PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 22 June 2022

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11.00 a.m., acknowledged the Traditional People and read Prayers.

RESPONSES TO PETITIONS

Kettering - Construction of Pedestrian Pathway

[11.02 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, I have the honour to table the Government's response to the former member for Huon's petition regarding the pedestrian pathways required between Oyster Court and Oxleys Road, Channel Highway, Kettering.

Pedestrian Pathway - Dover

Mr President, I have the honour to table the Government's response to the former member for Huon's petition regarding the pedestrian pathways required between Francistown Road and McNaughten Road on the Huon Highway, Dover.

RECOGNITION OF VISITORS

[11.05 a.m.]

Mr PRESIDENT - Honourable members, I welcome to the Chamber the year 7 group from the Hobart City High School - Ogilvie Campus who are joining us today.

We have done the opening of the session and very shortly we will be breaking for briefings which is an important part of the Legislative Council process. When we are reviewing legislation we have interest groups come into the parliament to brief us as a Council of the Whole on various legislation that we are considering. We are about to have the briefings and then later today we will debate the bill which is the Police Offences Amendment (Workplace Protection) Bill 2022.

I am sure all members will join me in welcoming you here to the parliament and thank you for visiting the Legislative Council.

Members - Hear, hear.

APPROPRIATION BILL (No. 1) 2022 (No. 23)

Third Reading

Bill read the third time.

APPROPRIATION BILL (No. 2) 2022 (No. 24)

Third Reading

Bill read the third time.

SUSPENSION OF SITTING

[11.07 a.m.]

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 for the continuation of our briefings on the Police Offences Amendment (Workplace Protection) Bill 2022. We have about an hour and a half of briefings left so it is very unlikely that we will get back until 2.30 p.m.

Sitting suspended from 11.09 a.m. to 2.30 p.m.

QUESTIONS

Crossing Guard - Summerdale Primary School, Stanley Street

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

[2.30 p.m.]

Mr President, my question is to the Leader of the Government:

(1) Why was the crossing guard posted at the Stanley Street pedestrian crossing servicing Summerdale Primary School in Launceston withdrawn without notifying the school of this change?

(2) Is it common practice to exclude schools and school communities from decisions like these and, if so, why?

(3) On what basis is allocation of a crossing guard determined? For example, what is the number of pedestrian crossing users that is needed to deem a crossing guard necessary?

(4) Was the Stanley Street crossing guard redeployed? If so, where were they sent?

(5) Whether the Government will consider working with the Summerdale Primary School, the students and the families to discuss remedial action, such as reinstating the crossing guard to Stanley Street?

ANSWER

Mr President, I thank the member for her question.

(1) Unfortunately, no consultation has yet occurred with the school. The minister is disappointed about this and has instructed the Department of State Growth to directly discuss the issue with the school.

In late 2021, an assessment of the Summerdale Primary School, Stanley Street site was conducted to determine if it still met the criteria for the school crossing patrol officer. The assessment was undertaken by the Department of State Growth and determined that vehicle and student volumes passing through the site during peak times fell significantly below the minimum threshold for a funded School Crossing Patrol Officer (SCPO).

During the 2022 school year, the Stanley Street crossing remains in operation without a paid SCPO. The school crossing flags have been deployed at the crossing in both the morning and afternoons to assist it with the safe crossing of children. The site continues to be monitored by the Department of State Growth for any safety issues, of which none have been recorded to date.

Summerdale Primary School has two other school crossings which continue to have paid SCPOs. No operational decision has been made to close any of the Summerdale crossings at this time. State Growth provides a statewide School Crossing Patrol Officer Program and the deployment of an SCPO to those sites which meet the requirement.

Traffic counts are undertaken on an as needs basis to ensure resources are allocated to those schools with the highest need and risk, the highest number of primary school students and vehicles.

In 2022, six new school sites received an SCPO in recognition of the changing school demographics, bringing the total number of children's crossings to 77 throughout Tasmania. Recruitment and retention of the SCPOs remains challenging, despite significant efforts undertaken by State Growth to address this.

(2) If an operational decision is made that a school crossing no longer meets the requirements to have a Department of State Growth-funded SCPO, discussions should then occur with the school and the Department of Education regarding appropriate alternative arrangements.

(3) The safety of children around schools can best be addressed by raising awareness of the presence of children in a school environment, by defining locations where children cross the road. This can be achieved by the use of effective school traffic control facilities which vary depending on a range of circumstances (paid SCPO and voluntary SCPO and/or deployment of school crossing flags and things like that). As with assessments that lead to resourcing being deployed to crossings with higher risks, the minister expects schools to be consulted appropriately.

To determine if a children's crossing meets the criteria for a State Growth-funded SCPO an assessment of the vehicle and pedestrian volumes is undertaken during peak times. This information is contained in the school traffic control guidelines. The minimum requirement for a primary school is for vehicle and people movements (CV) totalling a minimum of 30 children and 250 vehicles in the hour preceding the commencement of the school day and again in the hour proceeding the conclusion of the school day or a combined CV of 15 000 or more.

(4) SCPOs are not employed to work at a specific school or crossing. Instead they are employed to work flexibly within a reasonable distance from their residence to meet operational requirements wherever the assessment may be.

(5) If permanent changes are made to any school crossing, discussions occur with the Department of Education and the school to discuss ways in which the safety of students can be maximised.

Tobacco Control Laws

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

[2.35 p.m.]

(1) In the Healthy Tasmania Five-Year Strategic Plan 2022-26 it stated that the Government will 'strengthen tobacco control laws to reduce the visibility and the availability of smoking products, and regulate new and emerging tobacco industry products.'

Could the Leader please provide further information about what this might entail?

(2) The same five-year plan also states that the Tasmanian Tobacco Control Coalition is developing the next tobacco action plan. Can the Leader please advise:

(a) who are the members of the Tasmanian Tobacco Control Coalition;

(b) what, if any, public business consultation is the Tasmanian Tobacco Control Coalition undertaking as part of the preparation of this plan;

(c) when is the next tobacco action plan likely to be finalised and released to the public?

(3) Tasmania is a jurisdiction which requires community pharmacies to obtain a smoking product licence to stock and dispense nicotine vaping products and charging a fee of $1183.05 per year to dispense nicotine vaping products. Can the Leader please advise whether the Government considers it appropriate that pharmacies seeking to provide smoking cessation aids be obliged, by law, to have the same licence and pay the same fees as tobacconists and retailers that sell cigarettes, and what is the rationale for retaining this requirement?

(4) What steps are being taken by the Government to remove the requirement for a tobacco retail licence in the pharmacy setting?

(5) When can community pharmacies expect to be granted relief from this requirement?

ANSWER

Mr President, I thank the member for her question.

(1) This action aims to normalise smoke-free communities to create supportive environments that support Tasmanians to stay smoke-free and/or to quit smoking so that everyone leads healthier lives. This includes action to create more smoke-free areas and to ensure that Tasmanians are safeguarded from the harms of emerging products, in particular e-cigarettes.

Specifically, the Government is examining opportunities to further resource and support communities where there are ongoing high levels of smoking to implement targeted initiatives; and to educate school staff in brief interventions to support young people to quit.

Further details will be included in the new Tasmanian Tobacco Control Plan 2022-26.

(2) (a) The Tasmanian Tobacco Control Coalition brings together relevant stakeholders to provide advice to Public Health Services regarding tobacco policy and action. Membership includes stakeholders from all levels of government and non-government organisations across sectors like health, education or community, and universities.

(b) There has been no consultation with business in the development of the tobacco action plan. Australia is a signatory to the World Health Organization's Framework Convention on Tobacco Control, the FCTC. This is an evidence-based international treaty that reaffirms the rights of all people to the highest standards of health. The FCTC sets a clear standard in regard to protecting public health policy and tobacco legislation from the interests of tobacco companies. Article 5.3 states that:

> In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

As such, consultation with the tobacco industry and lobbyists, and other commercial interests, has not formed part of the development of Tasmania's Tobacco Control Plan.

(c) The Tasmanian Tobacco Control Plan: reducing the use of tobacco and related products 2022-2026 will be released shortly. It will be publicly available on the Department of Health website.

(3) Tasmanian pharmacies that dispense nicotine vaping products are required to apply for a smoking product licence under the Public Health Act 1997, and to comply with its tobacco control provisions, including in relation to sales to children, restrictions of display and, advertising, et cetera. This licence costs $594 for e-cigarettes only.

E-cigarettes can be harmful. Identified health risks of e-cigarettes include: addiction; intentional and unintentional poisoning; acute nicotine toxicity, including seizures; burns and injuries; lung injury; indoor air pollution; environmental waste and fires; dual use with cigarette smoking; and increased smoking uptake in non-smokers.

E-cigarettes are not proven safe and effective smoking cessation aids. More research is needed to confirm the harms and benefits of using these products for this purpose.

One recent report, released in April 2022, commissioned by the Australian Government through the Australian National University's National Centre for Epidemiology and Population Health called *Review of Global Evidence on the Health effects of electronic cigarettes* found a number of significant findings, including:

- half of all current users are aged under 30;
- the majority of users do not use it for smoking cessation, and 53 per cent are also using combustible tobacco cigarettes (they are dual users);
- non-smokers using e-cigarettes are three times more likely to go on to using combustible tobacco cigarettes; and
- ex-smokers using e-cigarettes are around twice as likely to relapse to smoking as ex-smokers not using e-cigarettes.

(4) No steps have been taken to remove requirements for smoking product licences in pharmacy settings.

(5) There are no plans to review the smoking product licence requirements for pharmacists.

Ms ARMITAGE - If I could have a supplementary to (2)(a), the question was, who are the members of the Tasmanian Tobacco Control Coalition? You gave a very generalised answer. Could I have more specifics about who actually are the members of the Tasmanian Tobacco Control Coalition?

Mrs Hiscutt - Are you going to resubmit that, please?

Ms ARMITAGE - I asked it already. Perhaps you could just resubmit it to those who answered the question please, with respect.

Mrs Hiscutt - We will see how we go, with respect.

Veterans - Rethink 2020 - Mental Health Strategic Plan

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

[2.43 p.m.]

As Rethink 2020, Tasmania's strategic plan for mental health, is reviewed and updated each year to 30 June 2025, my question is, can the Government please advise if one of the most at-risk groups, our veterans, will be included as a priority population group in the implementation plan?

Mr PRESIDENT - To assist members with the questions, because these go through the Leader's office, you address your question to the Leader and then it is up to the Leader's office whether it is the Leader, the Deputy Leader or somebody else.

Recognition of Visitor

Mr PRESIDENT - Honourable members, speaking of somebody else, I welcome former Speaker, Michael Polley AM, to the Council Chamber today. He is keeping his eye on us, making sure we do the right thing.

Members - Hear, hear.

ANSWER

Mr President, I thank the member for her question.

The mental health and wellbeing of all Tasmanians, including veterans and their families is important to the Tasmanian Government. The Australian Government is primarily responsible for funding, policy and management of services for veterans. This approach is outlined in clause 37 of the National Mental Health and Suicide Prevention Agreement that all states and territories and the Australian Government agreed to and signed in March 2022.

Under the national agreement, the Australian Government agreed to be primarily responsible for, amongst other matters, funding and provision of mental health and suicide prevention services to veterans, defence force personnel, and people in immigration detention. Clause 37 also notes that, 'at times, acute care might be required to be undertaken in state-based services'.

The priority areas under Rethink 2020, Tasmania's overarching state plan for mental health, were agreed through an extensive consultation process. Changes to these priority areas, such as including new priority population groups under Reform Direction 7, could be considered when drafting the next version of Rethink, which is anticipated to be in 2025, the year that the current plan expires.

In terms of annual updates, Rethink 2020 is supported by annual implementation plans. We are currently working with our key partners - the Mental Health Council of Tasmania and Primary Health Tasmania - to update and develop new actions for the next Rethink 2020

Implementation Plan, which will be completed later this year. This implementation plan will incorporate additional actions from the National Mental Health and Suicide Prevention Agreement and Tasmania's bilateral schedule to this agreement.

Developing a new Tasmanian suicide prevention strategy by the end of this year is a key action under Rethink 2020. Consultation on the new strategy commenced on Friday 17 June 2022, with the release of a community online survey. This survey seeks feedback from the Tasmanian community on our direction for suicide prevention in the state.

The feedback from organisations associated with and supporting veterans and their families is important. The following organisations have been emailed the survey:

- Defence Families of Australia
- Tasmanian Government Veterans' Reference Group
- Legacy Tasmania
- Mates4Mates
- Open Arms - Veterans & Families Counselling
- RSL Tasmania
- The Partners of Veterans Association of Australia - the Tasmanian branch
- The Vietnam Veterans' Association of Australia - the Tasmanian branch

The Department of Health, in partnership with the Office of the Chief Psychiatrist, will also be hosting face-to-face community consultations around the state in July. Further details of these opportunities to be involved will be publicly released when finalised.

