**Tuesday 15 October 2019**

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

## QUESTIONS UPON NOTICE

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - I have answers to questions and I will table them this morning. I have answers to questions 7, 9 and 10 on our Notice Paper.

Mr President, I seek leave to table the answers and have them incorporated into *Hansard*.

**Leave granted.**

### 7. REMOTELY PILOTED AIRCRAFT - ACQUISITION AND DEPLOYMENT

**Ms WEBB** asked the Leader of Government Business in the Legislative Council -

In relation to the 16 remotely piloted aircraft, or drones, recently purchased for deployment across Tasmania as announced by Mark Shelton, Minister for Police, Fire and Emergency Management in his media release of 6 July 2019 -

(1) In the media statement from the minister of 6 July 2019, reference is made to 'official authorization' - what is the 'official authorization' referred to?

(2) What source of legal authority does the government rely upon for using drones to -

(a) surveil the community; and
(b) maintain 'public order'?

(3) Noting Civil Aviation Safety Authority - CASA - rules extend to the physical safety of people, aircraft and property but not privacy, what provisions are being put in place to stop unjustified invasions of privacy by the police?

(4) What permissions do police require for -

(a) surveilling people who are on private property;
(b) using thermal imaging of people who are on private property; and
(c) surveilling public spaces?

(5) In regards to permissions referred to in 4 (a), (b), and (c) -

(a) who or what gives this permission;
(b) is that decision reviewable;
(c) if reviewable, who can request a review; and
(d) what is the legal authority police rely on?

(6) In relation to drone footage and data held by Tasmanian authorities -

(a) What will happen to the digital or physical records of drone footage taken in -

(i) public spaces; and
(ii) private spaces?

(b) What security measures will be used to protect the footage and data?

(c) Who will be responsible for -

(i) data security; and
(ii) reviewing access to the data or footage?

(d) What format will the footage or data be stored in and where will it be stored?

(e) How long will the footage be retained?

(f) How will data retention be managed?

(g) How will the data be deleted and on whose authority?

(h) Does the public have a right to review the footage?

(i) Do any other authorities have the right to review the footage? If yes, please specify all the authorities or individuals that have this right.

(7) When drone footage is collected, will the people in that footage be notified -

(a) before the footage is collected;
(b) after the footage is collected; and
(c) if not, why not?

(8) Will people captured by drone footage or thermal imaging have a right to have that material removed from the record if taken in -

(a) a private space; and
(b) a public space?

(9) If the answer to either 8(a) or (b) is yes, what is the procedure for having the material removed or deleted and on what basis can it be removed?

(10) If the answer to either 8(a) or (b) is no, will police be able to use footage that was incidental to a police operation or captured as part of general surveillance?

(11) How will drone footage be used in policing activities and prosecutions?

(12) (a) Will the drones be deployed to public gatherings on public land, for example street marches?

(b) If so, on what grounds?
(c) How will any drone footage from public gatherings be used?

(13) In what places can Tasmanians reasonably expect they will not be observed by police surveillance?

The answer read as follows:

The Government values the rights of all Tasmanians to go about their private business with minimal interference or intrusion. However, Tasmania Police acknowledge that various developments in technology assist them to keep Tasmanians safe.

The use of 'drone' technology (or more accurately Remotely Piloted Aircraft System) is another means by which Tasmania Police intend to improve public safety. Recognising that there is a necessity to use this technology in an accountable and safe manner, various safeguards and processes have been implemented.

As with any new initiative, the systems and processes in place will be constantly monitored to ensure that they are being used appropriately and effectively in the pursuit of public safety.

(1) Any request to operate a Remotely Piloted Aircraft System from frontline members or investigators is considered by senior police within those areas. The requests are discussed with Remotely Piloted Aircraft System pilots and also the Chief Remote Pilot prior to authorisation. Every aspect must be lawful prior to the flight being approved.

