

Wednesday 29 August 2018

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

QUESTION UPON NOTICE

The following answer was given to a question upon notice:

6. JOINT SELECT COMMITTEE ON FUTURE GAMING MARKETS REPORT - GOVERNMENT RESPONSE

Mr GAFFNEY asked the Leader of the Government in the Legislative Council, Mrs Hiscutt -

The final report of the Joint Select Committee on Future Gaming Markets was tabled in the Legislative Council on Thursday, 28 September 2017. Since that time, a written response to the report addressing the full set of findings and recommendations has not been received.

Given the Government moved for the establishment of the inquiry, and that the accepted conventional practice is for a response to be provided, would the Leader please confirm when a detailed written response to the committee's report will be tabled in the Legislative Council?

Mrs HISCUTT replied -

The Government has released a comprehensive policy that provides its position on issues considered by the Joint Select Committee on Future Gaming Markets. The Government's future gaming market policy, released in January 2018, responds positively to the final report of the joint select committee. In developing its policy, the Government took account of the findings of the committee and input from the community.

In particular, the Government's policy will provide for -

- individual venue licences to operate EGMs in hotels and clubs
- the Federal Group to retain its two casino licences and operate Keno in Tasmania
- two new high roller non-residential casino licences
- a more appropriate distribution of returns from gaming
- the tender of the network monitoring licence
- increased future funding of the Community Support Levy to improve harm minimisation.

The Government's policy also supports the Tasmanian Liquor and Gaming Commission continuing to be responsible for regulating the gaming industry, including the mandatory code of practice and the community interest test for the location of new EGMs.

The parliament will have a role in considering any legislative changes required to implement the Government's future gaming market policy.

HEALTH COMPLAINTS AMENDMENT (CODE OF CONDUCT) BILL 2018 (No. 26)

First Reading

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

WATER AND SEWERAGE CORPORATION AMENDMENT (CROWN INVOLVEMENT FACILITATION) BILL 2018 (No. 24)

Second Reading

Resumed from 28 August 2018 (page 50)

[11.05 a.m.]

Ms ARMITAGE (Launceston) - Mr President, as I mentioned when I began my contribution on this legislation yesterday, I support the bill. It is great that the Government and TasWater are working collaboratively to allow the work that needs to be done. The money that is going in is certainly beneficial.

[11.05 a.m.]

Mr DEAN (Windermere) - Mr President, local government, including the George Town and Launceston councils, has been extremely quiet on this. I guess local government has 20 million reasons it would support the bill for the next 10 years. That could be the result of this legislation, when it is passed.

I support the bill. Very clearly, it opens things up to move forward. I can see from this that there will be a shorter time frame for fixing things like Ti-Tree Bend at Launceston, which is creating enormous problems in that area. I hope that is not neglected because of the Macquarie Point plant being moved in the first instance. I hope some control is exercised there because I can assure members that will create some problems.

Following the defeat of the bill last year - and it is well known that I supported state ownership of the organisation - this is a good fallback position. I am pleased the Government has gone this way rather than bringing back that bill or a similar bill to the one put forward in the first place; that is good.

The memorandum of understanding we received is headed 'Notice of Special General Meeting and Information Memorandum' and has 136 pages. I am not sure what is going on, and it probably can be explained, but it is dated 27 September 2018.

Ms Forrest - That is when the meeting is.

Mrs Hiscutt - This is for the agenda.

Mr DEAN - Yes, that is the agenda, and I noticed the memorandum of understanding has many amendments. My point is: is it still to be signed?

Mrs Hiscutt - They cannot do it if we do not sign.

Mr DEAN - That is right, once the bill is passed that can be entered into. My point is that the memorandum of understanding in its current draft form has been accepted by the state and by TasWater and will be signed, but it is currently being accepted in that form - is that right?

Mrs Hiscutt - I can only presume that the owner councils assume we will pass the bill. If we do not pass the bill, they will have to redraft their agenda and memorandum of understanding. We have 143 pages here.

Mr DEAN - Right. I am trying to get to the bottom of it to make sure that all organisations are satisfied with what will or might happen if this bill goes through.

Mrs Hiscutt - Obviously they are predicting it will be passed, but it is up to the will of the Council.

Mr Valentine - Isn't it the case, though, that they cannot make decisions unless this bill goes through, under the present act?

Mr DEAN - They cannot make decisions but there has obviously been a lot of discussion about what will be in the memorandum of understanding if this bill goes through. That is my point.

Mr Valentine - That is not to say they have agreed.

Mr DEAN - No, that cannot happen until the whole thing is signed off and is kosher - I accept that - but there has been much discussion about what will be in that memorandum of understanding should this -

Mrs Hiscutt - The meeting is coming up next month so they need to be prepared. However, the passing of this bill is at the will of the House. If it is not passed, they will have to reconsider their agenda.

Mr DEAN - Sure. The special general meeting to discuss this is now scheduled for 27 September 2018.

[11.10 a.m.]

Mr WILLIE (Elwick) - Mr President, as other members have highlighted, this legislation allows TasWater owners to consider a state government shareholding of 10 per cent. Once this bill passes, it is then over to local government to debate and scrutinise the proposal. If that is successful, another legislative amendment will change the TasWater constitution to allow state government ownership.

Section 7.1(d) of the TasWater constitution instructs that any change to the equity shares in the company requires a resolution passed by at least 75 per cent of the councils and any combination of members of the corporation that holds at least 75 per cent of the equity voting proportions, so it will be interesting to see how that plays out.

Other members talked about the 10 or so years it has taken to get to this place. It has been some journey under successive governments. In my short time in this place I have witnessed a hostile takeover bid, personal attacks and wasted time. Think about the resources from both sides of the debate that have been wasted over the past couple of years.

Local government did not want to be in that space and that was a reasonable position to take. It took a lot of its resources and a lot of state government resources for no outcome for the community. It really has been mismanagement when it comes to reform or progress over the past two years under the current Government.

Leading up to the election the Government still promised to take control of TasWater. Since then it has quickly conceded defeat. Now it plans to take a 10 per cent stake which will hardly give the Government an influential voice in how TasWater operates. There is still no solution to some of the big strategic projects around the state, including Macquarie Point and Cameron Bay. There are still questions surrounding Launceston's water and sewerage.

No-one would argue against lower prices for water. It is a big impost on household budgets. However, I share other members' concerns regarding the price freeze, then a price cap and what that means over time. It could have a snowball effect and cost consumers more over the long term. It also limits the business strategically.

The Government proposes to inject \$200 million over 10 years, but this may only cover the costs of the price cap and the price freeze, and there will be no infrastructure investment as claimed by the Treasurer.

The debate will probably eventuate, depending on what happens at the meeting the member for Windermere alluded to, so I conclude by saying that Labor supports the facilitation of this bill.

[11.13 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have a couple of responses. The first one is for the member for Murchison.

The measures in the MOU are to be implemented in a series of legal documents, including the forthcoming legislation. The Share Subscription and Implementation Agreement, amendments to TasWater's constitution and amendments to TasWater's Shareholders' Letter of Expectation are provided to Council as part of the information memorandum.

The other question was to do with scrutiny of TasWater. Section 12 of the Water and Sewerage Corporation Act requires TasWater's owners to provide the board with a shareholders' letter of Expectation that sets out the owners' expectations for the strategic priorities of TasWater and the performance of the corporation. The proposed amendments to TasWater's Shareholders' Letter of expectation contain a commitment that the Chief Owners' Representative, the chair and the CEO will comply with a request to appear at GBE scrutiny committee hearings.

TasWater has previously appeared at GBE scrutiny hearings. Members have existing powers to order any person to attend before a committee and produce documents in accordance with the Standing Orders and the Parliamentary Privilege Act 1898.

Ms Forrest - It is not just the GBEs, it is also the government administration committees, for example. I assume it applies to any properly constituted committee of the parliament.

Mrs HISCUTT - Yes.

Ms Forrest - Thank you.

Bill read the second time.

**WATER AND SEWERAGE CORPORATION AMENDMENT (CROWN
INVOLVEMENT FACILITATION) BILL 2018 (No. 24)**

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -

(Section 43A inserted)

[11.16 a.m.]

Ms RATTRAY - Madam Chair, when summing up the Leader talked about the various persons coming before a committee of the parliament. By interjection the member for Murchison talked about a properly constituted committee of the parliament. The Leader said there would be that opportunity to come to a committee and cited that we had powers to -

Mrs Hiscutt - Under the Parliamentary Privilege Act 1898.

Ms RATTRAY - Yes. I want to get a clear understanding that we will not need to ask for that to happen because I do not think it is very helpful when people are summoned to come before a committee. It would always feel as if there were a stand-off even before we commenced. I want to be assured that people will come willingly and freely and not have to be summoned in this instance. I do not feel it is helpful to get good information by the committee back into the community if there is that summons approach. I want to make sure they are looking forward to coming and being part of the scrutiny process.

Mrs HISCUTT - I reiterate what was just said. The proposed amendments to the TasWater Shareholders' Letter of Expectation contain a commitment that the Chief Owners' Representative, the chair and the CEO will comply with the request to appear at GBE scrutiny hearings. There is also a commitment in the Shareholders' Letter of Expectation that there is no need to compel. So there is a commitment that they will come, but, if for some reason 20 years down the track they decide not to, there is a method of compelling them to.

Ms Rattray - A great deal of comfort, Leader, thank you.

Clause 4 agreed to and bill taken through the remainder of the Committee stage.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

Second Reading

[11.21 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) -
Mr President, I move -

That the bill be now read the second time.

This bill delivers on the Government's election commitment to prevent outlaw motorcycle gangs that persist in criminal activities from wearing their club colours in public.

This Government remains committed to combating the scourge of methamphetamine and its links to outlaw motorcycle gangs in Tasmania. The 2017 Australian Criminal Intelligence Commission research report on organised crime acknowledged that outlaw motorcycle clubs are entrenched in the importation, manufacture and distribution of methamphetamine in Australia, with many of them using legitimate industry to conceal their activities and grant them the appearance of respectability.

Serious organised crime and the illicit drug trade does not just affect individuals but the safety and livelihood of the entire Tasmanian community. In 2015, the Australian Criminal Intelligence Commission estimated the cost of serious and organised crime in Australia to be at least \$36 billion a year. Even more concerning than the financial costs are the devastating social and health costs from the illicit methamphetamine trade.

Tasmanian outlaw motorcycle gangs - OMCGs - such as the Rebels, Outlaws and Bandidos, are part of worldwide gang franchises. These are franchises with significant global criminal histories.

Police intelligence indicates that OMCGs are major participants in the importation and trafficking of methylamphetamine in Tasmania. This drug trade is an impetus for volume crime such as burglaries and armed robberies, which are committed to pay off drug debts. Since 2000, senior gang members in Tasmania have been responsible for, and charged with, some of the most significant methamphetamine importations in the state's history.

Equally of concern to the Government is the use and escalation of serious violence by members of rival gangs, or even the same gang, in public places to protect what they view as their 'patch'. This violence is indiscriminate and often puts the public at significant risk. Since what has been referred to as the Milperra Massacre in 1984, when seven people, including a young girl, were killed in a brawl between the Bandidos and Comancheros, firebombings, drive-by shootings and public brawls linked to OMCGs continue to occur.

For example, in 2009 a violent public brawl between two OMCGs at Sydney Airport resulted in several injuries and one death. In the Hunter Valley region there have been six public shooting incidents and two Molotov cocktail attacks since January this year. The New South Wales Police Force attributes all these incidents to a feud between two rival OMCGs.

In the past, Tasmania has benefitted from being an island and has been spared some of the harm caused by OMCGs. However, technological advancements and strong action by other states have resulted in a displacement effect, with members leaving those states for locations viewed as softer targets. In the last decade, OMCG membership and the number of national runs in Tasmania have increased. Conversely, states such as South Australia that have enacted strong anti-gang laws have seen a significant decline in membership and violence.

Tasmania Police advises that during the recent Bandidos national run in Tasmania, both the Bandidos and the Outlaws attended a public event in Devonport. Police had to deploy significant resources after receiving intelligence that the Outlaws intended to protect their turf and were prepared to resort to violence to do so. Police were subsequently forced to intervene after members of the two gangs started abusing and threatening each other.

In another example from October 2017, the Rebels chose to utilise Tasmania for their national run. This resulted in approximately 300 members attending our state. Despite being advised they

would receive strong police attention, Tasmania Police still seized illicit drugs and weapons from members. Rebels' members also returned positive drug tests for cocaine and methamphetamine while driving. During the run, Tasmania Police believes a person received significant life-threatening injuries at the Rebels' Hobart clubhouse; that investigation remains open.

Most organised crime groups seek to hide their existence from the public, but the high visibility of OMCGs makes them unusual. In May 2018, the Australian Institute of Criminology published its *Organised crime research in Australia 2018* report. The report noted that OMCGs share a similar characteristic to another notorious organised crime group, the Japanese Yakuza: both groups operate in a manner that is clearly visible in the community - the Yakuza through their tattoos and OMCGs through their patched jackets and apparel.

Worldwide OMCGs operate publicly, with clearly badged jackets called 'colours' displaying their club logo and accompanying '1%' badge. OMCGs rely on money, power and fear to thrive. Their greatest weapon is publicly visible intimidation, which is why they wear their colours when they are debt collecting. Their colours are also used to threaten people and deter them from reporting crime or testifying in court. It is not necessary to utter a specific threat when wearing an Outlaws, Rebels, Black Uhlans, Devil's Henchmen or Bandidos jacket, because the jacket, with its patches and insignia, speaks for itself.

The criminal law has a limited capacity to protect the community from these types of threats. These gangs maintain a strict code of silence and cultivate a brand of intimidation and fear in respect to witnesses that thwarts attempts by law enforcement officials to hold offenders to account. Acting on a matter after the damage is done is cold comfort to the victims. This legislation will stop OMCG members from using their colours to stand over members of the public and create fear in the community.

I turn now to the detail of the bill. Clause 4 of the bill introduces a new offence into the Police Offences Act 1935 at section 6A, banning the wearing or carrying of prohibited items in a public place. The new offence states that a person who is in a public place, or in a vehicle that is in a public place, must not wear or carry a prohibited item that, if another person were in the public place, would be visible to the other person.

A prohibited item is any piece of clothing, jewellery, or other accessory that displays:

- the name of an identified organisation; or
- the club patch, insignia or logo of an identified organisation; or
- any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, an identified organisation.

This prohibition will only apply to identified organisations and not law-abiding motorcycle enthusiasts and motorcycle clubs. A number of prerequisites and legislative safeguards have been put in place to achieve this aim.

First, an identified organisation must be prescribed in regulations on the recommendation of the Minister for Police, Fire and Emergency Management. These regulations will of course be subject to the usual scrutiny and oversight of the Subordinate Legislation Committee.

Second, the minister may only make such a recommendation if, having first regarded the advice of the Commissioner of Police, they are satisfied that the wearing or carrying of these items in public places may cause members of the public to feel threatened, fearful or intimidated; or may have an undue adverse effect on the health or safety of members of the public, or the amenity of the community. The minister must also have regard to whether any person has, while a member of, or a participant in, the organisation, engaged in serious criminal activity or been convicted of public acts of violence, damage, or disorderly, offensive, threatening or violent behaviour in public.

Finally, defences have also been provided in the bill to allow prohibited items to be worn in public places for genuine artistic, educational, legal or law enforcement purposes.

To become a fully patched member of an OMCG, one starts as a prospective member. To ensure that the activities of these people can be taken into account, a prospective member is included in the definition of a 'participant in' an identified organisation as defined in the bill. It is important to note that a prospective member does not mean just anybody. Prospective members are likely, or expected, to be fully patched members in the future. Certain thresholds need to be met to become a fully patched member and often this involves the prospective member committing crimes to earn their colours. This allows fully patched members to not only distance themselves from the taint of any illegal activity but to shield senior members from any legal repercussions.

OMCGs on the mainland have demonstrated a resourceful creativity to circumvent laws designed to mitigate the harm they cause. The prescribing of identified organisations by way of regulations is appropriate and allows police to respond to the evolving nature of criminal gangs, while still maintaining the appropriate balance between an individual's rights and the rights of the community to be safe and enjoy public spaces free from intimidation and brawls between feuding gangs.

The bill will also give a police officer who has reasonable grounds to believe that a person in a public place has committed or is committing a prohibited item offence the power to stop that person or any vehicle they may be in, search the person and vehicle, and seize any prohibited items found. Again, I emphasise that law-abiding motorcycle enthusiasts and motorcycle clubs are not affected by these changes.

The Government is absolutely committed to, and will continue to work on, modernising Tasmania's consorting offences in line with similar provisions in other jurisdictions, to support contemporary preventive policing practices that allow authorities to act at an early stage to prevent, or reduce, serious crime. This effort is strongly recommended by Tasmania Police and the Australian Criminal Intelligence Commission as necessary steps to be able to deal with the scourge of ice, organised crime and horrific violence. It is anticipated this matter will be brought to parliament before the end of the year.

Mr President, this bill sends a strong signal to OMCGs in Tasmania, or those thinking to expand their networks into our state, that their illegal activities will not be tolerated.

I commend the bill to the Council.

[11.33 a.m.]

Ms FORREST (Murchison) - Mr President, this bill has generated much interest and many emails. I cannot recall getting any more than one or two at most in support of the bill. In saying

that, it is clear that some people who have contacted us, predominantly by email, do not fully understand the extent and nature of the bill presented to us.

I have taken the time to communicate with people who have contacted me to try to point out where that has been the case. In the last couple of days I have not been able to get to all those people. There have been too many.

As members will recall, prior to the winter break I was frustrated when my requests made through the appropriate channel - the Leader's office - for early briefings on this somewhat contentious bill were met with responses such as the minister's advisers saying no to this request because the bill had not been debated in the other place. I was told this twice.

Had we waited for that to occur, we would have only had briefings at the end of last and this week. This was totally inadequate and I said so in the adjournment on 11 July 2018. My comments were picked up in the media, which led to a welcome change of approach, which I certainly appreciate.

I appreciate the two briefings with the commissioner during the winter break. It is vitally important to understand this bill fully - what it seeks to achieve; the nature of the need for it - and to ensure that if such legislation is to be introduced, it does what it seeks to do, is robust, constitutes what is constitutional - as far as we can be confident any bill is until it is tested by the High Court - and does not unduly trespass on the rights and privileges of Tasmanians.

Natural justice must be afforded to all Tasmanians, including those whose activities, actions and preferences we may not personally support. Natural justice must be afforded to those we agree with as well as those we do not.

The President in his role as a lawyer would have represented people who he might not have supported and agreed with, as was his or any lawyer's job. The point is we cannot pick and choose if we do not like the activities of certain groups or people, but we cannot ignore their access to natural justice.

The police commissioner, Mr Darren Hine, has provided quite convincing evidence and advice about the need for legislation to strengthen laws related to OMCGs. I respect Commissioner Hine and his opinions, and it is clear we need enhanced and more robust legislative framework in which to manage the illegal activities of outlaw motorcycle groups and all criminal organisations.

Not all criminals, or those involved in criminal organisations, are members of outlaw motorcycle groups and not all members of all outlaw motorcycle groups are involved in organised crime. This bill on its own will not do much to assist police in preventing the illegal activities of some outlaw motorcycle groups. It is one of the pieces in the legislative framework the Government is working on. While I accept this, on its own this bill is not going to do anything about, for example, addressing the illicit drug.

I suggest that to a degree separating this aspect of law reform from what is needed in the broader area is playing politics. I would much prefer to see the provisions in this bill considered at the same time as legislation to strengthen other related laws, such as the anti-consorting legislation, which we are told is not far away. The Leader might like to reflect on this; she might not. There was a 100-day commitment made to get this done - that is great - but let us give it the proper process and not try to rush things.

Regardless, we have to deal with the bill we are now considering. My job is to ensure, as much as I can, that this law reform is needed. In its current form, the legislation will achieve what it seeks to do and is proportionate in its effect with adequate safeguards against excessive ministerial executive powers.

To address these questions, I make a number of observations from the many briefings we have received. I appreciate the commissioner making himself and his staff available to provide additional and individual briefings, and travelling up to Launceston for briefings during the break.

I will refer to some of the comments made by the Leader in the second reading speech and again thank the commissioner and his staff for the additional detail they provided on some areas that needed further clarity. The second reading speech was amended to reflect some of the concerns I raised.

The first question was: Is this law reform needed? Outlaw motorcycle gangs have created great concern in a number of areas in the state, including my electorate. There are many members of these groups who live and work in these communities and provide quite a welcoming and supportive place for people to mix and socialise, and I have heard this from many people. I note and accept gaining membership to an OMCG does require members to undertake a range of activities and commitments non-members may not appreciate.

The Leader made a number of comments regarding the activities of OMCG organisations, not specifically related to individual members who cause real concern for police and for the broader community. The Leader referred to an Australian Criminal Intelligence Commission research report, *Organised Crime in Australia*, which acknowledged that outlaw motorcycle clubs are entrenched in the importation, manufacture and distribution of methamphetamine in Australia. Many of them are using legitimate industry to conceal their activities and grant them the appearance of respectability.

I agree with the Leader when she states that serious organised crime and the illicit drug trade does not just affect individuals but also the safety and the livelihood of the entire Tasmanian community. She noted the Australian Crime Commission, now the Australian Criminal Intelligence Commission, estimated the serious costs of organised crime to be around \$36 billion a year. Even more concerning than the financial costs are the devastating social and health costs from the illicit methamphetamine trade. Anyone who knows someone who has a family member or a friend or someone addicted to methamphetamine, or ice, knows the devastating impact, not just on the person but also on their families. It is a difficult challenge.

This bill does not specifically relate to the illegal drug trade or the use of illegal drugs. I understand why. This is an activity that those involved in do not generally undertake in public, rather it is hidden, an underground activity, and I suspect it will remain so. I discussed this with the police commissioner during a private briefing about the nature of the public offences committed as reasons not to be able to wear colours. You are unlikely to see people committing these illicit drug offences in public. The other acts listed in the bill are more likely to occur.

This bill, I understand, does not seek to address the issue of the illicit drug trade. That is a separate issue and there are other laws to deal with that challenge. Reference to this illegal activity is more about establishing the case for the need for stronger laws regarding illicit drug activity. I accept that OMCGs are engaged in this illicit activity. Not all of them - not every member is, but I know some members are. When one of the groups was based in Smithton in my electorate, there

was a real problem with ice, but it was not necessarily confined to the OMCGs. We need to make this clear: OMCGs may be involved in this illicit area of activity but they are not the only groups that are.

Many members of OMCGs have contacted us stating they do not engage in or condone criminal activity. That is great. Many of them do potentially fit into that category. We were informed previously of some of the actions required to gain membership. Some of the patches members wear indicate they have undertaken criminal activity to gain them. There is conflicting information here.

Many people who have contacted us feel this legislation is treating all members as criminals regardless of their activities within the club. I can understand why they feel like that. I appreciate their concern and I have sought amendments to the bill to strengthen the process around the declaration of an identified organisation to ensure, as much as possible, only those, when there is evidence of such activity noted in the bill, will be proscribed.

Mr President, do we have laws that seek to deal with the challenges of criminal activity, particularly as it relates to the illicit drug trade? We do, but, as with all legislation, these laws should be regularly reviewed and updated if necessary to ensure police have a legislative framework that is robust enough but also maintains natural justice provisions to ensure those involved in the illicit drug trade are brought to justice. If police believe there is need to strengthen laws related to the illicit drug trade, let us hear from them and let us hear the Government talk about that.

We all want to see an end to the devastating social and health harms associated with the illicit methamphetamine and other illegal drug trade. The Leader and police in the briefings informed us of police intelligence that indicates that OMCGs are major participants in the importation of methamphetamine in Tasmania. This drug trade is an impetus for other violent crimes such as burglary and armed robberies that are committed to pay off drug debts.

The Leader stated that since 2000, senior group members in Tasmania have been responsible for, and charged with, some of the most significant methamphetamine importations in the state's history. I asked the commissioner at this morning's briefing to provide figures on how many charges have been laid and how many convictions recorded against members of OMCGs in Tasmania. It has been raised repeatedly in emails to us.

It is all well and good to say people have been charged, but where are the convictions? We still abide by the premise that you are innocent until proven guilty in this state.

Mr Gaffney - I think that information would be easy to get because they would need that information to take it to the commissioner to say a group is doing something untoward.

Ms FORREST - Yes, for the commissioner then to recommend that to the minister. If the amendment I have suggested is to include the Attorney-General, it is relevant and we will get to that process at a later time.

The Leader also noted the use and escalation of serious violence by members of rival gangs or groups - and even the same group - in public places. She used the word gangs. I will use the word groups, but I was just repeating her words. This violence is indiscriminate and often puts the public at significant risk, as she said. She said -

Since what has been referred to as the Milperra Massacre in 1984, when seven people, including a young girl, were killed in a brawl between the Bandidos and Comancheros, firebombings, drive-by shootings and public brawls linked to OMCGs continue to occur.

The violent public brawl between two OMCGs at Sydney Airport in 2009 resulted in several injuries and one death. I was not in the airport at the time, thankfully. It would have been a very traumatic thing for members of the public to witness. When I was discussing the bill with a member of an OMCG, I mentioned that it does not do the groups any favours. He acknowledged that this type of behaviour does not do their club any favours in the eyes of the public. They accept that actions like that sway public opinion against them.

I am unaware of any specific instance of this level of public violence in Tasmania and would appreciate if the Leader could advise if there has been. Threats of violence at a boxing match in Devonport have been referred to. I accept that even if it had not occurred, the likelihood is really based on the activities of some OMCGs in other states. Prevention is the best way to go here. This is about doing that.

Commissioner Hine informed us that worldwide OMCGs operate publicly with clearly badged jackets displaying colours of their club logos and an accompanying 1% badge, as well as a range of other badges earned after undertaking certain required actions or activities. Many of these patches refer to actions that clearly denigrate women. Many also cause harm to women. Many of the actions taken to earn these badges rely on committing illegal offences.

We were informed that women cannot be members of an OMCG and in many cases women are viewed as the property of OMCG members. The Leader stated that OMCGs rely on money, power and fear as their greatest weapons. Wearing the colours publicly visibly intimidates, which is why they wear their colours when they go debt collecting.

Before the briefings I was unaware of what some of the individual badges meant. I am sure other members of the public do not know. Most of us in this Chamber probably did not know what they mean. Wearing colours may cause fear to members of the public even if you do not know what they specifically mean. When you do know what they mean, fear is one emotion that might be experienced.

Mr Valentine - We are between a rock and a hard place because if we talk about it, people are going to know more.

Ms FORREST - The Leader stated that OMCGs wear their colours to threaten people and deter them from reporting crime or testifying in court. These gangs maintain a strict code of silence and cultivate a brand of intimidation and fear to thwart witnesses in attempts by law enforcement officials to hold an offender to account. Some people I have spoken to talk about the brotherhood of a club as being a positive thing, where they look after each other and watch each other's back.

Ms Rattray - A bit like a family.

Ms FORREST - Some people have talked about it in this sense and many who have said this are females, who cannot be members. I am sure many people feel really well cared for within the clubs, particularly when they first join or are on the fringe of the club as are women or families.

These members have families - they have children and wives - and they tell you they provide the level of support and family sense they may not have had in their own lives. Some young people who are homeless, been kicked out of home or come from all sorts of disadvantage may find the environment of the OMCG better than what they lived in before.

It is only when they have to become members and actually undertake some of the illegal activities required of them that things can change. Women are not members and so they do not have to do undertake this. So when we receive an email from women saying how fabulous it is, maybe it is. It may be better than what those women had before.

We need to take the comments in context and listen to all these voices, because they are important and all deserve to be heard.

The objective of this legislation is intended to stop OMCG members from using their colours to stand over members of the public and create fear in the community. While they might not be able to do debt collecting in their colours in a public place, I cannot see how it will stop them taking their jacket in a bag to a person's private home and then putting it on when they get to the door to collect a debt. This is not going to fix all the problems.

I have received many emails and other messages raising concerns about who else and which other groups could be targeted over this bill. Some are a misunderstanding of the intent of the bill. For example, some raised the fact that people could be targeted for wearing their AFL team colours. For some teams, you can understand why this might be important -

Ms Rattray - Especially on Mad Monday.

Ms FORREST - Mad Monday. I know our Clerk is a Collingwood supporter, you are too, member for Launceston. I have been on a train packed full of Collingwood supporters and my daughter did not want me to say a word. In fact when they started to engage with me, she asked me not to speak. We were already on the train and stopped at Jolimont station, and the whole platform was black and white. They had won the game and beaten St Kilda, but told me it was not a good win. They wanted to know who I supported when I did not say Collingwood. My daughter said perhaps I should have lied at this point.

We might disagree with someone's support of a particular team; it is not a disagreement based on fear, rather a sense of rivalry and competition. On occasions there are brawls in a crowd at the footy match, but overall most fans are civil and generally respectful of the opposition team supporters.

One of my favourite experiences is walking to and from the MCG or Etihad before and after an AFL match and listening to the banter. Everyone is happy on the way in because there are no winners. On the way out while everyone is happy, the conversations differ because supporters of the team that won are saying what a great mark that was or what a great goal, and supporters of the team that lost tend to talk about how the umpire played against them. It is a wonderful atmosphere at the MCG, walking out with the crowd afterwards - it is a fabulous experience.