Mr President, I seek leave to table a document which will help understand this subject we are talking about. It is called The National Mental Health and Suicide Prevention Agreement, The Bilateral Schedule Fact Sheet of May 2022. I would like to have it tabled and incorporated into *Hansard*.

Leave granted.

See Appendix 1 on page 44.

Electricity Prices

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

[2.48 p.m.]

In an ABC report from 2 June, it was reported Tasmanians should brace for the biggest electricity hike in a decade and that an energy consultant expected a regulator price rise of more than 10 per cent. When this was put to the minister, in budget Estimates, the minister stated:

> We will do everything in our power to ensure that we can respond appropriately to the cost of living pressures when it comes to electricity prices.

The independent Tasmanian Economic Regulator has since announced an 11.88 per cent increase.

Can the Leader please advise in view of this price increase:

(1) In addition to the suite of measures that were announced by the Premier and Minister for Energy and Renewables last week, targeting eligible concession card holders and residential and small business customers who are 'financially vulnerable', what specific measures will the Government take to provide relief to people who are struggling with meeting hundreds of dollars more a year for their bill but are not eligible for concessions or otherwise financially vulnerable?

(2) For the purposes of assisting those struggling with the cost of electricity, what is defined as 'financially vulnerable'?

(3) Can the Government commit to providing assistance for people who are not otherwise eligible for concessions, such as working couples or self-funded retirees, relating to electricity costs and other cost of living pressures? In other words, those who often fall through the gap who cannot get a concession card but not necessarily able to afford to pay all their bills either.

ANSWER

(1) Mr President, the assistance announced last week by the Premier and the Minister for Energy and Renewables provides targeted support to those most in need, as well as energy efficiency options for families and small businesses, and the tools for Tasmanians to help manage their power bills. The Winter Energy Assistance Package includes -

Ms ARMITAGE - With respect, I did say in addition to the suite. You do not need to read all those out as well.

Mrs HISCUTT - If you like I will not read them out but I will seek leave to have them incorporated into *Hansard* so they are all there. It is not pointed out here which is in addition. It is just a list. I can touch on them. There was the $180 Winter Bill Buster. It has a $61 concession. I seriously think I should go through these:

- there is a $180 Winter Bill Buster discount for eligible electricity concession account holders, including those in embedded networks. This discount is made up of the $61 concession increase budgeted to flow to concession cardholders this year, plus a bill credit of $119 to help offset the increase to be provided on eligible customers' next bill from 1 August 2022. This will completely offset the yearly bill increase for concession cardholders with small to medium usage and significantly cover the increase for those who consume higher amounts of power. The eligibility criteria target the most vulnerable people in the Tasmanian community, in alignment with the existing annual electricity concession.

- a boosted and expanded $50 million Energy Saver Loan and Subsidy scheme is available to all Tasmanians and will provide up to $10 000 for an interest-free loan to provide for private residential customers, all business customers and landlords of residential rental properties to invest in energy-efficient products to help lower their electricity bills. This is an important tool to help Tasmanians manage their bills and to lower them.

- there will be no charge for aurora+ from 1 July 2022. Tasmanians using aurora+ are significantly less likely to experience bill shock and their debt levels are lower than customers who do not use it. Over the next 12 months, Aurora Energy will work to sign up as many customers to aurora+ as possible. This is, again, open to all Tasmanians.

- there is also a $1.7 million Aurora Customer Support Fund and the YES incentive payment program to support residential and small business customers experiencing financial vulnerability with subsidised payment plans and one-off payments.

- then there is the ongoing commitment to the No Interest Loan Scheme (NILS) for low income Tasmanians to purchase things like household, medical and education essentials up to $1500.

The Government will continue to monitor cost of living pressures on Tasmanians and stands ready to respond with further measures if required.

(2) The Aurora Customer Support Fund, and the YES incentive payment program are there to assist customers who are financially vulnerable and are finding it difficult to pay their bills. Customers can contact Aurora to discuss their eligibility for the support measures available, and this is a discussion done on a case by case basis.

(3) The boosted and expanded $50 million Energy Saver Loan and Subsidy Scheme will provide support and assistance for people who are not otherwise eligible for concessions. The program will provide interest-free loans of up to $10 000 to private residential customers, small business customers and landlords of residential rental properties to invest in products that will have a flow-on impact of lowering their electricity bills. Also, aurora+ is available at no cost for this group, along with Aurora's hardship fund and YES program if required.

Ms ARMITAGE - I want to make a comment. I am not sure anything was added in addition to the suite of measures that were announced but just to say that aurora+ is not available to everyone; you must have a smart meter.

Mr PRESIDENT - That is a point of clarification?

Ms ARMITAGE - Just to let you know it is not available to those who do not have a smart meter. I think there are some 200 000 who still need to have their meters changed over. I do not believe the answer included anything that was in addition to the suite of measures already announced.

Mr PRESIDENT - The member may like to resubmit the question.

Ms ARMITAGE - Thank you, Mr President.

SUSPENSION OF SITTING

[2.54 p.m.]

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 for the continuation of the briefings on the Police Offences Amendment (Workplace Protection) Bill 2022.

While I have everyone's attention, I am flagging a 10 a.m. start tomorrow but I will get to that one later.

Sitting suspended from 2.55 p.m. to 3.45 p.m.

POLICE OFFENCES AMENDMENT (WORKPLACE PROTECTION) BILL 2022 (No. 15)

Second Reading

[3.45 p.m.]

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

That the bill be now read the second time.

The Police Offences Amendment (Workplace Protection) Bill 2022 repeals the Workplaces (Protection from Protesters) Act 2014 - I will refer to that as the 2014 act - and amends the Police Offences Act 1935.

The Government has been elected three times with policies designed to further protect the rights of workers and to deter unlawful interference with workplaces. For some time now, businesses in Tasmania have been adversely impacted by the actions of individuals and small groups and it remains an issue today. We want to deter people from this aggravated, unlawful conduct that has such significant economic impact on businesses and workers in these sectors. Importantly, there are also the psychological impacts for people going about their daily work who are confronted with these unlawful disruptions.

Of course, we also seek to protect those persons who foolishly place themselves, and often others, at risk in their attempts to disrupt business activity. The Tasmanian Government condemns these actions. They are unacceptable and our law and penalties must clearly deter this behaviour and support people who are going about their lawful business.

This problem is not unique to Tasmania. Several other jurisdictions have taken the necessary step of introducing legislation to curb these types of activities.

In New South Wales, a spate of unlawful activity shut down major roads costing the community millions of dollars in direct economic loss and lost productivity. In response, this

year the New South Wales Government passed the Roads and Crimes Legislation Amendment Bill 2022 to deal with illegal activity blocking major roads or facilities in addition to existing road obstruction offences. Like other jurisdictions, New South Wales has also introduced higher penalties for trespass that obstructs business and undertakings.

In 2019, the Queensland Government passed the Summary Offences and Other Legislation Amendment Act 2019 to address the use of dangerous lock-on devices, recognising that those devices were designed solely to maximise the disruption caused to workers and members of the public. Similarly, the Criminal Code Amendment (Agricultural Protection) Act 2019 passed by the Commonwealth Government created two new offences relating to trespass and property offences on agricultural land. This legislation was in direct response to the actions of those people inciting serious trespasses on a number of farms throughout Australia. Such conduct would cause the contamination of, or interfere with, food production and poses the significance of biosecurity hazard.

Such legislation recognises that the freedom of political communication does not mean unreasonable obstruction of lawful business viability.

Like those jurisdictions, Tasmania needed to take action to further protect the rights of people going about their lawful businesses. We took action with the Workplaces (Protection from Protesters) Act 2014, but of course, accept that the High Court of Australia in Brown and Anor v State of Tasmania found certain provisions of that act in relation to forestry land are invalid. This was because they were found to impermissibly burden the implied freedom of political communication contrary to the Commonwealth Constitution. However, importantly, the majority of the judges of the High Court considered the purpose of the act was valid.

This bill gives effect to the fundamental purpose recognised as valid by the High Court, fulfilling the Government's commitment to workplace protection. It protects people who are undertaking lawful business activity. People should be able to earn a living without trespassers obstructing businesses and undertakings or unreasonable obstruction of roads.

The Police Association of Tasmania has expressed strong support for this objective. In utilising existing offences and new penalties to clarify the law for this proper purpose, the Government recognises that freedom of communication, including protest is a fundamental right. It has been called the touchstone of all human rights, and it allows ideas to be tested and to inform political debate.

The Government recognises that businesses may need to accommodate some levels of disruption due to the legitimate expression of these rights. However, the bill recognises there are limits to all rights, particularly when businesses suffer substantial disruption. For example, the implied freedom of political communication does not permit people to trespass on the land of others only because the person entering the land wishes to make a political point or a statement. As a former Chief Justice of the High Court of Australia wrote:

> The importance attached to common law and international law of freedom of speech does not convert it into a right which can be exercised inconsistently with the rights and freedoms of others. It does not carry with it a right to go on to private land in order to express a particular view. It does not carry with it a right to go on to land when access requires permission, for example by a

> public authority controlling the land for particular purposes. … There are, and always have been, limits.

The Government has given careful consideration to the High Court's decision, as well as feedback received during consultation on previously proposed amendments to the 2014 act and the feedback received during consultation on this bill.

This bill has been carefully drafted to ensure it strikes the right balance between protecting these various and sometimes conflicting rights and interests. This bill delivers a simpler framework that deserves broad support. It creates no new offences or police powers but clarifies the law of trespass and public order offences, making them more readily understood and enforced. It applies to all persons and businesses equally and it gives courts the ability to give higher sentences if appropriate for the more serious conduct.

Mr President, I will now turn to the details of the bill.

The bill amends the offence of public annoyance in section 13 of the Police Offences Act, which currently prohibits violent and riotous behaviour, disturbances of the public peace, disorderly conduct, nuisance and so on. The bill inserts a new element of unreasonable obstruction of the passage of vehicles or pedestrians on a street. This clarifies the existing fact that this conduct can already be charged under section 13. Of course, it can also continue to be charged under law, such as the Road Rules of 2019, where appropriate.

In recognition of feedback during submissions, the bill has been amended to clarify what 'obstruction' refers to. Similarly, to other offences, it is now stated clearly as 'unreasonable obstruction of the passage of vehicles or pedestrians'. The element of 'unreasonable obstruction' has been incorporated from both road and other offences. For example, a person stopped in traffic or broken down on a street is not unreasonably obstructing a road, as noted by the High Court in the Brown case. The notion of obstruction is also limited by principles of legality and section 3 in the Acts Interpretation Act of 1931, that is, obstruction would apply to substantial or serious obstruction.

Mr President, as an aside and not part of the second reading, the minister, Mr Barnett has written to members about some amendments. To help qualify these amendments and what we are doing, I seek leave to table his letter and have it incorporated into *Hansard* so that it is there for any people who are reading this in the future.

Leave granted.

See Appendix 2 at page 48.

Mrs HISCUTT - To continue with the second reading speech, importantly members of the community will continue to be able to apply for a permit to conduct various activities on a public street, as they have always done. This change has no effect on the conduct of demonstrations or events which have been granted a public street permit by a senior police officer under section 49AB of the Police Offences Act.

This bill also addresses the issue that the current maximum penalty under the Police Offences Act for section 13(1) offences is too low for appropriate deterrence and recognition of the serious conduct. We want to give courts discretion for higher penalties for more serious

offending conduct under section 13(1), which includes unreasonable obstruction of streets, but also the other existing elements, such as violent and riotous behaviour, disturbances of the peace, disorderly conduct and nuisance.

The amendment will increase the maximum financial penalties for public annoyance under section 13(1), from three penalty units to 10 penalty units. However, it will not impact on the maximum period of imprisonment allowable. The new maximum financial penalty equates to $1730. This change brings Tasmania into line with similar offences in other jurisdictions. It remains a maximum for the court's discretion for the most serious conduct, so that lower level conduct is not unduly affected. In many cases, police will disburse persons found offending in minor ways against section 13, rather than charge them under the offence.

Moving onto section 14B of the Police Offences Act, the bill makes amendment to the offence of trespass. It reinserts the current 14B(1) with minor amendment to clarify the current references to entering or remaining on property including a new 'move into or onto'. It also includes a new section 14B(1A) to clarify that acts such as locking onto machinery or standing on the machinery amount to trespass. This is a commonsense amendment given the significant disruption and danger that can be caused by this conduct.

