to register as intersex or identify as something other than male or female, or eliminate sex identification entirely.

Many of us, until recently, had been ignorant of nuances concerning gender, but I want to quote now a few passages from a documentary by Katie Couric. I am going to paraphrase. Katie Couric is a journalist I have long admired, probably for 30 years. She has worked on American television networks and in mainstream television. She was curious about the transgender world and she went out to explore around America. During the documentary she said that so much has changed in a short period of time. It is being treated as a lot more complicated in a brave new world and will take some getting used to.

Society gets happier and more creative. Some people will be more comfortable in their own skin. This represents a move towards acceptance. External genitalia does not dictate your gender. It does correlate but not for everyone.

Views are changing. Parents make a lot of decisions in this binary world. However, young people should have the right to make their own decisions about their bodies. Transgender means denoting or relating to a person whose sense of personal identity does not correspond with the gender assigned to them at birth. For transgender children, puberty is stressful; it causes anxiety. They have to deal with puberty blockers, which is the pause button. This is a new area. The blockers are relatively safe and reversible and hold maturation for a couple of years for that long-term decision.

Then comes the hormonal therapy of testosterone, the female to male and estrogen for male to female. Katie gave me some succinct observations in that documentary.

An important part of this bill is that it would amend the Anti-Discrimination Act 1998 to include a new definition of gender expression and to correct a drafting error that leaves transgender Tasmanians without protection from incitement to hatred. Why the hell not?

While we are looking at international issues, it is worth noting that refusing to allow a married person to have a birth certificate consistent with their sex, unless they get a divorce, is breaching the International Covenant on Civil and Political Rights. Australia had been called on to revise its legislation to ensure compliance with that covenant.

Australia has been internationally criticised for failure to uphold the human rights of LGBTI people and protect them against abuses such as violence and discriminatory laws and practices.

I quote a principle agreed to at a meeting in Switzerland in 2017. This resonated for me -

Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them.

The idea that gender is not limited only to male and female is by no means new. Many cultures have long recognised third genders or other gender variances. This could include some interesting identities. Most of you have not heard these pronunciations so I can proceed in the full knowledge that nobody will dispute what I say: hijra, meti, lala, skesana, motsoalle, mithli, kuchu, kawein, travesty, muxé, fa'afafine, fakaleiti, hamjensgara and two-spirit. It is important to note the impact of colonialism on the prior social, medical and legal construction of gender and the consequent erasing of non-binary genders.

We have had the experience of twinning with Samoa which I have visited three times. They recognise a third sex, which has an important place in their society.

I go to the work of Dr Paul Vasey, an anthropologist who has studied the fa'afafine, as they are called in Samoa. They have always existed in Samoa. These are feminine, same sex-attracted men. They are fully integrated into Samoan life and they are clearly not binary. This also occurs in India and Mexico; in classical Jewish texts, there are six genders. These are socially unproblematic.

Mr Dean - I think there are seven genders in America.

Mr FINCH - Yes, that is right and it is a pathway down which we should go. These people are integrated into society. The family ends up benefitting and society ends up benefitting so the fa'afafine in Samoa have a role to play within the family and are the third gender of Samoa.

It is obvious intersex people who are born with physical sex characteristics that do not fit medical norms for female and male bodies are adversely impacted by the requirement their birth certificate include gender. Insisting on the inclusion of gender on birth certificates perpetuates the view that intersex children ought to conform with a gender determined by parents or medical practitioners. This perpetuates the tendency towards the common practice of subjecting intersex children to unnecessary surgical and other procedures. It is patently obvious parents will still be able to have gender included on their child's birth certificate if they want, and most will.

The act currently requires a person seeking to apply to the registrar to change their sex to have undergone gender reassignment surgery and be unmarried. In order to make an application under section 28A of the act, an applicant must also provide, among other things, a statutory declaration from each of two medical practitioners verifying the applicant has undergone gender reassignment surgery. That is absurd. I have spoken with a number of people who describe themselves as transgender or binary and apart from suffering ignorant social attitudes, they cite access to birth certificates, passports and identification documents that reflect lived gender as barriers to employment, housing and access to services. The requirement that transgender Tasmanians

undergo gender reassignment surgery to apply to change their identification documents is an abusive requirement, as I referred to earlier.

A few of us in the Chamber have come across people who are not distinctly male or female as our society understands, but let us understand the other genders so we can make their lives easier. We have heard evidence about the number of suicides in the trans community. Fifty per cent have attempted suicide or have actually committed suicide. That figure is astounding. Imagine the mental trauma and the torture those people have gone through to get to a situation of contemplating suicide because of who they are.