Mr Gaffney - It is different to, say, soccer - the true football - because there they have gangs and identify with their colours, and they know there is a good chance there will be violence. It is a totally different feeling. You are actually segregated when you go to a game.

Ms FORREST - That is right, and it would be really sad if we did that. Someone mentioned it after a brawl at the footy. It would be really sad to even contemplate that.

One of the things with AFL is that there are so many scores you get to get up and scream every now and then. With soccer, you can go up and get so close and there is no release of that tension. That is my theory.

Back to the bill. I have been trying to address the question: is the law reform needed? The other two questions I will address together. In its current form, will the bill achieve what it seeks to do? Is it proportionate in its effect with adequate safeguards against excessive administrative or executive powers?

The bill introduces a new offence into the Police Offences Act 1935 at section 6A, banning the wearing or carrying of prohibited items in a public place. The new offence states that a person who is in a public place, or in a vehicle that is in a public place, may not wear or carry a prohibited item that if the other person were in the public place would be visible to the other person.

A prohibited item is described in the bill as being any piece of clothing, jewellery or other accessory that displays the name of an identified organisation or a club patch, insignia or logo of an identified organisation or an image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or association with, an identified organisation.

We are informed that this prohibition will only apply to identified organisations, not law-abiding motorcycle enthusiasts and motorcycle clubs or any other groups. The bill also provides a framework for prescribing an identified organisation. The Leader stated that a number of prerequisites and legislative safeguards have been put in place to achieve this aim. In my view, the way the bill is currently presented allows for too much power to reside with the minister. Further oversight in the decision to make or proscribe an organisation is needed. I am flagging an amendment to that effect and will speak to that at a later time.

The Leader stated that -

an identified organisation must be prescribed in regulations on the recommendation of the Minister for Police, Fire and Emergency Management. These regulations will of course be subject to the usual scrutiny and oversight of the Subordinate Legislation Committee.

I think most, if not all, of us here know that scrutiny and oversight of the Subordinate Legislation Committee occurs after the event and it can be some time before this occurs after the regulations are in force. I believe additional oversight is needed prior to the making of the regulations in that declaration process and the amendment I propose seeks to achieve this.

In making the recommendation currently under the bill as proposed, the minister is required to have regard to the advice of the Commissioner of Police who needs to be satisfied that -

the wearing or carrying of these items in public places may cause members of the public to feel threatened, fearful or intimidated; or may have an undue adverse effect on the health or safety of members of the public, or the amenity of the community.

I believe this needs to be strengthened to ensure advice and/or reasons from the commissioner must be provided to the minister, and also the Attorney-General, to enable review and consideration of this advice. I will discuss that more fully at a later time.

I believe this is necessary even though the minister must also have regard to whether a person has, while a member of or a participant in the organisation, engaged in serious criminal activity or been convicted of public acts of violence, damage or disorderly, offensive, threatening or violent behaviour in public.

I know there are defence provisions in the bill to allow prohibited items to be worn in public for general artistic, educational, legal or law enforcement purposes.

Another area of concern for me was how the term 'prospective member' could be interpreted. I requested the commissioner to consider further explanation of this in the second reading speech to ensure clarity as during the briefings 'prospective member' was referred to basically as novices or people on a path to full membership. They had already made significant inroads into becoming a full member. The second reading speech was amended to further clarify that.

The Leader stated that to become a fully patched member of an OMCG, one starts as a prospective member and to ensure that the activities of these people can be taken to account, a prospective member is included in the definition of a participant in an identified organisation as defined in the bill.

She also clarified that this term does not relate to any male effectively because only males can be members of OMCG's at the moment. This could change. It was important to know that prospective members did not mean just anybody. Prospective members are likely or expected to be fully patched members in the future. Certain thresholds need to be met to become fully patched members. Often these involve prospective members committing crimes to earn their colours.

This allows fully patched members not only to distance themselves from the taint of any illegal activity, but it also shields senior members from any legal repercussions. We were told this during the briefings and in the second reading speech from the Leader. I appreciate the clarification of the term 'prospective member', because the common use of the term would suggest any eligible male.

The main concerns of this bill relate to the lack of an appeal mechanism to a prescription of an identified organisation. While I accept regulations are disallowable instruments, even with the scrutiny of the Subordinate Legislation Committee, this requires the agreement of the committee, a report to both Houses and then the successful passage of a disallowance motion. It is not a given. This process can take months from the time the regulation is made.

While parliament is sitting, at any time any member can give notice of and move a disallowance motion. This takes time, because the motion has to mature and parliament does not always meet regularly, with sometimes months between sitting weeks. I note section 9 of the Subordinate Legislation Committee Act 1969 states -

Report when Parliament not sitting

If in the opinion of the Committee a regulation that is examined by the Committee should be amended or rescinded and the Committee's report thereon is adopted by the Committee during any adjournment or recess, the Committee may cause a

copy of its report to be sent to the authority by whom or by which the regulation was made and on receipt thereof that authority shall forthwith-

- (a) amend the regulation in the manner indicated by the Committee, or, if the Committee so recommends, rescind the regulation; or
- (b) take such action as may be necessary for the purpose of suspending the operation of the regulation, and ensuring that the operation thereof remains suspended, until both Houses of Parliament have dealt with the report.

I was aware of this power and mentioned it to Mr Broad, the Labor member downstairs, who thought there was no avenue. I said there was and the Subordinate Legislation Committee is quite powerful and can meet at any time. I did not think we had the power to instruct the Governor in the way they should act when parliament is not sitting. I seek clarification, and the Leader may like to reconfirm this, around the operation in this section of the Subordinate Legislation Committee Act to confirm that the Governing Council, the Executive, not the Governor, is the authority by which the regulation was made.

The Subordinate Legislation Committee can effectively direct the Governing Council to amend the regulation, as indicated by the committee, or suspend the operation of the regulation, until it can be dealt with in parliament. I need the Leader to confirm and clarify this to make it clear. The Subordinate Legislation Committee can meet and it can be done over the phone, but even so, you still have to have a majority decision of the committee to proceed to the next step.

Mr Finch - What does the term 'Governing Council' encompass?

Ms FORREST - That is the Executive basically - it is the Governor acting on behalf of the Executive who make the regulation.

Mr Finch - 'Executive' is?

Ms FORREST - The executive arm of Government. The principal act provides the regulation-making power, then the department prepares the regulations under the act, and this is sent to Cabinet and endorsed by the executive government. From there it goes to the Governor, for tick off and to be gazetted. It is the Governing Council; the term is 'executive government', the branch of government that makes the regulation.

Mr Finch - Nearly!

Ms FORREST - You need to spend some time on the Subordinate Legislation Committee to understand this.

Mr Finch - I spent four or five years on it.

Ms FORREST - You did not learn anything.

Mr Valentine - They actually meet with the Governor.

Ms FORREST - Yes. The committee would not be instructing the Governor. It is the body that makes the regulation. There was a commitment at the briefing.

Mrs Hiscutt - I've sent the email off.

Ms FORREST - I am getting a nod from behind you, so I think we will be right. We have a bit of time between now and then, Mr President.

The scrutiny of the Subordinate Legislation Committee process occurs after the regulations have been made and are operational in the majority of cases. While it is an important scrutiny measure, there is the risk of an ill-considered recommendation being reflected in the regulations. As the bill currently stands, I do not believe it meets the test that it is proportionate in its effect without adequate safeguards against excessive ministerial or executive powers. Hence, the move for an amendment to put further scrutiny in it at the front end.

Strong laws are needed in this area; however, I do not believe this legislation will greatly assist police in disrupting the criminal activity associated with OMCGs. It will not address the very real community concerns around the impact of other criminal organisations. That is a matter for another time.

We are likely to see additional legislation coming forward over coming weeks or months to address some of these areas. As I have with this bill, I will fully scrutinise those bills.

It has been a difficult process to make sure we are being proportionate in our impact. I respect the views of those in the community who have contacted us. I have spoken to some of them, not all of them. I have responded to as many as I could. Most of them have been very pleased to get a response and understand my view on this. We need to afford natural justice to the people we agree with and whose activities we like or condone as well as those whose activities we do not appreciate, do not agree with and have a fundamental problem with. Everyone should be afforded natural justice.

Even with the proposed amendments, which provide an extra level of scrutiny and an extra step, we need to be very careful where we are going. The next piece of legislation we get will be potentially much more contentious. It will certainly require a greater level of scrutiny to ensure that there is natural justice and certain rights of appeals and that there is the usual process to facilitate that.

Mr President, I will support the bill into the Committee stage as I believe that important amendments are needed to address these areas of concern.

[12.08 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I appreciated the Leader's speech, the briefings and the contribution from the member for Murchison. We have also received a number of emails and spoken with our constituents about these issues. We have spoken to people who are motorcycle enthusiasts as well as those who may not have a motorcycle. It has been a good conversation with the community.

The Government says the intent of this bill is to improve public safety and place downward pressure on outlaw motorcycle gangs in Tasmania. Improving public safety is and should be a goal of every government. It is an aim I imagine all members of this place support. I am very appreciative of the work Tasmania Police undertakes on behalf of all Tasmanians. I have perceived an informed and effective police force more in tune with the community than it has been in years gone past.

When considering this bill, the challenge lies with determining whether it can achieve what it sets out to do. The police and the Government are of the view that this bill is the beginning of a crackdown against outlaw motorcycle gangs in Tasmania. Tasmania Police believes outlaw motorcycle gangs in Tasmania are growing. They cite the Bandidos as an example of the newer, harder gangs setting up in Tasmania. That is of concern, Mr President, as we definitely do not want criminal groups flooding into Tasmania to seek their fame and fortune.

Some community members have commented that as Tasmania is an island state and the number of exit and entry opportunities are extremely limited, we should increase monitoring of those sites because that would be a more effective way of limiting illegal substances coming into Tasmania.

We are told this bill will achieve its aim by restricting the wearing of certain clothing and insignia by members of an identified organisation - deemed so by the minister on recommendation of the police commissioner. I have little doubt that this bill is the first tranche of several that may follow because it does not go as far as the laws in other states that criminalise consorting and enable the imposition of control orders.

Fortunately, we are able to consider the experience in other jurisdictions to inform our assessment of this bill. I understand why the police and the Government are concerned with the apparently threatening appearance of some motorcycle groups.

The Queensland Taskforce on Organised Crime Legislation stated when reviewing Queensland's laws -

On any view, OMCGs have an image problem. They are seen by many to be the public face of organised crime even though the most reliable statistical data shows that they are charged with a small proportion (no more than 0.52%) of all offences committed across the state.

Their confronting public appearance, riding in packs and vividly displaying club royalty via tattoos and insignia, means that members of the public are acutely aware of their presence.

When I considered that last sentence and this bill pragmatically, I was able to discern a number of problems with this bill that perhaps undermine its intended effect.

First, this bill only applies to clothing, jewellery or any other accessory. As the sentence I quoted above suggests, members of motorcycle gangs regularly express themselves by way of tattoos. If the intention of this bill is to reduce the number of OMCG members by making them less visible and intimidating, tattoos are a more permanent and perhaps prominent alternative to patches and other insignia which will fall outside the ambit of this bill.

Second, this bill also fails to provide explanation of what is 'other accessory'. No doubt this term will become, if passed, a litigation hot topic. If construed in line with the words 'jewellery and clothing' that surrounds this term, it is like saying that such a definition excludes paint schemes and markers on motorcycles and cars. Indeed I asked in the briefing if flags supporting an OMCG logo could be flown on the back of the motorbike. As long as it was not a nuisance to other road users and was not overly large, it would not be covered by this bill. It is therefore foreseeable that rather than patches being placed on their clothing, car and bike paint schemes and liveries may proliferate as patch substitutes, again falling outside the ambit of the bill.

Third, the changes this bill implements will only apply in public places. The Leader stated in the second reading speech -

Their greatest weapon is publicly visible intimidation, which is why they wear their colours when they are debt collecting.

It is hardly controversial to suggest that difficulties in police detection may stem from the fact that these activities predominantly occur on private property. In these situations, this bill is of no application. If, as the Leader suggests, they are wearing colours to intimidate when debt collecting, it will not be hard to circumvent these laws by simply keeping prohibited items out of the public view before wearing them on and into private property. Furthermore, as a north-west constituent put it aptly, 'if no-one is wearing a patch, then every bike rider will look like a criminal'. In effect, what this bill does is provide a camouflage net to people who potentially may do the wrong thing.

While some might suggest I am being the devil's advocate in outlining these issues, the Opposition, the Law Society of Tasmania, other organisations and constituents have put forward a plethora of further concerns. The Opposition has highlighted in its dissent that the minister is given far-reaching powers that are nigh on impossible to seek review of. The Opposition has also raised the issue of the low bar set by this legislation.

I tend to agree with concerns that the bar is too low. The bill states in clause 4(6) -

In determining whether or not the regulations ought to prescribe an organisation under subsection (3), the Minister must have regard to whether any person has, while a member of, or a participant in, the organisation, engaged in serious criminal activity or committed a relevant offence of which the person has been convicted.

The use of 'whether any person has' sets a very low bar and the minister must only have regard to whether serious crimes have been committed.

As Civil Liberties Tasmania has put it -

There is no requirement that members must be convicted of crimes before action can be taken against them to ban their insignia.

These low thresholds are then compounded by difficulties to appeal any decision made by the minister. Irrespective of whether this is an intentional or unintentional omission of an appeal mechanism, it is a precedent that should not be set.

As the South Australian experience has shown, when the Phoenix Motorcycle Club was initially confused with its outlaw New South Wales namesake, mistakes can be and are made.

A more fundamental problem with the bill was best put forward by a constituent in the *Advocate* -

I'm not saying all bikers are good, there's bad eggs, definitely, but you can't tar them all with the same brush.

As another constituent said to me in their correspondence on the issue of identification and intimidation -

The majority of the population cannot tell the difference between a bikie and any other motorcyclist, particularly if they have a cruiser motorcycle, e.g. a Harley, and wear a black leather jacket or vest with or without a logo or patch. If members of the public are intimidated by bikies, they will likely be just as frightened of social motorcyclists who will not be subject to the laws.

I speak with and receive emails from many people on a number of contemporary issues. I have only had one person discuss a concern they had regarding disagreement with a member of a bikie group. It was obviously a distressing situation for her, but even she stated that she did not feel as though this reform would be much value in addressing her specific concerns.

It was also stated in one of the police briefings that sometimes people were too frightened to speak out about outlaw motorcycle groups. That position is appreciated. However, like other members, when dealing with other legislation and being on a number of committees inquiring into different aspects in our society, I have received a number of anonymous emails from people about certain wrongdoings or wanting to make a comment without divulging their identity. I have not received one anonymous email in support of this reform. By and large, 99 per cent of people I have spoken with about insignia prohibition do not believe it will work. They do not believe it is fair and they do not believe it is going to be effective.

I also note the Law Society, in its submissions to all politicians, has expressed similar concerns to those I have just mentioned: that the bill sets a low bar for the minister. The Law Society urge that the bill is not sufficiently detailed regarding the mandatory and discretionary considerations of the minister and limits the review or appeal rights available to an individual.

I think it is concerning there is no requirement to make public the reasons for the minister's decision to declare an organisation. Transparency and openness therefore seem lacking in the exercise of this discretion. Perhaps this is one of the reasons motorcyclists and other constituents have been so active in contacting their local members, and in some cases well beyond, about this bill.

While some have argued this correspondence is merely as a result of the power of the OMCGs, to overlook the many messages I have received would not be respectful to my constituents. Their reasons vary, but a vast number were similar to that of one constituent who stated -

I strongly believe that this law infringes directly on any Australian's right to wear what they want, see who they want and to go where they like. This is not my Australia.

Others highlighted numerous incidents of harassment against motorcycle riders at the hands of police in other Australian states where legislation of this type has been introduced. The experience in other states where these types of bills have been rushed in has been one of endless court challenges, repeals and subsequent reviews.

As the Law Society said in its opposition to this bill -

To criminalise conduct that at present is perfectly legal requires a sound evidentiary basis. Such evidence is lacking in the present case ... Simply asserting that colours are used as a tool to intimidate, stand over and influence is not sufficient.

This accords with the view of the Queensland Taskforce on Organised Crime Legislation, which concluded -

Any response to the threat presented by OMCG crime should, the Taskforce believes, be balanced and proportionate. While the threat is real, it is not so high as to require or justify legislation which is so extreme in its effects as to drive all OMCG members, criminals or not, out of Queensland. It is not so high, either, as to warrant the creation, unusual for our system of government and criminal justice, of laws which are directed solely against one group of persons in our society.

These laws are aimed directly at a specified class within Tasmania.

It is therefore my view that this bill is not appropriately constructed to achieve its aim and in fact does very little in its current iteration to justify a sufficient basis for singling out these particular groups.

As one constituent suggested -

Put more police on the ground to catch the 'outlaws' in our society instead of wasting a great big heap of money on a new law that will achieve exactly diddly squat.

If our Police Minister has intel on the drug dealing that supposedly takes place in bike clubs, how about he acts on it and arrests those concerned instead of using it to frighten the general public into believing our state is some sort of *Sons of Anarchy* movie set.

I look forward to the debate and reviewing any amendments; however, I have serious concerns with this bill. An issue which concerns me is reflected in the Rule of Law from the 2011 Law Councils of Australia policy which states -

The law should be applied to all people equally and should not discriminate between people on arbitrary or irrational grounds.

I appreciate and understand why the Law Society of Tasmania, one of Tasmania's peak law bodies, adopted a number of these principles and therefore does not support this legislation.

Fundamentally it is a very fine line when laws start to discriminate because of a person's appearance, beliefs or values. Australian society is based on the democratic principles of freedom of expression and individual rights. It is for these reasons I will vote as my constituents have directed against the prohibited insignia bill. Thank you.

[12.21 p.m.]

Ms LOVELL (Rumney) - Mr President, this bill puts us in rather a difficult position. From conversation with my colleagues, I know that many support the intent of this bill, but many also have concerns around the way it is drafted and how it proposes to implement the intent.

Nobody is disputing that outlaw motorcycle gangs are committing crimes, or the types of crimes they commit. I do not necessarily agree with the term 'OMCG', but is the term I will use. Nobody is saying we want to make Tasmania a safe haven for criminal gangs or OMCGs. Nobody is saying we do not support action against crimes being committed and those who commit them. Indeed, Labor has publicly said we support the idea of being able to ban insignia in public places and that should be part of the toolkit provided to police.

But how is this best applied and does the bill provide the best opportunity for that to happen?

Labor has been portrayed by the Government as being soft on crime in response to our opposition to this bill in the lower House. This bill, as I said, and the way this has happened has put us in a very difficult position. It is unfortunate the Government has sought to play politics with this bill and there have been a couple of very clear examples of that. From debate in the lower House, we heard amendments were put to the office of the minister by the Greens in an attempt to work collaboratively to address the issues with this bill, and yet they received no response. Shane Broad, our spokesperson for police, wrote to the Government offering to work together before the debate - again, to try to find a way all parties could support. Again, he received no response. For the minister to say he is prepared to work consultatively and collaboratively and wants to find a way to make this work is very hollow because he has demonstrated this is not the case.

A media release last Sunday, strangely from the Minister for Energy, Mr Barnett, talked about the focus on law and order continuing. I draw members' attention, in particular, to the last couple of paragraphs of this release -

While we're getting on with the job of improving public safety, Labor continues to push its soft-on-crime-approach. Last week Labor refused to support our *Police Offences Amendment (Prohibited Insignia) Bill 2018* Bill instead they put politics over public safety demonstrating once again that only the Hodgman Liberal Government can be trusted to keep Tasmanians safe.

The Government will continue to work with the Independents in the Legislative Council to get these much-needed reforms through.

This is not the first time this Government seemingly has an issue working with Labor either in the other place or here, but is prepared to work with independents to amend bills and deal with issues to progress its legislation. It is tiresome and disheartening to hear this message all the time when we are offering to work with the Government. We are offering in different ways to work with the Government and yet get told time and time again that the Government will work with the independents.

Our concerns with this bill are shared by others. We have heard other contributions along the same lines. We have all received many emails, letters and other communications from different stakeholder groups, organisations and members of the public. Our concerns with the bill lie with, for a start, the powers being given to the minister. There is no declaration process, no robust process and there is no day in court for people to defend themselves before their freedoms, in this case, are taken away from them. There is no clear appeal process.

Amendments will be put forward to try to deal with that, but the question remains as to whether the amendments will be enough. The legislation is very broad, which is a significant concern. Some

lighthearted - some may say flippant - examples have been given that football colours, tee shirts and different organisations could be covered by this legislation.

The bar is very low for the types of crimes that need to be committed. It talks about damage to public property or disorderly conduct - now that could apply to any end-of-season footy trip, or netball or lawn bowls or soccer. It is unlikely to happen, I am not suggesting it is likely to happen, but it is possible -

Mr Dean - It is not possible unless they are a proscribed group.

Ms LOVELL - They could be proscribed.

Mr Dean - Why would you proscribe a netball club?

Ms LOVELL - As I said, member for Windermere, I am not suggesting that it is likely. I am not suggesting the minister would attempt to do it, but it is possible. Surely it is our responsibility to ensure that we are passing legislation that is robust, that will stand the test of time and that is not open to abuse in that way. It could cover trade unions; it could cover protest groups. There are many different groups or organisations this legislation could be applied to. I am not suggesting that will happen, but it could happen. That is unequivocal.

We support the intent of this bill and we have enormous respect for the police commissioner and his police force. That is why this puts us in this difficult position. This bill on its own does not help much. It is part of a toolkit, one piece of the puzzle that the police need to do their work. That does not mean the bill should not be supported, but only if it is robust and only if we are confident it is not open to be misused or applied in ways that were not originally intended.

The question has been asked whether we would propose our own amendments and why the Opposition did not propose amendments in the other place. This has been canvassed widely. The amendments we would like to see in this bill - involving a declaration process, the courts and giving people their right to defend the action - are very complex. It would involve a rewrite of the bill. We have been open about that, which is why we offered to work with the Government before this bill came before the parliament.

In this place, as generally happens, there are significant time constraints. Again and again the members of the Legislative Council find themselves scrambling at the last minute to come up with amendments that satisfy their concerns to present a bill that can be supported.

Some would argue it is not our role and that the Government should present legislation that is robust, evidence-based and drafted well enough that the Legislative Council does not need to amend the bill in any significant way.

We will support the bill into Committee. I am keen to listen to the debate and hear the amendments. I am yet to be convinced that any amendments could be presented that would resolve all our concerns. The question for us is: can we support a bill that has so many issues knowing that it could be done differently, that an alternative out there is worthy of consideration?

I have questions for the Government relating to the amendments, in particular access for members of the Legislative Council to the Office of Parliamentary Counsel. I have flagged with the Leader that I will be asking these questions.

In preparation for this bill, knowing that the amendments we were seeking were particularly complex, the Leader and her office organised a meeting with the Office of Parliamentary Counsel. I thank her for organising that. Following that conversation I emailed the Leader's office to say I would like to explore in more detail the amendments I had proposed and asking if the OPC would be comfortable for me to email them directly, as we have done in the past. Not confidentially. Although I was not explicit about this, I was happy for the Leader's office to be included in those conversations; however, as I have found in the past, it is easier to come to a resolution when having an ongoing conversation rather than trying to relay messages backwards and forwards through several people.

The response I received was perplexing. It said that in accordance with the members' guidelines, all requests for amendments need to go through the Leader's office. I quote from the response-

The Leader's Office also needs to be kept informed during the development of any amendments produced by the OPC, and any one on one meetings with the OPC will include a Leader's Office representative and other relevant advisers as required.

The OPC will inform the Leader's Office of any advice provided and in accordance with the Guidelines, any amendments will also be available for perusal by Departmental and other Government Advisers.

I have no issue with that. I am quite comfortable with that. I understand that is the guidelines and I am quite happy with that as a practice.

The response goes on to say -

I emphasise that the provision of access to the services of OPC by Independent MLCs is seen by Government as a vital resource to enable them to perform their parliamentary duties. OPC resources are not provided to Opposition members in the House of Assembly.

In this respect I am of the view that significant Opposition amendments to legislation should first have been tested on the floor of the House of Assembly prior to presentation of any particular Bill for review by the Legislative Council. The House of Assembly is the forum for policy development. Our House is one primarily of review.

The Government is prepared to engage constructively with all MLCs where the motive is to genuinely improve legislation before the Council or to deal with any inadvertent issues.

I trust you understand and accept the spirit of cooperation in which access to scarce and valuable OPC resources is granted in this case.

That response was sent to me by the Leader of Government in the Legislative Council. I have a number of questions following that response that I will put to the Leader because I think it would provide some clarity for all members to understand the process of when OPC is available for all MLCs. Can the Leader clarify whether Opposition members in the Legislative Council will have access to OPC resources in future? Does the restriction on access to drafts of significant

amendments also apply to independent MLCs? Who makes the distinction between a significant amendment and an amendment improving legislation or dealing with inadvertent issues?

My understanding is MLCs are able to present any amendment we wish to the Council and it is up to us to prosecute the argument. I certainly would prefer to present properly drafted amendments and be confident they will work within the bill. This is why access to the OPC has been utilised and appreciated by all of us. The response raises some interesting questions for all members, and I seek some clarification.

I am particularly offended by the last couple of lines of the response - that the Government is prepared to engage constructively with all MLCs where the motive is to genuinely improve legislation before the Council or to deal with any inadvertent issues. To imply there would be any other motive for any of us presenting any amendments is frankly offensive, and I make that point very clear.

Summarising on behalf of my colleagues: we will reserve our position on this bill until we hear the conclusion of the debate. We will support the bill into the Committee stage to hear the amendments, but I am yet to be convinced any proposed amendments will deal sufficiently with the concerns around the broadness of this legislation and powers it grants to the minister. It is incumbent on all of us to ensure the legislation we pass stands the test of time and is not open to being used in a manner that does not accord with the original intent of the bill.

[12.37 p.m.]

Mr DEAN (Windermere) - Mr President, through the briefing and all the emails we have received, it is clear this debate has branched into many other areas other than the intent of the bill. The bill deals with the public display of colours to intimidate and cause fear, but members have gone into many other areas of criminal activities and disrupting criminal activities, which is not what the bill is about.

A comment made about the briefing sessions as well. I see this bill as being no different to most of the other bills we have received here. We need to understand legislation and briefings are always available to all of us at any time. I have never had any issues about obtaining a briefing on a bill.

Ms Forrest - I was told no twice by the Leader's office.

Mr DEAN - And I have had no problem -

Ms Forrest - Maybe they treat you differently.

Mr DEAN - It is commonplace for us to have briefings closer to the time of debate in the House. This is the normal process, but you can get briefings at other times. That has been the process ever since I have been in this place - and in the 15 years I have been here, it has not changed.

It is not fair to criticise the process. I spoke to a prominent businessman in this state, someone who briefed us, and the first comment he made was that an upper House member told him the Government was not being up-front and not providing briefings on this bill and had been very secretive. That was the opening comment this gentleman made to me. My protection of that position was that I did not see it that way at all; I did not see anything secretive about it. I thought

it was wrong for that sort of statement to be made. However, it is up to that individual to make whatever statements they want.

Ms Forrest - Are you saying I am lying?

Mr DEAN - To engender that or put that into the mind of someone who is quite an influential person in this state, and a very good person, is disheartening to me.

Something is impressing the Deputy President; I am not sure what it is, maybe she would like to share it with us, Mr President.

Mrs Hiscutt - No, she doesn't want to. She is quite happy to sit there and listen.

Mr DEAN - This bill is not about criminal activity as such. It is about removing the fear and intimidation caused to persons in public spaces. It is about creating safe passage for the public while in and passing through public places. It is about reducing the likelihood of public disorder or acts of violence in public places. That is what it is about.

There are other bills, or another bill, that we are told will come into this place some time, via the other House, that will target that very position of criminality and try to control and combat that. That is the next phase of this process. It was never an intention of this bill to target criminality as such and disrupt it in the ways that some have suggested. There is a misunderstanding.

People are right: the emails I have received - I do not know how many now - are still coming through, and they have been for a long time. I am not even sure if I had two or three supporting the bill; they were all opposed to the bill - in many cases for very wrong reasons. In their statements and emails, they are very clear about their reasons for not supporting the bill.

Mr Finch - I think some of those emails might have been coming from the mainland, too - those that did not have addresses, as we had a lot of Tasmanians. The ones from the mainland talked about consorting laws - they would be from people from Queensland and New South Wales.

Ms Forrest - That was in the position paper the Government put out; it also talked about consorting laws. It was the whole picture and that is why they jumped on it.

Mr DEAN - That will come to us in time, we are told, in relation to consorting. As I keep saying, this is just the first phase of directing attention to public places where fear and intimidation are caused. That is what it is about and we need to get that clear. Many of the emails I received did not even mention the colours. They directed their attention to being targeted, 'making us criminals', and goodness knows what else. I do not want to quote those, but there were many of them.