The bill provides for increased penalties for the offence of trespass. Importantly, the increased penalty only applies where the court is satisfied, at the time of sentencing, that the trespass either obstructed a business or undertaking or caused a serious risk to the safety of the trespasser or others. The increased penalties only apply in those specific situations because these are the situations that have a real impact on businesses and livelihoods, or create serious risks. The Police Offences Act already provides for increased penalties for certain forms of trespass that are considered more serious or dangerous, and the bill is consistent with this approach.

I will now break down the three types of what can be thought of as 'aggravated trespass'.

The first situation where an increased penalty will apply is where the person, by or while committing the trespass, obstructed a business or undertaking, or took an action that caused the business or undertaking to be obstructed. The person will be liable to a maximum penalty of 50 penalty units, currently $8650, or imprisonment for a term of 12 months. This is double the standard penalty for trespass, and the same as the current aggravated penalty for trespassing in a home or with a firearm.

The terms 'business' or 'undertaking' are used across a range of Tasmanian legislation and have their normal meanings. For example, it protects both profitable and not-for-profit businesses and undertakings.

Again, for the same reasons I explained for the section 13 amendment, 'obstruction' would apply to 'substantial' or 'serious' obstruction.

The second situation is where the person by, or while committing the trespass, caused directly or indirectly a serious risk to the safety of themselves or another person, or took an action that caused such a risk. This covers both risks directly created at the time of the offence, but also indirect risks that are still closely linked to the person's conduct. For example, a person who tampers with machinery overnight that may malfunction and harm someone the next day. The person will be liable to a maximum penalty of 75 penalty units, currently $12 975.

Sitting suspended from 4 p.m. to 4.30 p.m.

POLICE OFFENCES AMENDMENT (WORKPLACE PROTECTION) BILL 2022 (No. 15)

Second Reading

Resumed from above.

[4.30 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, as I was saying, the person will be liable to a maximum penalty of 75 penalty units which is currently $12 975, or 18 months imprisonment. This penalty is three times the standard trespass penalty. If a person has previously been convicted of this form of trespass, they are liable to a maximum penalty of 125 penalty units, which is currently $21 625, or 30 months imprisonment.

That is a significant penalty. It is five times the standard trespass penalty, and for good reason. It applies only if a person has previously been convicted of trespass which caused a serious risk to the safety of themselves or another person.

Third, if a body corporate commits a trespass and in doing so they obstruct a business or undertaking, or take an action that obstructs a business or undertaking, the body corporate is liable to a maximum penalty of 600 penalty units, that is currently $103 800. This is a significant penalty, and it should be. Body corporate penalties are generally significantly higher than those faced by individuals. This is partly because prison does not apply to a body corporate. There is a risk that without a significant penalty, bodies corporate will simply consider any fine imposed as a cost of their business.

It is important to remember that, in respect of all the increased penalties introduced by this bill, they are maximum penalties. The magistrate retains sentencing discretion to fix a sentence that is appropriate for the circumstances of the case. Further, the penalty levels for trespass for individuals are substantially lower than related penalties in the 2014 act.

The offence of trespass requires a person to be on property without the consent of the owner, occupier or person in charge.

The final substantive aspect of the bill clarifies when the holder of a mineral resources lease or licence – known as a mineral tenement – is taken to be in charge of an area of land. In many cases, it is already clear when the holder of a lease or licence is in charge of the land or an occupier of the land, for the purposes of trespass. However, noting the nature of mineral tenements, if the holder only has possession of the land to the extent necessary for carrying out lawful operations under the lease or licence, and that there are a wide variety of factual situations that may arise, this provision is intended to address any circumstances where it is not clear whether the holder is an occupier or person in charge of the land.

This is an important issue because we know that sites of mining leases or licences are often targeted by persons looking to disrupt lawful mining activities.

This provision was clarified after consultation to address an issue noted by the Police Association. That is, the bill was never intended to deem persons on mining land to be trespassers or deem a person to commit a trespass if they also commit a mining offence. The

clause now simply provides where a police officer reasonably believes a person on such land is obstructing operations, to the extent they are committing serious offences under the Mineral Resources Development Act 1995, the lease or licence holder is taken to be the person in charge of the land for the purposes of trespass.

Where a person has entered land and committed such offences, therefore, the tenement holder can give or withdraw consent to persons remaining in that area. Under the continuing law of trespass under the act, if the persons do not leave that land, then they are also committing a trespass. The specified offences under the Minerals Resources Development Act 1995 also involve hindering, or obstructing licence holders and lessees from carrying out lawful activity under the respective lease or licence. This approach has the practical effort of clarifying a person can be trespassing in mining areas if they are on an area of the land in which they are actually hindering or obstructing lawful activities under the lease or licence from occurring. It does not apply to the entirety of the land subject to the lease or licence.

This approach to mining areas draws on the existing model in section 55 of the Police Offences Act, which provides a police officer can arrest someone if they reasonably believe a specified offence is being committed. Existing safeguards for trespass continue, such as a person must first be given an opportunity to leave before being arrested. Further, another continuing safeguard is that a police officer cannot arrest a person for trespass if they believe the person has a reasonable or lawful excuse for being on the property. Finally, of course, a person may not be arrested at all if it is more appropriate to proceed by way of summons.

Indeed, it is not the case that every offender today, or under this bill, will be charged or arrested. As is the case today, where people are unreasonably obstructing a street or trespassing, most often it is only those few whose behaviour is serious, or who refuse to disperse, who will be charged. For those who are charged with trespass, this bill only allows courts to consider a higher penalty if the court considers the trespass meets the aggravating criteria. If not, that person is subject to the same trespass penalty as they are today.

Public and targeted consultation was undertaken on this bill. I note in particular the Australian Lawyers Alliance acknowledged the bill in part reflected their previous proposal for a simpler approach. The Australian Lawyers Alliance and some other submissions gave constructive feedback. The Police Association of Tasmania noted that this bill is far simpler than previous legislation and far more practicable, workable and not an unnecessary burden on police officers. We have addressed any necessary changes in the final version of the bill, consistent with the Government's objectives.

By utilising the existing framework of the Police Offences Act, the bill enacts changes that can be readily understood by members of the community, businesses and police. Most importantly, the bill, while respecting the right to freedom of communication, appropriately protects people undertaking lawful business activity. The bill ensures activity that involves trespass or road obstruction is adequately addressed by our laws, and that if people decide to commit these offences the penalty is capable of serving as a deterrent. It is clear that the current laws are not doing enough.

Mr President, I commend the bill to the House.

[4.38 p.m.]

Ms LOVELL (Rumney) - Mr President, I start by saying as clearly as I can that I support the right to protest. I believe in the right to protest and the Labor Party supports the right to protest. Our movement has been built on protest. It has been protesting that has driven many significant social, political and industrial changes over the years. As a unionist, I believe not only in the right of people to act collectively to achieve a common goal but in the power of collective action. I want to be very clear about that.

I also believe in the right of all workers to be safe in their workplace - safe from bullying and harassment, from unsafe work practices, from unmanageable workloads, from insecure work, from wage theft, from negligence at the hands of their employer and, yes, from workplace invasions that put people at risk. Workplace safety is a critical issue. It can literally mean life or death. It is not good enough that there are still people who go to work in the morning and do not come back home in the same health that they left in or, indeed, at all. It is not good enough.

I do believe that there is an aspect of workplace safety in this bill, an aspect of it, but this bill is not a workplace safety bill. This Government is not serious about workplace safety and should not pretend that it is. If this Government was serious about workplace safety, we might be here debating industrial manslaughter legislation, like a lot of other states and territories around the country. We are falling behind fast, by not acting to protect workers, in legislation, from action or negligence at the hands of their employer that causes the death of a worker. This should be the top priority for any government that claims to be concerned about workplace safety. But we are not debating industrial manslaughter legislation.

If this Government was serious about workplace safety, we might have seen in the Budget a few weeks ago an increase in resourcing to WorkSafe Tasmania, our workplace health and safety regulator, an increase in funding allowing them to employ more inspectors so that reports of work health and safety breaches can be responded to quickly, investigated thoroughly and proactively, and remedied. We did not see such an increase in resourcing in the Budget.

If this Government was serious about workplace safety we might be talking about a plan to implement all the recommendations of the Boland report, which examined the operation of work health and safety laws across the country and made 34 recommendations in 2019, almost three years ago. What is happening with those recommendations? We are not talking about the Boland report.

If this Government was serious about workplace safety, we might be talking about a plan to address the concerning and increasing rates of workers compensation claims among public sector workers. These figures were revealed through budget Estimates, where we heard that 25 teachers have been off work on stress leave for longer than 12 months. We heard from Treasury that there has been an increase in claims for psychological injury. We heard from the Department of Police, Fire and Emergency Management that there are 139 open workers compensation claims in the police force alone, and 88 of those are for psychological injury. In the Tasmania Prison Service, at the end of March 2022, there were 89 claims, 37 of which were for psychological injury. We could be talking about this workplace safety issue, but we are not.

If this Government was serious about workplace safety, we might be talking about insecure work and the casualisation of the workforce across the state. This is one of the biggest

threats to workplace safety. Who is going to raise a safety issue at work when they know their job is not secure in the midst of a cost of living crisis? Nobody, that is who. One of the biggest threats to workplace safety - and this Government is guilty of casualising its own workforce in the public sector with the use of those 50-hour a year contracts that some departments seem to love so much. But, we are not talking about insecure work; of course we are not.

So, no, I do not believe that this Government is serious about workplace safety. I do not believe that this has been the driving motivation for this bill, not for a second.

We know why we are dealing with this bill, and it is not to do with workplace safety. It is because this minister made promises he could not deliver. He tried with a bill that we now know - and most of us knew at the time - was unconstitutional. What a waste of everyone's time that was. If that was a waste of time, let us remember what has happened since then.

There was that first bill in 2014, almost eight years ago now, found to be unconstitutional and struck down by the High Court of Australia in 2017 - almost five years ago now. We then had a second attempt at standalone legislation with the Workplaces (Protection from Protesters) Amendment Bill in 2019. The Government claimed that this bill was so urgent that they had to gag debate in the other place - cut off the debate - so this really important, time-sensitive bill could be rushed straight to this Chamber for debate. The debate was gagged on 28 November 2019 and rushed to our Chamber for the first reading of the bill, really quickly, on 6 March 2020. It sat on our books then, this urgent bill, until parliament was prorogued on 25 March 2021 for the state election. Yet, it was so urgent that they could not possibly debate it for a second longer in the other place.

Now we have another attempt. This time with an amendment bill to the Police Offences Act. I welcome this change in strategy, although I still have significant concerns with the bill, but we can talk through those later.

I note that the minister again saw fit to gag the debate in the other place, so urgent was this bill, the debate in the other place taking place on 24 and 25 May. That was four weeks ago. Again, it was so urgent that they had to gag the debate all the while knowing that our Chamber would not have any opportunity to debate this bill before now. At least it was only four weeks this time, rather than 69 weeks, like the last urgent bill.

I note also with the change in approach from a standalone piece of legislation to amendments to the Police Offences Act comes a change in name. It is no longer a protection from protesters bill but now a workplace protection bill. Interesting semantics, although I think I have made my position on that clear already.

I turn my comments to the content of the bill. There are aspects of this bill that I have significant concerns with, some of which I believe can be remedied with amendment, others I believe should be struck out of the bill entirely.

Clause 4 deals with the new public annoyance offence and I understand the Government has some amendments to move to this clause. Given that we have had correspondence from the minister advising of this intention, I will direct my comments to the proposed amendments, as well as the original drafting.

The clause as written provides for the addition of a new public annoyance offence: unreasonably obstruct the passage of vehicles or pedestrians on a street. The penalties for public annoyance offences, including the existing public annoyance offences, would be significantly increased from a maximum of three penalty units, which is around $520, or three months imprisonment to a maximum penalty of 10 penalty units, currently around $1730 or, again, three months imprisonment. A significant financial penalty increase but no change to the imprisonment penalty.

I understand the minister has had some amendments drafted, which have been circulated, and it is the Government's intention for those to be moved by the Leader, so I will also comment on those. I will concede these amendments, should they be moved, would improve the clause in some regards. However, I still hold significant concerns. The clause would still capture a march or demonstration without a permit, which could include plenty of causes, women's rights, climate action, Indigenous rights, marriage equality and plenty more.

Almost everyone we have heard from today, including the Government, say they support the right to protest, the right to have your say, but this is a sanitising of protest: we support your right to protest but only with a permit; only on public land; only where you are out of the way and not being a public annoyance. What they are really saying is: we support your right to protest but only on our terms; only if it does not get in the way. How many protests have achieved social change by being careful not to get in the way?