Intersex people are born with physical or biological sex characteristics such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal pattern more diverse than socially understood concepts of male or female bodies. For some people these physical traits are apparent prenatally or at birth, while for others they emerge later in life. However, greater education is required as to the prevalence of intersex persons in our community and respecting their rights as both adults and children. They are part of our community and should be recognised, cared for and considered. That is why I support this bill wholeheartedly. I recognise the arguments of those who oppose it, but feel they are exhibiting cruelty to people in our Tasmanian community in contrast to what should be understanding and inclusion.

Mr Dean - What do you mean?

Mr FINCH - Do you want to know the meaning of the word 'cruelty'? Do you know the meaning of it? What are you interrupting now for? I was just finishing.

Mr Dean - Are you saying those who are exhibiting opposition to this are showing cruelty?

Mr FINCH - Yes, I will read it again just so you have it nice and clear in your mind.

Mr Dean - That is appalling.

Mr FINCH - Here we go -

Try being born transgender and trying to exist your life as transgender and the stuff that we have been going on with and that we have received, try to understand whether it is cruel or not.

I can tell you do not understand it because you da, da, da, da, but it is cruel.

Mr Dean - I do.

Mr PRESIDENT - Order. This has gone far enough. Comments have been made, it has gone far enough. What we have to do in this is respect each other in relation to the way we debate. Social matters like this often cause a bit of excitement, and that is why I am letting some things go. We have to be respectful of each other's debate. Just because we may disagree does not mean we can become disrespectful.

[6.41 p.m.]

Mr DEAN (Windermere) - Mr President, there was an agreement I thought we had reached - I suppose a perceived matter - with the Leader - that if people were not prepared to continue today, the opportunity to speak on the second reading would not be lost and that the debate would stand adjourned. I thought that was a clear position we had reached in the meeting today.

Mrs Hiscutt and Mr Willie *interjecting.*

Mr DEAN - Please do not mumble behind me, it is rude. Mr President, I want to know where we stand on this because of the agreement we had reached in the other place today, that the opportunity to speak on the second reading would not be lost if we reached this position, and that this matter would stand adjourned; anywhere between 6 p.m. and 7 p.m. was the time mentioned this morning.

Mr PRESIDENT - You have the call at the moment. If you want to move that the debate stand adjourned, you can. Otherwise, I ask you to continue with the debate in relation to the second reading.

Mr DEAN - Mr President, I move, in accordance with the position that we reached this morning, or just after midday -

That the debate stand adjourned.

[6.43 p.m.]

Ms LOVELL (Rumney) - Mr President, I was not of the understanding that this was the agreement reached. My understanding was that we would work through until around 7 p.m. I was in the room. My understanding from that conversation was that those who are ready would work through. If we progressed through the second reading contributions and got to the point where we were ready to put the question and move to the Committee stage, that was what would happen. I will not support the motion that the debate stand adjourned.

Mr Dean - Well, done, good on you.

Mr PRESIDENT - We will not get into a slinging match.

Ms LOVELL - Thank you, Mr President.

[6.44 p.m.]

Ms RATTRAY (McIntyre) - Mr President, my understanding was that if anyone were prepared to give their second reading contribution today, we would proceed to do so, but the opportunity would not be lost for any member who wanted to do so on Wednesday. That was my understanding.

Mr Dean - Absolutely.

Ms RATTRAY - I was sitting a couple of seats up from the member, so perhaps we misheard, or I misheard, or the member for Rumney misheard. That was my understanding: that the opportunity would not be lost for us to speak on Wednesday. But, Mr President, if you rule that we have to proceed with the vote, we will lose the opportunity. That was my understanding from the conversation we had around the table in the committee room at an earlier time. Perhaps it was different from the member for Rumney's understanding, but that was my understanding.

[6.45 p.m.]

Mr FARRELL (Derwent) - Mr President, I had no real understanding of what was going on and I assumed we were following parliamentary practice where you called the second reading and people said 'aye' and that was it. I do not know whether deals have been done. I have not had any deals done.

Ms Lovell - You were in the room.

Mr FARRELL - Well, arrangements had been made.

Ms Lovell - He was not in the room.

Mr FARRELL - The process is the President calls and people rise and speak.

Mr PRESIDENT - As I have stated previously, the member for Windermere had the call relating to his second reading speech; he got up, he then requested and moved the motion the House stand adjourned, so the debates stand adjourned. That is what we are looking at now - whether the debates stand adjourned or otherwise. If the debates are to stand adjourned, it is a matter for the House; if it is to proceed, it is a matter for the House. The sole question here is: that the debate stand adjourned.