As most of you know, I was a career police officer for 35 years and for about 20 years of that, I worked as a detective. Many of my jobs as a detective were following outlaw motorcycle groups. Back in the 1980s and 1990s I spent a lot of my time tracing them, following them and trying to disrupt their activities. This fear and intimidation we are talking about has existed for a long time, and it is not surprising. I go to the *Australian Police Journal* back in 1987 for details of the Milperra incident, or Father's Day Massacre as it was called, where there was that meeting of the Comancheros and the Bandidos. Seven people were killed in that - six bikies from outlaw motorcycle groups and a 14-year-old girl, an innocent young girl who happened to be killed as a

result of that. It is not surprising the public fear and are intimidated by these groups. That is why it has happened.

I have been involved with the Outlaws, the Angels, the Black Uhlans, the Bandidos, the God's Squad, the Coffin Cheaters and many others. I have seen the good and the bad sides. I have been involved in the good and the bad. Many good informants of mine have been members of outlaw motorcycle groups.

Police officers are required to closely watch criminal activity. It is important at times to get closely involved with them to get the details and information you need. I suspect that would still happen. The commissioner now has a policy that if you are involved, you must notify the department of your position in relation to outlaw motorcycle gangs in particular. I can understand that. That was not the case when I was in the job.

There are many criminals associated with these groups. I have told the story previously about an incident in Latrobe in, I think, Bucks Road. There was a clubhouse that was a fortress. It had welded-up windows and goodness knows what else. The surveillance was very modern at that time. We had to enter that building because all the information we had was that the bikie group was involved in criminal activity. We finished up crowbarring our way in and bashing the doors in with sledgehammers. We found a lot of evidence of criminal activity, such as stolen property, drugs and other unlawful activities. It happens and that is what is going on.

Recognition of Visitors Leighland Christian School Students

Mr PRESIDENT - Honourable members, I welcome year 11 and 12 legal studies students from the Leighland Christian School and their teacher. Welcome - it is good to see you here.

Members - Hear, hear.

Mr DEAN - Mr President, real criminal bikie gangs are a threat to the state, a threat to law enforcement, a threat to law and order and a threat to peace and quiet in the streets. They are a known threat to the innocence of young and vulnerable people in our society, promoting the availability of drugs, the means to dispose of stolen good, standover tactics and other behaviour.

The commissioner and others have said that not allowing them to wear their colours in public will make joining these clubs less appealing to vulnerable people and young people. That is a strong point in this legislation.

We have read in the emails about how they are all good. At Christmas time they go out and drop off some teddy bears and Christmas presents. We know they do that. In most cases, I suggest, that is a cover for their nefarious activities. There are good people involved in these clubs. The question I have often raised is: does every member of these clubs, the Bandidos and the Outlaws, have to demonstrate a position of not being lawful? In other words, the 1 per cent situation that they are against the law and have committed criminal acts. I do not think that is the case. I would hope it was not because two friends, or acquaintances -

Mr Finch - Informants?

Mr DEAN - No, they are not informants; one is a business man who I see every now and again. To my knowledge, they are honest as the day is long and not involved in criminality, albeit they will or could be one as described under this legislation.

We talked about the need for this legislation. If it were not needed, why would all of the other states be going down the path of similar and other legislation? While there were differences in the states and territories, why would all these other places be going down this similar track, if bikies were not really a threat? It does not make sense to think they would, if this were the case.

Even the Labor Party has accepted there is a need for legislation. The Labor spokesperson, Mr Broad, agrees part of this bill is exactly what is needed, the banning of insignia of the criminal outlaw motorcycle groups. He went on to say in the other place they would not support the bill, because it does not go far enough. I have questioned this and cannot understand the logic - it was known even before this bill went through the other place that it was only one part of legislation to come to us.

If a bill had been constructed to cover the insignia part, the consortium and all the other parts the Government is looking at putting into legislation, some would have asked: why did you go down this path and have more than one piece of legislation which does not fit? By separating it we know it will go into different acts and pieces of legislation. While I talk on this, it is high time the Police Offences Act 1935 was discarded. It is not a contemporary piece of legislation and it has bits and pieces that ought not to be in it. It is outdated, past its use-by-date and needs contemporising, sooner rather than later.

I have asked a number of people in the best position to identify whether this legislation is necessary to keep Tasmania safe and to ensure intimidation and fear is removed publicly. Who is in the best position to tell us? Any of you people in this place? Is it the lawyers or somebody else? The best positioned people to tell us whether this bill is necessary and required are the police. They work to maintain law and order and take an oath of office to do so. It is these people who know what is happening. Members in the police profession take an oath and work seven days a week, 24 hours a day, 365 days of the year towards ensuring people are kept safe and property is protected. That is their function. They are in the best position to tell us whether this legislation is necessary, and they are telling us it is.

Mr Gaffney - They are there to uphold the laws we make - not to make the laws, but to uphold them.

Mr DEAN - They are there, and one of their responsibilities is to tell us what laws they need to uphold the law.

Mr Gaffney - They can inform us and then we make a decision about the laws.

Mr DEAN - Surely it is their function to tell us?

Mrs Hiscutt - I believe it is the police's role to tell government what they think they may need to progress and then government will progress it if they think that -

Mr Gaffney - That is fine. I am talking to the person standing, not to you.

Mrs Hiscutt - I agree with you, Mr Gaffney.

Mr DEAN - Of course it is. It is like with any organisation - for Parks and Wildlife, or with irrigation legislation - for all these people, it is up to them to tell us what they want to make their processes work and the changes they need legislation for. Clearly, once they have told us what they want and have put it in writing and whatever else they need to do with it - and I was in executive support where this used to happen for a number of years so I know how it goes - if the government gets it and says 'No, we are not interested in proceeding or giving you those further powers', so be it. It is up to the organisation to tell us clearly what they need to be able to police better and to uphold their office.

Tasmania has been protected somewhat from a lot of these activities by Bass Strait. It has been a good protector when it comes to criminal activities, but now the gap has closed considerably in relation to protection with technology and other ways we move about and other things that we now do. That protection is not as strong as it used to be. The question has been asked a number of times during these briefings: why would they come here and set up?

The police and others have answered that well. If we are seen as a softer touch and that it is easier to set up here than in the other states and territories, that would entice them to come across here. That has been made clear to us.

Earlier when the member for Rumney was speaking I interjected with a comment about some of the things that could happen with netball jumpers - I think Dr Shane Broad MP mentioned Collingwood jumpers and that probably would not be a bad suggestion that they be outlawed; I could accept that -

Ms Armitage - You can wear black and white in many ways.

Mr DEAN - With the greatest respect and being fair to Dr Broad, he agreed, in the *Mercury*, that it was far-fetched. It is so far-fetched it is ridiculous, in my view, to even suggest a police commissioner or minister - or if an amendment gets up, an attorney-general - would even consider it. It is so silly, it is nonsensical.

Mr Finch - It would get a bad write-up in the *Examiner*.

Mr DEAN - I think so.

Ms Forrest - It would probably get a run in the *Herald Sun*.

Mr DEAN - I think Collingwood supporters probably would not be very impressed either.

Ms Forrest - It would make the *Footy Show*.

Mr DEAN - Another comment Dr Broad made was along the line of 'But what if we had a rogue minister?' I take exception to words like that. I think it is a strong statement to make. It takes one to know one.

People get into these positions through their expertise, their experience, their knowledge and their backgrounds. While it could happen, they would not survive long at all. It was a pretty tough statement to make.

If you are not going to support this bill, if you want to defeat the bill, I suggest you bring some realism and solid argument forward to base your decision on and not rely on far-fetched situations and positions that would never arise. You need to have some realism and facts in it.

Mr Finch - It is difficult when you are searching for unintended consequences, though. You have to stretch them out a little bit to try see where mistakes might be made.

Mr DEAN - There has to be some realism. To suggest a Collingwood jumper or netball jumpers are going to fall within the ambits required for those organisations to be proscribed is nonsensical. It is crazy.

Mr Finch - We have to exercise our minds in respect of the unintended consequences of legislation. I hear what you are saying, and I agree with what you are saying, but that is what we have to do, to have consideration.

Sitting suspended from 1 p.m. to 2.30 p.m.

RECOGNITION OF VISITORS Scotch Oakburn College Students

Mr PRESIDENT - Honourable members, I warmly welcome the Scotch Oakburn College year 12 legal studies group, which includes someone related to the member for McIntyre.

Ms Forrest - We have already made her stand up.

[2.31 p.m.]

Ms RATTRAY (McIntyre) - Mr President. I especially held over a question from yesterday so I could do it today. I extend my warm wishes and my thanks, particularly to Mrs Jane Gregg for bringing the year 12 legal studies class from Scotch Oakburn College to the parliament. I enjoyed hosting them for lunch and I hope they enjoy their time not only in parliament but in Hobart. They are here for LawFest.

QUESTIONS

Waste Management - Government Action

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

[2.43 p.m.]

With the much publicised waste management issues across Tasmania, which include low landfill diversion rates -

- (1) What discussions is the Government having with the local government in regard to this issue?
- (2) What action is the Government taking to reduce waste across the state?

- (3) Most importantly, what progress has been made on implementing a container deposit program for this state?

ANSWER

I thank the member for McIntyre for her question and for asking further questions of the Government to keep us on our toes.

- (1) On 18 July 2018, the Minister for Environment, Elise Archer MP, convened a waste and recycling roundtable with local government and the waste industry to discuss a range of waste management issues. The roundtable focused on exploring potential Tasmanian responses to recent changes imposed by China on imports of recycling to that country and on broader waste management priorities for the state. It was agreed the waste action plan must involve collaboration between all levels of government and the waste and recycling industry, and include appropriate community consultation. The Environment Protection Authority Tasmania is now involved in targeted consultation with local government through the auspices of the Local Government Association of Tasmania - LGAT - and will draw on a range of specific stakeholders to develop a draft waste action plan that will then be released for a period of broader public consultation.
- (2) The Government has recently acted on some of the most pressing waste issues by providing grants for controlled waste and tyre processing facilities, making changes to regulation of waste and tyre stockpiling, and assisting with the rollout of national product stewardship schemes for e-waste, paint, batteries and packaging. The Government's current focus is development of a contemporary waste management strategy, called the Waste Action Plan, which will contain a range of actions to reduce waste and to seize potential business and economic opportunities available through increasing re-use and recycling.

We also made a number of commitments to waste management during the election, in particular, to tackle littering and dumping and to improve reporting and enforcement of littering and dumping. This includes additional financial support for Keep Australia Beautiful. That also includes Community Clean-Ups a partnership being developed between EPA Tasmania, Tasmanian Community Corrections, local government and other land managers to mobilise offenders on community service orders to assist in removing rubbish and litter from our parks, reserves and public areas.

We are cracking down on illegal dumping under the Litter Act. We will introduce a new category of offences with stricter penalties commensurate with the offence and the subsequent costs to the community of the proper responsible disposal of waste. The Government has also provided funding in the budget for an illegal rubbish disposal smart phone app. This initiative will provide \$100 000 in 2018-19 to enable expansion of the current litter reporting mechanism through the development of new smart phone applications.

- (3) On the day of the roundtable, the Government released the consultant's report on a model framework for a container refund scheme for Tasmania. This was to initiate discussions about a CRS within the scope of the Waste Action Plan. Any measure designed to address specific waste streams needs to be considered within this broader context.

Waste Management - Government Action - Time Frames

[2.38 p.m.]

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

Are there any time frames to action some of those good ways forward? We need a time frame connected to them, otherwise they will all go nowhere.

ANSWER

I thank the member for McIntyre for her supplementary question. Will the member do that through the usual process?

Ms RATTRAY - I will do that, thank you, Leader. I took the opportunity, Mr President, to ask a supplementary question on the Floor of the House.

Private Rental Incentives Scheme

[2.39 p.m.]

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

On the 10 April this year, the Government announced the Private Rental Incentives scheme. Under the scheme, if a property owner makes their property available, they will receive a financial payment of between \$10 000 to \$13 000 per property per year and a guarantee the rent is paid for the term of the lease.

In budget Estimates on 28 June, the Minister for Housing, Mr Jaensch, said the Government had received 120 submissions from property owners, with 42 properties being approved. At that time, invitations had been sent to 736 suitable applicants on the housing register and 123 had expressed an interest. Leader, how many tenants have been housed under the scheme to date?

ANSWER

I thank the member for Elwick for his question. As part of Tasmania's Affordable Housing Action Plan 2015-19, the Private Rental Incentives scheme was designed to encourage residential property owners to make their affordable rental homes available for low-income earners. This will provide individuals, couples and families in our community who are finding it tough to secure affordable rental properties with access to secure private rental accommodation with a 12-month lease and affordable rent.

The Government is working with community housing providers, Housing Connect and the private rental sector. The pilot received substantial interest when it launched from both property owners and potential tenants on the housing register. Once properties are approved, community housing providers enter into a lease with the property owner and match the property to the specific needs of individual householders from the housing register. The pilot continues to be rolled out

and I am pleased to advise the member that as at 21 August 2018 the scheme has housed 25 households from the housing register.

Mount Nelson Signal Station - Mast Restoration

Mr ARMSTRONG question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.41 p.m.]

The Mount Nelson Signal Station flagpole was built in 1811 and was recently restored by Tasmania's Parks and Wildlife Service. According to the department, the replica was fabricated from New South Wales ironbark and Oregon pine from Victoria after they experienced difficulty sourcing timber locally. Can the Leader please advise -

- (1) What species of timber was the Mount Nelson Signal Station flagpole originally constructed from?
- (2) What were the specifications for the timber to be used in the refurbishment?
- (3) Was there a requirement to use a particular species of timber in the flagpole restoration?
- (4) What difficulties did Parks and Wildlife experience in sourcing timber from Tasmania?
- (5) What local firms were approached to supply timber for this project?
- (6) What was the volume of each species subsequently purchased and its total cost, including freight?

ANSWER

I thank the member for Huon for his question.

- (1) There have been a number of generations of mast. Other than the most recently removed mast we have no records as to the timber used. The most recent mast had a lower section of an unspecified species of Tasmanian eucalypt. This was installed in 1997. The upper mast was from an earlier generation of mast made of Douglas fir, which is Oregon pine.
- (2) The specifications for the timber to be used in the refurbishment were -
 - Lower mast: class 1 durability hardwood under Australian Standard 5604-2005, timber natural durability rating AS5604.
 - Upper mast: Douglas fir to match the existing upper mast for reasons of historical accuracy.
- (3) As above. The lower mast was class 1 durability hardwood under AS5604. The upper mast was Douglas fir to match the existing upper mast for reasons of historical accuracy.
- (4) The difficulty experienced by the Parks and Wildlife Service was that there was no class 1 durability eucalyptus timber species under AS5604 endemic to Tasmania. The previous lower

pole of unspecified Tasmanian eucalypt lasted only 20 years, whereas a class 1 timber is expected to last at least 40 years; Douglas fir is also not a Tasmanian timber.

- (5) The timber was sourced and supplied by a Tasmanian contractor as part of the contract. The ironbark utility pole was sourced interstate through a Tasmanian supplier of utility poles. The Douglas fir was of large dimensions and unavailable at short notice from the Tasmanian suppliers approached. It was therefore sourced from Victoria.
- (6) The lower section of mast was made from a single utility pole of approximately 1.4 cubic metres. The upper section of mast was made from a single Douglas fir beam of approximately 0.36 cubic metres. The timber and freight costs were included in the contract price and cost approximately \$12 600.

Housing Tasmania - Lease Terminations by Tenants

[2.44 p.m.]

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

- (1) Can the Leader provide the number of public housing tenants who terminated their leases within the past 12 months?
- (2) Can the Leader provide the number of community housing tenants who terminated their leases within the past 12 months?
- (3) On terminating a lease, tenants are asked why. Therefore, can the Leader provide the reason for these tenants terminating their leases? For example, was it to rent privately, become home owners or other?

ANSWER

I thank the member for Elwick for his question. The answers are -

- (1) 875.
- (2) 376.
- (3) There are many reasons a tenant decides to terminate a lease. They can include a transfer to another property, a death, transfer to an aged care facility, moving interstate or purchasing a property.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

Second Reading

Resumed from above

[2.46 p.m.]

Mr DEAN (Windermere) - Mr President, before the adjournment I was talking about bringing some realism to members' arguments. If members are not going to support this bill, they should be realistic about their reasons for not supporting it.

Dr Broad has been criticised for statements he made on this bill prior to any briefings on it, to him and probably to the party. It is surprising anybody would make profound statements about supporting a piece of legislation without been told fully about it or understanding the bill's background and the reasons for it.

I would be surprised if some people's minds were not changed because of the great briefings we received. People go out and make statements, and perhaps Dr Broad regrets doing that because Labor has changed its position on this bill. In this place there has been a good shift and members are at least considering it.

Mr Willie - What change?

Mr DEAN - I do not think the amendments were put up in the other place. You were talking about amendments here. I do not know whether you are putting up an amendment.

Ms Lovell - No, I was not.

Mr DEAN - I do not think in the other place this bill even went into Committee.

Mr Willie - There has not been a change in position.

Mr DEAN - Gavin Cashion, acting president of the Police Association, came out strongly on this matter, particularly when comments made by Dr Broad were reported in the paper. Gavin Cashion said the police were insulted and humiliated by some of those statements. Pretty strong statements from the acting president of the Police Association of Tasmania, but they show how the police saw those comments.

When we look at some of these bills, we take advice from people from all walks of life. Many people provide advice and briefings, including the Australian Lawyers Alliance and other organisations. However, in my view many of those people lack the background for supporting the reasons for these bills. That came out in the briefing with the Law Society - and I will comment on that later - which agreed they did not have the full circumstances or background about why this bill exists and why we have this bill. We need to have all the facts. The lawyers association said there was a lack of consultation between them, the police and the Government on this bill. Later, the police - I do not want to get this wrong, I think it was the commissioner - said there had been a great deal of contact with the lawyers but little response from them.

A number of people would have approached lawyers and taken advice on this bill. I took advice from a retired lawyer. Police and lawyers are at opposite ends of the spectrum when you look at bills like this. Police have the job of putting criminals away; lawyers have the job of proving their innocence or mitigating penalties and keeping them out of jail. It is not unusual to have lawyers knocking a bill such as this, which increases the powers of police. It is not unusual for police to support it.

I think there are 1270 police in the police service. If you spoke to those 1270 police officers, they would all support this bill. I would be surprised if any did not. I have not heard of a lawyer yet who supports the bill. The one I went to certainly did not and the others whom we have heard from have not supported the bill.

Putting this bill together was a lengthy process. We were told that in briefings. Other police services within the country were contacted, and their states' legislation was looked at closely. The better parts of all that legislation were picked out, helping the police and the Government put this bill together.

There was little support for the bill from the emails we received from the general community. That is not surprising. People are reluctant to be outspoken in relation to OMCGs. As the member for Mersey mentioned, you can do it anonymously and it will be received in confidence. However, some people are not even able to find the strength to do that anonymously or in confidence. That is just how people feel when it comes to OMCGs.

I have been involved in matters as a police officer where OMCGs have committed serious offences against a member of the public, yet there is absolute reluctance by people to come forward and give evidence. Cases have been dropped by the police because of that position. We are not talking about minor offences; we are talking about quite serious matters.

Ms Rattray - When you say 'serious matters', that could mean criminal matters?

Mr DEAN - Criminal matters - yes, it certainly does. I do not want to take this any further, but members in this place had some concerns in dealing with this legislation. It is not unusual that people do not want to stand up in this case. I clearly understand why. Does it impact on me? No, it does not. With my background, which I have identified to members, I have received many threats against my life, and I have - many threats; it was fairly common. Some people would identify themselves to you and not be backward in coming forward to tell you what they were going to do to you. In those cases I made it clear they needed to threaten somebody who cared. That is unfortunately what happens; it is a sad situation.

Many good people are involved in these outlaw motorcycle groups. I mentioned friends of mine who are involved in one of the groups in Launceston. I suppose you could refer to the saying, 'If you fly with crows, you are bound to get shot at'. If you are involved with a group of people known to be acting contrary to the law, which is probably the basis for the club's existence - that is really the case with many of these outlaw motorcycle groups - and involved in criminal matters, you ought to know you will probably see the rough end of things from time to time. That is a fact.

I have talked about the misunderstanding of this bill -

Ms Rattray - Does the member consider it has not been articulated exceptionally well by the Government and the police to the broader community to get that understanding?

Mr DEAN - I think the member for McIntyre is absolutely right. I do not know the extent of how that occurred. When I was looking at this bill, it took me some time to work out exactly what it was all about even though it is only 12 pages long. It is a short bill, but you have to read all the clauses carefully and closely to fully understand it. The member is right - I do not think the reason for this bill has been articulated to the general public in the best way. I am not sure how that could be done. You can only go to the written media and the screen media - that is about the only way you can do that. I guess you could talk to some groups about it.

I spoke to a Probus Club meeting on Monday and raised this bill. Most of Probus Club meeting attendees said to me, 'This is about stopping them committing crime.' I said, 'No, that's not it.' I had to explain to them what the bill was all about, what it meant. They then said, 'We understand

it now; we were not aware of that'. These people at that Probus Club were ex-businesspeople of good standing in the community.

Ms Rattray - And from an older demographic?

Mr DEAN - Yes, absolutely. I think Probus has criteria of age and retirement for membership. They did not fully understand or appreciate the legislation and they wanted to know more about it.

We received information from Canberra. The document I have, and I think other members have it also, is called 'Canberra police concerned rising bikie crime could soon turn fatal'. It was referred to in the briefings. When you look at that document to see what is happening in Canberra presently, it is quite remarkable what the outlaw motorcycle gangs are behind or involved in. I quote from this article -

ACT Chief Police Officer Justine Saunders said there had been 60 bikie gang-related incidents in Canberra in the past 12 months, resulting in 34 arrests and 120 charges.

...

Already this year there have been six shootings, with two attempted murders, and seven arson attacks in Canberra that police attribute to biker gang activity.

In the whole of 2017 there were eight shootings and nine arson attacks attributed to bikie gang violence.

One more comment from this document -

... Scott Moller said dealing with bikie-related crime now made up about three-quarters of the workload of the Criminal Investigations Area.

Mr Gaffney - Is that in the ACT?

Mr DEAN - Yes, the Australian Capital Territory. It is in the document that was circulated.

There is a misunderstanding about what this bill means; we have just covered that. There was a letter from Michael Mansell in the *Examiner* on 27 August. Most of you know Michael Mansell is a lawyer and involved in what is happening in this state. He talked about this legislation banning motorcyclist from public gatherings and clubhouses. He referred to targeting these people because they ride bikes. The legislation is not about that, it is about wearing the colours publicly. When a person of Michael Mansell's capacity and ability does not properly appreciate and understand what the legislation is about, it does not mean a lot for people who do not have a good understanding of the law.

The same edition of the *Examiner* had a letter from Robert Karl Stonjek in which he talked about the right to wear whatever you like, the right to self-expression and to be free of government discrimination. It would have only been in very early years that you were able to publicly wear whatever you like. For a big part of the 210 years of our existence, there have been restrictions on what you can and you cannot dress in publicly. There are laws on speech and woe betide if you

make the wrong statements and get into defamatory matters. People are making statements that are clearly not accurate and are somewhat concerning.

I will support the amendment. I raised this amendment earlier this month on a number of occasions. We will talk more about that amendment if it gets into the Committee. Labor has indicated it will support it into the Committee stage.

Mr Gaffney - Did you say you had an amendment?

Mr DEAN - No. I said there is an amendment coming.

I wanted to talk about some of the comments from the briefings. Sorry about the time I am taking here, but this needs to be said.

Mr Finch - You are the guru. I want to hear what you have to say. You have the experience.

Mr DEAN - I thank the member for Rosevears. I have been briefed out on this bill. I think we had as many briefings on this bill as we had on the forestry industry bill.

Mr Finch - Do not go there.

Mr DEAN - I do not want to go back to it, but we have had many briefings on this one.

Mr Valentine - Nowhere near as many as forestry.

Mr DEAN - I probably should not have mentioned that. It was a horrendous time.

I thank the Government for all the briefings. Everybody was given a good opportunity to tell us their side and what is going on and that is extremely unusual. I do not know of any other time the Commissioner of Police has ever come along and briefed us -

Ms Armitage - Six times.

Mr DEAN - Has he? On this bill?

Ms Armitage - Yes. Five here and once in Launceston.

Mr DEAN - It is very unusual. That is how important this bill is to the police and the way they operate. They want to keep the state a safer place and it is so important the commissioner saw fit to come along and tell us what the position is. I thought he did it very well.

We have people who can only see it from one side, but the commissioner has the capacity and ability to see it from all angles. This came out in briefings, and I admire and commend the way he and his staff had a good understanding of the position and the law.

We had a strong, empowering briefing from Peter Bodell of the Australian Federal Police and Roger Lowe of the Queensland Police Service. We were shown overheads and the evidence they provided to us made for a very strong briefing session. It was very convincing, with good facts to support what they were saying.

They identified what was happening and the impact in Queensland. We are getting different reports from people. Some people have said the legislation has not worked in Queensland, but that is not what we were told by Roger Lowe, one of the people working in the area.

Mr Valentine - That was the first iteration and then they changed it.

Mr DEAN - You are right. There was strong evidence from those people. Peter Bodel was saying some OMCGs are a significant threat to Australia and they have identified a number in Queensland. The commissioner and police were involved in those briefings. I think the Law Society accepted there was a need for legislation -

Mr Gaffney - They did not agree with the legislation, but if there was a need for it, they thought some amendments would make it stronger. That is how I read it.

Mr DEAN - You are right. I was not quite sure of the full position.

They indicated they had not had an opportunity to put their position forward in the way they would have liked to. The police evidence later on was, no, they had been given every opportunity to make their statements and to have a say in this legislation but they did not take it up. That is what we heard. They made comments like, 'We are not saying don't do it.' That was a comment made by one of them. They agreed with me, when I asked the question, that they did not have a full understanding and appreciation of the background involved of this matter and the need for this legislation. Police contact has been missing.

There were a number of police briefings, including one on 23 August. They made it clear to us that the bill is about the colours being worn publicly - that is all it is. The police, in a way, attempted to simplify the whole thing by saying that the penalty will only be 20 penalty units. It is a simple offence. It is not the big criminal matter that people believe it might be.

Ms Armitage - And confiscation.

Mr DEAN - Confiscation and power of arrest.

Ms Armitage - That will be looked at, I suppose.

Mr DEAN - Police have the power of arrest. They also have the power to use force under this legislation, to recover or take from people proscribed items and colours if they are worn in public. You are right, the legislation is a bit stronger than only the 20 penalty units. Power of arrest, to me, makes a matter reasonably serious.

Ms Armitage - To lose their jacket would be very difficult for some of them, too.

Mr DEAN - It would be. The OMCGs are really built on criminality and their colours. To bikie groups, their colours are absolutely essential. It is an essential part of these groups. It is essential to them that they be able to wear them publicly and show off their position with demonstrations of strength, numbers and the other things that go with it. The colours are critical to them.

We heard from the commissioner about an example of people's misunderstanding, or understanding, of what outlaw motorcycle groups are about. Many people said people in these

groups are good people, that there is no harm in them and they do the right thing. The commissioner referred to the example of Carl Williams and his daughter, where it was made clear that she believed that her father was a model father. Well, he probably was not -

Ms Armitage - He probably was a good father.

Mr DEAN - The courts certainly did not say he was a model person.

Ms Armitage - No, but they did not say he was not a model father.

Mr DEAN - I think to be a model father, you have to live a reasonable life rather than going out and killing people or arranging for people to be killed. Maybe I have that wrong.

Their colours are there to intimidate people and people are intimidated by large numbers of bikies riding around. We were told what all the stars and stripes and things mean on their uniforms as well. We have had a good briefing on that so I do not need to go into that.

Mr Gaffney - I can understand the intimidation. Sometimes when you are driving on the road and see 30 or 40 motorcyclists all in a group, you get a bit worried, not so much about them personally but about accidents or whatever around. You would have no idea what club they were from, would you, really? Until you actually see them sitting in a public place, if they are on their bikes it could be anybody - the God's Squad.

Mr DEAN - That is true, we do, when we see heaps of bikies around. You are right, you sit up and take notice, wondering who they are and what is going on. You are absolutely right. Simon Hryczyszyn made it clear to me when I spoke to him in his office in Launceston, where he said -

At least you now know who they are if they are out publicly in their colours. If they are not wearing their colours, you will not know who they are; you will have to do some guessing. Is that the way it should be? Should they not be known?

He has an argument there.

Mr Gaffney - They also say that if they are not allowed to wear their colours, an ordinary bike rider who has never worn colours can look like one of the Bandidos. It is Catch-22, that one.

Mr DEAN - You have to weigh that up against what is currently happening with the fear, concern and intimidation they create by being in large groups with their colours. You have to weigh that up and identify what is possibly the better position.

Mr Finch - It is interesting that the president of the Nomads would not have been spotted in that rally in Canberra had he not been wearing his colours.

Mr DEAN - That is right, he could have done whatever he wanted to with anonymity.