The amendment would also cover protected industrial action. We have heard this term a lot, as in the amendment would exempt protected industrial action from the higher penalty. This is also relevant to clause 5 and the trespass offences but it is important to understand what this really means. What is protected industrial action? I will quote from the Fair Work Australia website, protected industrial action being defined in the Fair Work Act:

> Employees and employers can only take protected industrial action when they are negotiating on a proposed enterprise agreement and that agreement is not a greenfields agreement or a multi-enterprise agreement.
>
> The main importance of industrial action being protected is that it gives immunity from civil liability under State or Territory law (unless that action is likely to involve personal injury or damage, destruction or taking of property).
>
> Industrial action is only protected if:
>
> - it is action taken by employees (or their bargaining representatives) to support claims in relation to an enterprise agreement (employee claim action) or
>
> - it is action taken by employers or employees in response to industrial action taken by the other party (employer or employee response action) and
>
> - the action meets the common and additional requirements for protection, which include:

- not taking action before the nominal expiry date of an industrial agreement …
- parties genuinely trying to reach agreement
- observing the notice requirements set out below
- complying with any relevant orders or declarations
- not taking action in relation to a demarcation dispute …
- not taking action in relation to unlawful terms or as part of pattern bargaining …
- authorisation by secret ballot …

An employer, employee, employee organisation (such as a trade union), or official of an employee organisation that organises or engages in industrial action before the nominal expiry date of an industrial agreement as set out above may be subject to penalties of up to $13,320 for an individual and $66,600 for a corporation.

There are significant penalties already in existence for unprotected industrial action under the Fair Work Act 2009. I will continue with the information from the Fair Work website.

How does someone initiate protected industrial action?

In order to initiate protected industrial action a bargaining representative for an employee who will be covered by an enterprise agreement must apply to the Fair Work Commission for a protected action ballot order. This application can only be made if the employer has issued a notice of representational rights to their employees. The application must specify the group of employees to be balloted and the questions that will be put to them, (which include details of the proposed industrial action).

A copy of the application must be provided to the employer and the proposed ballot agent (the party that will conduct the ballot - usually the Australian Electoral Commission) within 24 hours of the application.

The FWC will then consider the application. If it meets the requirements, the FWC will issue a protected action ballot order. This is required to be given to the applicant, the employer and the ballot agent.

Protected action ballots are secret ballots that give employees the chance to vote on whether or not they want to initiate protected industrial action.

Before the ballot takes place the ballot agent will prepare a roll of eligible voters included in the protected action ballot order, which includes employees covered by the proposed agreement and are represented by the bargaining representative.

For a protected action ballot to authorise industrial action:

- the industrial action must relate to the questions that formed part of the ballot application order
- at least 50 % of employees on the roll of voters in the ballot voted
- more than 50 % of those valid votes approve the industrial action
- the action must start within 30 days of the declaration of the results of the ballot (unless this period is extended by the FWC).

Then there is more:

> Does notice need to be given before taking industrial action?
>
> Before employees take industrial action written notice must be given to the employer.
>
> Unless the action is in response to industrial action taken by the employer, three days notice of the planned action must be given (unless the protected action ballot order states a longer period).
>
> Before an employer takes industrial action, written notice must be given to each bargaining representative of an employee to be covered by the agreement. The employer must also take all reasonable steps to notify the employees to be covered by the proposed agreement of the action.
>
> In all cases, the written notice must specify the nature of the action that will be taken and the day it will start.

There is also information about all the ways that a protected action order can be cancelled or terminated. There are many of those so I will not go into them at this stage. The point that we all need to understand in considering this bill and the amendments is that protected industrial action involves lengthy processes, is time-consuming, is incredibly limited and allows employers to take steps to minimise the impact. In other words, by the time you were in a position where you have a protected action order and are able to take protected action, you may as well not bother.

Protected industrial action is not empowering workers to have a voice in their workplace, particularly marginalised groups and low-paid workers. It is not protected industrial action that has shaped industrial relations in Australia. It was not protected industrial action that won an 8-hour day, annual leave, sick leave, workers compensation, public holidays, equal pay - although we still have a long way to go there. I am happy to take a gamble, though, and say that it will not be protected industrial action that achieves any improvements on that issue either. It is not enough to include provisions that only deal with protected industrial action if we really want to protect workers.

I welcome the move away from increasing penalties for existing public annoyance offences and there was some discussion of those earlier today in briefings. The existing public annoyance offences include behaving in a violent, riotous, offensive or indecent manner; disturbing the public peace; engaging in disorderly conduct; jostling, insulting or annoying any person; committing any nuisance or throwing, letting off, or setting fire to any firework.

I still oppose this clause, even with the amendments. I appreciate the issues that the Government is trying to address in terms of remote access roads, but I do not see how this can be defined in a way that does not also capture roads in the CBD, as an example, and legitimate forms of protest action. While I am still assessing these amendments, regardless of whether I support the amendments I will be voting against the clause, amended or otherwise, and I urge other members to do the same. I cannot support a bill with such a broad provision that would undoubtedly impact on legitimate, safe protest activity.

The second substantial part of the bill, clause 5, deals with trespass offences. The definition of trespass is amended to include locking-on to equipment or property, but there is no new trespass offence. Anything you can be charged for under trespass in the current legislation would still be an offence under this bill, with the addition of locking-on.

However, if a court can be satisfied that in the process of committing that trespass offence you also obstructed a business or undertaking, or caused direct or indirect risk to a person, a much higher penalty can be applied by the courts for that offence. This is double the current penalty for obstructing a business or undertaking, increasing the maximum penalty to 50 penalty units or 12 months imprisonment, and triple the maximum penalty for trespass where direct or indirect risk is caused, so 75 penalty units or 18 months jail, with a further increase for people with a previous conviction to 125 penalty units or 30 months jail. There are also some changes to the legislation to clarify who is the responsible person in the instance of the mining lease for determining matters of trespass.

Despite this not being really a workplace safety bill, the approach that Labor has taken is to consider this bill from a workplace safety position. There are legitimate workplace safety issues that need to be addressed. These issues are raised with us by party members, by union members and by members of the community, and relate to acts of protest that do compromise workplace safety. As an example, I heard from a party volunteer that she came across an employee of Sustainable Timber Tasmania during the recent federal election campaign who was subject to a relatively recent protest that involved people storming their office and pouring, as she described it, a thick, black, tar-like substance over their desks and workstations. This woman was still very distressed by this experience and there were a number of staff still off work on stress leave as a result several weeks later. The workplace is also in close proximity to a service that provides care for children with autism and a number of the children and staff were very distressed by this experience.

This is the type of action that Labor does not condone or support. Nobody should be made to feel unsafe, intimidated or threatened in their workplace by anyone, including their employer, their workmates, or members of the public.

We hear stories from forestry workers who come to work in the early hours of the morning when it is still dark, not knowing if someone has come in earlier and attached themselves to the machinery they are about to start. Or of driving trucks up a remote road and not knowing whether someone is going to run out in front of them. While I appreciate that there are organisations that try to take a responsible, safe approach to protest, nobody can possibly know for sure that every person will follow those instructions, or that there will not be someone protesting who has not undergone that training. No-one can guarantee that.

It is not only the risk of harm to yourself, but being put in a position where you are at risk of harming someone else, or believe you might be at risk of harming someone else. That is unacceptable to me. I want to be very clear, I want these issues to be addressed.

However, the Labor Party has always been a big supporter of the right of workers to take action and protest in their workplace. This is a right we will always defend. I have taken part in many workplace protests as well as other community protests and marches. I cannot support legislation that infringes on the type of activity that our very movement was built on, and the bill in its current form would absolutely do that.

I will be moving an amendment, Mr President, to insert a protection for union or industrial activity in the application of the higher penalty for obstructing a business or undertaking, because I believe in the right of all workers to be able to take safe, effective industrial action in their workplace, to be supported by fellow union members, their workmates, family members and members of the community. My amendment would protect all workers, not just union members. We do not want workers to be at risk of a higher penalty for trespassing on their own worksite in the cause of legitimate industrial activity. The Labor Party was born from the union movement and will always fight to protect not only the safety of workers, but also their right to take action in their workplace. I will speak further to that in the Committee stage.

Coming now to the second part of clause 5, new clause (2AB), I do support the ability for a court to apply higher penalties for trespass action where that action causes direct or indirect risk to a person, because we support the right of people to be safer in their workplace, safe from harm, themselves, and safe from being put at risk of harming someone else.

However, it is my firm view there should be no impact on protest activity in public spaces, on roads or footpaths or outside workplaces or businesses. Only activity where a trespasser offence has been committed, a person or persons have been put at risk by that action or a business has been obstructed and it is not in relation to an industrial workplace for a union dispute. In other words, a dispute involving workers in that workplace.

In summing up, while I am pleased to see the minister finally abandon the flawed approach he has pursued for many years while workers have waited to have their legitimate workplace safety issues addressed and instead watched this issue be used as a political tool for the minister, there are still significant issues with this bill which I cannot possibly support without amendments.

I thank all those organisations and individuals who have participated in the discourse around this bill, including those who have campaigned on this issue for many years and those who have briefed us on this particular bill. I know this is an issue that generates a great deal of public interest. I look forward to other members' contributions and to further debate in the Committee stage.

[5.01 p.m.]

Ms FORREST (Murchison) - Mr President, this is one of the bills where normally I would prepare a few written thoughts. I am not going to go on for ages, having said that, but there has been so much changing in such a short and tight time frame, with all good intent, with respect to dealing with the very real problems that many of us have identified with this

approach. I may be a little bit repetitive or I may go over stuff. I might forget to say stuff I intended to or things I intended to.

Let me say from the outset that people would know in and outside this place that I have always had a strong belief in the right to free speech, and for the right to protest. I, too, like the member for Rumney, have participated in protests in my former work life, particularly for the right of all workers to go to work and return safely.

I acknowledge the comments made by the member for Rumney about the many long outstanding issues of worker safety - physical and psychological safety - that are not being addressed in a timely manner. I call on the Government to get on with that. Surely that must be a priority. It is not part of this bill - I accept that - but if the Government claims to be serious about worker safety and workplace safety, they are not doing it in a way that convinces me they are genuinely serious about it. As the member for Rumney outlined, there was a number of things - I think it was Committee B, asking the same sort of questions about numbers of workers on leave with psychological or physical injury. We accept that part is COVID-19 related, particularly the psychological injury but not all of it. This has been going on for a long time.

For me, a lot of this is about finding a balance between rights and responsibilities. Where there is a right there is always a responsibility. All of us would probably accept that we all have a responsibility to act in a safe manner, potentially toward ourselves, though some people struggle with that when they are mentally unwell, but also toward others. If they do not, we have laws to punish them, if necessary, or to at least give clear guidance into what society expects. It does not expect you to murder, assault or to rape people. That is the standard. There are many, many other standards. There is a right for people to be safe.

For me, I represent a really interesting community in this state. I have some of the most seasoned protesters you could hope to meet who live, work and play in my electorate. I have some of the workers in my electorate who suffer at the hands of people who perhaps do not respect the rights of some of my people - I call them 'my people'. They are people who I represent who work in my electorate, who live in my electorate, who have a right to go to work in a way that is safe and that includes their psychological safety.

When you think about the mining, forestry and agricultural sector, which is a pretty big part of my electorate, we tend to have this stereotypical view that most, particularly the mining sector and the forestry sector, are men who are tough, who do not complain. They call a spade a spade and everything else and that they are pretty invincible. Well, that is not the case. They are humans just like everybody else and the businesses they work for have real humans running the workplace.

We met one of those real humans today. That was Mr Steve Scott who has been the General Manager of MMG, Rosebery, for not that long - probably, a couple of years now. I have known all the GMs from MMG and Venture Minerals. I know a lot of you have met Andrew Radonjic from Venture Minerals and probably others also. These men are human. They have families who see the negative impact on some of these people.

Where do we find the balance here to enable people to have their voice heard, to protest in a way that, sure, can be inconvenient, disruptive - that is the whole nature of protest. What is the point of protesting if no-one notices, as there is no point in that. But you can and should

protest in a way that does not put the life or health of others at risk and that includes both psychological and physical health.

That is where I come from in all of this. I also, at the outset, commend the Government from, what I could almost say, finally listening and stopping this - what I suggest is a stupid approach to try to put in standalone legislation about a matter where there were clearly provisions in our current legislation that dealt with matters of trespass. Yes, there were some challenges with that but time and time again, including when I have spoken to my mining community and the forestry community, that is what they wanted to see. They did not want to be the meat in the sandwich or the wedge that was trying to be used by the Liberal Party in the past and that is what they have been.