(2) There are various ways in which legal authority to use Remotely Piloted Aircraft System may be gained - this could include consent, crime scene declaration under the Police Offences Act 1935 or by search warrant, as examples.

Police Remotely Piloted Aircraft Systems have recently been used very effectively at the scene of serious and fatal crashes. These examples have included use over public land and roads to assist in determining the cause of the crash and providing evidence of the aftermath.

Permission would be sought from a member of the public recorded by a Remotely Piloted Aircraft System camera, or private landowners, where such permission is appropriate. However, there are clear examples of where seeking permission is not sought due to operational reasons such as the urgent protection of life or property, or where unlawful behaviour is the subject of investigation.

Where legally required, persons would be notified of their capture on Remotely Piloted Aircraft System footage. Again, I would like to point out that the footage is very specific and is of particular incidents, not of general members of our community going about their daily business.

As an example, when compared with CCTV footage, where CCTV is supplied to police as evidence of a crime (for example, an armed hold-up in a service station) every person depicted in that footage may not be notified unless they can assist with that specific investigation.

(a) Remotely Piloted Aircraft Systems are not being used for random or general surveillance. This resource is being used lawfully and safely under strict guidelines, to assist policing functions and ultimately help keep all Tasmanians safe.

Police Remotely Piloted Aircraft Systems have not been utilised to conduct general surveillance on the community, rather they are tasked to provide aerial support at live police incidents.

(b) Police Remotely Piloted Aircraft Systems have not been utilised to maintain public order. However, if a Remotely Piloted Aircraft System was utilised for this purpose the vision would be no different to CCTV footage which is often provided to police by businesses and from private residences. Whilst the vision captured by Remotely Piloted Aircraft Systems is viewable by the operator in real time, it is only recorded where specific vision is requested.

(3) Tasmania Police has appointed a Civil Aviation Safety Authority - CASA - approved and appropriately qualified Chief Remote Pilot. The Chief Remote Pilot is required to authorise every Remotely Piloted Aircraft System deployment.

Any request to operate a Remotely Piloted Aircraft System from frontline members or investigators is considered by senior police within those areas. The requests are discussed with Remotely Piloted Aircraft System pilots and also the Chief Remote Pilot prior to authorisation.

(4) Permission would be sought from a member of the public recorded by a Remotely Piloted Aircraft System camera, or private landowners, where such permission is appropriate. However, there are clear examples of where seeking permission is not sought due to operational reasons such as the urgent protection of life or property, or where unlawful behaviour is the subject of investigation.

Where legally required, persons would be notified of their capture on Remotely Piloted Aircraft System footage. Again, I would like to point out that the footage is very specific and is of particular incidents, not of general members of our community going about their daily business.

As an example, when compared with CCTV footage, where CCTV is supplied to police as evidence of a crime (for example, an armed hold-up in a service station), every person depicted in that footage may not be notified unless they can assist with that specific investigation.

In relation to thermal imaging, this technology is highly valuable for incidents such as search and rescue or searching for suspects evading police. Thermal imaging reveals a heat signature that can be interpreted and the size and shape of the signature indicates whether the object is human or otherwise. A person cannot be identified from thermal images alone.

(5) Tasmania Police have strong processes in place to ensure data security. Members are trained in relation to the lawful processes for access to various forms of information and the accountability processes that surround this access. Audit processes are in place to ensure compliance, and members are subject to review by senior managers as well as the Professional Standards Command. Members are also subject to review by the Integrity Commission, if requested.

(6) There are strong safeguards in place for the security of Remotely Piloted Aircraft System footage. Systems have been implemented to ensure the security of Remotely Piloted Aircraft System footage - both by means of secure database, as well as processes to allow for use of the footage (for example, providing evidence in court or to create a three-dimensional representation of a motor vehicle crash scene).

Still images are saved to the secure Tasmania Police Forensic Register application. Video footage and three-dimensional maps are provided to investigators on non-rewritable discs for attachment to court and coroner's files.