The questions I asked, and I am still not sure so I will ask them again, are: Do members of an OMCG- the Bandidos, the Black Uhlans or any of those five groups - have to go through some initiation to be a full member of the club? Does that entail criminality? I do not think we have been told that. They have honorary members and prospect members.

An important issue came out this morning about the Tasmanian Motorcycle Council from both Simon Hryczyszyn and Paul Bullock, both esteemed members of the council, very good people. I talk to Paul on many matters. They were saying that none of the five OMCGs will be proscribed if this legislation is supported. None of them participate in any strong way in the Motorcycle Council. Simon said some of them are not members of the Motorcycle Council. He said the Bandidos certainly were not.

Mr Gaffney - He meant that when they started in 2004 a number of the motorcycle clubs signed up, but they do not do a yearly registration so it is not updated. When they started, they had more. The Bandidos have not because they have just recently come in.

Ms Rattray - There is no fee attached to the membership, so they do not have that record either.

Mr DEAN - A member of a motorcycle club - I do not think he said what club it was - said in an email that the Bandidos should be outlawed. In other words, this legislation should apply to the Bandidos. I have it here; I can find it -

Ms Armitage - I think it was a lady.

Mr DEAN - I think it was a man because they were a member of an OMCG. He might have said some others, but he certainly said the Bandidos should be there. It is interesting the person who made that statement -

Mr Gaffney - It was signed by the other four groups.

Mr DEAN - The Australian Lawyers Alliance came in on the morning of this debate and gave us a draft bill. I am not sure whether its view was we should go closely into the draft bill and weigh it up against the one we currently have, if we had the time. Good on them for doing it.

Ms Rattray - It was a pretty good effort to come up with a bill overnight.

Mr DEAN - The effort was good, but I am not sure what they thought we should do with it. I am not sure what they were thinking, handing us a draft bill at half past nine this morning, when this matter has been around for a long time.

Ms Rattray - My understanding was you would consider it as another alternative.

Mr DEAN - I thank the member for bringing it to my attention, but to quote the gentleman I referred to -

I am all towards banning the Bandidos in Tasmania.

I was wrong and I correct that now, he does say -

I am not associated with any OLMCC.

I am not sure what he means by OLMCG - it probably means outlaw motorcycle club. I said he was, but no, it seems he was not. He has lived in many states and has seen the destruction caused by Gypsy Jokers, Coffin Cheaters and Bandidos, to name a few.

Ms Rattray - There was another one.

Mr DEAN - You are right, there was another one.

The briefing this morning from the Commissioner of Police and Inspector Keenan was appreciated. They certainly added to some of the issues they had previously brought to our attention. They talked about discretion and, as the commissioner said, every police officer is able to exercise discretion. It really does not matter what the offence is, they are able to exercise discretion. They have to use common sense in applying that. Their discretion, whether to let somebody off or charge somebody, can be overruled by their superiors right up to the Commissioner of Police. In the prosecution section, the officers there can look at a matter and determine whether it should not come before the courts because of whatever reasons.

Ms Rattray - Can a member of the public ask for that discretion?

Mr DEAN - They certainly can ask, and they often ask. You will find the number of cautions police give people is very high. I know of a person close to me who was recently given a caution for speeding a little bit faster than what they should have been speeding. I am not saying who the person was but she was given a caution by the police officer. Mind you, she was extremely polite to the police. She knew exactly what to say. Discretion is there and police exercise it a lot.

Mr Gaffney - Do you think in this instance with colours, the police will say, 'Don't blame me, Mr Bandido, I will let you off this time'?

Mr DEAN - To use the example given this morning by the member for McIntyre - I would suspect at a funeral for a member of the club, the police would turn a blind eye, would use their discretion and simply allow that to happen, but if they then move to a public premises, took over that hotel or other public premises, the police would probably intervene. I suspect they would use their discretion at a funeral.

Ms Rattray - After I asked that question, I was referred to inserted clause 6A(9) of the bill that spells out the discretion aspect.

Mr DEAN - It does, does it?

Ms Rattray - Clause 6A(9).

Mr DEAN - Yes, there are defence mechanisms there for genuine artistic purposes, educational or legal or law enforcement purposes and whether the defendant's conduct was, in the circumstances, reasonable for that purpose. It does not say anything about attending funerals, so discretion can be applied.

I support the bill. It is a 12-page document - that is all it is, but it has received a huge amount of attention, including the briefings. It is extremely important that we get this right.

I understand the position that members have come forward with, and I understand why there are concerns with certain parts of it. In the end, I have to weigh up all of that with what I think is in the best interests of the Tasmanian people. In my view, this legislation is necessary. Without it, we will see other motorcycle gangs setting up here. I suspect we will see continuing increases in

the gangs that are already here and criminality in the state. We cannot allow that. I will support the bill.

[3.27 p.m.]

Mr FINCH (Rosevears) - Mr President, I might just clarify that when I referred to the member for Windermere as 'the guru', it was not a broad suggestion that you are the guru of all things legislative.

Mr Dean - No, I am not.

Mr FINCH - I was referring to your role as a police commander.

Mr Valentine - Are you in damage control?

Mr FINCH - No. The member for McIntyre had a group of students here who came in to visit. In talking to them, I mentioned how fortunate we were in this place, in a debate like this, to have a former police commander with that knowledge and firsthand experience to impart that to us. Because we all come from different backgrounds, we all have different things to contribute and different ways of making our presentations to parliament.

I have always found that whenever we have police matters, the member for Windermere can give us that firsthand knowledge of what it is like at the coalface of policing. Whether I agree with him or not is a moot point. However, I did listen carefully. Of course, there is that synergy between your good self and the police force and what they are trying to achieve. It is quite notable that we have had the police out in force with those briefings that you called. You are 'briefed out'. 'Fortunate' might be the word to use, to have the high-powered people from the police department coming to give us the information we are after and to be open to questioning and trying to allay the concerns, fears or dramas we might have with the legislation. It has been a good process. We were caught on the hop with nearly two hours of briefings this morning and then going straight into the debate. Sometimes a gestation period is needed so we can see how the information we get sits with what we have already constructed in our minds, and how that might change or vary what we think.

I had a great deal trouble of with this legislation and in getting my head around it. As the member alluded to, I can relate to people not understanding it, because it was difficult to find what the thrust of it was, where the police were going with it, where the minister was going with it and what they were trying to achieve here. I can understand that misunderstanding by people in the community.

I thought this legislation was preposterous when I first read it in its original form. It is flawed, as we have discussed. I am calmer now following our close scrutiny of this legislation and with the understanding that possible amendments in Committee might improve it. Had we proceeded with it in its original form without amendments, I would not have wanted it to go through the Committee stage.

I am comfortable doing that now because, while I still think it is flawed, after the briefings I have a better understanding of what the bill is about. I will be interested in the debate on the amendments to see whether they improve the bill and make it one we can confidently move forward with. I still have concerns that might not be the case, but I will wait and see. The Government will continue to say it has a mandate for the bill.

Mr Dean - I do not think it has mentioned mandate at all.

Ms Rattray - I have not heard that.

Mr FINCH - I just thought I would mention that to see if there was any reaction.

Mr Dean - You did. They have not mentioned it. You have.

Mr FINCH - Because people do not vote on every plank of a party's political platform and that process is one that I have talked about before so no need to go on with that.

Mr Dean - I do not think the insignia bill was raised during the campaign. To my memory, it was not, but it could have been.

Ms Forrest - It was in the 100-day plan.

Mr Dean - They did not rely on it. They did not talk about it during the campaign.

Mr FINCH - Thank you. I received a pile of emails on this matter, but the only arguments I have read supporting this bill, which concerned me, were from the minister and members of the police hierarchy. Nobody contacted me in support of this bill. Nobody said they are living in fear of people with insignias emblazoned on their jackets or on their body.

I suggest that when there is not a balance of opinion, we need to carefully consider something like this. When the opinion is coming from only one side, you need to step back and ask if there is a point here: why is there no feedback from the community saying this would be a good thing?

I talked to a friend of mine who is a publican, Nick Daking, and asked whether he had encountered any issues or problems at Sporties Hotel with members of OMCGs. He said they had been there. He told them -

You can come in. I will shout you a beer, but you are going to have to take your colours off. Hang them up in the other room.

They did. They had a beer, thanked the publican, put their colours back on and away they went. That is just one example. That was amenable. They had not come to collect any money. There was no debt to collect. They were not there for trouble. They acted in a law-abiding and considerate way.

Ms Rattray - Do you think he will shout everyone a drink?

Mr FINCH - He shouted them all a drink.

Ms Rattray - But everyone?

Mr FINCH - We can workshop that. Let us give it a try. Do not wear your colours, though. You will have to hang them up in the other room.

The minister is quite right in linking methamphetamine distribution to some motorcycle gangs. I would argue that is what is occurring on the mainland. We are hearing about the concern that it will increase or come to Tasmania because it is seen as a new opportunity.

Last year's Australian Criminal Intelligence Commission report on organised crime acknowledged that outlaw motorcycle clubs are entrenched in the importation, manufacture and distribution of amphetamines or methamphetamines, with many of them using legitimate industry to conceal their activities. That is where it must be very difficult for police.

As to uniforms and everything, we heard also from the police that they are moving into other areas of operation and they do not dress as you would expect. Whether they are up at a higher level and they get the drug mules down below to do the dirty work, as we have heard from the police, it is the dirty work that goes on down with coercion and recruiting. That is where -

Mr Valentine - Outside the club, not members of the club, perhaps.

Mr FINCH - The minister is also quite right when he says that outlaw motorcycle clubs like the Rebels, the Outlaws and the Bandidos are part of worldwide franchises. He is also correct that some people feel intimidated by some motorcycle gang members, mainly on the mainland. But at least law-abiding people can identify them by their colours and avoid them if needs be. It could be argued that most of these problems involve mainland motorcycle clubs that sometimes visit Tasmania. That is different, of course, to what the member for Windermere was saying and what the police might say to us, too. When you are law-abiding and going about your normal life in Tasmania, you are not privy to those activities. We have to trust what the police say to us, what the intelligence is and what we are being told. I have no reason to argue against that. That is why I was interested to hear what the member had to say and what the police had to say at the briefings.

The minister says this proposed prohibition will only apply to identified organisations and not law-abiding motorcycle enthusiasts and motorcycle clubs. However, we have heard that people in those clubs are worried by the proposed legislation because they do not have the full facts of the matter. That is what happens here when we explore legislation: we get the facts of the matter; we try to get both sides of the argument and what is actually going on. People get emotional with their decision and the stance that they take on legislation because they have scant knowledge. It is normally an emotional reaction to what is going on and a lack of knowledge about what is being attempted here.

The Minister for Police, Fire and Emergency Management said a number of prerequisites and legislative safeguards have been put in place to avoid worrying law-abiding motorcycle clubs and participants. The minister also said -

... an identified organisation must be prescribed in regulations on the recommendation of the Minister for Police, Fire and Emergency Management. These regulations will of course be subject to the usual scrutiny and oversight of the Subordinate Legislation Committee.

We have seen that questioned during the presentations here, and then supportive amendments or processes allay concerns about that. To quote from the second reading speech -

The minister may only make such a recommendation if, having first regarded the advice of the Commissioner of Police, they are satisfied that the wearing or

carrying of these items in public places may cause members of the public to feel threatened, fearful or intimidated; or may have an undue adverse effect on the health or safety of members of the public, or the amenity of the community.

Therein lies the original problem, as could be observed. Prohibiting insignias was to be solely the decision of a police minister with the advice from the police commissioner. We have had the spotlight on that. I think the Government has recognised there may need to be an interlocutor there - maybe the Attorney-General will be the person who steps in there. We also heard - I am not sure whether it was from Civil Liberties Australia or the Australian Lawyers Alliance - that it should be independent advice. The perception is the Attorney-General might not be the independent person who might take a hand in helping make these decisions.

Ms Rattray - They suggested the court.

Mr FINCH - Yes and a court is where they would be able to envisage a process independent to the minister, the Attorney-General and the police. All the emails I spoke of earlier were opposed to the bill in its present form. A number say that recent violent events involving motorcycle clubs have implicated mainland clubs, not long-established Tasmanian clubs.

One correspondent pointed out only Queensland bans the wearing of colours, although South Australia bans them at airports and licensed premises. Another asks why someone would commit crimes or intimidation wearing branded clothing. Somebody referred to the tattoos on the bikers' arms. Most emails I received expressed abhorrence of the criminal activities and argued there were already measures to deal with them. I quote at random some of the emails I received -

The only way to address the problem is to put pressure on those who are spreading guns and drugs. Those bikies seeking to live in such a way will soon find Tasmania too hot for them and they will leave. Banning an insignia will have no effect on those who abuse the laws.

Another one -

The police already have enough power to enforce the law, no way ever should the power to ban what citizens can wear etc. be given to one or two people. Use the money for better police equipment, technology advancement so that the real criminals are actually caught.

And another -

If a person is breaking the law this person should be charged by law as an individual through fair trial and due process just as any other member of society should be. All of these groups or associations have had charges laid upon them and convicted at some stage, yet not any of them have been forced to be told what they can wear or who they can be friends with. If they break the law then they should be charged and dealt with as individuals. The police already have the laws and power to do this.

Ms Rattray - The general comment right through the emails was that if the laws are not already strong enough, strengthen them.

Mr FINCH - I put those examples before the Chamber to show people who read *Hansard* or who are following this the information we receive as legislators. This is the information provided to us, to support their negativity towards this bill. It would seem the overwhelming opinion is sufficient laws already exist to deal with drug dealing, illegal weapons and other gang activities.

I usually place store in the Law Society of Tasmania and it opposes this bill as it stands. It says that to criminalise conduct that at present is perfectly legal requires a sound evidentiary basis, which is lacking. The LST pointed out that the amendments are not restricted to motorcycle gangs and might apply to any organisation that wears a prohibited item. The minister need only be satisfied that wearing or carrying a prohibited item may have a certain effect. It is the society's view that the test is too easily satisfied. The bill does not indicate the state of satisfaction the minister must have. For example, does the minister have to be satisfied on the balance of probabilities to a reasonable level of satisfaction or higher? It is not appropriate that an identified organisation can be classified by such regulations. Being classified by regulations severely limits the ability of a court to review the minister's decision.

Finally, relating to the above point, the bill does not provide any appeal mechanism so the Law Society has reservations. They indicate the direction amendments may need to go. When I drafted this speech, I thought we may need to go back to the drawing board. However, the way it has unfolded I think the amendments may satisfy members of the Legislative Council. I am more at ease with putting this bill through to the Committee stage.

We received a well-argued submission from Civil Liberties Australia, to which I gave some weight. I quote the submission in part -

... we do not believe it is appropriate for government to assume the role of determining which groups can wear identifying badges and which can not. We should charge people with the crime they commit, not the badges they wear. Where members of a group can be proven to be planning the commission of a crime, we support existing laws of conspiracy (section 297 Tasmanian Criminal Code) to have those people charged. We note the crime of conspiracy attracts a significant maximum sentence of 21 years imprisonment.

We acknowledge others in parliament and in the community will disagree with the above given the objective of the proposed law is to create a safer community. We respect those views but do come to a different conclusion.

Regardless of whether the principle underpinning the laws is agreed to or not, there are issues with the bill as drafted.

These are strong reservations from both the Law Society and Civil Liberties Australia. Those submissions were enough for me to question this bill in the form first presented to us. I am starting to feel a little more comfortable with the process as the briefings unfold. We are great supporters of the police and the laws they need to interpret. We send bills forward into acts. We want law and order, and we want people to live in security and safety so it is necessary for us to give the police the confidence we support their work. It is important we get the consequences of our bills as correct as we possibly can.

The unintended consequences: it is very important we drill down. Even with all our scrutiny, things leak through that embarrass us at times. We have to do our best to get to the nub of what might occur, if this bill and others become acts.

[3.48 p.m.]

Mr VALENTINE - Mr President, I thank the Leader for the briefings. We have had briefings from various groups, individuals and especially the Tasmania Police. I also thank anybody who provided a submission. Anyone who put their thoughts and feelings down on paper, short though that might be, has had an effect. It causes us all to think about what we have in front of us and what the implications of legislation might be.

This bill is designed to disrupt outlaw motorcycle club criminal activity, but it does not mention them. Therefore the bill, if it became law, could be used in other ways, against different organisations. That is a concern coming from various quarters. I have to declare an interest because I ride a motorbike.

Ms Rattray - Are you a member of the Bandidos?

Mr VALENTINE - I am not a member of the Bandidos and I do not wear colours, except a beautiful charcoal-grey jacket on my motorbike.

Ms Rattray - I have a blue Dririder.

Mr VALENTINE - You have a blue Dririder?

Ms Rattray - Not very colourful.

Mr VALENTINE - What sort of motorcycle do you ride?

Ms Rattray - I do not have one at the moment.

Mr Dean - I have a Harley and I am about to buy a little black helmet for it.

Mr VALENTINE - A black helmet?

Mr Dean - Yes, a little black one.

Mr VALENTINE - Well, we will have to be watching you.

Ms Rattray - Through you, Mr President, if you have a Harley, my understanding is that you cannot have a full-faced helmet because that would give the shifty look.

Mr Dean - You are right.

Mr VALENTINE - There you go. This bill is not dealing with non-insignia wearing motorcyclists, so I can feel safe in the fact I will not be pursued. The question is: can others? The police have a hard task protecting the community. I do not think anyone is denying that. The police always have to be at the pointy end when things get tough. We take our hats off to the police and the job they have to perform.

Our role today is to decide the extent of the powers the police have under the law and ensure there are no unintended consequences, or that an individual's human rights are not being unduly impacted. With bills of this nature, how do we decide what principles we are going to apply to ensure the bill is going in the right direction?

I looked up the Universal Declaration of Human Rights, which are universal principles, they are not laws. It is a good thing to measure our focus and intentions against. The declaration was made following the loss of 50 million people in World War II. The lessons learnt from that vast tragedy focused the attention of nations on the need for human rights. The United Nations Commission on Human Rights, of which Australia was one of eight members, drafted the Universal Declaration of Human Rights. It was presented to the United Nations General Assembly and adopted on 10 December 1948. Its chair was an Australian, Dr HV Evatt, one of the architects of the declaration and the chief Australian delegate to the UN. Australia was closely involved with the UN in 1948.

I want to read some of it. It bears reading. We need to think about what we have to guide us as general principles -

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

You have to remember these articles apply to everybody; they are universal. Whether it be us as legislators or outlaw motorcycle clubs and dealing with their members, everyone has the right to recognition everywhere as a person before the law -

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any

discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

That probably goes to the issue of the review function.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

If this bill becomes law, it would not be arbitrary arrest; it would be arrest as a result of doing something that is against the law. However, you have to weigh up the veracity of the law and its reasonableness -

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

We look at that review again -

Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

I do not think a penal offence is spoken of in this bill, unless the member for Windermere can enlighten me otherwise.

Mr Dean - I missed those.

Mr VALENTINE - I was reading Article 11 of the Universal Declaration of Human Rights, which states that no-one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law at the time when it was committed. You cannot enlighten me as to what a penal offence actually is?

Mr Dean - No, I cannot.

Mr VALENTINE - I cannot draw any conclusions on that because I am simply not aware what a penal offence is -

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Someone who might be a member of an outlaw motorcycle gang in the list might feel, if they are not a criminal, that is indeed something which is happening to them.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each State.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

That is probably not applicable -

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

I do not think that particularly applies, nor do articles 15 or 16 -

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Are they going to try to use that somehow in defence? I do not know. They cannot because it is not law, but it is an interesting principle that could be followed through -

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Again, outlaw motorcycle clubs probably ought to give that some thought if there are those who have been compelled to stay in the club.

Madam DEPUTY PRESIDENT - Can we get back to the nature of the bill?

Mr VALENTINE - It is.

Madam DEPUTY PRESIDENT - You are drifting off to other aspects.

Mr VALENTINE - It is the principles under which things are measured. That is all I am saying. We have to have a set of principles by which we measure a bill like this. That is why I am reading those articles. I have already explained that it is not that it is law - it is about how we judge a bill and conceive whether or not it is going in the right direction as far as the community is concerned. That is the point I am making.

There are just a couple left -

Article 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Would you call outlaw motorcycle clubs 'cultural life'? I suppose some might.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

If these are the principles put in place - significantly with our country in the chair - one wonders, when we look at this bill, how far we are straying from those principles.

I looked up *Human Rights Explained: Fact sheet 7* on the federal government website www.humanrights.gov.au. It says -

Australia does not generally agree to be bound by a human rights treaty unless it is satisfied that its domestic laws comply with the terms of the treaty. Australia has agreed to be bound by the ICCPR and the ICESCR as well as other major human rights instruments.

There is much more, but to underscore, there is no compulsion for Australia to abide by them, which is sad and maybe a debate for another day on that particular part of the International Bill of Human Rights.

There is a balance needed and the law needs to protect the innocent every bit as much as it is there to catch those who transgress, is the way I see it.

I have laboured over this bill and read submission after submission, as all of us have. I have lost a bit of sleep over the bill because of the importance of our decisions. I have done so not because of what the bill is trying to achieve so much as wanting to ensure the potential for unintended consequences is absolutely minimised and ultimately considering the precedent it may set for future generations. When you weigh it up against the general tenets of the Universal Declaration of Human Rights, you have to use some level of principle. The questions are: How can this bill, should it become legislation, be used in the future to the detriment of the human rights of an individual? Do we really want to see this being a statute on our books that others in the future may misuse?

It is all very well for us today to say it is not that bad, that it is achieving some sort of an end to what might be seen as public safety by taking away some of the intimidation that can be projected by people wearing their colours. However, if you have a minister of a certain mind in the future, what opportunity does this provide for misuse?

We are not lawyers, for the most part, with the exception of Mr President. Some of us have been police officers, teachers, midwives, ICT professionals, mayors and local government

members, farmers, marriage celebrants, union officials, board directors and media gurus. We are a diverse lot, and that is great for democracy, but today we need to make a judgment based on what we believe is the right way forward for our community, not just for today, but for the long-term functioning of our society.

Many of the submissions were a fair bit off the mark, going to consorting laws, which this bill does not. I think the member for Murchison raised that, although I believe a future bill may in the future. We are not dealing with that today.

Many of the submissions have an interest - they may be members of outlaw motorcycle clubs or family of club members. But the police, who have been championing this bill, also have an interest, as does the Government, in trying to get their policy implemented, with the police also being the upholders of the law.

If their involvement is not a separation of powers issue, the court's involvement in proving up a prescribed organisation is also unlikely. It is a sticking point for me because of how we review this and make sure there is an independent assessment on whether a motorcycle group goes on the list. Getting independent assessment is of paramount importance to me, because the Government wants it. The police want it because they clearly view it as something needed for them to be able to reduce what they see as the harm in the community. We have to make sure the way this is verified is truly independent. We are here to provide the balance in this House; it is a very important role and we should never underestimate it.

I will go to some of the submissions. Some parts have already been quoted, and I will not requote them, but from Richard Griggs, the Tasmanian Director of Civil Liberties Australia, and I will not requote the parts that have already been done -

Our second concern is the very broad drafting contained in the Bill. We believe the drafting leaves open the possibility that the legislation would be used to disrupt the activities of a group that might be challenging, annoying, disruptive or otherwise troublesome to a Police Minister and/or their government but whose members are not involved in crime.

The legislation contains no requirement that the laws be limited in application to a group whose members commit crime. The proposed new section 6A(6), the Minister must only 'have regard' to whether serious crimes have been committed. There is no requirement that members must be convicted of crimes before action can be taken against them to ban their insignia.

That comes back to some of the human rights principles I read out earlier -

The Minister has indicated in parliamentary debate and in correspondence with Civil Liberties Australia that the Minister is to 'holistically' assess the danger presented by a gang and that this includes addressing how many members have committed crimes, what those crimes were and the likelihood of a gang's members committing public acts of violence or intimidation.

He goes on to say -

While this sounds reasonable, there are no such requirements set in legislation. The above factors may well be in the mind of the current Minister for Police but there is no guarantee of the same for future Ministers.

The second aspect of the drafting dramatically expands its scope. The reference to the 'amenity' of the community in proposed new 6A(5)(b) is a very broad concept which includes notions of pleasantness. It does seem extraordinary to Civil Liberties Australia that a group could have its badges banned in order, not to prevent fear or intimidation, but to protect pleasantness which can be a very subjective concept.

It is an interesting way of looking at it -

The combined effect of 6A(6) and 6A(5)(b) means the legislation is drafted with an extraordinary wide reach.

We ask that you take account of these concerns when assessing the Bill and consider voting against it.

That was from Richard Griggs. He posed a number of questions and in another email asked other questions, including -

- Is there any criminological evidence or police statistics that indicate the Queensland model is more effective than the models in South Australia, New South Wales, Northern Territory in reducing crime or alleviating fear in the community?
- What changes, if any, have been made to the Bill based on the submissions from the public during the consultation process?

That is something the Leader might be able to enlighten us on. Was the bill that was put out for consultation changed as a result of the consultation? That could prove to be interesting -

- Given the opening sentence in your draft second reading speech states 'This Bill delivers on the Government's election commitment to prevent outlaw motorcycle gangs that persist in *criminal activities*, from wearing their club colours in public.' (our emphasis added), why does the legislation only require that the Minister 'have regard' to whether members of the group have been convicted of a crime? This drafting leaves open the possibility the law will be used against groups whose members have not been convicted of any crime? If the law is intended to only apply to groups whose members have been convicted of serious crime, why was it not explicitly drafted this way?

There are quite a number of questions but I will not read them all -

- Will the advice from the Commissioner for Police, required under proposed section 6A(5) be made available to Members of Parliament? Will the advice be available to members of the public?

- Will the decision to prescribe an organisation be able to be appealed or reviewed? If so, how?

We also heard from the Tasmanian Motorcycle Council - TMC - the peak representative body for the 54 770 licensed motorcyclists in Tasmania. Its concerns are that it is not for the Government to dictate what people wear or whom they associate with, but this is not about association laws in particular. The Minister for Police did not meet with the TMC prior to tabling the legislation and has not consulted with it even though it sits on a number of government committees and advisory bodies, even though the draft legislation impacts on the rights of motorcyclists.

The TMC notes that in October 2014 the former police minister Rene Hiding said no such legislation would be tabled and that it was his view that existing laws were sufficient to deal with criminal activity and he would not endorse laws that would generally disadvantage motorcyclists.

Obviously this is a different government and a different time; it is what it is and we have it before us. The TMC goes on to say that of 103 submissions made, 98 opposed the laws, even though it was claimed that people did not oppose the bill due to intimidation. The consultation process allowed complete anonymity and confidentiality.

Tasmania Police has provided no evidence that outlaw motorcycle clubs are gangs and that the members are criminals. I am not sure that is the case. We heard evidence in that regard. The Tasmanian Motorcycle Club disagrees that the '1%' sign is an admission of criminality. New South Wales highway patrol officers are known as the '1%' because that is how many of the New South Wales police are in the highway patrol.

The Tasmanian Motorcycle Council believes laws are already in place to deal with crimes that police have focused on, including organised crime law, unexplained wealth and violent and public disorder offences.

The TMC says the proposed laws impose unacceptable restrictions on people who have not otherwise committed an offence. The proposed legislation bypasses the judiciary and places significant power in the hands of the minister, which has direct consequences on basic civil liberties without any proof of criminality.

As we have seen in many submissions, the actions of a few do not make the whole set of motorcycle club members criminals, just as a group of priests are not all paedophiles because some are, or footballers are not all drug addicts and rapists because some are, or all Muslims are radicalised because some are.

Despite the Tasmanian Integrity Commission audit of Tasmania Police finding 341 serious complaints against police, including senior officers, over just three years, with police officers being investigated, facing charges and/or convictions for such offences as disclosing official secrets, firearms offences, driving under the influence of alcohol, possession of child exploitation material and unauthorised access and misuse of information, no-one legitimately suggests that all police officers are criminals.

The TMC goes on to say -

The proposed laws remove the requirement for proof that Outlaw Motorcycle Clubs are criminal organisations and involved in organising crime, and gives the power to prescribe an organisation to the Minister without judicial oversight.

The Minister and Tasmania Police have failed to show how the Prohibited Insignia legislation will stop people committing offences and how banning the names of particular clubs, along with their insignia, logos and emblems will provide a safer community. The laws are an unacceptable intrusion and interference on the personal lives of Tasmanians without any justification. This results in an unreasonable and objectionable cost to the community and an infringement on civil liberties. When introducing the Bill to Parliament, Minister Ferguson did not acknowledge the overwhelming lack of public support.

I also had a submission from Mr Adrian Dawson -

I am also concerned that this proposed amendment could force a very small minority of criminals underground or even worse, that they might wish to disguise themselves in with other law abiding motorcycle groups.

Mr Dean - They are already underground.

Mr VALENTINE - It is an interesting point though. Do they then try to get into other groups? That is their opinion; they are allowed to state it. We heard from the Law Society earlier in the briefings. The member for Rosevears has gone through some of their submission. I will not go over that. I had a submission from Mr Dean Fulford -

If no motorcyclists have identifying patches then we will all be treated the same and unfortunately this means treated as criminals, guilty until we can prove our innocence ...