One of these people in the industry I spoke to felt like they were being used like a wedge - not in this legislation, but in previous legislation - and were required to write to us to tell us they supported the previous approach even though they really did not. That is not okay either. That is being coerced by the Government.

I commend the Government for taking this approach of addressing their mind to the provisions in the Police Offences Act that focus on trespass, strengthening the penalties. This is what the workers and the businesses I represent have been asking for.

In doing that, we have identified a few problems and challenges here that have been really difficult to overcome, and I will comment more potentially in the Committee stage, depending on what other members have to say about this. I compliment the member for Rumney on her comments on clause 4 and I also compliment the minister on his willingness to listen and to bring forward an amendment that he hopes will seek to address the very real and genuine concerns raised by members of this place.

I was listening to the Leader reading the second reading speech which really does not consider that amendment at all. Basically she was saying that it was all tickety-boo as it is. Clearly, if the Government is bringing an amendment is not tickety-boo as it is; it actually needs some change.

Mrs Hiscutt - The minister was listening to the concerns and was trying to address that.

Ms FORREST - That is what I am saying. Maybe they should remember the second reading speech to give some acknowledgement to that. Though that is my point: it is actually the way the second reading speech came across - it was suggesting it is all good.

Anyway, I know there will be more comment in the Committee stage on this and I will not re-prosecute that at this point.

In terms of the other aspect of people being able to go to work safely, in a safe place and a safe manner and return home in the same condition – perhaps more tired than when they arrived – there is also the fact some of these actions are causing significant financial harm to businesses, operators, and workers. We know that for some contractors – not all – in the mining sector they tend to pay their contractors whether or not they are able to work. It is too difficult not to and there are also certain agreements in place with some of these contractor organisations. In some others, particularly in the forestry sector, if a contractor does not deliver their load of logs, they do not get paid. That must cause enormous hardship for those families.

I know the reason people are protesting is to protect those trees so they are not cut down in the first place. We are not going to go into a forestry debate, but the state has, over many years, worked really hard to protect areas that should be protected. There will always be contentious areas. Overall, a lot of our state is reserved. I hate using the words 'locked up', because it is not locked up. People can go there and enjoy it. It is preserved in a way that enables the trees to keep growing, until they die and fall over and new ones grow. There are many facets to this.

I appreciate all the briefings that were provided, as much as possible giving a voice to everyone who wanted one. I am not sure if any who asked did not get to briefings and I want to go through some of the comments from these.

Mrs Hiscutt - We had four hours of briefings. I had two hours for the fors, and two hours for the against. There was another group and I asked them to contact members individually.

Ms FORREST - Thank you for that, Leader.

I will read from a letter from Tasmanian Minerals, Manufacturing & Energy Council. Ray Mostogl is the CEO. I have known Ray for a very long time and have been very involved with TMEC for the last 17 years, since I was elected. It was called the Tasmanian Minerals Council at that time, and it now includes energy. Ray Mostogl says in his letter to all of us:

> Raising awareness and seeking to influence outcomes is a hallmark of a modern society, where alternate ideas can be openly shared and in time, either changes are adopted, or those seeking a change recognise the broader society does not wish to adopt the view. How adults air and interact when there are opposing ideas, sets the tone for the quality of our society. Importantly, it demonstrates to the next generation what behaviour is acceptable when it comes to having conflicting views aired.

We all do well to learn about how to have differing views respectfully, without seeking to harm the person who has a different view. You can do a lot of harm with words as well as with fists and other implements. He goes on:

> I would imagine if the behaviours which are currently occurring in Tasmania between representatives of the Bob Brown Foundation (BBF) and employees and contractors of MMG were replicated by our children in our schools, by our medical professionals in health facilities, et cetera, there would be outrage and condemnation.

I ask all of us here if you think that would not be the case?

> Are we ok with teachers wearing body cameras?

At this stage they do not.

> These devices are now standard issue for mine workers who must interact with protesters. I would be very surprised if some of those who must deal

> with the taunts and disruptions on a frequent basis, as is occurring in the current case, are not already or in time will experience symptoms of PTSD.
>
> We have a duty to these people to try to prevent that sort of impact on our workers.
>
> The Tasmanian Parliament is charged with creating laws of a civilised and respectful society. When people choose to operate in contradiction to these principles they are either breaking the law and suffer the consequences, or if not, laws are amended to address this unacceptable behaviour. The Tasmanian Parliament sets the tone for how Tasmania's society operates. Irrespective of which side of the debate a person sits, there could not be anyone who believes confrontations which are occurring are a sign of a caring, respectful society. There must be a way in the twenty first century, with the advent of social media and all the other modern communication tools and systems for opinions to be heard without the physical confrontation which is currently occurring.

I know that we heard from people who are engaged in the protests I refer to here, that they have a 'no violence' ethical framework under which they operate. However, I know and I think we all know from some of the things we have seen and heard today, that is not always the case. The member for Rumney might have said you cannot guarantee everyone in that organisation is going to do the right thing.

It is very intimidating for people to be filmed all the time, if they are trying to go about their work. I know that it is a public place. It is not like you are being filmed in your home, which is an inappropriate thing to do anyway and is illegal, but you are still being filmed without your consent. Even when I went down there to look at this site, at the South Marionoak site, Bob Brown Foundation protesters were down there, they were all behaving very respectfully. They were standing back on the side of the road, on the side of the staging area before you head down into the actual site under investigation for a potential tailings dam. But they were filming us. I thought, what are they going to use that for? When I am up for election next time is that going to surface somewhere with an inappropriate and disconnected by-line over it? Maybe they will, I do not know, but I did not give my permission to be filmed.

Generally, when I attend any Zoom meeting, other event, conference or anything, when recording is in place, your consent is sought. You have an opportunity to leave at that point if you do not wish to. Even though I did not feel particularly threatened by their activity, I felt that somewhat intimidating and they were not being threatening in any other way. I know one of them quite well. He is a good bloke; he is very passionate about the area and protesting and he is entitled to protest in the way he was on that occasion. Absolutely, he is.

Mr Mostogl goes on - I will just leave a little bit of this out:

> It is important for members of the Legislative Council to consider in its deliberations the balance between stopping the atrocious behaviours which are occurring on a daily basis and what may hypothetically occur. TMEC pleads with the members of the Legislative Council to not allow what is actually happening to be ignored because of a hypothetical, remotely possible outcome.

With respect to Mr Mostogl, I disagree to a point that some of the concerns raised are not hypothetical. We know they could actually occur, in terms of a rally or a protest that is pulled together at short notice. I used the example in the briefing of if we had a tragic event, say the murder and rape of a young woman in Princes Square in Launceston. We have seen this happen in Victoria or Melbourne often enough to know that it happens and people were so incensed that an impromptu rally was called to express our great and deep concern by such an event. You could well see thousands of people turn out, that would spill out of Princes Square into the streets surrounding it.

We do need to be clear that this is not intended to capture those sorts of circumstances. It cannot be, because that would be limiting free speech. That would be limiting the right for people to actually say, this is not okay. I am sure that most people in that sort of protest would not actively seek to block the road. You might find that people who came across it might join in. If an ambulance came along with lights and sirens, because it is just up the road from the hospital, I am sure they would make every effort to quickly get out of the way. It is a different approach that we are talking about.

I will be interested to listen to the debate on the proposed amendment from the Government and to see whether that clause 4 should be excised completely, or whether the amendment the Government proposes to it will actually address some of these concerns.

The main issue I recognise, and the people I represent absolutely recognise, is where you have a road that is not part of private land, that is blocked entirely with the only access to a worksite being further down that road. That is where the problem is, and where work is being disrupted for hours. Part of that is a resourcing issue. You only have so many police on the west coast and they can only be in one place at a time. Yes, you can call them down from the north-west. Often, by the time the workers get there, they are confronted, they try to deal with it and try to get the protesters to allow them through. Then the police are called. By the time they get there, they may well have decided to move on at that point, or not. So, they have lost hours of work.

Some would say this is not relevant, but to me it is relevant. The site that these workers are trying to access is the site of a proposed tailings dam. For the MMG mine to continue, it needs to deal with its tailings. The current tailing storage is almost full, and they need a new one. Otherwise, all the jobs of MMG basically will die out with the business. I do not think any of us want to see that. We do not want to see a whole lot of job losses but we also do not want to see our environment trashed. Absolutely we do not.

The only way to find out if this site is even suitable is to allow the workers to go in and do soil testing, do drilling, do full surveys to see whether there are threatened species of fauna or flora, to map all of that. If you cannot get in there to do that, then what? You go somewhere else. So, they go to Natone Creek, on the other side of Rosebery. I have heard on very good authority that if they decide to go there, the Bob Brown Foundation will be there too and protest that as well. Yes, it is on the same side of the river as the current tenement and it is closer to the town, but it is still a site that is in the bush and potentially there could be a threatened species in there too.

The other argument is they can use a paste process for their tailings. I have had discussions about this and I will have further discussions with MMG about this and experts in the field, because the Bob Brown Foundation clearly told us in the briefing that that is a

workable solution. This is a very old mine. It goes down three kilometres. It is stinking hot down the bottom, they have air conditioning units in it. You have to have all sorts of tests before you can go down. You have to be well hydrated before you go down. They should test your urine to make sure you are before you go underground. It is quite warm down there. There are a lot of old workings. I am not a geotechnical engineer, I do not think anyone else in this place is either, but I would much rather rely on the evidence of experts in this as to whether that is even a workable solution.

Even if it is, even if you can put all the tailings in a paste form underground there, as I understand it, that would mean that all the waste rock would need to come to surface. That is okay, you can do that; you can bring all the waste rock up rather than backfill the drives with the waste rock. But that is potentially acid-forming rock. Once you bring it above the surface, you have the issue of acid drainage. That is an environmental catastrophe waiting to happen too.

Ms Webb - I do not think we are prosecuting the merits or otherwise of a particular site with this bill.

Ms FORREST - I am making the point about the protest action that is stopping an activity that is really trying to see if we can keep a business going. It has a huge financial impact on this business. If MMG does not get an outcome from the testing soon, the tailings dam will be full and all those jobs will be gone. Once you put a mine into care and maintenance, it does not just rev up overnight again. It would be like starting up a coal-fired power station - I think it would be longer.

> The Tasmanian Minerals, Manufacturing and Energy Council's support for this Bill comes from member companies and their firsthand experience of body corporate led, highly organised, applying intimidatory tactics, often operating with stealth and applying intentional actions designed to disrupt a business. This is clearly not the domain of the homeless or marginalised Tasmanians innocently seeking shelter or to occupy a public space.

The reason I read that and reiterate the points of where that comes from is that we do need to be sure that homeless people and other vulnerable people are not caught up in legislation designed to prevent harm to workers going to work.

I could take issue with the title of the bill too, as the member for Rumney did to some degree, but it is about that aspect of worker safety. It is definitely about that aspect. All the other things - well the Government has its work to do and should be held to account. Maybe there are other ways we can do that.

I know that Unions Tasmania opposes the bill in broad terms but I put to them and to everyone here, if you are not going to protect the workers that the unions represent to attend a workplace safely, such as this, then how do you do it? How do we do it? How do we look after the people I represent, the member for McIntyre represents, who work in these sectors? The construction industry is a pretty dangerous profession. It is more dangerous than mining and forestry and agriculture, in terms of deaths. How do we prevent this harm-potential, real, and actual harm?

The union gives a lot of really good examples of where protests have been held effectively and to make a really clear point, including that sit-in around Sydney Harbour, where they actually preserved all those older buildings around The Rocks. That is a fantastic and great outcome. I do not know what was going on specifically at that time, but there are places for those sort of mechanisms to protect something, but where it is a legal process. We need to be really careful we are not stepping over the rights and responsibilities framework.

I am concerned about clause 4. I will listen to the debate in the Committee stage about the proposed amendment to see how we deal with that. I recognise there needs to be some mechanism that can deal with people deliberately and wilfully obstructing a work site entrance that is not the door of the business, effectively, because obviously once you go across there you already are trespassing. You are not trespassing on the road when the road does not belong to the business; it belongs to us.

Steve Scott from MMG made the point that the right to protest should not prevent people undertaking lawful work approved under current legislation. I know that this is a real contested space, in terms of forestry particularly. Once the tree is cut down, it is cut down and if they really are precious trees, or threatened species of trees, or there is a threatened species of animal or bird living in that area, then we do need to try to prevent that happening. That is why we need to have really robust processes for the assessment of those and if they are not right perhaps we should fix those.

Ms Rattray - It is called a forest practices plan.

Ms FORREST - Yes, and the Forest Practices Act, and if that is not doing the job then that needs to change. If other aspects are not adequate, like our environmental laws, then let us deal with that. We do need to protect our environment.