Data retention is managed in the same way as all other data requirements are managed by Tasmania Police, including existing legislated requirements, such as the Evidence Act 2001, Forensic Procedures Act 2000, Archives Act 1983, and internal practices authorised by the Commissioner of Police.

The footage recorded is subject to right to information legislation. Some footage may be shared with other organisations (for example, Tasmania Fire Service or Parks and Wildlife Service) where a joint operation is occurring.

(7) Where legally required, persons would be notified of their capture on Remotely Piloted Aircraft System footage. Again, I would like to point out that the footage is very specific and is of particular incidents, not of general members of our community going about their daily business.

As an example, when compared with CCTV footage, where CCTV is supplied to police as evidence of a crime (for example, an armed hold-up in a service station), every person depicted in that footage may not be notified unless they can assist with that specific investigation.

(8) and (9)

Data retention is managed in the same way as all other data requirements are managed by Tasmania Police, including existing legislated requirements, such as the Evidence Act 2001, Forensic Procedures Act 2000, Archives Act 1983, and internal practices authorised by the Commissioner of Police.

The footage recorded is subject to right to information legislation.

The premise of questions (10), (11), (12) and (13) are covered by the answers already given. As I have outlined, Remotely Piloted Aircraft Systems are not being used for random or general surveillance. This resource is being used lawfully and safely under strict guidelines, to assist policing functions and ultimately help keep all Tasmanians safe.

## 9. OLDER DRIVERS - FITNESS TO DRIVE

**Mr VALENTINE** asked the Leader of Government Business in the Legislative Council -

Will the Government please provide information with regard to the Registrar of Motor Vehicles - RMV - medical fitness to drive assessment - MFDA - process and outcomes for older drivers given Tasmania's population is ageing and the independence of individuals is very important in helping them maintain an active lifestyle -

(1) How many drivers currently licenced in Tasmania are over 75 years of age?

(2) How many drivers aged over 75 years have been directed by the RMV to undertake an MFDA during the period of 1 July 2017 to 30 June 2019?

(3) Following an MFDA, what number of drivers in that period -

(a) were able to retain their drivers licence without any condition or restriction;
(b) were able to retain their drivers licence with an added condition or restriction; or
(c) had their drivers licence cancelled or suspended?

(4) What are the possible conditions or restrictions that can be applied to a drivers licence under the MFDA process?

(5) Is there a prescribed time period from the date of the MFDA within which the driver should receive the RMV's Statement of Reason as to the decision made?

(6) Does the RMV allow the driver to seek a second independent medical opinion to inform the RMV decision to cancel, suspend or apply a condition or restriction to the licence?

(7) In the event of a decision by the RMV to cancel or suspend a drivers licence, can the Government please outline -

(a) the process available to the licence holder to apply for an internal review of the decision;

(b) the number of drivers who applied for an internal review of the decision over the period 1 July 2017 to 30 June 2019;

(c) the number of internal reviews over that period resulting in a revised outcome;

(d) the number of internal reviews over that period that did not satisfy the applicant resulting in an appeal to the Magistrates Court; and

(e) the number of appeals to the Magistrates Court over that period which resulted in a revised outcome?

The answer read as follows:

(1) There are currently 33 536 drivers licensed in Tasmania who are over 75 years of age.

(2) Registration and Licensing Services does not record data that specifically relates to total numbers of MDFA requests.

(3) (a) and (b)

While Registration and Licensing Services record drivers licence conditions and restrictions, it is not possible to determine if the decision was as a direct outcome of an MDFA.

(c) While Registration and Licensing Services record drivers licence cancellations and suspensions, it is not possible to determine if the decision was as a direct outcome of an MDFA.

(4) Licence conditions may be applied in accordance with the Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010, 'Regulation 24. Conditional

licences'. Clients are managed on a case-by-case basis and in accordance with the Driver Licensing Case Management Framework.

(5) The time period is not prescribed; however, following receipt of the MDFA form by Registration and Licensing Services, the client should receive advice regarding a decision within approximately seven to 14 days.