That is regarding drugs and so on -

... which is the antithesis of the rule of law. I don't see how these proposed laws can be regarded as 'clear predictable and accessible' or publicly adjudicated in courts that are independent from the executive arm of government if all of the power is given to police, without any indication of any law being broken, to harass and intimidate citizens.

The real drug lords drive Mercedes and Audi's they don't ride Harley Davidson's. It is ridiculous to suggest targeting drivers of these cars, don't do the same to us!

The last one I will read is from Justin Kennedy from Tasmanians Against Biekie Laws -

I certainly do not support these draconian laws, they are an invasion of our basic human rights, it is ridiculous to think our government can tell its public what they can and can't wear. Would you stop priests wearing -

Mr Dean - They can tell you what to wear.

Mr VALENTINE - Under this bill they can.

Mr Dean - Under other legislation they can as well. You cannot put pornographic literature on your clothing.

Mr VALENTINE - Offensive clothing.

Mr Dean - There is other clothing you cannot wear belonging to organisations. There is a lot of law in relation to what you can wear and what you cannot wear.

Mr VALENTINE - Where it affects other people.

Mrs Hiscutt - There are the Wicked Campers as well.

Mr VALENTINE - Wicked Campers. I am aware of statements that might offend in that regard.

What if these are not offensive statements? We have heard about the wings, which is a concern, but if members of the public do not know what the wings stand for, it is not likely they will be offended. It is that offence being pointed to here. That is food for thought. Always interested to hear the member's viewpoint the same as the member for Rosevears. We value your presence in this Chamber.

Mr Finch - From time to time.

Mr VALENTINE - Justin Kennedy goes on -

Would you stop priests wearing their robe because a percentage are Paedophiles? Would you stop football teams wearing their jumpers and supporter gear because a few have drug habits? Would you stop the Police wearing their uniforms because a few commit various crimes including drug dealing and rape? What about our religious groups? No burka? No turban? Jews can't wear their caps? Come on people, taking away what people wear is not only a violation of their rights, it's ludicrous to think removing their clothing will fight the crime aspect of any group. There are plenty of laws in place already to fight all types of crime, if the police are given the resources. This is just the government 'finger-pointing'. Spend OUR money on providing the resources, rather than implementing laws that are a pure violation of our civil rights. Similar laws as we know were passed in QLD, which cost millions to implement, are now in the process of being repealed, resulting in more tax payer dollars being wasted, while our hospitals and staff are in desperate need of funding, as is our education system, not to mention how desperately our pensioners need help.

He is partly wrong there. In Queensland not all the laws are demounted, just for the record. I believe that is the case -

To me it's simple, better Policing beats over policing. Tasmania Police have a job to do and deserve to be given the resources to do so, no different to any other workplace in this beautiful country. This is nothing but lazy Politics and lazy Policing.

Simon Hrycyszyn said that it is possible it might make them harder to identify. The member for Windermere talked about Probus and said -

Mr Dean - I said the Probus Club members did not understand the legislation. They had no idea. They thought it meant all bikies were criminals and getting criminals off the road.

Mr VALENTINE - It is not about getting criminals off the road?

Mr Dean - Well, if they are wearing bikie colours and they are a proscribed member of a club, that is what it is about.

Mr VALENTINE - The more we move to tighten the law, the more people will try their best to work around it. I know you are having a shot at somebody and some ridiculous scenarios.

Mr Dean - That was probably the Labor spokesperson, the member for Rumney.

Mr VALENTINE - We do have to think about that side of it. I do not want to go through all the things they could do because I might give ideas to people, but we do have to test the breadth of this.

Mr Dean - That is the same with all legislation. You can go to absolute extremes that could never happen and say it could happen. I could grow wings and fly, but I will not.

Ms Forrest - People talk about this bill as a slippery slope. It is all down.

Mr VALENTINE - We have to think about how they might get around this bill. How they might get around the insignia ban. If they have tattoos on their arms, you cannot tell them to rub those out; if it is something else they can wear, they might all go around and wear orange tee shirts instead of their club colours - is orange then a club colour? The more you try to tighten the law up, the harder it becomes and the more people will try to work around it. I do not deny certain clubs undertake activities of real concern, especially to the police, but this bill concerns me as to how it might be misused and whether we can safely say we are happy to have it on our statute book.

I would like the judiciary to be the independent arbiter, but I do not know if this is in the Government's mind. I will vote the legislation into the second reading and I want to listen to amendments and the arguments on the amendments in Committee. The way the bill stands concerns me and I am inclined to not vote for it because of the unintended consequences.

Ms ARMITAGE (Launceston) - Mr President, this is a difficult bill and by no means clear-cut, but you cannot legislate for every circumstance. I have appreciated all the emails and briefings from many different people, both within our community and outside, the Motorcycle Riders Association, the Law Society of Tasmania, Tasmania Police and others. I also appreciated the six briefings from the Commissioner of Police and appreciate how seriously he takes the bill.

The main issue I and many others have is with regard to evidence for an outlaw motorcycle group to be included as an identified organisation. I note amendments are coming. I am concerned there is no clear appeal process. We all know many people in motorcycle groups who are hardworking people who are not involved in criminal activities. While there are five identified clubs at the moment, it may not necessarily be they will be included when it comes to identifying insignia based on the evidence required.

The bill only refers to wearing of insignia or patches in public. The only thing they cannot do is wear the colours, whether it be vest, jewellery or jacket, in a public place. They can meet and do everything else; they just cannot wear these items in a public place. It would then be a summary offence of 20 penalty units.

Ms Rattray - And confiscation.

Ms ARMITAGE - I hope if the bill does get up, it is important there would be some amnesty, at least some warning, for people on first offences so people can appreciate what the law is.

Another concern is that if this bill is not passed, it will make Tasmania look open for business for outlaw motorcycle groups currently not in Tasmania or under-represented here. Will they then have a higher presence and cause more issues? We are told this bill is for the safety of police and some members of clubs will not stop for police, because they believe they are above the law.

I feel for the police who would be faced with a number of riders wearing jackets and having to confiscate them. What will officers do if they come across a group of riders and have to confront them? This could be a difficult situation for police as riders do not want to give up their jackets.

Mr Dean - They said during the briefing they would photograph them and come back the next day and pick them up.

Ms ARMITAGE - They did, but it is still an awful situation. The other question I asked in briefings was whether there would be discretion for riders attending a funeral or similar, where they want to display their unity with a deceased member or brother, as they call them. Things like that are important when there might be a large group of them who want to ride.

Today when we were at lunch with a group someone mentioned that they had been to a funeral at, I think, the Door of Hope. There was a large group of people who wore their jackets because they wanted to show unity with someone who had passed. For issues like that we should remember that sometimes it is important to turn a blind eye and allow these things.

Ms Rattray - Use the discretion allowed in the legislation.

Ms ARMITAGE - You hope that people would use the discretion at that upsetting time for people.

The police tell us there has been an increase in outlaw motorcycle groups coming to Tasmania and that they have identified 250 to 260 members currently within Tasmania. Police commented that they were not coming for the lifestyle or the weather.

We were told in briefings by police that many of these clubs are expanding across all countries and they look at the areas where there is least resistance.

Is it scaremongering on the part of the Government and the police that these less-than-legal clubs could increase their membership in Tasmania if we do not pass this bill? Obviously, many of these clubs are not friends with each other.

I will quote part of an email I received, a different one to that which the member for Windermere read out -

My husband is a proud member of the Outlaws motorcycle club and I am equally proud to support him, as are our four children and extended family.

I will just read parts of each paragraph -

Fast-forward twenty years, he is now a general manager with an Australia-wide company ...

He works 60-70 a week, so unwinding with a few beers or scotches with fellow members after riding his bike at the weekend is his kind of stress relief.

I must add that I usually join him at club get-togethers and I have always felt safer in the clubhouse rather than out on the town, as do most of the wives and partners.

I have never been shown anything but respect whilst in the clubhouse.

As in any club, association, group or profession, there is that minority of bad eggs.

...

Most of the clubs targeted in the proposed legislation have been in Tasmania for over 30 years, one of them for 48 years, and it has never been necessary in all these years to introduce such harsh laws such as those proposed.

I believe the mainland clubs trying to establish themselves here should be stopped because they are not wanted here by anyone, the clubs that have been in Tassie for years included.

Less police resources would be used concentrating on shutting down these bad reputation mainland clubs and blocking their establishment here than trying to uphold the proposed laws, with every motorcyclist unidentifiable without their club colours on the road.

It is interesting that member of a club identified that we really do not want some mainland clubs in Tasmania.

I accept that colours are very important to these clubs and their members, and that they are about identity. I accept this bill does not restrict the wearing of club colours at clubhouses or private residences, nor does it restrict tattoos, painting of logos on bikes and the like. It was interesting to get a couple of emails from people concerned that tattoo businesses were going to close down if this legislation went through. I think that, if anything, they may actually pick up business because people may get tattoos rather than wearing patches.

Many of these people feel the club is like family and its members are like brothers. For that reason, I feel it is essential that any group listed as an identified organisation must have actual evidence against them that is proven and perhaps it should be an indictable offence. It is important that everyone is not tarred with the same brush.

We were also told that not allowing the identified clubs to wear their colours in public might offer less appeal to some people becoming members and it is really a cultural disruption. We were told what some of the patches mean - and I am not going to go into it - but the reasons of some clubs for obtaining them were not very nice. That does not mean -

Ms Forrest - Because some of them relate to illegal activities.

Ms ARMITAGE - That does not mean this is always the case. We were also told that a patch used on another motorcycle club was RFFF - 'Ride forever, forever free' - which to me sounds like a rather innocent patch for people who simply love to ride.

In discussion with others in the community, it was also mentioned that currently, if they are wearing their patch, you know who they are if they are doing something wrong. With no colours, it provides anonymity. I must admit I have had several meetings with people in the community who are riders with different clubs and they said that at least when people come up, if they do something wrong, they actually know who they are and who to go to. That certainly is a consideration.

I will read a couple of the emails from some of my constituents. I am not going to identify anyone, just read a few parts from each of them. This one says -

... I am writing to you in regard to these proposed new bike laws which I am totally against.

I have been with my husband for 12 years, we both work; my husband is a manager and I am in the disability sector ... We have no criminal record, we don't drugs, we pay our taxes and are good, honest people ...

My husband also happens to be a member of an outlaw motorcycle club ... These proposed laws are totally against our civil liberties and our way of life ... I totally understand there are bad eggs in clubs, but there are bad eggs in EVERY walk of life ... I find it very discriminatory to single out 1 group of people, to be able to tell us who we can see and what we wear ...

Another one -

There is unique relationships that exist within motorcycle clubs. A bond of brotherhood that cannot be found anywhere else. We, as bikers, know how special this bond is, and it devastates us to see our own government tearing it apart with such apparent disregard. Bikers may not fit into the mould of mainstream society, our manner, rough looks and mode of transport are often frowned upon but that doesn't make us all criminals ... it just makes us different.

There are elements of criminal behaviour within all sectors of society.

Another email -

I am a 25-year-old woman and I have lived in Tasmania my whole life. I have worked within the community since I was 14 years old ... I will first make it clear that I do not stand to lose or gain anything if these new laws are implemented

within Tasmania. What I do believe is that these new laws that are being proposed are a major form of discrimination. I have grown up to be told that we must not discriminate against others just because of their race, gender, age, sexual orientation, religious background, beliefs or any other reason.

Another email -

I write to you to express my concern over the proposed laws concerning the wearing of club insignia and clothing in public. It is my opinion that there is a flaw in the argument put forward as the need for these laws. The need for these laws is said to halt possible intimidation, etc. in said public places. Police already hold powers to keep social peace, behaviour and interaction at acceptable and expected levels. Also why are bike club members being targeted? There are numerous clubs, sports, not for profit, community etc that display their club paraphernalia.

A final one, which I thought was a bit touching because I could imagine it happening in some households -

My son my wife and I were watching the news a while back when something came on about the proposed laws, we didn't really think anything of it, had a brief discussion about it and what we can do going forward and left it there. It wasn't until a few nights later when our son went to bed and couldn't sleep because he was scared his dad might go to jail for riding his bike with his vest on ... And from my son, 'why is my Dad a bad guy?' He loves his Dad, as far as he's concerned his Dad is the best guy in the world, his Dad is his hero, and he's hearing that the police think his Dad is a bad guy? How is that fair?

As the member for Windermere said, we all have friends who are members of motorcycle groups. To us, they are good people we are happy to call friends and we trust them.

I support the intent of this bill. I will certainly support it into Committee. I understand why the Government has put it forward. I hope the amendments going through will certainly ease my concerns about who is put into that basket, but I can also see from the police perspective that there are groups that want to come down to Tasmania. The Government needs to take this on board for the future - when bills are put out there, it needs to be clear on what the bill is about.

I appreciate this bill is to do with association, but, like the little boy who thinks dad is going to jail for wearing his vest, many people are concerned about it, and it is not clear what -

Mr Dean - The media got this wrong in a lot of places.

Ms ARMITAGE - It probably did. But the Government was not as clear as it could have been. I wondered whether the Government could have provided us with something we could send back to people, so we all sang from the same hymn book, stating what the bill was about. I did not receive it. I did receive something -

Mrs Hiscutt - I said it would be there on Monday. I think it was Monday, was it not?

Ms ARMITAGE - I have not received anything I could send out. With respect, we received something.

Mrs Hiscutt - You are talking about a prepared letter.

Ms ARMITAGE - I am talking about something identifying what the bill was about, so that when confused people sent comments in we can send back our own comments, but also explain what the bill was. The only thing we received was a statement. I sent an email to you and your office asking whether this was confidential or whether I could send it out. I do not recall receiving an answer to that.

Mrs Hiscutt - I think you did, and we can locate it if you like.

Ms ARMITAGE - Well, I do not recall it; that is fine. The Government in the future needs to make clear what the legislation is. Not what future legislation is, but what the legislation we have now is, so that people are not concerned about something that might not be there.

Mrs Hiscutt - I apologise if I had it wrong. I thought you were looking for dot points that you could extrapolate and send to different members. I did not realise you were looking for a prepared letter. I thought a letter coming from the Government to members might not be appropriate.

Ms ARMITAGE - I was just asking for something about the bill.

Mrs Hiscutt - Those dot points were too much?

Ms ARMITAGE - From memory, I do not recall receiving something saying I could use the letter signed by Darren Hine.

Mrs Hiscutt - We are looking at that now and will get that for you.

Mr Finch - Would the second reading speech from downstairs have sufficed?

Mrs Hiscutt - There are fact sheets too, honourable member.

Ms ARMITAGE - I was looking for something that was short and concise. The Government probably did not explain the bill well enough in the community. Just about every email I received was about consorting. Even though I know it is coming up in the future, I think this bill should have been more clearly elucidated in the media so the community understood. The issue I have - do you want to say something, member for Windermere?

Mr Dean - To be fair to the media, the editorials in all three papers got it right. They were strongly supportive of this legislation. That was pretty clear.

Ms ARMITAGE - It needed to be clear to people that it was not to do with consorting. It is purely to do with the wearing of colours. Members of motorcycle clubs can wear them privately. They can wear them in their clubhouses. No-one has been through the process yet. Five have been named, but they have not been through the process. They are still allowed to wear colours at this stage because they have not been through that process. My concern is the mainland groups - I will not say gangs - coming down if the legislation does not get up. They might see that Tasmania is

open for business and perhaps it is the place to come because it is open slather. I will support it into Committee.

**Recognition of Visitor
Kesabi Koirala**

Mr PRESIDENT - While the member for Huon is coming to the lectern I would like to welcome Kesabi Koirala to the Chamber. Kesabi is a third-year university law student. She is doing an internship at the moment with the member for Pembroke. She is on a scholarship down here. We welcome you and we look forward to the outcome of your intern paper, which will be supplied to us by the member for Pembroke. Welcome.

Members - Hear, hear.

[4.43 p.m.]

Mr ARMSTRONG (Huon) - Mr President, I will be supporting the bill into the Committee stage. I remember, after the first reading of this bill, the member for Windermere said he would move amendments to the bill, even at that early stage. I see amendments to the bill have been circulated. Not all motorcycle club members are criminals. Some could be involved in criminal activities, as other members of the general public can be involved in criminal activities.

I have received many emails regarding this bill, but I do not know how many are from Tasmania as the majority did not have signatures or addresses on them. This is all about colours and intimidation. Many people can feel intimidated. A few months ago I was in the north of the state. Coming home I pulled up at a well-known service station and cafe that many people pull up at. One of these bike groups came into there, whether to fill up with fuel or get food, I cannot remember. You could see the cars that were going to pull up kept on going, because all these bikes were there. You could see that people coming into the café were very wary. You could see there were thoughts on their mind as to whether they should stop, go in there or keep going; I am sure a number of the cars did keep on. There are some good points in this bill.

The member for Windermere talked about the Collingwood football jumper and that people are under the impression anybody with a jacket on with insignias will be targeted. The Vietnam veterans, for example, wearing their jackets at social variety clubs will not be affected. They are not the people this bill is targeting.

Most members have already touched on this, but I would like to quote one little paragraph from the Police Association of Tasmania letter we would have received -

My only intention is to emphasise the importance of this legislation to the safety and well-being of the Tasmanian community and the members of the Police Association of Tasmania (PAT) who are tasked with upholding the law and protecting the community.

That says a lot about this bill. I will support the bill into the Committee stage.

[4.46 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, the member for Murchison inquired about how many charges had been laid and what the convictions were. I have information that may be helpful regarding Tasmania and mainland -

- In May 2009, a report showed OMCGs were sourcing stolen military-style weapons. One of several stolen rocket launchers was recovered from the Banditos.
- On 4 April 2013, a Royal Australian Navy seaman assaulted a security guard and stole 14 guns from a patrol boat moored in Darwin. When facing court, he stated he had been pressured to steal the guns by the Rebels.
- In November 2017, New South Wales police charged a Rebels member with murder four years after the shooting death of Johnny Salafia. Salafia had just finished putting his young daughters to bed when the doorbell rang; he answered and was shot twice in the head and chest, dying where he fell.
- In December 2017, a Rebels member and two associates were charged with murder of a central coast man in New South Wales, after kicking him to death at a petrol station.
- In Tasmania 2013, several senior leaders of the Launceston chapter of the Rebels, including the state president Colin Picard, were jailed for trafficking more than \$500 000-worth of methylamphetamine. In sentencing Justice Estcourt said, 'By any measure this is a large scale commercial drug trafficking operation of a kind not often seen in Tasmania'.
- In July 2014, a collaborative law enforcement operation disrupted a significant importation syndicate, leading to Tasmania's largest drug seizure in recorded history. Four kilos of methylamphetamine were intercepted in Tasmania and an additional four kilograms were seized in Queensland with intelligence indicating that all eight kilograms of the drugs were destined for Tasmania. Members of the Rebels OMCG were charged in both states.
- In June 2015 a series of raids in Tasmania on a number of premises linked to the Rebels by a combined task force of national and state agencies resulted in 14 arrests, 100 charges and the seizure of more than \$200 000 in cash, 120 grams of crystal methamphetamine, worth \$120 000, 1.7 kilograms of cannabis, worth \$18 000, and 133 ecstasy tablets, worth \$6500.
- In September 2016 a combined federal and state task force seized crystal methamphetamine, cash and stolen goods from a fortified residence in Devonport linked to the Devonport support chapter of the Bandidos.
- On 14 March 2017 Rebels OMCG associate Ryan Zmendak pleaded guilty to one count of trafficking methamphetamines and one count of conspiracy to commit the crime of trafficking. He was involved in the importation of two packages containing the drugs from the UK in 2014 with an estimated street value of \$7.4 million.
- In October 2017 the founder and a previous president of the Tasmanian Rebels chapter AJ Graham was deported on character grounds. Graham has a history of jail time for

vicious assaults and has served terms of imprisonment for serious assaults. In 2009 Graham was again jailed for torturing a 19-year-old insurance investigator.

- On 3 April 2018, as a result of a search of the Bandidos clubhouse in David Street, East Devonport, a 28-year-old man was charged with trespass, assault, evading police, minor driving offences, drug offences, proceeds of crime and firearm offences as well as Supreme Court bail breaches, and offences relative to his arrest. Investigations are continuing into other possible offences.

I hope the honourable member can appreciate that at this late stage, this is just a snapshot of what we had available.

We talked about the Subordinate Legislation Committee and the Governor. I have here the *Executive Council Handbook* of March 2018.

Ms Forrest - The member for Rosevears needs to listen to this, too.

Mr Finch - I might learn something.

Mrs HISCUTT - Chapter 1.2, 'What is Executive Council?', states -

Under section 43 of the *Acts Interpretation Act 1931* the 'Governor' in Acts is taken to mean 'the Governor of this State, or the person for the time being administering the government of this State, acting with advice of the Executive Council'. Ministers are appointed as Executive Councillors immediately after being sworn in as Ministers.

While the Governor presides over meetings of the Executive Council, s/he is not a member of the Council. The powers exercised by the Governor on the advice of the Executive Council are referred to those of the 'Governor-in-Council'.

Various Acts of Parliament specify that the Governor is vested with authority to take particular actions or issue documents having particular legal effects, for example regulations, proclamations, orders, notices and instruments of appointment. A reference to the 'Governor' in any Act or regulation is taken to mean the 'Governor-in-Council'. In general this reference determines whether matters are referred to the Executive Council.

For the member for Rumney, I have an answer. I am not going to go through any emails, but I want to address her concerns about access to OPC at this moment. My office convened a meeting with OPC and the member for Rumney earlier this week, where instructions and discussions were held around drafting an amendment to the member's liking. The very last advice I had was that my office was waiting on the member to reply with regard to a further meeting with OPC to discuss more of these issues. I was under the impression the member was going to notify my office of her intention to further advance her request. Even a verbal informal discussion was held last night after work. When I got to my office this morning, I was told that the member had not contacted the office. I approached the member for Rumney before the briefing this morning to say a meeting was to be facilitated if she desired. I asked twice and she declined that meeting twice. For the benefit of members, I will remind us all that the procedure for access to OPC is in our housekeeping rules, which we discussed and distributed to everyone early this year. It is not very long, so I will take

the liberty of doing this. The rules were emailed to everyone after our housekeeping meeting earlier in the year. Part 2 deals with access to parliamentary counsel.

It is in the interest of both the Government and the Legislative Council to ensure that legislative amendments are practical, professionally drafted and of a high quality that effectively reflects the wishes of the parliament. The Members Guide provided to all legislative counsellors outlines the rules regarding such access. It makes it clear that access is provided by the Government through the Leader's office, and that such services are not made available to non-government members in the House of Assembly.

The process is requests for amendments should be made in the first instance to Mandy or Jonathan, along with details of the proposed amendments. Members may be requested to engage directly with parliamentary counsel to facilitate the clearest understanding and articulation of the member's request. Amendments drafted through the office of OPC are made available to departmental advisors to ensure that information on associated policy ramifications can be provided to the member requesting the amendment and to all members during the relevant debate.

At the Leader's discretion, members proposing amendments may also be requested to engage directly with relevant government advisors and my advisor, Jonathan, would usually be in attendance during those meetings. Access to parliamentary counsel is not available to members until the relevant bill has been read the first time in this House.

Where proposed amendments are going to significantly alter a bill's content and require a significant allocation of OPC's resources, advice will be sought from the Leader's office, as is the case with requests to draft private members' bills.

Then we go on to talk about private members' bills. I believe the Labor Party has had plenty of time to bring the member for Rumney's proposed amendments forward for substantive debate in the other place. I have not seen a copy of any proposed amendments. I am certainly not questioning the integrity of the member of Rumney. I think there was a period of two months from the tabling of the bill until the debate of the bill in the other House. I am advised the member's amendments involved a significant shift in government policy and would probably in all likelihood be extremely lengthy in nature, thus absorbing large amounts of OPC time. It was along the lines that what you are suggesting had already been canvassed by other members and advice had been given during briefings that it would be unconstitutional. After much discussion with these other members, they moved on and went on another tack, which will be presented to us later, which the Government is happy to collaborate on.

My reason for talking to the member for Rumney this morning was that had she had intended to proceed, we needed the amendments done properly, because that would give the Government time to get any advice from the Solicitor-General that may have been needed. As members know, that was declined at that stage.

I apologise for any offence you may have taken, because none was intended to your good self - it was merely to point out the significance of your proposed amendments were, in fact, a shift in tack and were probably large in nature and substantive in substance. We are not denying anybody access to OPC in this House.

The member for Windermere asked whether members of OMCGs have to go through initiation. Yes, of course they do. The initiation process is not advertised anywhere, so I cannot say one group has to do particular activities or not, but, yes, there is an initiation process because they have to prove themselves before they can actually be accepted.

Mr Gaffney - I thought the question was: does it mean that every person who is a member of a motorcycle gang has had to do a criminal act to be part of that gang?

Mrs HISCUTT - I cannot answer that. I do not have the list of their initiation processes. I understand what you are saying -

Mr Gaffney - Did you not just say that, yes, they do?

Mrs HISCUTT - Let me finish. I cannot tell you exactly what they all have to do, but their nominees or prospects are usually used to do the criminal activity which will guard the elders. I do not have a list of what they do. That is police intelligence.

Mr Gaffney - Did you not just say that every member has to go through -

Mrs HISCUTT - Every nominee or prospect has to do as they are told by their elders. This is called an initiation process.

Mr Gaffney - I think the question was: does every member of the gang have to have performed a criminal activity?

Mrs HISCUTT - I do not know; you would have to ask the motorcycle gang.

Mr Gaffney - Did you not just say then -

Mrs HISCUTT - The question was, 'Do all full members of OMCGs have to go through an initiation process?' Yes.

Mr Dean - I think the police would have information about the criminality; that was my concern.

Mr Gaffney - I think that was the question, you said yes. But the question was about -

Mrs HISCUTT - The question I wrote down at the time the member was talking was, 'Do all full members of OMCGs have to go through an initiation?'

Ms Forrest - It depends what the initiation is.

Mrs HISCUTT - That is right. I do not know what the initiation is. I do not have a list of what they have to do. We are led to believe, with intelligence from the police, that it is usually the nominees or the prospects who have to do - dare I say - the dirty work to protect the elders. Would you like me to seek more clarification?

Mr Dean - I will ask the question in the Committee stage.

Mr Gaffney - Sorry, I thought that is what you were asking.

Mrs HISCUTT - The member for Hobart was talking about an independent assessment. The police commissioner said he gathers advice and intelligence from other independent sources. We heard that this morning. His question to us at that time was, 'Who do you get to oversee the independence of the independent person?' I think what he was trying to say was that the police commissioner gathers information and intelligence from different sources. At what point do you stop? That is the final thing.

You also asked whether the bill was changed after consultation with the public. There was consultation with the Law Society; I do not have that here. Inspector Keenan has given me the critique from the Law Society. Some input from the Law Society was adopted in the bill.

I am terribly sorry I misunderstood what you said, member for Launceston, about - I do not know whether to say letters or dot points now. I am a little bit -

Ms Armitage - We have searched and it does not appear I was sent it.

Mrs HISCUTT - The bill packages, including fact sheets, were distributed to members a fair while ago. All members should have understood the basis of the bill at that stage. I am sorry if the dot points given to you were not what you were looking for. Maybe what I provided was overkill. Maybe I should have made it more succinct.

Ms Armitage - Not that it was overkill, but because it was signed by the commissioner, I simply asked 'Can I use some of this, because the commissioner's name was in it?' I waited for a response, which was -

Mrs HISCUTT - It was given to all members. I apologise.

Ms Armitage - I appreciate that. I just wanted to make sure before I sent anything to anyone -

Mrs HISCUTT - I apologise. The intent was to get back to seek clarification. That was obtained by our advisors. They came back and said yes, and gave that information to you. I apologise.

Ms Armitage - That is all right. I wanted to check I could use it before I used it.

Mrs HISCUTT - My office is 100 per cent sure, but upon checking the email, we cannot find it. I apologise for that. It is for public consumption.

In summary, I would like to focus on what this bill is about. It is a bill to help police disrupt activities of OMCGs. It is another tool in the toolkit the police have been asking for. The commissioner has identified this bill to help them with what is deemed an identified problem within our community.

Members, we must bear in mind this is a bill with a maximum fine of 20 penalty units for the first fine, a little over \$3000. You are not going to lose your arms with tattoos; all you will lose is the patch on your back - please bear in mind, this is a small, confined bill.

Honourable members, the Government and the police want to send this message: Tasmania is not open for business to OMCGs. We do not want them here. It is not open for business from criminal outlaw motorcycle gangs. We have heard from the commissioner and his concerns about

these groups looking at Tassie for their home. We need to provide the police with the resources they say will help them in their fight with OMCGs and this destructive presence within our communities.

Members, we have to ask ourselves: why are we getting so much interest from interstate groups? It is because we are seen as a soft target. This is the first tool in the toolkit for police to disrupt, disrupt, disrupt these groups and hopefully as we come into the Committee stage, we can all have a look at this more seriously.

Thank you, Mr President.