If that is supported, of course, as it was just stated, members will not lose the opportunity to contribute to a second reading debate.

Ms FORREST (Murchison) - Mr President, I was at the meeting and we agreed to go to 7 o'clock. There was also the opportunity for anyone to get up and seek to adjourn at any time if other members were not ready to go. The member for Windermere got up and after that we had called the vote - and you called it.

Mr PRESIDENT - I called the ayes; I did not call the noes.

Ms FORREST - Halfway through the call, okay. Either way, I heard the member for Windermere say during his contribution on the motion to defer that he still had his second reading speech. There is no reason he cannot start it at least tonight. I listened very carefully to everything he said, particularly when I was in the Chair where you are, Mr President, and he said he would be making those comments in his second reading contribution. He has material to go on with and we can go on until 7 o'clock. So, on that basis I am inclined not to support the amendment and will adjourn the House when we agreed.

Mr VALENTINE (Hobart) - Mr President, I clearly heard the idea of pulling it at 7 o'clock. If the member wants to adjourn, I do not have a particular issue with that. Everybody will have the opportunity to speak. I support the adjournment, providing the House is happy with that.

Motion agreed to.

Debate adjourned.

ELECTORAL AMENDMENT BILL 2019 (No. 3)
MOTOR ACCIDENTS (LIABILITIES AND COMPENSATION)
AMENDMENT BILL 2019 (No. 4)

First Reading

Bills received from the House of Assembly and read the first time.

GAS (CONSEQUENTIAL AMENDMENTS) BILL 2018 (No. 42)

GAS SAFETY BILL 2018 (No. 41)

GAS INDUSTRY BILL 2018 (No. 40)

Amendments Agreed to by House of Assembly

The House of Assembly advised that it agreed with the Council amendments.

ADJOURNMENT

[6.51 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That at its rising the Council adjourn until 11 a.m. on Tuesday 2 April 2019.

Private Members' Business - Government Undertaking

Ms FORREST (Murchison) - Mr President, on adjournment it is important we actually read into *Hansard* the letter we received from the honourable Leader. I thought she might have done it herself -

Mrs Hiscutt - No, I am happy for you to do it.

Ms FORREST - As discussed in the said meeting, there is a commitment from the Government to bring this Justice and Related Legislation (Marriage Amendments) Bill back as soon as any private members' business is dealt with Tuesday week after next, and it will be proceeded with until it is complete. The Leader is the controller of what appears on our Notice Paper and the order in which we do it; I understand that is her role and what she does. I want to read the letter she sent -

21 March 2019

HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL

Dear Members

Pursuant to the will of the Council, I confirm that following the completion of Private Member's business on Tuesday 2 April, the Government will resume debate on the Justice and Related Legislation (Marriage Amendments) Bill 2018 as the priority item of Government Business in the Legislative Council. Deliberation of the Bill will continue as the top priority until its conclusion, expected to be later that week.

As per the Members request, I enclose a copy of the Attorney General's original request for advice from the Solicitor General.

Yours sincerely

Leonie Hiscutt MLC

Leader of the Government in the Legislative Council

It is important to have this on the public record so everyone knows what the commitment is. I take the Leader at her word that it will proceed. I wanted to make that point on adjournment.

Private Members' Business - Government Undertaking

[6.55 p.m.]

Ms RATTRAY (McIntyre) - Mr President, Wednesdays and Thursdays have always been government business days. We have an agreement with the Government. I do not believe that in the past, this House has tried to tell the Government what to do. I do not think it would be a good trend to start heading down that path. We had a discussion earlier that day. We know Tuesdays is private members' day and the Government has always respected that, unless there was no private members' business. On the odd occasion, we have done some government business. We need to be consistent in that approach, otherwise it will end in tears, to be frank.

Obviously, the Government has given an undertaking, which the member for Murchison has read out, and we need to stand by those things. We will be back in this place in eight days but we have to be mindful we finish our private members' business on Tuesday before we start on government business on private members' day. As I said, once you start going away from what we have had in the past in this House, we would not have the same House.

PRESIDENT'S STATEMENT

Christchurch, New Zealand - Shooting Tragedy

Mr PRESIDENT - Honourable members, the recent events in Christchurch have affected us all. Before I put the question to adjourn, I ask all members to stand and join with me in observing a minute's silence as a sign of our respect for those who lost their lives and for those families and community members who are so deeply impacted.

Members stood in their place and observed one minute's silence.

Motion agreed to nemine contradicente.

The Council adjourned at 6.56 p.m.