Ms Webb - You will probably find those organisations are working at that structural level as well as standing there protecting - as they see it - the forests because structural change is hard and long. Protecting the forest happens in the meantime.

Ms FORREST - If the environmental legislation is not adequate to protect our environment, which we all value - I love the environment that I live in. It is some of the most beautiful - I have the Tasmanian Wilderness World Heritage Area (TWWHA). What is not to love about that? Some others might share a little bit; even the member for Derwent may get a little bit of that. We all highly value what we have here in Tasmania so we need to ensure it is protected, but we also need to find this balance with allowing people to go about their work in a safe manner.

Stepping out in front of a moving vehicle, or stopping a vehicle and then immediately locking on, even before the vehicle has been turned off, puts the driver and the workers of that vehicle in a very precarious position. If that occurs, the first thing they have to do is make sure that the brake is on, that the vehicle is turned off, and even that the wheels are chocked, because if someone has locked on and the vehicle did move, if that person is harmed they are potentially liable.

Imagine living with that. Most of the members here know what it is like driving to the north and driving into the sun, particularly in the winter. If there was a rope that was holding up a tree-sit and you did not see it and ran into with a truck and brought down a tree-sit, how

do you live with that? These are humans - humans up the tree, humans in the truck - all potentially harmed by such an event.

Mr President, I know there will be some debate around particular wording and I know the member for Nelson also has some amendments for clause 5 to address matters there. I will listen to the debate around that to see whether that will be a more appropriate and better way to deal with the provisions. But if people are going to be subject to these much higher penalties, which is what the industry and others have been calling for, then it does need a high bar. It should not be that minor things are caught up in this. It should be serious offences - 'the worst of the worst' as I think it was described, the worst action in the worst circumstance. That is how our laws work, that is how our penalty system works.

There is evidence that high penalties do not act as a deterrent particularly in certain areas. I do not believe that in crimes like sexual assault, murder, the so-called 'crimes of passion' - a terrible term for them - when people act often without thinking or their thinking is distorted - they think, 'Oh geez, I might end up in prison if I do this', or 'I might get a really high financial penalty'. No, they do not think about that at the time. There is heaps of evidence around that.

Engaging in a protest where you have to go somewhere remote, for example, or even if you have to just turn up downtown for a protest, it is a deliberate act. You made a decision to go there. A higher penalty may well be a deterrent because you know if you would act in a way that is outside of the law in that action that you have decided to do - very few of these things are people who suddenly turn up. We heard from the Bob Brown Foundation that it absolutely does not happen with them. They are all briefed, they all go through the plan, and they all go through how to respond and to be non-violent and all the other measures they take. That is a very deliberate decision. They will be very deliberately aware that there is an increased penalty for certain actions that might occur.

There is possibly a difference here where it is a premeditated thought about a deliberate act that an increased penalty may well be a disincentive to take a certain action. I guess time will tell. We do stepped penalties in many of our areas of legislation to deal with varying severities and varying severity of impact on the victim.

I do not wish to say much more than that. I support the principle of this and I commend the Government for putting it into the Police Offences Act as has been asked since 2014 when I did not support that approach back then. In doing so, it has raised this very real concern of blocking access to a worksite that is down the road beyond the site where the obstruction occurs. I want to find a way to deal with that to enable the people I represent to go to work safely and come home again, and to get their work done. I will be looking for the best possible solution I can get out of this place for that, and I will be listening to the debate. I might just have to hop out of the chair from time to time in the Committee stage.

Recognition of Visitors

Mr PRESIDENT - Honourable members, I welcome to the President's Reserve the Honourable Sue Smith AM, the former member for Montgomery and former President of this Chamber. I am sure all members welcome you back into the environs here, and are probably worried you are going to get up on clause 1. It is nice to see you.

Members - Hear, hear.

[5.35 p.m.]

Ms ARMITAGE (Launceston) - Mr President, first I thank the Leader for arranging the briefings this morning, as well as others such as the Australian Democracy group that has chosen to meet with us and emailed us, and I met with them separately. I appreciate the briefings from the unions, the TFGA, employers, and employer organisations, as well as Greg Barns, and the Bob Brown Foundation. I found the briefings interesting and I appreciate the information provided by all the presenters.

A freedom to protest does not confer an unqualified right to do it at any place, any time or in any manner that the person chooses. It must be balanced with the rights that others have, including freedom from interference with another's body or property, or freedom from being obstructed, to do one's work or to move freely. A freedom to protest does not confer a right to break the law, but must be balanced with the rights of others and the inherent obligations that we have to one another in a civilised society.

I believe we need to amend the Police Offences Act to specifically address the significant risks that some protest activity has had particularly on our forestry and mining operations, but also the heightened risk involved with some of the practices which have been adopted by some of the protesters. As the Leader mentioned in the second reading speech, the Criminal Code Amendment (Agricultural Protection) Act 2019, passed by the Commonwealth parliament, specifically addresses trespass and property offences on agricultural land. Such interference or trespass could have significantly wider implications on food contamination, production and security.

I believe that a similar principle applies here. Some protest methods, especially when they are in remote and regional Tasmanian wilderness locations, have the potential to cause significant damage to property, the environment and human life. The penalties and thus deterrents for commission of such acts, should therefore be commensurately more vigorous.

I do not believe we should unfairly or unduly target or capture regular protest activity including things like handing out flyers or assembling in public spaces. I am satisfied that by the wording and through the intent of the bill, non-aggravated protest activity will not be unduly caught up in these measures. I note also the comments by the member for Murchison in regard to mining and people going to work. I have a son and a daughter-in-law who work in mining. They both work underground and I would hate to think that they would get to work and be faced with people trying to stop them from getting to work, and the psychological impact that that would have on them. They are fortunate in some ways that they work in Western Australia. To the best of my knowledge they have never been impacted by anyone preventing them from getting to their work or to their business. I know that would definitely have an impact on them.

It has been a long road in reaching the point where we debate this bill and its principles again. In the case of Brown and Anor v the State of Tasmania, certain provisions of the 2014 iteration of the act were found to impermissibly burden the implied freedom of political communication found in our country's constitution. This is a serious and significant finding by the court, and rightly required that the bill be rethought, redrafted and debated in our parliament. I note that the High Court of Australia held that the act pursued the legitimate

purpose of protecting businesses and their operations by ensuring that protesters do not prevent, hinder or obstruct the carrying out of business activities on business premises.

The court also held, however, that the burden imposed by the impugned provisions on the implied freedom of political communication was impermissible because those provisions were not reasonably appropriately adapted or proportionate to the pursuit of that purpose in a manner compatible with the maintenance of the system of representative and responsible government that the Constitution requires. In other words, the High Court of Australia held that the objective of the act was legitimate but went too far.

I believe that taken with the decision of the High Court in the Brown case, we must strike a more reasonable balance which it challenged is less likely to be held to be invalid.

Today in briefings we heard from union representatives who said they consistently had opposition to these types of laws as they have serious concerns about the ability for these laws to frequently capture the activity of members, both lawfully and peacefully. They believe members could potentially get captured by public annoyance features such as obstructing the streets as well as other action taken. We were advised that a lot of the action workers take is not about pay and conditions but there are a range of instances that were about the services their organisations provided and how to improve those for the community.

They mentioned when nurses blocked many streets complaining about closed wards and also about Launceston General Hospital nurses who protested every week for a year to get additional staff in the emergency department. Those briefings from the union mentioned these are not stop-work meetings but very frequent and regular actions nurses have taken and they were concerned they could be caught up in the legislation. Personally, I do not believe our police would arrest in these circumstances as I am sure they would use discretion, as they always do.

We also heard from employer groups and organisations that, while it is a fundamental right to protest, people also have a right to go about their legal work and there needs to be a balance so both of these things can coexist.

We cannot have protesters putting themselves, workers or emergency service personnel at risk by chaining themselves to heavy equipment, standing in front of heavy vehicles, sitting high in trees, and the list goes on.

We also heard that the cost, not only to industry, can be extremely high through either loss of work or access but also the cost of police personnel who I am sure could be engaged in other pursuits. We could certainly do with a more visible police presence on our roads. The question for me is whether increasing penalties deters activity in this space.

We were told in briefings today that attempts in other jurisdictions over many years to strengthen and increase penalties and the breadth of discretion of police over people exercising rights and occupying public areas has not necessarily deterred people from doing so.

Are we sending the message that there needs to be sterner action taken against those people who participate in this action on the assumption they will be deterred?

As we heard this morning, most of us are not covered by this law or are frontline activists, but if you are motivated and passionate about a particular cause it would not matter for some what the penalties were as they will not be deterred. Sometimes going to jail is a badge of honour.

We were also told in briefings that what will likely happen is that police resources will be diverted to this legislation and that people will plead not guilty because of the provision in the legislation. I have found in the past that this generally happens with mandatory legislation because to do otherwise guarantees a fine or jail.

It is only a minority who think it is appropriate to protest and intimidate. Some people overstep the mark and this is what this piece of legislation is all about. We already have the Police Offences Act with trespass, the Forest Management Act request to leave the area, the Criminal Code for disobedience but the key bit missing is about obstruction which is section 13 of the bill.

Protesters who do not support a development or business can still protest lawfully. You can still walk the streets and put your views publicly and it is important that you can still voice your opinion, and I do not believe this legislation will stop that.

I have a friend, Scott, who protests regularly and, on occasion, gets arrested - quite regularly. His passion is obvious and he leaves you in no doubt that he is deeply concerned about the climate and our world. I believe he has every right to protest, along with the other members of his group. I have seen them out in the pouring rain, in freezing cold, such is their dedication to their cause. They usually let people know when they will protest. I believe they get permits. They do not intimidate and they are peaceful.

It is important to me that people such as this will not be caught up in this legislation. I need to be clear: the right to free speech and protest is an important protected form of expression and communication. It should not be interfered with in a way that harms the ability for people to peacefully communicate their views or express dissent, even if it is unpopular. Protest, assembly and communication are all rights which should have as broad a definition as possible and permit as much lawful conduct as possible. These rights are not absolute; they must be weighed against the rights of others, including the right to go about one's business free of interference, intimidation or harm. This is what this question turns on - rights and responsibilities.

It is important we take a nuanced and balanced approach to permitted protest conduct in a business context and provide greater legal clarity and certainty. I will continue to listen to others. I certainly support the principle of the bill and I will vote it through the second reading and listen and allow discussion on proposed amendments.

[5.45 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I rise with a definite and almost resigned sense of déjà vu to speak to this bill. I wonder who else among us finds a real sense of disquiet in the Government's urgency, trying to pass the latest iteration of this bill, rescind the previously made but erroneous act. However, we were assured back then that the act was sound and some of us voted against the passing of that bill. It was an act that was once tested in the High Court, the highest court in Australia, and found to have failed in its constitutional integrity.

Members have focused on the bill and to assist with our deliberations I will also touch on the principles surrounding the need to allow protesters a healthy democratic process. We should not forget those principles. Perhaps it is a scenario that reminds us so much of an excerpt from Shakespeare's play, *Henry V*, in act 3, scene 1, where the King, as maybe the ultimate protester and leader of a national body corporate, urges his army forward to invade and subjugate the residents of the Norman town of Harfleur. He says:

Once more unto the breach, dear friends, once more;
Or close the wall up with our English dead.
In peace there's nothing so becomes a man
As modest stillness and humility:
But when the blast of war blows in our ears,
Then imitate the action of the tiger;
Stiffen the sinews, summon up the blood,
Disguise fair nature with hard-favour'd rage;

This describes a pivotal scene at the tipping point of the siege when the subsequent capture of Harfleur was carried out by King Henry V in 1415 at the resumption of the Hundred Years' War after the second period of peace. A peace at that time that had lasted for over 25 years. The King was seeking to fire up his army to attack again and I can only imagine the French defenders would have readily welcomed the provisions and protections within this bill.

Although they were indeed very different times to what we know now in this day and age when the value of life and safety at work were held to very different standards, in saying that, the passion and motivation of today's protesters could well be said to match that of Henry V, when the blast of war blows in their ears. Most would naturally choose to live lives of modest stillness and humility if it were not for the hard-favoured rage that set them on a new course of action.

Maybe the ethos that does cross the centuries is that wars could be said to be the ultimate act of protest, where warriors and ideas collide. It is a manifestation of violent agreement, injury and bloodshed for a dispute, where the normal channels of communication have irrevocably broken down, leaving only mistrust and a sense of betrayal on all sides that cannot be resolved in civilised terms.

Here in Tasmania, and given past and current disagreements on how natural resources should be properly managed and utilised in our island state, war is a term that we are all too familiar with in connection with forestry and mineral extraction. Maybe it is one that has been perpetuated for purposes outside the original protest, where it could be said that there have been decades of conflict or maybe even an all-out war of words with barely a pause to take breath.