Bill read the second time.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -

Sections 6A and 6B inserted

6A. Display of certain insignia, &c., prohibited

6B. Search, seizure and forfeiture of prohibited items

Ms FORREST - Thank you, Madam Deputy Chair. I am seeking a number of amendments to this clause. In discussion with the Clerks, I will do the first two together to make a bit of sense of it. I move that -

Clause 4

First Amendment

Page 7, proposed new section 6A, proposed subsection (2), paragraph (b).

Leave out 'places.'

Insert instead 'places; and'

Second Amendment

Same page, same proposed new section, same proposed subsection, after paragraph (b).

Insert the following paragraph:

- (c) to reduce the membership of organisations, members of which may, by wearing or carrying prohibited items -
 - (i) cause members of the public to feel threatened, fearful or intimidated; or
 - (ii) have an undue adverse effect on the health or safety of members of the public;
or

- (iii) increase the likelihood of public disorder or acts of violence.

I have discussed this amendment with the Leader's advisers. In regard to much of what we heard in the briefings about the objectives of the bill - which is what we are talking about here - it is important to focus on what we continuously and repeatedly have had from the police - that the real objectives of this bill, which the Leader spoke about in her reply, is to help disrupt and discourage outlaw motorcycle gangs' illegal activities and recruitment, and to discourage new groups that would potentially fall under this legislation from coming to this state.

I think this amendment makes clear that the objective of the bill is to focus on reducing or disrupting membership drives and encouraging members to leave. I think this state could well do with looking at how to assist exiting members, as they do in some other countries. The Scandinavian countries have some quite good programs to help members exit. It is not easy to exit these organisations; it can be very difficult. That is another matter, but the objective was about reducing membership and reducing retention by encouraging or supporting members to leave when they feel it is not worth it to stay.

I hope that gives members clarity about what that amendment is about. The Leader would understand what it is seeking. I ask members to support the amendment.

Mrs HISCUTT - The amendments that have been posed so far basically support what the police are trying to do, so the Government has no objection to either of them.

Amendments agreed to.

Ms FORREST - Madam Deputy Chair, I move -

Third amendment

Page 7, same proposed new section, after proposed subsection (4).

Insert the following subsections:

- (4A) The Minister may recommend that an organisation be prescribed to be an identified organisation, but only if he or she has -
 - (a) received from the Commissioner a recommendation under subsection (4B) in relation to the organisation, together with the document required, in accordance with subsection (4C), to accompany the Commissioner's recommendation; and
 - (b) received from the Attorney-General a recommendation under subsection (4E) in relation to the organisation, together with the document required, in accordance with subsection (4F), to accompany the Attorney-General's recommendation.
- (4B) The Commissioner may, by notice to the Minister, recommend that an organisation be prescribed to be an identified organisation.

- (4C) A recommendation of the Commissioner under subsection (4B) is to be accompanied by a document setting out -
 - (a) reasons for the recommendation; and
 - (b) a summary of the evidence taken into account by the Commissioner in deciding whether to make a recommendation.

- (4D) The Commissioner is to provide to the Attorney-General -
 - (a) a copy of a recommendation made under subsection (4B); and
 - (b) a copy of the document that, in accordance with subsection (4C), accompanied the Commissioner's recommendation.

- (4E) The Attorney-General, after having considered -
 - (a) the document that, in accordance with subsection (4D), was provided to the Attorney-General; and
 - (b) any other evidence that the Attorney-General thinks fit -

may, by notice to the Minister, recommend to the Minister that the organisation be prescribed to be an identified organisation.

- (4F) A recommendation of the Attorney-General under subsection (4E) is to be accompanied by a document setting out -
 - (a) reasons for the recommendation; and
 - (b) a summary of the other evidence, if any, that, in addition to the evidence received by the Attorney-General under subsection (4D) was, in accordance with subsection (4E)(b), taken into account in deciding whether to make the recommendation.

It is a fairly long amendment. A number of members are seeking amendments to give effect to something like this. There was an original proposal to have a magistrate look at it, and on advice from police that that would probably not be constitutional because you are asking the court to determine a law that has not yet been made. I understood that and suggested a couple of other proposals, and this was the one agreed on. It kept it within a fairly tight decision-making framework. I specifically asked that reasons for those decisions had to be provided from the Attorney-General in providing advice to the minister before making a determination, and evidence had to be provided by the commissioner to both the minister for Police and the Attorney-General. They could not say, 'Well, we think these organisations should be prescribed because they have done this.' They have to provide written evidence and advice, and evidence is evidence - it is not

hearsay. It is evidence and the Attorney-General is an appropriate person to be the second port of call and required to actually certify it. The Attorney-General's credibility is on the line here.

We have seen in some states ministers make interesting decisions on some of these things. Even a police commissioner is not entirely legitimate in some of their decision-making. We have had inquiries into the activities of some police. Not in Tasmania. We have been very lucky with our police force, but there have been some states where it has happened and this would put a stop to that, in my view.

The Attorney-General is the highest lawmaker in the state. In fact, if all else fails, the Attorney-General can take over the government. That is the reality. If we go to war, it is the Attorney-General who takes over. The Attorney-General has a very important, highly regarded and respected position. For that person to make an ill-considered decision without appropriate advice from the Commissioner of Police, that was tested, because it says in the amendment the Attorney-General has been provided by the commissioner with 'any other evidence the Attorney-General thinks fit'.

If the Attorney-General was not entirely convinced by the Commissioner of Police's advice, the Attorney-General may well seek other advice. The Attorney-General is not limited to only considering the commissioner's advice. One would hope that would be enough, but if the Attorney-General had concerns, they are not limited.

It is probably not perfect and there is no right of appeal through a court on this declaration process. Declaration of a prohibited organisation is a summary offence, not an indictable offence. It would only result in a fine and possible confiscation of the item, whether it be jacket, insignia or jewellery. There may be penalties the person may pay back in their club; to me, that indicates some of these reasons we need to act.

In view of that and having a number of discussions with other legal people, it is an appropriate amendment in view of the fact it is a summary offence, not an indictable one.

I am sure the Government has received the message loud and clear that there needs to be real appeal provisions through a court when we get to legislation that will create an indictable offence.

I imagine other people want to speak to this, but I encourage members to support this amendment. I do not think it necessarily makes the bill perfect in the eyes of some, but I hope it will actually address some of the concerns raised by people about civil liberties and respect for rights and what people can wear. When the article is being worn in the commission of a crime, you can see why concern has been raised and why police are asking for additional support in this area.

Mrs HISCUTT - I know the member and other members had looked at the magistrate, but we were warned that would probably have been unconstitutional. We would have to test that. I am thankful to the member for Murchison, the member for Windermere and the member for Launceston for working together on this. It provides an extra safeguard; they are responsive to the future. It is appealing to the highest lawmaker in the state. The Government can work with it and the police can work with it. The Government is happy with that.

The minister asked me to pass on a message. He would like to thank the member for Denison, Cassie O'Connor. Evidently in the other place, the minister gave a commitment to look further into suggestions that were made in the other place and feels that this amendment, which we support,

may further progress what the member in the other place was trying to achieve. We hope this has landed on a place that nearly everybody is happy with.

Mr DEAN - I support the amendment. I am disappointed in the way this has occurred. I first raised this issue with the Government well before anyone else. My first email to the Government said that there had to be an intermediary in this process. That is the word I use. We could not accept this as it was. I made that plain and clear. At a later date I suggested a magistrate or someone similar. There has to be someone else involved in this process.

There were some heated discussions yesterday about how it would occur and who would move it. It is disappointing that it was taken over the way it was but I support it. It needs to be there. Good leadership was necessary, and I was happy to do that for peace. I knew that was the only way it was going to occur.

Ms ARMITAGE - I was not going to stand up but after the member for Windermere I think I will. I will support this. I am pleased with the amendment. I thank the member for Murchison for the work she did because I had concerns. She put a lot of work into it, as did the member for Windermere. The main thing is we have the amendment. It does not matter who raised it; it is a good amendment and I support it.

Mr VALENTINE - I support the amendment because I think it goes quite a deal further than the original bill. I still have concerns that the entities involved have an interest. I know it has been considered that magistrates cannot be involved. That needs to be further tested.

The draft legislation we were presented with this morning during the briefing from the Australian Lawyers Alliance looked interesting. While not perfect, it indicated that was not something they thought an inhibitor, that there are other pieces of legislation that could go to a court. I am not convinced that it could not go through the court process, but this is far better than what is there at the moment. I support the amendment.

Ms LOVELL - We will be supporting this amendment. It does not address all our concerns, but if this bill is going to be passed, it needs to be as strong as it possibly can be. We will be supporting the amendment. We are not convinced this is the best way and, as the member for Hobart said, it has become evident there is another way that is possibly worthy of consideration and more time should be spent on that. This amendment is not enough to convince us to support the bill, but we support the amendment.

Mr DEAN - My concern is that the documentation provided by the commissioner in the amendment is not and will not be accessible to other parties. It will not be accessible to us in most circumstances. For instance, where the commissioner is going to take this course of action, will the commissioner be required to notify the OMCG he is taking this course of action? Will he be required to go to them and say, 'We have all this evidence and I am now going to make an application to the minister and go through the proper processes for you to be a prescribed organisation'? What is the process there?

Madam DEPUTY CHAIR - The member has another call so if he wants to finish asking his question I will then let the Leader respond.

Mr DEAN - At what stage is the OMCG advised of that? If they were then to come to us, as we represent them as well as we represent others, to simply say 'We believe this is unfair, the

information the commissioner is acting on is not right. We dispute that we meet the criteria under this legislation and as our member of parliament we want you to take our matter up.' The option then would be that I would seek the information the commissioner relies on in going to the minister and to the Attorney General. If I have no access of that, because I am confident I would apply under RTI and am confident the information would come back to me saying, 'This is privileged, confidential information and you are not entitled to it' -

Madam DEPUTY CHAIR - In 12 months.

Mr DEAN - You are right. I still have one and it is more than 12 months old now. I am concerned as to the fairness of this whole process, to a group that may believe they are being hard done by. How can we handle that and what can we do?

Mrs HISCUTT - Even with a search warrant you do not have to give all the information. The police just have to 'reasonably believe' for a search warrant to be given. The commissioner has made no bones about the five already there, so they are already forewarned. They know the commissioner is going to pursue having them listed, and if you call that giving them forewarning, well, yes - it is the commissioner's call.

Mr Dean - Those five are very clearly publicised; that is okay. What about, for instance, the one that the commissioner indicated this morning was going to set up here?

Mrs HISCUTT - To be clear, your question is: if the commissioner gathers enough intelligence to warrant listing a sixth group, you want to know what that information is?

Mr Dean - That is right.

Mrs HISCUTT - That would be the commissioner's call. Some of it may be very sensitive information. I am not a police officer; I am not a lawyer - I do not know. I am told there is sensitive information that is not divulged to the general public. Certain information would be able to be divulged, but you, member for Windermere, would be aware, more so than myself, of the nature of sensitive information. It could relate to children, all sorts of things. It is the commissioner's call. At this time he has identified these five, and that is all he is interested in now. If he has identified two others that may be moving here, if he can come up with enough evidence, that will be the commissioner's call.

My opinion is that the more we warn them off, hopefully the less likely they will be to come here. That is the commissioner's call. At this time he has been very open with the five he intends to list.

Mr Dean - I have a procedural matter, if I could raise it. I have other parts under section 4. This is only on the amendment.

Madam DEPUTY CHAIR - This is only on the amendment. This is the third amendment.

Mr Dean - Now I have three calls on the other matter.

Ms FORREST - Speaking to the matter the member for Windermere was referring to - about access to evidence that may be provided to the minister for Police and the Attorney-General - my expectation is that after the event, when we are in the review process of this, if there was thought

to be a group that had been inappropriately listed, it is, in the first instance, scrutinised by the Subordinate Legislation Committee, which can act promptly. The committee would have every right, as a properly constituted committee of the parliament, to conduct an inquiry if it wanted to, and to have a confidential briefing and request that document. The parliamentary committee requesting that document has power to do that. The minister would have to have a very good reason not to produce that.

Mr Dean - We thought he had the same power before to ask in the Hydro -

Ms FORREST - I know we have had challenges getting documents in the past. Let us take the Government on face value and hope we might have a better working relationship. I would like the Leader to address this. A properly constituted committee, either the Subordinate Legislation Committee, or Government Administration Committee A, which has police within its purview, could scrutinise matters.

While we do sometimes come up against stumbling blocks, there are times when, if the minister is confident the right decision has been made, why would the police commissioner or the Attorney-General not produce it? If they have made a poor decision, you may see a bit of resistance, which would again raise flags. I would like the Leader to comment on that. There are a couple of processes. The Subordinate Legislation Committee would be much quicker because it has the power to sit during the recess and adjournment of the parliament.

The Government Administration Committee can meet at short notice too, and by its own motion could establish a committee, so both can act fairly quickly. There is an opportunity there. Because this amendment puts in place a paper trail, there would be papers to be requested. That is why I asked for the amendment to include those steps of having reasons and evidence provided, not just having regard to the advice of the commissioner, which could be verbal advice the way the bill currently is without this amendment.

Mrs HISCUTT - I am sure the police commissioner would provide as much evidence as he could if he thought this particular group was a risk, to convince these two people along the way they needed to be -

Ms Forrest - And also a committee, if requested.

Mrs HISCUTT - And whatever he deems necessary to get that group listed to protect the community. I am sure he would give as much evidence as he could, but I cannot speak for him.

Your amendment here at the moment, (4F) says -

A recommendation of the Attorney-General under subsection (4E) is to be accompanied by a document setting out -

- (a) reasons for the recommendation; and
- (b) a summary of the other evidence ...

So, it is here.

Ms Forrest - That is the paper trail I am talking about.

Mrs HISCUTT - That is the paper trail.

Amendment 3 agreed to.

Ms FORREST - Madam Deputy Chair, I move -

Fourth amendment

Page 7, same proposed new subsection 6A, proposed subsection (5).

Leave out: The Minister may only recommend that an organisation be prescribed to be an identified organisation if the Minister is satisfied, having regard to the advice of the Commissioner, that ...

Insert instead: The Minister, the Commissioner and the Attorney-General may only make a recommendation under this section that an organisation be prescribed to be an identified organisation if the Minister, the Commissioner or the Attorney-General, respectively, is satisfied that ...

This is to complete the process we just agreed to in the previous amendment.

Mr GAFFNEY - This is possibly a process from OPC, but I want to understand it. At the bottom of the 'Insert instead', if you read it respectively, it goes -

if the Minister is satisfied, or if the Commissioner is satisfied, or the Attorney-General, respectively, is satisfied that ...

However, my understanding is all three members have to be satisfied so why is the word 'or' there, because that makes it a bit ambiguous - it might be two or three or one. It should have read 'and' or if there is an OPC measure, it should be 'and/or'. My understanding is the 'organisation be prescribed to be an identified organisation if the Minister, the Commissioner and the Attorney-General, respectively are satisfied that', otherwise I think it is ambiguous. All three of them have to be saying yes, it is, not -

Ms Forrest - The way it is written I see only one of them has to say yes.

Mr GAFFNEY - Yes. But 'respectively', the word the OPC has snuck in - I think just because of three different characters - makes it not quite clear and it would be better if it were 'and the Attorney-General', which makes very clear it is all three members, not just one, two or three.

Mrs HISCUTT - Did the member for Murchison pick that up in the amendments when she checked them?

Ms Forrest - Parliamentary Counsel said it made a couple of changes. I can get up the email, if you like.

Mrs HISCUTT - No, that is fine.

Ms Forrest - They just tidied up because they thought it needed -

Mrs HISCUTT - The Government is of the opinion it should be an 'and' and we are happy for all three, good pick. Madam Deputy Chair, you might advise how we can go around changing that.

Madam DEPUTY CHAIR - My advice is that is something that needs to be checked with Parliamentary Counsel before a tabled amendment could be made.

Ms Forrest - Do you want me to withdraw the amendment and come back to it?

Madam DEPUTY CHAIR - My advice is, Leader, we need to report progress because it would be difficult to come back to that through the bill.

Mrs HISCUTT - Is there any reason we cannot move to the fifth and sixth and withdraw that one?

Madam DEPUTY CHAIR - As I just said, we need to report progress. We cannot just move on. It would make it much cleaner.

Ms FORREST - Madam Deputy Chair, I believe I need to withdraw the amendment so we can report progress.

Madam DEPUTY CHAIR - Again, my advice is that the member needs to withdraw the amendment and that the Leader seeks leave to report progress. Then we will come back to the amendment.

Ms FORREST - Madam Deputy Chair, I seek leave to withdraw the fourth amendment.

Mr DEAN - In withdrawing this matter, I am not so sure that it needs to be done. If you look at the word 'respectively', I think that covers it so all of that must happen. 'Respectively' covers it.

Ms Forrest - I am sure OPC is working on its response as we speak.

Proposed amendment 4 was, by leave, withdrawn.

Madam DEPUTY CHAIR - We still need to get that advice, honourable member, and I appreciate that is a comment.

Mrs HISCUTT - Madam Deputy Chair, can we please report progress?

Progress reported; Committee to sit again.

SUSPENSION OF SITTING

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

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

Sitting suspended from 5.43 p.m. to 6.12 p.m.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

In Committee

[6.12 pm]

Resumed from above.

Clause 4 -

Sections 6A and 6B inserted

6A. Display of certain insignia, &, prohibited

6B. Search, seizure and forfeiture of prohibited items

Ms FORREST - Madam Deputy Chair, I move -

Fourth amendment

Page 7, same proposed new section 6A, proposed subsection (5).

Leave out: The Minister may only recommend that an organisation be prescribed to be an identified organisation if the Minister is satisfied, having regard to the advice of the Commissioner, that ...

Insert instead: The Minister, the Commissioner and the Attorney-General may only make a recommendation under this section that an organisation be prescribed to be an identified organisation if the Minister, the Commissioner or the Attorney-General, respectively, is satisfied that ...

Madam Deputy Chair, I will read the advice from OPC, then add a few comments of my own, but you will need to concentrate. As requested, here is OPC's explanation as to why proposed subsection (5) uses 'or' rather than 'and'.

Subsection (5), somewhat paraphrased, states in effect that 'the Minister, the Commissioner and the Attorney-General may only do *x* if the Minister, the Commissioner or the Attorney-General, respectively, is satisfied that ...'. The intended effect of the subsection, namely that the Minister may only do *x* if the Minister is satisfied as to *y*, the Commissioner may only do *x* if the Commissioner is satisfied as to *y*, et cetera, is achieved because of that powerful ornament in the drafter's jewellery box, the word 'respectively'.

When the word is combined with 'or', it is clear that the Commissioner doesn't need the Minister or the Attorney-General to be satisfied before the Commissioner may be satisfied; and neither may the Attorney-General only be satisfied if the Commissioner and the Minister are satisfied. Rather, they must each independently be satisfied. If the word 'and' were to be used, this incorrect wording would be suggested, even though it is logically impossible to say that the Commissioner may only be satisfied if the Minister is satisfied, when the Minister will only be considering whether the minister is satisfied after having

received the Commissioner's recommendation, and the Commissioner can only give that recommendation after the Commissioner is satisfied, and before the Minister has turned his or her mind to the matter.

I hope that clears things for the member for Mersey. That is the end of the explanation from OPC. What is important to remember here is that the minister does not actually make the regulation; the minister makes the recommendation to make a regulation, which is made by the Executive Council, as we now understand what that is. I believe the member for Rosevears understands that as well now.

The minister makes the recommendation, but the commissioner makes the recommendation to the minister following the process of the previous amendment we agreed to, and the Attorney-General also makes the recommendation to the minister following the process as agreed to.

I hope that it helps members to explain it but it was a good question to be asked, and the important jewel in the box of the OPC, 'respectively', makes all the difference.

Mr Valentine - While the member is on her feet, is that before it goes to the Subordinate Legislation Committee?

Ms FORREST - Yes, this is the front end. This process has to unfold before the regulation can even be recommended to be made.

Mr Valentine - It goes to the Subordinate Legislation Committee and then it goes to the Executive.

Ms FORREST - No. This is the front end. Before the minister can even consider proscribing an organisation or making a regulation as such, or recommending the making of a regulation, there has to be the process where the Attorney-General is also satisfied and has the information from the Commissioner of Police, and the commissioner has to satisfy himself or herself that the evidence is there. At that moment, he will provide that evidence to the minister and the Attorney-General, who both then need to be satisfied before the minister can then recommend to the Executive Council that a regulation be made proscribing those organisations.

Once the regulation is made, the Subordinate Legislation Committee will look at it and potentially if they were unhappy with a listed organisation on there, could then undertake an inquiry or at least have a confidential briefing and call for papers. These papers would be prepared in recommending the making of the regulation.

Mrs HISCUTT - I would like to thank the OPC for being on hand to write that explanation. I do not know how many times we have sat in this House and said it is a drafting style. This is a very good example of that drafting style with an explanation, so it is onwards and upwards, Madam Deputy Chair.

Mr GAFFNEY - I did preface my question beforehand by saying I was not sure whether it was a mistake or a drafting style. This is not only from the information that we have heard from the honourable member, I also had a phone conversation with OPC. They were very helpful and the penny dropped, I am quite satisfied, so thank you.

Amendment agreed to.

Ms FORREST - Madam Deputy Chair, I move -

Fifth Amendment

Page 8, same proposed new section, same proposed subsection, paragraph (b).

Leave out 'violence.'

Insert instead 'violence; or'.

Sixth amendment

Page 8, same proposed new section, same proposed subsection, after paragraph (b).

Insert the following paragraph:

- (c) may encourage persons to become or remain members of an organisation, the members of which may, by wearing or carrying proposed prohibited items -
 - (i) cause members of the public to feel threatened, fearful or intimidated; or
 - (ii) have an undue adverse effect on the health or safety of members of the public; or
 - (iii) increase the likelihood of public disorder or acts of violence.

This reflects the intent of the objectives of the bill as stated by the second reading speech, all the briefings we had, the advice from the commissioner and other police officers who have briefed us, that the key objective is to try to disrupt membership of the organisation, the recruitment to membership and the retention of members. As I said previously, it would be good to see the state look at ways of assisting exit from bikie groups where members are seeking to exit. I understand it is not easy to do. I encourage members to also support this amendment.

Mrs HISCUTT - I would like to read my notes as I listened to the amendment. The first thing I have put is it creates disruption. We agree on that. This does back up the intent of the police and the objectives of the bill. We have no problem with this one at all either, Madam Deputy Chair.

Amendments agreed to.

Ms FORREST - Madam Deputy Chair, I move -

Seventh amendment

Same page, same proposed new section, proposed subsection (6).

Leave out: whether or not the regulations ought to prescribe an organisation under subsection (3), the Minister ...

Insert instead: whether to make a recommendation under this section, the Minister, the Commissioner and the Attorney-General, respectively, ...

There is that lovely word again, the jewel in the crown of OPC. This is to complete that process to ensure that the three parties must be satisfied that a recommendation needs to be made to prescribe a particular organisation.

Mrs HISCUTT - As far as the Government is concerned, this does complete the circuit of involving the whole three. With all the other amendments, the Government is happy to proceed with this.

Amendment agreed to.

Mr DEAN - There are two issues I want to raise. First of all, on page 4 'identified organisation', when will an organisation that is going to be proscribed be notified that there is going to be an application or a recommendation that they be proscribed? Does it occur at all? Do they simply go out and wear their colours and get caught. Is the commissioner required to go to them and say, 'I have evidence to support the criteria within the act and I am going to do this. I need to notify you.'? I need an answer to that question.

The other question was raised during the second reading. Let us look at the five organisations that will be proscribed should this legislation get up. Are members required to commit a criminal act to be a fully fledged member of those organisations? I thought the police might have had that information. They might well have addressed it during the briefings, I am not sure now.

Mrs HISCUTT - With the first part of your questions talking about notifications, we are struggling to understand where you are coming from. Are you trying to say that the commissioner is going to write a letter to the president of a particular club to say we are looking at you?

Mr Dean - No, all that I am recommending to the -

Mrs HISCUTT - You are asking whether the police commissioner is going to make direct contact with the president of an OMCG.

Mr Dean - No, the question I am asking is, what is the process to let that outlaw motorcycle group know they are being proscribed. Surely there has to be a process somewhere that something has to happen.

Mrs HISCUTT - They are an outlaw motorcycle gang. I do not think the police will tap them on the shoulder and say, 'I am putting you on the list if you are not going to tidy up your act'. Please correct me if I am wrong, but there will be information. I have been advised it will be in the *Gazette* if a group is proscribed and, there will probably be social media activity. Before they will be proscribed, there is a threshold of evidence that needs to be gathered, before these three people can put them on the list.

You are trying to ask if there will be any formal notification from the commissioner to a particular group to say we are looking at the list or about to list you. I cannot talk on behalf of the commissioner, but in the meantime before he has got to that point, the police have gathered intelligence, evidence, everything they need to give to these three gatekeepers, before they list them. You are asking me whether the commissioner is going to formally advise an OMCG of his intent to list them.

Ms Armitage - Give them natural justice.

Mrs HISCUTT - I would have thought the commissioner has let the natural justice work its way through. It would be the threshold of evidence he has gained. I am speaking to the member for Windermere. A crime is committed and whatever the police need to convince these three people that this group will be put on the OMCG outlaw regulations. The commissioner has already given the five that have been prescribed notice. They have notice. During our briefings he did mention two others. I should imagine he is not going to be secretive about it. If there is a group coming this way we are looking out to outlaw, it will be in the media everywhere.

You also asked if to be a member of an organisation members are required to commit a criminal act. Just as your rights of passage, I am informed a lot of these nominees, prospects, are convicted of robberies. They are convicted of assaults and are given free Harleys and things like that. What happens within the specific groups themselves, member for Windermere, there is no list. I cannot say these prospectives are expected to do some of the dirty work of the elders. That dirty work does involve robberies, extortion, distribution and the police have to gather that information, which comes back to your original question. They gather evidence and prosecutions to present to the three gatekeepers to make sure things are at the highest standard before they are listed on the OMCG list.

Mr DEAN - I am no supporter of outlaw motorcycle groups. I said that very clearly in my second reading speech contribution because the ones we are identifying are involved in criminal activity. I am interested in natural and fair justice.

The reason I keep asking how notification will be provided is it would be a terrible injustice if the way they find out is, if we take the organisation identified this morning, they are publicly wearing their colours when all of a sudden the police rock up and take their jackets and do the other things they are required to do. It is an injustice if they are not aware that they are now a proscribed organisation.

I do not think you can answer the question of whether or not all members in an outlaw motorcycle gang, for instance, the Bandidos, the Outlaws, the Black Uhlans and the other groups, have to commit a crime before they are accepted as full members of the club. If you cannot answer it, that is okay. I will accept that and we can move on.

Mrs HISCUTT - The commissioner advises that we will make them aware after the regulations have been made so they know they cannot break the law. He goes on to say he is happy to advise their club after the regulations have been made. A process will be put in place to make sure that happens.

Madam Deputy Chair, this shows the commissioner is a believer in this. He is waiting to see how this is poised. The police have come to the Government looking for this; the Government has not gone to them asking what they want. It is not a government policy. It is something that we are trying to put in place because it has been asked for by the police as another tool in their toolbox.

This may be just a small thing with a fine of just over \$3000. You lose your jacket. As was pointed out to me earlier, you get bigger penalties for not having your trailer connected properly to your car.

This is a means of disrupting these five groups and any groups that try to move into our state to do criminal activities. I urge members to really consider this.

Ms LOVELL - To clarify that point, Leader - I might have missed something at the beginning of the member for Windermere's question - we all believe that the activities undertaken by these outlaw motorcycle gangs need to be reined in and that tools need to be given to the police to do that.

I also appreciate the level to which the commissioner and the advisers have gone - which has been demonstrated this evening - to inform us fully about this bill.

We go through the process of the minister, the Attorney-General, the commissioner following the process as amended by the member for Murchison. That recommendation goes into the regulations and then the Subordinate Legislation Committee has a chance to review it.

There is no requirement in the legislation for those organisations that have been identified and put into the regulations as an identified organisation to be notified. So there are people out there that may not be keeping an eye on the *Gazette* that have the potential to be fined a significant amount of money by wearing their colours, but might have no idea that that has happened.

Am I correct in that understanding? This is one of the reasons why our position is that there should be a more stringent process through a court where you have an opportunity to respond to the allegations.

Mr Dean - Probably worse still, once it is in regulation, the regulations are law. It is law by the time it gets to Subordinate Legislation.

Ms LOVELL - We have a process for the Subordinate Legislation Committee to review, but you are right that the damage is done.

Mrs HISCUTT - The Subordinate Legislation Committee has the power of disallowance. I have seen them try to disallow before, but it has been very complicated. I cannot see this being complicated. It is one group and you either say yes or no. All power to the Subordinate Legislation Committee.

Ms Lovell - But after the feedback.

Mrs HISCUTT - You can tell by the feedback all members have received from the mainland and from here people are aware of it already. People within that group are aware of it already and fighting very hard not to have it go through. Much of the feedback has come from the mainland.

Mr Willie - Do you know for sure?

Mrs HISCUTT - I have been informed.

Mr Willie - I do not think anybody can tell where it has come from.