(6) A client may seek a second independent medical opinion. The RMV (or its delegate) will assess additional medical information provided on a case-by-case basis.

(7) (a) The right of review for certain licensing decisions is regulated by the Vehicle and Traffic (Review of Decisions) Regulations 2010. Only eligible persons may apply for review and only specified decisions are reviewable.

A decision to suspend or cancel a drivers licence is, in most circumstances, a reviewable decision under the regulations.

Holders are advised of their right to seek a review at the time they are advised of the decision to suspend or cancel their licence, in accordance with the requirements of the review regulations.

Applications for internal review must be in writing and lodged with the Secretary of the Department of State Growth either by post or by email. The department has an electronic mailbox specifically for this purpose - ir@stategrowth.tas.gov.au.

Under the regulations, applications must clearly state the decision appealed from and the applicant's reasons for seeking the review.

The reviewing authority must decide to either affirm the original decision, vary the original decision or set aside the original decision and make a new decision in its place.

Internal review decisions must be made within 14 days of receipt of the application by the reviewing authority. This period may be extended by up to 28 days by notice to the applicant. If a review decision is not made within the required time frame, the original decision is deemed to have been affirmed.

There is no fee for making an internal review application.

(b) Forty-six applications for review of a decision to suspend or cancel a drivers licence were received over the period from 1 July 2017 to 30 June 2019.

(c) Two internal reviews over the period from 1 July 2017 to 30 June 2019 resulted in a different outcome, with the original decision being set aside.

(d) There were seven applications for external review by the Magistrates Court made over the period from 1 July 2017 to 20 June 2019.

(e) No Magistrates Court appeals over the period from 1 July 2017 to 30 June 2019 resulted in a revised outcome.

## 10. ELECTRONIC GAMING MACHINES - NUMBERS AND VENUES

**Mr GAFFNEY** asked the Leader of Government Business in the Legislative Council -

(1) What is the maximum number of electronic gaming machines - EGMs - allowed in Tasmania?

(2) Of that number, what is the maximum number of EGMs allowed in -

(a) casinos;
(b) TT-Line;
(c) hotels/motels;
(d) RSLs; and
(e) other.

(3) What is the actual number of EGMs currently located in -

(a) Wrest Point Casino - Hobart;
(b) Country Club Casino - Launceston;
(c) TT-Line;
(d) hotels/motels;
(e) RSLs; and
(f) other.

(4) (a) Which RSL clubs in Tasmania have EGMs; and
(b) how many EGMs are located in each venue?

(5) (a) Which hotels/motels in Tasmania have EGMs; and
(b) how many EGMs are located in each venue?

(6) How many EGMs are currently located in each local government area in Tasmania (excluding casinos and TT-Line)?

The answer reads as follows:

The information below is currently publicly available on the Liquor and Gaming Branch website - www.treasury.tas.gov.au, under Liquor and Gaming/legislation and data/gambling industry data - and is current as at 16 September 2019.

(1) The maximum number of electronic gaming machines allowed in Tasmania is 3680.

(2) Of the 3680 EGM limit, the maximum number of EGMS that can be installed in hotels and clubs (including RSLs) is 2500 in total statewide, with no more than 30 to be installed at any one hotel and no more than 40 to be installed at any one club. The residual EGMs may be installed in casinos and the TT-Line.

(3) The actual number of EGMs currently located in -

- Wrest Point Hotel Casino, Hobart is 650;
- Country Club Casino, Launceston is 535;
- TT-Line is 36;
- hotels/motels is 2218;

- RSLs is 82; and
- other clubs is 15.