The Hundred Years' War did allow the odd decade or two of relative peace, something I am sure we would all welcome here. However, we have opposing sides that have been entrenched in positions of intransigence for many years. Can this version of the bill bring a modest stillness and humility to all sides, whilst ensuring the right to meaningful protest?

A perspective on protest and its resolution that does resonate with me are the terms 'warriors' and 'peacemakers', two descriptors that can help to define the nature of the actors in protest and how it is conducted. If we look at warriors, they seek to fight to confront, to

dominate and to win. They seem to enjoy being angry and feed off the energy that comes from that emotion. It is a well-worn tactic that creates a lot of heat and noise and, maybe most importantly in the modern age, lots of media and social media attention. But does it actually work? I am not sure it always does.

Like all simple approaches to complex problems, I wonder if it actually creates more issues than it solves, as the boiling cauldron of anger is kept burning hot, ready to spill over and burn everyone around it. Rather than being allowed to cool to a reasonable and controllable simmer, what does happen as we have seen in some protests, is that the warriors are often described as putting themselves in danger and creating a great deal of disruption and potential risk for those they are protesting against.

That is not to say the warriors are only present in a protesting group. There are also many members of the warrior clan in government, business entities, and representative organisations who act in similarly aggressive ways, both verbally and sometimes physically, according to anecdotal reports, thus perpetuating the conflict and maybe pandering to their own individual agendas and preferences.

It could be said that some of these warriors enjoy the experience too much. They often like upsetting others, getting their blood up and generally behaving in ways that are not normally acceptable in civil society. The problem is that it is usually the reasonable members of the community that have to bear the brunt of this belligerence as they attempt to diffuse potentially dangerous situations. The mood may be changing from someone who is a more pragmatic and prudent stakeholder in both protesters and recipients of protests. They are learning from each other in how best to manage such protests and dare I say that civilised disagreement may yet break out.

I am sure all of us have received a great deal of correspondence from those who have engaged in active protest against forest and mineral industries. A consistent theme in their methods of protest, they are said to be peaceful and non-violent, although some media coverage of these protests in the past does suggest an unwillingness to cooperate with legal requests to desist. In a passive-aggressive display of intransigence they lock themselves onto plant and machinery, thus preventing its use. An example from Jennifer Cossins, an author, business owner and employer who wrote:

> The alleged abuse, intimidation and unsafe behaviour simply does not happen and in the many times I have been out on the front line in a protest, I have never witnessed any behaviors like this from protesters.

Another regular observation from those linked to the Bob Brown Foundation is that before they can attend an active protest on a worksite, they have to have been trained by the foundation. This is training in how to protest in such a way as to minimise risks to themselves, and the risks of excessively aggravating workers and site managers. However, regardless of whatever training is provided, we are looking at protesters who are entering worksites that are restricted for good reasons, often with highly complex, dangerous and valuable equipment. Members of the public are quite rightly restricted in their right to enter such places to ensure that only properly trained and licensed workers are permitted to be there.

In the modern day, policy debate, respectful communication and negotiated agreement is how disputes are resolved in a civil manner and, more importantly, how they stay resolved. In

this situation, warriors are no use at all. They do not have the necessary skills. We need peacemakers: natural communicators on all sides who intuitively understand the complexities and nuances in reaching sustainable agreements and making agreements that stay made.

A recent example of this was the same-sex marriage debate; one that many people and entities were willing to go to total war over. It was their way or the highway in a binary, I am right you are wrong, argument. The debate was a classic warrior and peacemaker situation that for most of us was a done deal and a waste of time and energy.

For me personally, it was deeply gratifying to see our proud nation and finally our politicians, embrace a true sense of equality and fair go for all. It also saw the warriors fall in their aggressive, exclusive, and partisan approach, whilst the peacemakers capably made their case in a full inclusive and respectful manner. The same-sex marriage plebiscite was a futile delaying tactic in an attempt to appease the warriors, but one that ultimately confronted what we already knew, that the vast majority of Australians keenly support same-sex marriage and that peacemakers needed to prevail.

Perhaps it is a lesson we can all learn in the work of cementing groundbreaking political reform. In that principled, resolute and reasonable advocacy can and does win the day. Our legacy is not the headlines that rapidly fade into obscurity, but from the policies that are in place when we pass the baton to our succeeding generations.

I could also cite our shared experience in this place with the End-Of-Life Choices (Voluntary Assisted Dying) Bill 2021, as that seminal legislation was making its way onto our statute book. I am sure, as a point of reflection, we can all readily recall and identify the warriors and the peacemakers in that process, many of whom are still active in this area, again, when the cool heads of peacemakers are acting in the best interest of our community. What these examples demonstrate is that policy can and does evolve and usually through a process of carefully considered, widely consulted and diligently made legislation to support ongoing community priorities. George Bernard Shaw summed it up quite neatly in his quote:

> New opinions often appear first as jokes and fancies, then as blasphemies and treason, then as questions open to discussion, and finally as established truths.

If we could use this quote as a filter for the same-sex marriage and VAD the same time George Bernard Shaw made it, they would probably be regarded as blasphemies and treason. The fact is that through natural evolution in society, coupled with peaceful advocacy, we now thankfully have them both as established truths.

If we were to reflect on the modern-day approach to government's working with complex issues, they are all too often subject to protest and disagreement. We have to be conscious that it is often our role and responsibility as members of this place to enquire into the nature of such issues, to tease them apart so we might better understand them. Our committee work gives us the power to explore policy at a deeper level, whilst often giving our community the opportunity to forward their views and advice through the submission and hearings process.

I wonder if, when we look back on history, the opportunity to engage with policy in the political process has ever been better. In saying that, is our community satisfied in that regard? I think that is not always the case. Whilst there are open channels of communication, many

feel they are not being heard. Their views are being ignored, sidelined, rejected and the power of the establishment prevails. Perhaps it is this frustration in the political process that is driving the intensity of protest activity this bill seeks to curtail. However, many people from diverse backgrounds seek to protect Tasmania for future generations, from poor government decision-making, inadequate consultation and blinkered processes of the day. Why would we want to deny the right to peaceful protest and create a society where the avenue of social representation is denied or curtailed, depending on one's capacity to pay a burden and heavy-handed fine?

Liz Downes, a resident of Bellerive, shared her sentiments with me in an excerpt that starkly illustrates this frustration. She said:

> Unfortunately, our voices continually get drowned out by those of more powerful and well-financed players. This bill will remove the last effective avenue we have to advocate for environmental protection in a climate and ecological emergency. I would feel deeply saddened if my right to a democratic protest was derailed by what amounts to be a case of 'my word against the Resources Minister's.'

In this context, I have to consider how protesting views are being responded to. Is there an authentic process by which stakeholder groups can engage and liaise with governments on a matter of policy, or are they just brushed aside in a hierarchy of importance depending on the government of the day's view?

Whilst we do live in a world where access to information and the ability to communicate has never been better, if I dare use that term, in this place we all have access to a number of devices that keep us connected to the world on an almost instantaneous basis. I am sure as I speak a number of us in this Chamber are reading a screen and listening to me at the same time. Well, I sincerely hope so for the second point.

What that does highlight is direct communications have never been quicker or more widely available. Our community is used to learning about something as it happens and social media can see almost instant spikes of activity that can fall away equally quickly. The 24-hour news cycle may itself be an artefact as stories can now break and be superseded in just a few hours.

Bill Davidow, a past senior executive at Intel, explored this in his 2012 book *Overconnected: The Promise and Threat of the Internet* where he argues there was a dampening process in communication in a pre-internet era where letters were written and posted in what might now be regarded a rather slow manner. What it did allow though was for a considered process where a number of actions had to occur that required effort. You actually had to put pen to paper, put it in an envelope, post it and usually wait at least a week or so for a response. Whereas these days, email and social media has created an almost effortless ability to communicate with written word and the expectation of an instant reaction and response, that often ends up inflaming an issue out of all proportion to its initial constraints.

So, do we need to somehow bring back a damping process to the communication cycle? Many of our stakeholders may already be of the view that government consultations and the committee process are not just damp but already underwater, in so far as they are concerned. Given that the book was published 10 years ago when many social media channels were in their infancy, I cannot help thinking that with their now massive reach and the capability of

what we fancily call 'smart phones', we truly are in a brave new world. What this new technology inadvertently does create is a wonderfully efficient way of organising protests and maybe even creating the sense of outrage in the first place.

In saying that, what we might call 'the establishment' may be said to engage in a form of bureaucratic hyperbole that creates its own unique storm of contention. We only have to look at the immediate past premier's surprise announcement of $750 million or now $1 billion-plus for a floating stadium to worship at the altar of the AFL. The howls of outrage and protest have been loud and resonant whilst the recent visit by the AFL royalty has left our current Premier in no doubt that a new stadium is a non-negotiable price of admission, a ticket to play for even being allowed to bid, for what will be an ultra-expensive franchise for Tasmania.

If the Government and other established industries continue to operate in such an overbearing manner, is it any doubt that people are angry and seek to object to what many see as - and what could well be - a dead albatross around the neck of our island state. As part of this debate, does the Government need to establish a more authentic method of community consultation and feedback? Government policy must be measured and evaluated on an ongoing basis and policy initiatives are at their best when they do not take people by surprise. Elections are often claimed to give government a legitimacy for a suite of policy positions whereas the reality might well be people voting for the party or politician they dislike the least. Hardly a glowing endorsement.

Our community's right to protest is often a useful windvane by which politicians and industry can establish the public appetite for policy and not always take it for granted that it will be coming from the direction they might wish. In saying this, perhaps one should never let popular politics get in the way of a just decision. One only has to reflect on the recent gaming bill decision to appreciate how difficult it is now in this place to ensure that legislation is passed to assist the majority of Tasmanians. This specific bill should protect freedom of speech and not made to draw a criticism of a party stance.

Mr President, the Leader in the second reading speech quite rightly acknowledges that protest is the touchstone of all human rights and that allows ideas to be tested and inform political debate. I believe that what we are debating here is not the curtailment of the right of protest but rather how it might be better regulated. The original act, the Workplace (Protection from Protesters) Act 2014 - the most recent attempt that passed into law in an effort to regulate protest - has been found wanting. It is quite a convoluted piece of legislation when compared to the bill that is before us today and as such I have no problem at all with its repeal.

What we do need to be mindful of is that in this bill's apparent simplicity there are no inadvertent mistakes in its drafting that precludes reasonable protest activity. At the same time, we do have to be mindful of the inherent risks in certain types of active protests and maybe find a way of protecting people against themselves and the risks their actions might pose to others. Oscar Wilde phrased it quite neatly by stating: 'An opinion is not necessarily correct, just because you're willing to die for it.'

Everyone has the right to be safe in the workplace. Even the protesters who may be not natural warriors, who would regard the protest venue as their workplace. While businesses, organisations and governments might wish to operate in compliant community, protest is a long-established vehicle of political disagreement. Therefore, what I might dare to call 'the establishment' does have to cope with a certain amount of disturbance. Without it, how would

we know that everyone may not necessarily wholeheartedly agree with them, especially so if there is a significant power imbalance and the members of the establishment throw up their own warriors to attack the protesters, rather than openly engaging with them in a peacemaking role.

Within this, we also have workers who might seek to take industrial action in dispute with their employers. Does this bill with its simpler drafting preclude this in tipping the balance of power towards the establishment? I would hate to think that we would see Tasmania Police, as a result of this bill, used as a means to criminalise what has been and should continue to be a legal right to protest. I understand that if we go to Committee there might be amendments presented to consider this. I will be taking a keen interest in them.

I am sensing, however, from the draft amendments that Labor is proposing that they will support this bill, but they are probably uneasy about the Government's capacity to draw on this legislative outcome prior to the next election. Attempting to introduce amendments which really add little value that can be said to have strengthened the bill and made the intent of the legislation clearer is very questionable, Mr President.

There have been a number of other points that I have sought clarification on and I am sure they will be covered in Committee if and when we might come to that point. I also note in the Leader's remarks that the bill creates no new offences or police powers. However, it does propose raising the level of penalties and sentencing that the courts of law can apply in instances. They are for circumstances that, in the Government's view, would have greater impact on business or create serious risk of injury.

Dr Helen Hutchinson wrote to me, and I am sure to other members as well, to describe her experiences as a protester over the 75 years she has been in Tasmania. Her comment on sentencing is one that we may wish to reflect on.

> I hope that sanity prevails and that those who think carefully about human rights will see that continuing to make more and more onerous penalties for social problems will only backfire.