Mrs HISCUTT - I have been informed some of it has come from the mainland. Let us say it is all Tasmanians, member for Elwick. I would say nearly every Tasmanian who has a motorbike is aware of it. We were inundated with emails. The commissioner has made his promises; this is just another tool. It is harder if you get caught not having a trailer connected to your car properly.

This is an insignia on your back. Someone said it is a big fee, but it is only just over \$3000. They might not get that much and these people have a lot of money. We have been through this debate and do not have to do it here again. You all understand this and we have had the briefings. This is just another little tool in the toolbox of the police to help them fight OMCGs already here and those that may be moving here in the future.

Ms LOVELL - With respect, Leader, you have not answered my specific question which was, is there any requirement in this legislation for these organisations to be notified? I am not suggesting the commissioner would not notify them, that there would not be previous conversations happening. With these groups we are talking about now, my concern comes back to what we have been saying all along, that this legislation needs to stand the test of time. We might trust right now it is going to be done the way it has been described and the way the commissioner has described to us. The bottom line is, the way I read it, and the question I am asking you is, the legislation allows for an organisation, whether that may be a motorcycle gang or whoever, provided they can meet this quite low bar to be identified as a proscribed organisation. That might happen and that organisation could not be identified. They might not be keeping an eye on the *Gazette*, there might not be media around it, it could happen it goes to Subordinate Legislation, and they do not know there is an issue because nobody knows to contact them about. My question again: is there any requirement in the legislation for these organisations to be notified?

Mrs HISCUTT - There is no requirement in the legislation as you can see in front of you. There is nothing there. The five groups have already been identified, they know. Any other illegal OMCGs that come into the state will be aware we have those laws and that is why they are moving down here from the north, because of the laws up there. I will challenge you on the low threshold you talk about. The police have to produce evidence and the summary of everything they have, and then they have three bars they have to jump before another group is added to the list. It is quite a high threshold because they have to satisfy the highest lawmaker in our state.

Ms Lovell - It is not three bars though, just three people with the same -

Mrs HISCUTT - It is three levels they have to go through. We were also briefed earlier by the Tasmanian Motorcycle Council; they have between 50 000 and 53 000 members. Surely, it would be in their interest, if nothing else, for them to notify whoever they are talking to.

Mr Willie - How are they supposed to know if you are not notifying anyone?

Mrs HISCUTT - How are they supposed to know?

Mr Willie - You are not notifying anyone.

Mrs HISCUTT - I think the police are gathering evidence; they are gathering everything they need and I think an outlaw motorcycle gang that is not aware of its situation is obviously not an outlaw motorcycle gang and will not be targeted.

Ms ARMITAGE - I understand what you are saying, Leader, but I think you really need to confirm - or if you cannot confirm, you need to take notice and sit again - that if a club is a proscribed organisation by the police, they need to be notified. You cannot rely on social media to let them know they are a proscribed organisation. It is not natural justice. The members of that club need to have something in writing from Tasmania Police or from someone to say that they have been identified as a proscribed organisation and they cannot wear their jackets. There has to be something, surely, to let someone know. If I get charged speeding, I get something in the mail to tell me that I have been fined.

Ms Forrest - After the event.

Ms ARMITAGE - After the event, but -

Ms Lovell - But you knew it was the law.

Ms ARMITAGE - If I get pulled over then, I still know I have been charged. We should not be relying on the media or social media. These five that have come up, Leader, that you have said have been identified, might not meet the requirements. You might find that the Attorney-General, the minister and the police commissioner change their minds and they might only proscribe four, by the time you have gone through the evidence. Surely it stands to reason they have to be notified.

Mrs HISCUTT - I reiterate what the commissioner has said. He said, 'We' - and he was speaking for himself - 'will make them aware after the regulations have been made, so that they know that they cannot break the law'. Once the regulations are made they will be told; they will then know that if they get caught with their patch on, they might fall foul of the law - so they will know. He also says he is happy to advise the clubs after the regulations have been made. He said a process will be put in place to let them know if they are regulated. This is the same as every other law in the state.

I am seeking more advice. The commissioner also says he is happy to write to them to advise them that the regulation has been made but not in law. To write to the club president - this is the commissioner saying this. He is putting it on *Hansard*, making the commitment that he is happy to write to the clubs. He says he will write to them to advise when the regulation has been made but not in law, which means that gives them the opportunity to know that.

If you are making any law, you put the law in and then you work from there. That happens with all laws. Now the commissioner has decided that he is going to intervene where it is not normally done to tell them that they will be listed, but before the law is made. So they have that opportunity in the middle to know what the law is.

Ms ARMITAGE - I accept what you are saying, Leader, but I am concerned with a couple of words. The commissioner is happy to let them know. I think it should be a requirement that if you are a listed group, if you are a proscribed organisation, that you cannot wear your colours, it needs to be official that they get a letter from the police - it does not have to be the commissioner - to say 'You have been listed as a proscribed organisation, so your members cannot wear their colours.'

Mr Dean - The only way it can be a requirement is it needs to be in the legislation.

Ms Forrest - We have taken the commitments of the Government on other things.

Ms ARMITAGE - Apart from that, I also believe that there should be a type of amnesty for a short while for members to realise so they can at least get a warning. As natural justice, any organisation that is a proscribed organisation has the right to know and not to hear it through the paper, social media or somewhere else. They should get a letter saying that they are a proscribed organisation. At least they have the chance to defend themselves then and go and lobby, or whatever they might decide to do - whether they want to come back to the Subordinate Legislation Committee to try to have something overturned, if they do not feel they meet the requirements, they need the opportunity.

Mrs HISCUTT - The commissioner has made the undertaking he will do that. This Chamber has taken many things on the undertaking someone is going to commit to do something. I cannot see what the difference is here today. You speak about an amnesty. The amnesty period is from the time it is listed on the regulation to the time it goes into law. The commissioner has said he will contact those groups; he will tell them and they will have an amnesty. He has made the commitment. It is in *Hansard*. There is nothing much more I can say.

Mr WILLIE - We have a duty to pass legislation that will pass the test of time. That is a commitment from the current commissioner. I put on the record I deeply respect the current commissioner and do not doubt his word. But what happens in 20 years time with a different commissioner and the legislation still in place? That is the issue here.

My second point is: when will the commissioner inform the organisation? Will it be before or after it goes into regulation? If they do it immediately and it goes into regulation, and you are saying there might be an amnesty, there is not really natural justice there at all. The first point I made is really key. We have commitment from the current commissioner, but it is not going to stand the test of time, it needs to be in the legislation when circumstances change.

Mr Dean - Can we report progress? It is only a small amendment: there is not going to be much in it.

Mrs HISCUTT - There are a couple of things, with the minister in the room, which is very opportune. Thank you, minister, for being here. The first point, of course, is that if this is such a wonderful idea, why did Labor not move it in the other place? Why did you leave it till it came here? The second point is we might move to report progress while an amendment is drawn up to that effect. At this stage, we will have a dinner break and come back as soon as that is done.

Ms FORREST - We have not moved that yet. I want to speak to the conversation being had at the moment around this. It is a sensible idea to put in place a process in the legislation to do this; that is fine. I want to correct something you said, Leader, in regards to the Subordinate Legislation Committee. The Subordinate Legislation Committee itself does not have the power of disallowance -

Mrs Hiscutt - Sorry, yes, it can move it.

Ms FORREST - No, it cannot. The Subordinate Legislation Committee can report to the parliament. The parliament must move a disallowance motion. There is a process and I am trying to make it clear how it works. You read the message from the commissioner and said the motorcycle gangs would be notified before it was in law. What that tells me is the only way to achieve this is to have a commencement date in the regulations - that is, after the gazettal date. The only way you can do it is with regulations - if it says they commence on gazettal, they commence on gazettal. If

the commissioner is going to notify them after the regulations are made, you have to have a later commencement date than the regulations.

Drafting an amendment is never simple. Being made late in the piece is always risky. We need to be careful. I am sure OPC are well aware of how all this works, but maybe between gazettal and the commencement date of the regulations, the commissioner will inform any proscribed organisation of a decision to proscribe it in regulations. Timing is important otherwise you cannot do it, if you understand how it works. OPC will be watching and understanding this. If you are going to notify them between when the regulations are agreed to and when they are made, it has to be in that period before they commence.

The only way to disallow them is for a motion to be brought back to the Chamber, unless you use what I would classify as the emergency powers under section 9

DEPUTY CHAIR - While the member is finding that, it is just one Chamber of parliament for a disallowance and one Chamber only, so members understand.

Ms FORREST - That is right. The emergency powers under section 9 to report when parliament is not sitting, gives the committee the capacity to notify the Governor-in-Council that they want them amended or rescinded, or to take such action as is necessary for the purposes of suspending the operation of regulations until both Chambers can deal with it.

That is the process that would be undertaken if parliament were not sitting, which is reasonably often. When the amendment is being drawn up, it needs to reflect that it can happen before the regulations are in force but after they are agreed. OPC will work it out.

Mr VALENTINE - I agree that it needs to be in the legislation that the group to be notified. It was mentioned that the commissioner would notify but would also provide an amnesty. That should not be on the commissioner's say-so, that should be in legislation as well. What is the Government's attitude to that? If you are going to get an amendment drawn up, and it is something that needs to be in legislation, will you include that?

Mrs HISCUTT - To clarify, the commissioner has said that from the time the regulations were made to the time until it was put in law is the period during which he would inform the OMCGs. It was not an amnesty as such in terms of an amnesty, but a period in which the OMCGs could be notified before it was put into law. Addressing that as an amnesty period is probably not the right term as much as a period the commissioner has before it comes into law. Calling it an amnesty in the terms in which you were talking is not the right context.

Progress reported; Committee to sit again.

SUSPENSION OF SITTING

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

That the Council suspend until the ringing of the division bells.

This is for the purpose of a dinner break, probably an hour, returning at 8 p.m.

Motion agreed to.

Sitting suspended from 6.54 p.m. to 8.01 p.m.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

In Committee

Resumed from above.

Clause 4 -

Sections 6A and 6B inserted

6A. Display of certain insignia, &, prohibited

6B. Search, seizure and forfeiture of prohibited items

Mr DEAN - Madam Deputy Chair, I move -

Eighth amendment

Page 8, proposed new section 6A, after proposed subsection (6).

Insert the following subsection:

- (6A) Regulations for the purpose of subsection (3) that prescribe an organisation to be an identified organisation are of no effect until a notice, setting out that the regulations have been made and the effect of the regulations, appears in 3 newspapers circulating generally in the State.

Madam Deputy Chair, in speaking to that amendment, there has been much discussion on this matter but, to add to that, my concern was natural justice and fair justice, irrespective of who the subjects may be, whether an outlaw motorcycle group or somebody else. That is my position and that is the reason I raise this - to identify whether they were going to be notified or not going to be notified. I want to know the situation.

I appreciate the support and I should say, when I first raised the issue I did not anticipate the interest it would create. Now I am not really surprised because, for an organisation, whether an OMCG or not, not to know of its listing, which could result in an arrest, the confiscation of property and a fine, albeit a relatively small fine, but as somebody has said, to some, \$3000 is not a small fine -

Ms Armitage - Yes, it's considerable.

Mr DEAN - It is quite considerable. I think they are entitled to know what the position is and clearly before that situation arises.

The Commissioner of Police is here now with us again, which is an indication of his strong support for this legislation. That is admirable. What the commissioner has done for the state is

commendable. I have every faith in the commissioner doing what he says he would do - that is, to notify an organisation if it was proscribed.

The member for Elwick raised a valid point as well when he said the commissioner we have now will not always be the commissioner and therefore there needs to be a legislated position to ensure that notification occurs.

There was some discussion with OPC as to how this could best be done. It was identified in the first place that notification of the secretary or the president could be the way to go. With further discussion around that, it was determined, no, because the president or the secretary may not be in the country for a start - they move around fairly frequently - and that is one reason they need listing - their criminal activities require them to move around a lot. They may not be available. Furthermore, the president or the secretary, whoever was identified to be notified, may not necessarily notify all members of his group in any event. It was then identified that the best way to do this was by notification in the three main circulating newspapers in this state and that must occur before the regulation became law. That is why it is written the way it is.

I ask members to support this legislation. I am not sure where the Government will go. It may well support it. It satisfies my needs that there will be notification provided.

Mrs HISCUTT - Before we get into the substantive debate, I thank the commissioner for coming in. You have shown a lot of attention to this all the way through with your texting.

With regard to this particular amendment, I am informed OPC was listening in and had a good grip on what was necessary and what was to be achieved out of what was being proposed. They did discuss a few different ways but decided that this is the best way forward: to put it in the paper because that way every member of a club, even if one or two picked up on it, would spread it around so all members of the club would then know about that.

The idea of writing a letter to a particular person could not guarantee that all members of the community would know. We decided this was probably the best way forward.

The commissioner and the Government are in agreeance with this proposed amendment, mainly because it achieves the member's intention that all members of the motorcycle club would then see it. As with all other notifications we put out, we will put it into the three regional papers so it will go to all of them.

Ms ARMITAGE - Thank you, Leader. I do not want to be difficult here; however, while I agree it is probably good to have it in the three newspapers, it is only right and just to notify each club as well, in writing.

If I was in that situation, whatever charge I had, I would not want to read it in the newspaper if I had not received something. Yes, it is great to have it in the newspaper and I agree with that. But in the circumstance that these clubs are being proscribed organisations, it is only right and just that they get a letter. The commissioner said that he would write and that is fine. We are very happy with this commissioner. He is great, but in 30 years time, we do not know. Legislation stays for a long time. It needs to be somewhere that it is the right thing to do to notify a club that it is a proscribed organisation. It is fine to put it in the paper as well, but surely it is the right thing to do to let them know as a club.

Mrs HISCUTT - As the commissioner alluded to earlier in his texts to the advisers, there is that window of opportunity from the time the regulation is made, before the time it is put into law, and the commissioner has given a thorough and firm undertaking that he will notify those clubs.

Ms Armitage - That is this commissioner, and we accept that.

Mrs HISCUTT - I know what you are indicating but normally, with everything else, if the Government is expected to inform the community, the three local newspapers seem to be the way with this.

By putting this in the newspaper, two or three members of the gang will see it and this is a second safeguard on top of what the commissioner has said he will do.

To add to that, the commissioner would like to say we should note the changing nature of the written communication. Most of it is done on social media. It seems to be less and less letters. There is email; the commissioner has already said he would do that.

The newspaper is firm; it is online - it is there and it will be there, and these members will be notified they are going to be listed and it is going to be in legislation. Social media will be a backup, plus the undertaking the commissioner has made.

This is in the legislation but it seems to be a fine, right medium of communication for all other things that need community notification.

I really think that is adequate. The member who is the mover is happy with it. He feels it addresses all his concerns with notifying all of the members of any proposed group. I urge members to support the amendment.

Ms ARMITAGE - Thank you, Leader. I accept what you are saying about media for community announcements et cetera, but this is not a community announcement. This is something members of that group can get a \$3000 fine for and have their colours confiscated. I understand putting it in the newspaper; I do not have a problem with that. It does not matter who they are in the community, it would be respectful if it is possible they will get a \$3000 fine for being a proscribed organisation, that we at least send them a letter and tell them.

Mrs HISCUTT - Public notifications in the newspaper are generally the way to notify anybody of most things nowadays. It is the usual way of notifications. Things like traffic rule regulations are done by public notice. Not every member who has a car is written a letter.

Ms Armitage - That is general, this is -

Mrs HISCUTT - This is to a general group of people. There are many diverse ways of communicating with these groups and the commissioner is going to use every way possible outside of this legislation, as well as what he is legislated to do.

This is plenty to notify anyone something is going to happen. The commissioner has undertaken to do it, plus it is in legislation, and it addresses the member's chief concerns that all members should know. This way, all members will know.

Mr VALENTINE - If I were running a shop in Hobart and all of a sudden the Hobart City Council decided they were going to close me down because I did not meet a certain stricture or whatever, I would be notified by letter. This is not a general public thing; this is a specific organisation. I am with the member for Launceston on this. It is a specific organisation; it is not the general public being notified. More than a courtesy is needed here. They have to be told as a group that they are now listed. Just on the off-chance they might see it in the *Gazette* or in the newspaper - I bet they do not all go and read the classifieds in the newspaper that often. It does need a specific letter to them.

Yes, it might be that their secretary is overseas or the president is not contactable, but they would have to have a post box or a contact address, and you would expect to notify them.

Mrs HISCUTT - The commissioner has already notified, or there has been notification in the media of these five already. It is no secret. During our briefings the commissioner suggested two other outlaw motorcycle gangs/clubs/groups are looking to move into Tasmania. Sending one letter to one person in one of these clubs is not going to achieve the outcome the mover of this motion desires. I think a notice in the three papers as per most other things we do here is probably more than sufficient, with a backup that the commissioner is going to notify them anyway.

This is just a patch on a back. That is all we are talking about. It has a minimum fine of only \$20. It is not as bad as having a trailer not connected to your vehicle properly. It is minor. It is just another tool in the toolkit for our police to use when they are fighting these gangs. They need everything that they can get.

Ms Armitage - I am not arguing that. I just think we should let them know.

Mrs HISCUTT - Mail is not always read. They do not always notify people about their activities and they will be spoken to. If there is an argument about who received a letter and who did not, this is definitive. This is in the paper; there are no choices; it will be there. There is no argument. Everyone will see it. I urge members to support this amendment.

Ms LOVELL - I want to thank the commissioner for coming in. We appreciate how important this tool is to the police force. We support the police and we support the intent of this bill, but we do not believe this bill is the right way to do this. I thank the member for Windermere for taking the lead on this amendment and taking responsibility for it. I appreciate the effort you have put in to drafting this amendment, but we cannot support this amendment. The amendment talks about three newspapers circulating in the state. We have talked over and over again about the need for this Chamber to pass legislation that stands the test of time. How can we know that there will always be three newspapers circulating in the state? That might sound flippant.

Ms Forrest - They might take away Fairfax.

Ms LOVELL - Exactly. It might sound ridiculous, but it is an example of how, when we are scrambling around late at night at the last minute trying to fix this legislation, we will end up making mistakes. We will end up drafting amendments that are not robust, that do not improve the bill. The comparisons to speed limits and being notified when you receive-

Mrs Hiscutt - It happens in many laws.

Ms LOVELL - It does happen in many laws but this is the point - they are the laws. It is well publicised that the speed limit is the speed limit. It is well publicised that if you break the speed limit you will receive an infringement. There is no requirement for it to be well publicised that any particular organisation is an identified organisation and therefore will incur fines for displaying their insignia. It is not a fair comparison. You cannot say it is the same thing. Everybody knows what the speed limit is. If you want to know the speed limit you can go and look it up and it is there. It is explained to you when you go for your licence. Everybody knows what the fine is. This amendment does not provide any time period for there to be notification before these regulations take effect. This could happen the next day. It could go into regulations, the notice could go in the newspaper the next day and then it takes effect.

So this does not satisfy our concerns. It might satisfy the concerns of the member for Windermere. As I said, I appreciate the time and effort he has taken on this. It does not tell us in what form this notice will go in the newspaper. Will it be an ad? Will it be a public notice? Do public notices go online? The member said herself two or three members will see it. We do not know that; we cannot be sure of any of that.

Mrs Hiscutt - By interjection, with a letter, one member would see it.

Ms LOVELL - The reason for any other restriction like this is generally there is a court process and that is why there is a court process, so there can be a summons issued, there can be adequate notification given, and people have an opportunity to respond. My concern is we are scrambling to try and fix this legislation. We are doing it at the last minute, we are adjourning, and we are going away and trying to come up with amendments to fix it. It does not address our concerns; this comes back to the root of the concerns we have had with this legislation the whole way through. For that reason we cannot support this amendment.

Mrs HISCUTT - We feel this amendment is fine. What we are trying to do here is be fair. These amendments are trying to be fair to a group of people who do not play by the rules - they are not fair, and they have no concerns for the public whatsoever. This is going to notify them. It says 'circulating generally' in Tasmania and does not necessarily mean the printed form. As you know, most people get their media now in many forms - every time you look at your phone there is news popping up. This will be generally advertised and the commissioner has undertaken to do the step in the middle. This is quite adequate to get the message out to all the groups, if they are going to be listed. I urge members to further think about this amendment and vote for it.

Mr GAFFNEY - I partly agree with the member for Rumney. You should not name three newspapers. If you say major newspapers -

Ms Forrest - All daily newspapers.

Mr GAFFNEY - It then covers changes that might happen. The member for Rumney has overemphasised how hard it is to make amendments. We have only had two lots of amendments and if you go back to the forestry bill, we had 1000 amendments. It is more trying to undermine the process that there has been so much going on and it is such a bad deal, so I do not buy into that. The Leader on a couple of occasions said, 'This is just about a patch, this is just about insignia'. It is not; it is about people's rights and civil liberties. What is perceived as just being about a bag or a piece of clothing is not - it is about an infringement on people's rights, so we should not trivialise the situation.

I agree with part of your presentation. I agree with the intent but the three is an issue that does not need to be there for the longevity of the bill. If the member could come up with wording instead of the number, I would support that.

Mrs HISCUTT - I would like to clarify 'just a patch'. What I meant to say is the bill is only about a patch; it is not about collusion laws or anything else. It is just about the patch. I was not trivialising anything. I am sorry if you misunderstood me. I am not saying 'just a patch'; I am saying the bill is only about a patch and a fine for wearing it once you are outlawed.

Mr DEAN - This is, with the greatest respect to this place, where we have this wrong. I have raised this before - the mover of an amendment ought to be the person defending the position. The Government gets up, it supports it or does not, but the mover of the amendment should be able to get up as many times as they need to, to defend their position. We need to address it.

Madam DEPUTY CHAIR - Honourable member, we will have to address that at another time. We have rules in place at this point in time. You are on your second speech.

Mr DEAN - I understand that. I want to thank OPC for what it has done in giving advice and putting this together. I did not do that before. I urge members to support the amendment as it is. First, I address the daily newspapers. If we suddenly find there are two papers circulating, amendments can always be made. I cannot see that being a big deal. You cannot circulate it in three if you only have two.

I have changed my tack since I spoke earlier this afternoon, but to notify an individual from an outlaw motorcycle group is not always easy. I referred to that previously. Ensuring you have the right address for them is not always easy, so where do you send the correspondence to? A number of these people give other addresses. They do not necessarily always identify their home, for obvious reasons. I think the police would support that. That creates problems.

If the president or the secretary is aware of what is going on - I suspect they probably would be because there would be publicity about it - they would probably do whatever they could to avoid receipt of that letter. How is it going to be done? Is it going to be done by certified mail? Is it a letter the commissioner writes that is delivered to these people? How is that to be done? Through the normal post?

As the amendment is now written, if the regulation does not come into being until this notice is served or provided, it could go on indefinitely. The regulation might never become law. They could avoid it. If you think people are willingly waiting for summonses and letters from the police and other people, really you are living in a different world to the one I live in. They do everything possible to avoid any correspondence or any notification that is not in their best interests.

I ask members to take that into account. We can never be assured that the president or the secretary, or whoever that person might be, will notify all their members. If at the end of the day, this does not work - and I do not think it is going to happen that often - we can always come back and make other amendments to satisfy it.

The amendment, in my view, is good. We discussed it at length. It was discussed with OPC at length. Tracking these people, finding their home addresses is not easy. They do not normally willingly come up and say, 'I'm a member of the outlaw motorcycle group and this is where you are going to find me'. It does not quite work that way. It works for some but not with those who are

living outside the law. It does not work the other way with them. I ask members to really take that into account and consider it, and I urge them to support the amendment as it is.

Mrs HISCUTT - The commissioner would like everyone to know that even though the member for Windermere has not been in the police force for a long time, the situation is exactly the same. We urge you to bear those words in mind.

Ms FORREST - When I saw this amendment come through, I thought this is not what was discussed specifically in the Chamber. It was about the commissioner undertaking to contact members of the organisation. However, I can accept the premise that if you write to one person, it could just end up in the bin and no other members might find out. In addition to doing that, whether it is through legislation or by commitment, we accept we have had, in the past, an enormous amount of commitments on the Floor without getting an amendment. I think while we are digging in here particularly, we have done it time and time again and it relies on key person dependency to do it. We have accepted the Government's word so many times, so why not now? Do we not trust this Government any more than we trusted the previous one? Maybe we do not.

Mr Valentine - It is an individual organisation.

Ms FORREST - No, it does not matter what it is. We have relied on commitments made in the Chamber on behalf of the Government for someone or something to be done. That is one point.

The other point here is, as we all know unless you have been under a rock, Channel 9 took over Fairfax recently. I reckon it is only a matter of time before we have one northern newspaper because people are losing jobs already. We talk about the need for longevity of legislation. People around the Chamber have talked all about that tonight. This legislation will impinge on people's rights, so we need to be careful that we make sure we give them a fair chance to find out about it. Legislation needs to be robust. In my view, this would be simply changed and I have suggested, by text, to people over there that maybe this could be amended - and the member who moved the amendment was on his feet at the time - to say 'all daily newspapers circulating in the state'. That would make it clear that there may be two, there may be one, there may be five, but the daily newspapers as circulated. If you put 'newspapers circulating throughout the state', that could be the *King Island Courier* and the little paper in the north-east - sorry, but I cannot remember the name of it.

Madam DEPUTY CHAIR - *The North Eastern Advertiser*.

Ms FORREST - Yes, that is the one. They are not dailies; they are weeklies. People understand very clearly what a daily newspaper is. The Leader pointed out that some people do not read newspapers in hard copy, they go online to read them. I do not recall seeing a public notice online so this is a bit of a change. People are relying on -

Mr Valentine - Classifieds.

Ms FORREST - I suppose they are in the classifieds. I never go to the classifieds online but they would probably be there. I guess the Leader can address this, but I would expect the minister of the day to put out a media release with this notification that goes into the newspapers saying 'This is what we have done' because there is interest in it. It is important that everyone is aware, particularly the members of these groups that are being targeted. I use 'targeted' because that is the way it is. Not only should there be a notice in the paper that may or may not be seen, because sometimes people do not read the notices - they just read the sport section, or whatever - but if there

is also a media release, this is the sort of thing that the media will cover and I agree with the Leader reflecting the commissioner's views that social media is the best tool. Tasmania Police's Facebook page - the commissioner may be able to inform the Leader of how many followers or friends it has -

Mrs Hiscutt - It's 170 000.

Ms FORREST - That is 170 000 people who engage with the Tasmania Police Facebook page.

Mr Gaffney - Is there a section that says 'Not friends'?

Ms FORREST - Yes, that is probably where I am. I am just asking. These people involved in OMCGs are engaged. They know how to pull strings; they know what is going on. We need to be a little sensible here. The member for Windermere was critical of people talking about the risk of listing a football club or a netball club or whatever, and saying how ridiculous that could be. It is ridiculous to suggest there will not be media attention around this.

I am happy to support this amendment, but with an amendment to the amendment, to include all daily newspapers instead of three. It is longevity. I am not sure what the process is for that. I am happy for the Leader or anyone to do it - I do not mind - but it will give the bill longevity and make it clear. It will clarify many of the points raised.

Mrs HISCUTT - We have been discussing that while all this has been happening and we have had advice. To have daily newspapers, we are advised it could be *The Australian* or *The Herald Sun* or any of those.

Madam DEPUTY CHAIR - Circulated locally?

Mrs HISCUTT - But wait, there is more. We have a proposed amendment that might suit everybody.

Madam DEPUTY CHAIR - We will listen to what the Leader puts forward and depending on the technical aspect, whether it could be a tabled amendment or not, we will advise after we hear what the Leader has to say.

Mrs HISCUTT - We could replace the words, 'appears in three newspapers circulating generally in the state', with, 'appears in at least two daily newspapers circulating generally in the state.'

That brings it to the state and it brings it to newspapers.

Mr Dean - Run that by me again.

Mrs HISCUTT - The original one we discussed is, 'it appears in daily newspapers, circulating generally in the state.' It could have meant any newspapers. It could have been *The Australian*, *The Herald Sun* or any of those.

We can replace the words, 'appears in 3 newspapers, circulating generally in the State' with 'appears in at least two daily newspapers, circulating generally in the state.'

Madam DEPUTY CHAIR - My advice is it should be put in writing for all members to have in front of them so they can see. Ideally it would need to be an OPC amendment to the amendment or least typed up and circulated to all members.

Mrs HISCUTT - We will type this up and put it out to all members once we are all happy with it. In the meantime, I am happy for discussion to occur if that is the process of the Committee.

Mr VALENTINE - This is not something that will affect just this bill. It will affect thousands of bills circulated in the three Tasmanian newspapers. This is a general thing which the Government should take care of in one fell swoop in general legislation. I do not think we should fiddle about with what is here, which is what Parliamentary Counsel has put before us and which is general in just about every bill that has anything to do with notifications. I raised ages ago the fact we are now getting into the digital realm. What are we going to do? Is it only going to be in newspapers? Why is not digitally run? Why is it not *Tasmanian Times* or those other information sources people read when they do not read newspapers? This is a general thing the Government is going to have to correct.

To get back to the issue at hand -

Madam DEPUTY CHAIR - That would be very wise.

Mr VALENTINE - It would be very wise. Then we will not have to worry about how this is worded. It could be a general thing the Government takes care of in a short space of time. That is the first thing.

I hear what the member for Murchison said about officers giving undertakings, but generally they are one-offs and not into the future. It is not binding. It might be something the commissioner does today, but will it bind the next commissioner or the next? It will not. The issue about sending it out and not knowing where you are going to send it to, member for Windermere, it is that you use the last known address. You do not send by registered post; you simply send the notification.

Mr Dean - I would like you to give me the last known address of most of the criminals around the place.

Mr VALENTINE - No, I understand what you are saying - the last known address - the last address known for that organisation. It is up to them to notify their members - you are only notifying the organisation, not individual members. That is the point being made.

Mr Dean - To get to them.

Mr VALENTINE - Yes, but that is up to them. You send it to the last known address and you are covered.

Mr Dean - The problem is they do not have last known addresses.

Mr VALENTINE - They do. They are organisations. I very much doubt the police do not know where they are.

Mrs HISCUTT - I think we are getting down into somewhere we do not really need to be and I do not know why.

Mr Willie - Because the bill is poorly drafted; that is why we are there.

Mrs HISCUTT - No, this amendment is a generally accepted amendment with nearly everything else. We are trying to facilitate as many amendments as possible.

To keep members happy, OPC has been discussing it. If the new one comes around and members like it, that is fine, but as legislation, the amendment in front of us is generally the same as what it has been with nearly every other bit of legislation we have put through, to be circulated in newspapers, generally.

Ms Forrest - It has been starting to change.

Mr Valentine - It is not to a specific group.

Mrs HISCUTT - As the commissioner has pointed out earlier, if he writes a letter to a particular group and they say they did not get it, how do you prove it?

The member for Windermere articulated it very well earlier on. The commissioner concurred that the situation is still the same. I urge members to look at what is in front of us, thank you.

Mr GAFFNEY - I would have liked to have had this discussion before OPC ran off and came up with another amendment because it could have helped OPC.

I do not see anything wrong with 'all Tasmanian daily newspapers' because I do not agree with the member for Hobart. If we can make a change now that encompasses all Tasmanian daily newspapers, whatever there is - two, three or four daily - it is going to be *The Advocate*, *The Examiner* or the *Mercury* or whatever.

The other thing I do not agree with there is you cannot say the first two, because one day it might be only one. It does not make sense. You cannot say the organisation is not going to know they are going to be under the eye of the commissioner, the minister or the Attorney-General. There are only five and they have been here for a long time. There may be one other, but you do not have to send to their postal address for them to know that they are under target.

We do not need to do that. To advertise it statewide in the papers is fine. We do not have to go to individual addresses because they will understand - they will know - there will be media releases; it will be in the papers. I do not think there is any need to go to individual notifications. It is nonsense.

Mr Dean - Member for Mersey, before you take your seat, are you saying the amendment as it is should stand for three newspapers or not?

Mr GAFFNEY - No, I would say, 'appears in daily Tasmanian newspapers'. No number, just daily Tasmanian newspapers and that could be one, two, three or 10.

Mr Valentine - Or all Tasmanian newspapers.

Mr GAFFNEY - In Tasmania - it does not have to be 'all' because as soon as you say 'in Tasmanian daily newspapers', it means all. Make it like that; there does not have to be a number. It does not make sense to put a number.

Mrs HISCUTT - For clarification, you were sent another amendment at 8.40 p.m. I will read out the third last line -

'Appears in daily newspapers circulating generally in the state'.

Mr Gaffney - It would have to be 'Tasmanian daily'.

Mrs HISCUTT - The state?

Mr Gaffney - No. The *Herald* comes into the state. We want Tasmanian newspapers.

Ms Forrest - And *The Age* and *The Australian* newspapers.

Mr Dean - Honourable leader, while you are on your feet. You cannot make legislation on what does not appear. You make legislation on what is happening today. Today we have three circulating Tasmanian papers. We should not interfere with it. What happens next year or the year after is another issue and you deal with it as it happens. I cannot work it out.

Mrs HISCUTT - We are looking now at the third last line -

'appears in Tasmanian daily newspapers circulating generally in the state.'

Mr Gaffney - The member for Windermere brought up the 1935 act which needs to be updated. This is where we can update this.

Mr Dean - Sure, I understand. I am happy with it.

Mr Finch - What if we put a full stop after newspapers - 'it appears in Tasmanian daily newspapers.'?

Mrs HISCUTT - It has to be circulating 'generally in the state' otherwise, as the member for Murchison pointed out, it could be one local newspaper in the far north-east corner.

Madam DEPUTY CHAIR - Honourable members, I draw your attention to the amendment circulating now at 8.45 p.m. on 29 August. We are still on the current amendment, but I alert members that there is an 8.45 p.m. amendment for them to look at as well.

Before I invite the member for Elwick to rise to his feet, I indicate that if there is support for the 8.45 p.m. amendment, the member for Windermere will need to withdraw his amendment. In light of that, now I have given you that information, I invite the member for Elwick, who has the call.

Mr WILLIE - We are in the weeds with this. The legislation has been poorly drafted. The Government is asking us to legislate and then adjudicate. The separation of powers has been thrown completely out.

The police have requested this bill. They have had input into the drafting. They are not legislators, with due respect. They are there to uphold the law. That is their role and this is where it is getting messy. There is this grey area where we are trying to pass a law and then work out how to adjudicate. The police have had input into writing the bill, then they have to uphold the law.

This whole debate highlights why the courts should be handling this. The courts would make a decisive decision. People are notified. There are appeal rights. It is exactly the point we have been making the whole time.

The reason we are having this debate now is because the separation of powers has not been respected in the drafting of this legislation.

The courts are ideally placed to handle these decisions; people are notified straightaway when there is a court decision, and then there are appeal rights. We are having this debate right now because of all those grey areas.

Yes, notifying an organisation that they have become a criminal organisation and their colours can no longer be displayed in public is important, but this is not the right place to do it. The police are not the right people to do it; the court is the right place to make that decision.

Mrs HISCUTT - We have taken the advice of the member for Elwick and we have consulted OPC on all of this. We have an OPC-approved amendment coming around that has not just been proposed by advisers or police.

Madam DEPUTY CHAIR - I suggest that the Leader advises the Chair at least, so I can advise the rest of the Chamber, which amendment version -

Mrs HISCUTT - It has not come out yet. If members could take all the amendments that have been there, put them to one side - this one has been OPC-approved and is more ready to go.

Madam DEPUTY CHAIR - Before we can do any of that, the member who moved the amendment has to agree to withdraw his amendment so, in fairness to the member, he needs to have a look at what has been suggested before he withdraws his amendment.

Mr Dean - Okay.

Madam DEPUTY CHAIR - After a discussion, this 8.51 p.m. amendment to the amendment, potentially moved by the Leader, is a much cleaner way of dealing with this matter.

Ms Forrest - Can I speak to it?

Madam DEPUTY CHAIR - It has not been moved yet.

Ms FORREST - No, I am speaking to the one that is on the Table, with a view to the one coming potentially. I think I am on my second call, so I think I still have a bit of leeway.

I think the problem identified with what we have in this is that it does not have any longevity. The other problem is - and I have had a bit of an exchange by text message - the claim that it says 'appears in three newspapers circulating generally in the state', it could be in *The Australian*, *The Age* and the *Australian Financial Review* - maybe bikie groups read those newspapers; I do not know. What we are trying to achieve here is Tasmanian newspapers - *The Advocate*, *The Examiner* and the *Mercury* - the Tasmanian papers. The one being presented to us is - and this why I am saying there is still a problem with this proposal at the moment - has not been put is 'as many daily newspapers as are published in and circulate during the state'. That means the Government or

whatever has to publish it in every newspaper circulated, which means *The Advocate*, *The Examiner*, *The Mercury*, *The Australian*, *Herald Sun*, *The Age* -

Mr Dean - But they are not published in this state. They are sold in this state, but they are not published in this state.

Ms FORREST - Okay. What if they move the publication of *The Mercury* or *The Examiner* to Melbourne? We do not have to publish it here. OPC obviously is pretty tragically watching this, but if you talked about it in as many daily Tasmanian newspapers as are circulated around the state, does that not fix it? The real problem is we are creating a potential monster when what we want is for it to be notified in the Tasmanian papers. Now they may end up being published offshore, like on the big island, so they are circulated generally in the state but they are Tasmanian papers.

Mr Gaffney - The 8.45 one.

Ms FORREST - Essentially, the 8.45 version is probably more correct, but I am not trying second-guess OPC here. They are doing a really good job, under the extraordinary pressure we are putting on them trying to do this on the run. That is always a problem. We need to have great respect for the pressure OPC is facing here. The last proposal probably creates a much more expensive and unnecessary requirement. Before the member withdraws his amendment, we may need to seek some further advice.

While that was being thought about by people other than in here, boringly I read the new building act amendment bill that landed on our table last week. It has not been debated downstairs, but I notice it has a provision relating to the administrators notifying any determination under this section in the *Gazette*, then it says 'in such daily newspapers circulating generally in Tasmania as the administrator thinks fit'. Or you could say 'daily newspapers circulating generally in Tasmania', but again that picks up all them, but in this case the administrator can decide.

Mr Valentine - That is the reason it needs to be generally fixed rather than us trying to fix it now.

Ms FORREST - That is the question - can we fix it now? There is also a provision in the relevant clause that the administrator will publish it and make it available for public inspection by means of the World Wide Web. That is something we should perhaps think about considering because that is social media, the police website and that sort thing.

Mr Valentine - There is an easier answer.

Ms FORREST - That is in addition to the publication in the newspapers. That is something for another day, but while there have been thought processes going on behind the scenes, I thought I would mention it. Another bill will be coming here at a later stage and I am going to suggest a similar thing. You do not want to create a monster; you want to make this workable. We have probably gone too far in what is being proposed from what is on the Table at the moment.

Mr Dean - If I stand up, will I lose my third call?

Mr DEPUTY SPEAKER - I will take the member's question on a point of clarification given this is not entirely usual what is going on. So we will take your comment as a point of clarification.

Mr DEAN - Thank you, because my point is that we need to move this forward. We are just getting nowhere at the present time. My comment is to the Leader. I am not sure how we can put legislation and amendments forward now on something we think might happen in the future. I still stand by the first amendment. We currently have three daily papers circulating in Tasmania. A lot of other legislation refers to three Tasmanian circulating papers, as the member for Hobart said. If that changes, there will have to be changes made to perhaps all our legislation. We cannot have legislation going through here on what might happen. Leader, can you give me an answer or explanation for that? We have to set legislation based on what the position and conditions are today.

We could say we cannot set legislation in the future close to the foreshores because due to climate change in two or three years time, the water is going to be another metre higher. You cannot do that; you have to do it on the conditions and positions that apply right now. We have three circulating daily papers.

Mrs HISCUTT - I agree, but for some reason this particular bill has been hijacked by trying to get this particular amendment right. Everybody has seen the proposed amendment to the amendment, which I am prepared to move if the original mover is -

Members interjecting.

Madam DEPUTY CHAIR - I suggest that the Leader moves her amendment to the amendment, then the members will decide whether they want to support that amendment to the amendment or not. If that falls over, we will go back to the substantive motion in front of us, which is the 7.40 p.m. amendment. The member for Mersey would like to make a comment. I hope that makes it very clear where we are.

Mr GAFFNEY - Yes it does. People watching this will think, 'What are they doing?' We are doing our job. This is the process we have to go through to get it right. I do not make any apologies for that, because that is what we are doing.

I understand what the Deputy Chair said; however, we discussed the 8.40 p.m. amendment, which went to two daily newspapers. Then the 8.45 p.m. amendment came out. We did not even look at that before the 8.51 p.m. amendment came out. The 8.45 p.m. amendment covers the whole gamut. It says, 'and the effect of the regulations, appears in Tasmanian daily newspapers circulating generally in the state'. It does not say how many newspapers; it does not bring in 'publish and circulate in'. It is the one that fits the bill. If we go to the 8.51 p.m. amendment, that has 'published and circulate in'; if we go back to 8.40 p.m. amendment, that still has a number 'two', but if you go to the 8.45 p.m. amendment, that is the one that fits the bill.

I do not know how that works out in process, but I do not want that one to get lost - it is the best one because it creates fewer problems.

Madam DEPUTY CHAIR - Can I advise members before the Leader responds that the 8.45 p.m. amendment is not before the Chair at this time.

Ms Forrest - Neither is the other one.

Mr DEAN - Madam Deputy Chair, I seek leave to withdraw the original amendment.

Ms FORREST - To the member for Windermere, I am concerned that the vibe I got with the 8.45 p.m. version is that it was not approved by OPC. That is probably correct - I am getting the nod that is correct. We probably need to understand why OPC did not approve this and why they have proposed the 8.51 p.m. version, which is 'as are published in, and circulate generally in, the state'. If we can get some advice on that, Madam Deputy Chair, on whether there is a problem with this or it is just that OPC did not draft this, maybe we will be able to move forward. I am not going to support the request of leave at the moment for that reason.

Madam DEPUTY CHAIR - Members, I can advise there is another amendment. It is an amendment to the amendment at 9.02 p.m. and it is coming around now. In light of that, if members are of a mind to support that, the member who moved the original amendment, the 7.40 p.m. one, does not need to withdraw his amendment.

The question is: is leave granted? You will think about that before you say yes. Is leave granted?

Mr WILLIE - On the matter of leave, this is going round in circles because the Government does not know what it is doing. With the greatest respect, it is pushing the agenda; it is pushing the bill.

Mr Armstrong - It is the members in here who are doing it.

Mr WILLIE - If you want to get up and speak, you can. We are going round in circles. It reflects poorly on the Government, with due respect. It reflects poorly on this House, with due respect. I think we should adjourn. These conversations should be had at another time and we can come back and deal with this in an orderly way. At the moment, there is amendment after amendment being put on our seats and many members are asking where we are at. The debate is not a coherent debate.

Mrs HISCUTT - I want to move that we report progress while we think about the next move, which is going to be the final move.

Madam DEPUTY CHAIR - We have a question before the Chair seeking leave to withdraw, so we need to deal with that first. I will put the question, is leave granted?

Objection being raised; leave not granted.

Madam DEPUTY CHAIR - We are back on the original amendment of 7.40 p.m. We have to work out what the member wants to do with that. He will have to withdraw his amendment if we want to report progress. The member can always put another amendment after this one is withdrawn. That is the procedure.

Mrs HISCUTT - I would like to propose an amendment to the amendment.

Madam DEPUTY CHAIR - Timed 9.02, honourable Leader?

Mrs HISCUTT - Yes, Madam Deputy Chair. I move -

Clause 4, first page of proposed amendments.

Leave out: '3 newspapers circulating generally in the State'.

Insert instead: 'as many daily newspapers as are published in, and circulate generally, in the State'.

This has been approved by OPC, and we are hoping to be able to move forward at this point.

Ms FORREST - In principle, I agree with this, but why 'as are published in and'. To my mind all it needs to say is 'as many daily Tasmanian newspapers as circulate generally in the state'. If one of the Tasmanian local papers ends up being published on the mainland, which could happen, it is in the realms of possibility -

Ms Siejka - Technically they could be published interstate, depending on your definition.

Ms FORREST - We are tying ourselves up in knots a bit. We do not have to bother with the *Mercury* - that is now published on the mainland - or *The Advocate* or *The Examiner*. This is my question for the Leader to get some advice: is there a problem with saying 'as many daily Tasmanian newspapers as circulate generally in the state'?

Mrs HISCUTT - I seek leave to report progress, because I need to catch up with what is going on.

Madam DEPUTY CHAIR - No, we cannot. You have to withdraw the amendment to be able to. To report progress means your amendment has to be withdrawn and the member who posed the first amendment also has to withdraw that amendment.

Mrs HISCUTT - We will carry on then.

Mr VALENTINE - It may be not close enough or too far. At some point there are not going to be any newspapers circulating in the state. They are going to be online and the Government is going to have to come up with an online advertising process where everyone can go to see what the Government is up to and what they are publishing. It will not go to any newspaper. That is going to be worked out at some stage by the Government. We are fiddling around the edges. Stick with this 9.02 amendment to the member for Windermere's amendment, and let us get on with the show.

Mr GAFFNEY - I am not worried about how long this takes us to get it right. I do not care if we have to get on with the show. We should relax and say that we are working through a process and this happens. For those who have been here with the TFA or others, it happens and we will get to a position where we will be fine. We have to stay with the game. I am not sure - I did not know that OPC had not drafted the 8.45 one. I apologise because I thought that is where it came from. I do not know whether OPC has seen the 8.45 amendment, which I will go back to. It takes away the publishing thing. It seems to say exactly the same as the 9.02 one. I apologise to OPC because I thought they had drafted it, but I am not sure if they have seen it. I still think it is the best one of the ones put forward.

I suggest, to help this proceed, if the Leader withdraws what she has to and if the member here withdraws what he has to, we can report progress. We will come back and we will get this into a better state. We will have the confidence to say, 'Yes, you withdraw, you withdraw, we will come back after we have reported progress and we will go again.' That is the most clear-cut way. The OPC will have a chance to talk to the Leader and come back with the amendment with the member

that best suits the bill. That way we can all go and have a cup of tea and coffee, come back in 10 minutes and it will be fine.

Mrs HISCUTT - I understand where the member for Mersey is coming from. To new members of this place, we have done this late into the night many times. We have before us two amendments, both of which have been OPC-approved. We have the original amendment by the member for Windermere at 7.40 p.m., which is OPC-approved. We have my amendment to the amendment at 9.02 p.m., which is OPC-approved. There have been too many amendments. We should stick to the ones that are OPC-approved.

Ms FORREST - I am happy to proceed but I ask the question: is there an imperative to include 'as are published in, and' rather than 'as many daily newspapers as circulate generally in the state'?

Why do we need that proviso to say that they are published in the state when they may not be? That is the question. We are potentially creating an exemption that is superfluous and unnecessary.

Mrs HISCUTT - All I can say is that it is OPC-approved. They have been listening to the conversation and this is drafted in a manner they see will fit everything here.

Ms Forrest - I would like to know why it needs to be there.

Mrs HISCUTT - You want me to seek information from OPC?

Ms Forrest - If you can convince me that needs to be there, I will be happy to support it.

Mrs HISCUTT - I will seek some advice.

We were happy to support the original amendment that the member moved at 7.40 p.m., which is OPC-approved. After much discussion, we are trying to be helpful to the conversation around the room. Therefore we move this other amendment at 9.02 p.m. Originally we were happy with the first one.

If honourable members wish to vote against my amendment here, that is fine. We are happy to go back to the first one.

Ms Forrest - You still have not answered my question.

Mrs HISCUTT - I do not have the information at hand you are requesting, I am sorry.

Mr FINCH - This is very interesting. I have been here 16-and-a-half years and we have not had a debate like this for probably seven or eight years.

Back in those days we had plenty of these, and I always found them very interesting. What we are witnessing is people exercising their minds on legislation, trying to find a solution and trying to find a way through.

The Labor people do not agree generally with the bill. We have moved through that to the stage where we are at the last stanza. It is interesting that we are drilling down into a section that is, in the scheme of things, as far as our life in Tasmania is concerned, a moveable feast.

I speak of this daily newspaper business. I have seen a lot of iterations of what goes at the end of things and what we want to put in to communicate what is happening in the Legislative Council. This is another stage where we have this changing environment as far as newspapers are concerned and it is going to need a new attitude as to online opportunities and what daily newspapers are here. How many of them are there?

Without wishing to take up too much time, we are getting there. We did not have the Tasmanian newspapers mentioned. I agree with the member for Murchison, we should have 'are published in', if that can go in.

The other point is the OPC is still watching what is evolving here. They are hearing what we are saying and they understand we are seeking the best possible result.

Going back to the other argument where we are honing in on this, the fact is the commissioner is here to give those assurances. When I talk about my 16-and-a-half years here, we have taken it, but when people hear the advisers, the Leader make commitments on *Hansard*, it is accepted that if a lawyer later chooses to defend somebody or attack somebody or have go at the prosecution, they can go back to the *Hansard* and see what commitments were actually made. I accept that those commitments are there.

Ms Forrest - They will get very confused reading the *Hansard* of this.

Mr FINCH - It will be like our friend today, working overnight to come to some conclusion.

The other business about communicating to these groups: we are told it is 270 people. If the word cannot spread like wildfire among 270 people, I will be gobsmacked. They will know what is going on here now, which is that, in this circumstance, we are proscribing five groups. The hope is there will not be any groups in the future to worry about, because this will deal with them. We say there will not be any new groups coming in, but we have to go through this process again to say, we had better nab this new one that has come into the state, proscribe them and go through this process. We are probably not going to have the situation, because a lot of people have been assuming stuff.

I am happy to take a break. Like the member for Mersey, I am a 'glass half full' sort of person. It is good for us to exercise our minds in this respect. I am happy to take a break. The OPC is watching and hearing what we are now suggesting; they can either encourage members to stick with this or come with a variation that might see us move on.

Mr Dean - Before you sit down. You are right; we cannot legislate on assumptions. That is what I have been saying all the time.

Mr FINCH - Unintended consequences are what we need to consider. Some are moveable feasts, changing all the time. With the approval of this Legislature, there is going to be the stop-off point - five groups at this stage.

If that works, if that is effective, there may not be a time when we will need to be called on again.

Mrs HISCUTT - We have two amendments in front of us, both are OPC-drafted, and the Government is keen to move with these at this stage.

Madam DEPUTY CHAIR - The point of clarification we had, the amendment to the amendment right now -

Mrs HISCUTT - Which has been OPC-approved. They have been listening and they know what is going on. Therefore as a government, I am sure this is right.

Amendment to amendment negated.

Mrs HISCUTT - The amendment as originally proposed at 7.40 p.m. by the member for Windermere be agreed to.

The Committee divided -

AYES 5

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

NOES 9

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

Amendment negated.

Madam DEPUTY CHAIR - Honourable members, we are back to clause 4, as amended.

Ms FORREST - Madam Deputy Chair, this has been a disappointing process. If we had had the amendment withdrawn we might have been able to sort this out. I was out of the room with the Government's advisor trying to work out the answer to my question and, with all due respect, I would have liked the answer before I could proceed with that. We may have a solution because we were well on the way where OPC was happy to consider 'a Tasmanian daily newspaper circulating'. The one that was prepared, not by OPC, had some problems with the wording so it should have been withdrawn. We are at the point where it has effectively been withdrawn because it has been voted down.

My temptation is to suggest that we report progress. I support the intent of the amendment that was put. It is sensible and appropriate. We went about it the wrong way by not withdrawing when we saw there were problems. We should have had people sit down and work out the best way forward. We are paying the price, and we are here until whatever time it will be.

I am going to test the process by moving that we report progress to enable an amendment to be drawn up that clarifies the problems that were asked. It is up to the House whether we do that, but if we do not we will not have that provision in the bill that meets the expectation of fairness, an aspect of natural justice in making sure that people know they are going to be listed as identified organisations.

Madam Deputy Chair, I move -

That we do report progress.

Mrs HISCUTT - It has never been the position to deny any member that, therefore the Government is happy to support that motion.

Progress reported; Committee to sit again.

Sitting suspended from 9.33 p.m. to 9.55 p.m.

POLICE OFFENCES AMENDMENT (PROHIBITED INSIGNIA) BILL 2018 (No. 21)

In Committee

Resumed from above.

Clause 4 -

Sections 6A and 6B inserted

6A. Display of certain insignia, &, prohibited

6B. Search, seizure and forfeiture of prohibited items

Mr DEAN - Madam Deputy Chair, I move -

That clause 4 as amended be amended -

Page 8, proposed new section 6A, after proposed subsection (6).

Insert the following subsection:

(6A) Regulations, for the purpose of subsection (3), that prescribe an organisation to be an identified organisation are of no effect until a notice, setting out that the regulations have been made and the effect of the regulations, appears in as many daily Tasmanian newspapers as circulate generally in the State.

In speaking to the amendment, I thank all members for their input into the previous amendment. In putting this amendment together, we have tried to encapsulate the concerns and issues raised by members and it does, to some extent. It does not include the issue the member for Launceston raised.

Ms Armitage - No, I was not invited to be part of it.

Mr DEAN - There were reasons for that and there is the police support. You cannot locate these people nine times out of 10. These people are running criminal organisations and engaging in criminal activities so they do not give their right names and at times they do not give their right addresses; you cannot follow them.

Ms Armitage - With respect, they do have clubhouses.

Mr DEAN - I understand where the member is coming from. What you are saying is that the police should rock up with a letter to their clubhouse in the hope that the president or the secretary is there to serve a notice on them. It does not quite work that way.

Madam DEPUTY CHAIR - Order. The member will put his amendment and the member will have an opportunity to respond to the member.

Mr DEAN - Sure. In putting this amendment together, I thank the government members and the advisers. I thank the member for Murchison for her input and advice in putting this together as well. I also thank OPC's Robyn Webb for her involvement in this and wise contributions to it and putting us into a position that I hope members in this Chamber would support.

I do not need to go back through it again. It identifies that there are many Tasmanian daily newspapers that circulate generally in the state. That captures it all. If one or two papers are no longer in existence, then the amendment picks all that up.

I ask members to support the amendment that is currently on the Table.

Ms FORREST - I support the amendment. It has taken a bit of getting there but this is where we needed to be. It will have longevity. Regardless of how many daily Tasmanian newspapers are Tasmanian papers, it will not rely on where they are published, because if they are Tasmanian papers for Tasmanian people and are read by Tasmanians that is where we are and it will be notified in those papers. I am happy to support this amendment on that basis.

Ms ARMITAGE - I will support the amendment, but I still believe it is respectful to advise those groups. I note the commissioner has said he will. In answer to the member Windermere, I am sure they have a clubhouse. A letter can be sent to them; whether they receive it or they do not, the fact of the matter is it can be said they were notified. That is important; there were five organisations likely to be proscribed. To put it in the paper is not respectful. While I note the Leader said they are not fair to others, I do not care how fair they are - we need to be fair. It is important we have fairness and respect - regardless of who they are or what they do, they deserve respect. We should advise those groups. I take on board the commissioner will do that; I thank him for that and trust he will do so.

I would like the amendment to say we do advise them. It is irrelevant whether they say they have received it; they do not have to receive it to act on it. It is simply they have been notified that they are a proscribed group.

Mr VALENTINE - I feel the same as the member for Launceston. It is not like you are serving a summons on anyone; it is doing the right thing by notifying the group and sending it to their clubhouse's street address. I have an issue with that still, but as far as the end of the amendment is concerned, it is what it is and no doubt the Government will have to address the broader issue across all of the bills, in any event. This covers it for the time being, until such time as we have a digital environment and they have to include something in there about publishing on a general government website. I think the organisation does need to be notified.

Mr FINCH - I am comfortable where we have landed with this amendment to the amendment. In respect of this notification, it is in the *Hansard* that the commissioner will write to these groups. I am not sure how the system works these days, but registered mail is a way to secure the commissioner's own records and edification to make sure it can be proved those letters went out

and were delivered to the addresses they needed to go to. Then you have the evidence and the paper trail that the notification had actually gone out. I appreciate what the member for Launceston said in respect of the way we conduct ourselves and the way the commissioner and the police conduct themselves. The appropriate courses of action must be taken irrespective of how it is going to be treated, even if it is with disregard at the other end.

Our part of the process needs to be neat and tidy. I am not sure how the system works these days but I am sure registered mail would be a way of proving that part of the equation has been done. It is here in *Hansard*, registered loud and clear, that is the process that is going to take place. I am comfortable with this amendment.

Ms LOVELL - We will support this amendment for the same reasons we supported earlier amendments put forward by the member for Murchison, because we believe this goes some way towards strengthening the bill and if the bill is passed, we want it to be as robust as possible. I agree with the member for Launceston and her comments, but I add that this is more than about being respectful - this is about ensuring we are following due process. What is still lacking in this amendment and in this bill - and I do not believe this can be amended - is that there is still no fair appeal process. We have spoken about the process. We do not agree that is enough. So we will support this amendment but we do still have significant concerns with the bill.

The last two hours has shown us why this bill has not been able to be amended on the Floor in a way that satisfies the concerns. The fact that we were so bogged down in the detail suggests that there is still a level of discomfort around what is being proposed, the overall purpose of the bill and how it will operate. Those concerns remain but we will be supporting this amendment.

Ms FORREST - I did mean to make this comment on previous iterations of this amendment but I will make it here. The other benefit of this amendment in the bill is that it will put a flag up for the Subordinate Legislation Committee, letting them know it is coming. The members will have a look at it and if it is clear that there is an untoward recommendation or regulation being made, it will give us the opportunity to get straight onto it. It puts a flag up not just for the members of the organisations but also for the committee that can then undertake its work, if necessary. Members of this place can put a disallowance motion on the Notice Paper straight up if we are sitting. If we are not sitting the Subordinate Legislation Committee can do it out of session.

Amendment agreed to.

Clause 4 as amended agreed to.

Clauses 5 and 6 agreed to and bill taken through the remainder of the Committee stage.

ADJOURNMENT

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

That the Council at its rising adjourn until Thursday 30 August at 11 a.m.

Motion agreed to.

The Council adjourned at 10.09 p.m.