These penalties in any final act are not excessive in the context of a minor disturbance that could be experienced and easily accommodated by a business in such circumstance. One that the Leader alluded to was a natural part of being in a civil society where protest is a natural human right. Again, I look forward to further debate on this subject.

Within this, and from readings that we have enjoyed from a variety of stakeholders, I would like to think that we can possibly find a workable balance in this fourth attempt at a piece of legislation, one that is fair and a pragmatic step to meeting the needs and expectations of all sides.

However, the risk is ignorance of what this bill actually means will intimidate Tasmanians into not protesting as they might worry about the financial, indeed criminal, consequences of that protest, thus taking away the very social barometer of how everyday Tasmanians feel, potentially, about certain government decisions and policies. For example, fracking, pulp mills, school closures, GMOs, fish farming, et cetera. This legislation is once again trying to create a 'them' versus 'us' environment. Do we really want that in Tasmania?

Adequate laws are already in place and, without suitable amendment, this bill should not pass. There is no need for this bill.

In saying that, the debate of possible amendments to ameliorate these concerns if we go to Committee would be an essential part of this process to ensure that the natural enshrining human right of protest can continue into perpetuity.

In closing, I will reflect on the role of a particularly rebellious and impossibly infamous Tasmanian. That person is Errol Flynn - bear with me, Mr President - in his leading role in the classic 1938 Technicolor swashbuckling film, *The Adventures of Robin Hood*, the retelling of a well-known fable of protest and popular rebellion against social injustice. As Errol was a colourful resident of Battery Point, there must be something about living in Tasmania which instils a certain sense of unfathomable spirit in its residents as it certainly sent him on his way to worldwide fame as a green-clad rebel against petty and unfair officialdom. The story of Robin Hood and His Merry Men has been a defining tale of active and ultimately successful protests against unjust governments with unreasonable and unjustifiable cases in our own Sherwood Forest and that government was embodied in the form of the Sheriff of Nottingham.

The question for debate in terms of modern-day Tasmania might be seeing who are the actors if this is to be recast. Who is to be Robin Hood? Maid Marion? Is the Government the Sheriff of Nottingham? Ultimately, how do we manage the actions to protect Tasmanians in our Sherwood Forest?

I cannot say that I would fit the role of Friar Tuck. In saying that, it might be the role that you consider for yourself, Mr President, with your naturally hospitable nature and the genuine warmth of your welcome for visitors in this place. For me, I would willingly go as one of the Merry Men along with the 250 to 300 people who are outside of this parliament, voicing their protest this morning. This bill does not sit well with me, with amendments being placed on the Table virtually moments before we deliver our second reading speeches.

I hope, on our part, that we do not feel what feels like 100 years of trying to get a fit-for-purpose version of this legislation onto the statute book. I look forward to hearing the thoughts of other members on this bill and, dare I say, this iteration may well end up back in the High Court.

Mrs Hiscutt - Through you, Mr President, while the member is on his feet, there are a few other contributors to go but they are evidently not ready yet tonight. Can I ask the member to adjourn the debate, please?

Debate adjourned.

ADJOURNMENT

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

> That at its rising, the Council adjourn until 10 am on Thursday 23 June 2022, that is tomorrow.

Motion agreed to.

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

That the Council do now adjourn.

Comments by Judge on Rape Case

[6.10 p.m.]

Ms FORREST (Murchison) - Mr President, I rise on adjournment to reference an article that was in the *Mercury* today. I read from this article and express my complaint and my request to Government. It was titled 'Seriousness of rape case focus of court'. It states:

> A Supreme Court judge says a man's rape of a former partner might be generally regarded as less serious than a violent attack on a stranger at a park.
>
> The comments were made on Tuesday by Acting Justice David Porter during sentencing submissions for a man who cannot be named for legal reasons.
>
> 'A violent attack at a park on a stranger who leaps out behind a bush or a nightclub drug rape, they might be generally regarded as more serious,' Justice Porter said.
>
> His remarks were directed to prosecutor Jack Shapiro who had taken issue with the defence's argument that the man's offence was less aggravated because of their then-relationship. Mr Shapiro said rapes against partners were not necessarily any less serious, since it involved a 'breach of trust'.
>
> 'With respect, it's not very helpful to compare it to cases which are not similar', he said, in submissions to Justice Porter.
>
> 'I don't accept the premise that a rape in a park with people who didn't know each other is bound to be more aggravating or serious than this type of crime'.
>
> Mr Shapiro argued that this was a 'violent' rape, where a man forcibly held his former partner down and had sex with her.
>
> A snippet of the victim impact statement was read out in court, in which the woman alleges that she repeatedly asked him to stop. 'He got on top of me and forced himself on me. While that was happening, I said get off me, get off me', the statement read.
>
> Mr Shapiro said the forceful nature of the crime should be taken into consideration. 'Often rape is described as a violent crime but this case involves a case of actual violence', he said.
>
> Defence lawyer, Greg Richardson, said the woman told a nurse she had consensual sex with the man three days before the alleged rape in Brighton.

> He said it was an 'unpopular' opinion, but argued that rape between partners was less serious than between strangers. 'There is a significant distinction between rape between two people who know each other and two people in a relationship'. Mr Richardson said. 'It's rape, the jury have said that, but this is a different kind of rape than the serious kinds of rape that happen'.
>
> Justice Porter noted that 'there's still a right to say no'.
>
> The man faces charges of rape and common assault. His case was adjourned to July 6 for sentencing.

Mr President, in Tasmania we have very good and nation-leading and very clear consent laws. Consent needs to be informed. It needs to be ongoing. The fact that she might have had a sexual experience with this person three days before does not indicate consent on that day. It never has; it never will.

It must be voluntary. This woman clearly said - get off me, stop, get off. What else can that mean? And our law requires a positive 'yes' to any sexual activity.

Rape is rape is rape; it is performed by rapists, not by any other mechanism. My complaint is that we still have justices in our court who do not get it. When are our justices in our courts going to understand what rape is and what consent is? Our Tasmanian law is very clear: if our justices do not understand it, it is time they were informed of our own laws.

I ask the Leader to ask the Attorney-General to talk to Acting Justice Porter and update him on our current consent laws. Comments like this do so much harm for so many women who are raped by their partners, and their husbands.

It almost happens every day and we disempower every woman who might want to speak up because she has been raped in a marriage because of attitudes like this at our highest level. It is a disgrace.

The Council adjourned at 6.15 p.m.

Appendix 1

Bilateral Agreement for Mental Health and Suicide Prevention

Fact Sheet | May 2022

The Tasmanian and Australian Governments have signed a new bilateral agreement for Mental Health and Suicide Prevention. The agreement is a schedule to the National Mental Health and Suicide Prevention Agreement which was endorsed by National Cabinet on 11 March 2022.

This agreement will see an investment, by the Australian Government, of over $46 million into Tasmania to deliver several initiatives that together will contribute to better health outcomes for people living in our State. Importantly, this work aligns with the significant mental health reform programs in Tasmania and the $108 million investment announced by the Tasmanian Government in the 2021/22 State Budget.

Initiatives for collaboration

The agreement provides for a range of co-funded mental health and suicide prevention initiatives, including:

- **Establishing and operating three Head to Health Adult Mental Health satellite clinics in Tasmania, with two likely to be located in Burnie and Devonport and one in the outer Hobart area.**
    - This includes ongoing funding for operation of the existing Head to Health Centre in Launceston.
    - These services are in addition to the two new Integration Hubs under development at the Peacock Centre in North Hobart and at St John's Park in New Town, as part of the Tasmanian Mental Health Reform Program.
    - The Integration Hubs will be co-branded as Head to Health Hubs, will form part of the Head to Health network, and care will be delivered through multidisciplinary teams including lived experience workers.
- **Integrating three Head to Health Kids Hubs within three new Child and Family Learning Centres (CFLCs).**
    - This process will be undertaken flexibly to consider both Tasmania's existing CFLC service model and alignment with the Head to Health Kids Service Model principles. The new CFLCs will be co-branded as Kids Head to Health Service Hubs.

Department of **Health**

Tasmanian Government

- These services will provide a multi-disciplinary team approach to the care of children and align with Tasmania's response to the review of the Child and Adolescent Mental Health Service (CAMHS).

- **Establishing and operating a new headspace site in Tasmania, and working in partnership to improve access to multidisciplinary youth mental health services in Tasmania, ensuring integration with existing services**.
    - These services will increase access to youth mental health services in alignment with Tasmania's youth mental health reform program which was developed in response to the CAMHS review.

- **Supporting perinatal mental health screening services, including identifying and addressing gaps in screening,** building on existing infrastructure to enhance digital capture and reporting of screening data from public antenatal and postnatal care settings, and working towards providing nationally consistent data to the Australian Institute of Health and Welfare.

- **Establishing and operating three eating disorders day programs** which will be integrated within the stepped system of care for eating disorder services in Tasmania and ensuring Tasmania's residential eating disorder centre is completed through the Community Health and Hospitals Program Agreement.

- **Delivering psychosocial aftercare follow-up services to support individuals discharged from an emergency department** after a suicide attempt or suicidal crisis, in the community, for up to three months.

- **Adopting and supporting the use of the Initial Assessment and Referral (IAR) model and digital decision support tool** to support consistent intake, referral and integration across all mental health care and clinical services in Tasmania, as well as general practice.
    - This work will include reviewing Tasmanian Health Pathways against the IAR levels of care and establishing new referral pathways as appropriate.

- **Implementing a single, statewide intake and assessment phone service** that integrates with Tasmania's existing state-based systems.
    - This Central Intake and Referral Service (CIRS) will be staffed by therapeutic professionals who will offer compassionate and consistent triage using the Initial Assessment and Referral tool, supporting referrals to the most appropriate local services.
    - The CIRS will make it easier to navigate across the service system to access the right care in the right place at the right time.

These initiatives align with the Tasmanian Government's significant mental health reform program which includes reforms to improve and expand mental health services, prioritise prevention and early intervention and empowering Tasmanians to improve their own mental health and wellbeing, and reforming CAMHS.

The initiatives included in the bilateral agreement also align with key national mental health reports and inquiries including recommendations from the Productivity Commission's Inquiry into Mental Health and the final advice of the National Suicide Prevention Adviser.

Next steps

The Tasmanian and Australian Governments will work together to develop a joint implementation plan and to progress current and future mental health and suicide prevention initiatives.

The agreement will also strengthen partnerships with service delivery through increased data sharing, evaluation of services, closer integration of referral pathways and ongoing work in regional planning and commissioning of services.

As a result, the agreement will assist in achieving our long-term goals to improve timely access to care and improved mental health outcomes for our community.

For further information, please visit the Department of Health, Tasmania website at www.health.tas.gov.au.

If you or someone you know is experiencing distress, seek advice and support from:

A Tasmanian Lifeline	1800 98 44 34
Beyond Blue	1300 22 4636
Kids Helpline	1800 55 1800
Suicide Call Back Service	1300 659 467
Lifeline	13 11 14
MensLine Australia	1300 78 99 78

Department of Health
GPO Box 125
Hobart TAS 7001

1300 135 513

www.health.tas.gov.au

Appendix 2

tabled and incorporated into Hansard
L. Hiscutt
22 June 2022

Minister for State Development, Construction and Housing
Minister for Energy and Renewables
Minister for Resources
Minister for Veterans' Affairs

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Tasmanian Government

21 June 2022

Dear Parliamentary Colleague,

Police Offences (Workplace Protection) Bill 2022

Further to my correspondence last week, I want to express my appreciation for the contributions from Members in relation to the Bill. In consideration of these, I have asked the Office of Parliamentary Counsel to prepare amendments which the Leader of the Government in the Legislative Council will move when this Bill is called on.

I hope to have my office circulate the finalised amendments and a 'marked-up' copy of the amended sections, intended to:

1. Move the obstruction of streets into a standalone subsection of s 13, rather than including it as another limb of s 13(1). This restricts the increased penalty to obstruction of streets, rather than to all limbs of s 13(1) (such a creating a nuisance and disorderly conduct).
2. Explicitly provides for a threshold of obstruction that is both 'substantial' and 'unreasonable'. The term 'substantial' has been included to ease concerns that the provision may inadvertently capture those sleeping rough on the streets, or protesters merely holding placards on a footpath.
3. Clarifies – although is non-exhaustive – obstruction that would be reasonable and lawful under Tasmanian or Commonwealth legislation, such as the Fair Work Act. This does not limit what might be considered reasonable, but directly addresses the importance of protecting lawful activity and activities such as protected industrial action.

As always, please feel free to contact me or my office should you have any queries or concerns. The Department officers will be attending the briefing on Wednesday and can address any queries arising.

Yours sincerely

Hon Guy Barnett MP
Minister for Resources