(4) Current Tasmanian RSL clubs operating EGMs -

| Venue name | Number of EGMs |
|---|---|
| Devonport RSL | 20 |
| Dover RSL Club | 12 |
| Sheffield RSL and Citizens Club | 15 |
| St Helens RSL and Ex-Servicemen's Club | 15 |
| Ulverstone Returned Servicemen's Club | 20 |

(5) Current Tasmanian hotels/motels operating EGMs

| Venue name | Number of EGMs |
|---|---|
| Alexander Hotel | 30 |
| All Year Round Tavern | 20 |
| Argosy Motor Inn | 30 |
| Beach Hotel | 30 |
| Beachfront at Bicheno | 20 |
| Beauty Point Waterfront Hotel | 20 |
| Beltana Hotel | 30 |
| Black Buffalo Hotel | 30 |
| Bridge Hotel Motel | 30 |
| Bridport Hotel | 15 |
| Brooker Inn | 30 |
| Burnie Central Townhouse Hotel | 20 |
| Campbell Town Hotel | 20 |
| Carlyle Hotel | 30 |
| Central Hotel Hobart | 30 |
| Claremont Hotel Motel | 30 |
| Club Hotel Glenorchy | 30 |
| Cock and Bull Hotel | 20 |
| Commercial Hotel | 21 |
| Cooleys Hotel | 30 |
| Deloraine Hotel | 20 |
| Derwent Tavern | 30 |
| Dodges Ferry Café and Bar | 20 |
| Dunalley Hotel | 15 |
| Edgewater Hotel | 30 |
| Elimatta Hotel | 30 |
| Elwick Hotel | 30 |
| Empire Hotel - Queenstown | 15 |
| Exeter Hotel | 15 |
| Foreshore Tavern | 30 |
| Formby Hotel | 30 |
| Furners Hotel | 30 |
| Granada Tavern | 30 |
| Grand Hotel | 25 |

| | |
|---|---|
| Gray's Hotel | 25 |
| Heemskirk Hotel Motel | 20 |
| Hotel Federal | 30 |
| Hotel Tasmania | 30 |
| Kendalls Hotel Motel | 20 |
| Kings Meadows Hotel | 30 |
| Kingston Hotel | 30 |
| Lighthouse Hotel | 30 |
| Lords Hotel | 10 |
| Mackeys Royal Hotel | 30 |
| Marquis of Hastings Hotel | 15 |
| Midway Point Tavern | 25 |
| Molly Malones | 30 |
| Mornington Inn | 30 |
| Mowbray Hotel | 30 |
| Neptune Grand Hotel | 25 |
| New Norfolk Hotel | 24 |
| Newstead Hotel and Bottleshop | 30 |
| Olde Tudor Motor Inn | 30 |
| Orford Blue Waters Hotel | 15 |
| Park Tavern | 30 |
| Pembroke Hotel | 30 |
| Pier Hotel | 30 |
| Plough Inn, Launceston | 30 |
| Quality Hotel Gateway | 30 |
| Queens Arms Hotel | 20 |
| Queens Head Hotel | 25 |
| Queens Head Inn | 20 |
| Queenstown Railway Hotel | 10 |
| Regatta Point Tavern | 10 |
| Regent Hotel | 30 |
| Risdon Brook Hotel | 30 |
| River Arms Hotel | 30 |
| Riverside Hotel Motel | 30 |
| RJ's Westbury Hotel | 15 |
| Seabrook Hotel Motel | 30 |
| Shearwater Tavern | 20 |
| Shoreline Motor Hotel | 30 |
| Snug Tavern | 20 |
| Somerset Hotel | 30 |
| St Helens Bayside Inn | 30 |
| Star and Garter Hotel | 24 |
| Sunnyhill Tavern | 20 |
| Tall Timbers Hotel Motel | 20 |
| The Black Stallion Hotel | 30 |
| The Brighton Hotel Motel | 30 |
| The Top Pub | 10 |
| Top of the Town Hotel Motel | 30 |

| | |
|---|---|
| TRC Hotel | 30 |
| Valern Hotel | 30 |
| Waratah Hotel | 15 |
| Waterfront Hotel | 30 |
| Welcome Stranger Hotel | 24 |
| Wharf Hotel Wynyard | 20 |

(6) Number of EGMS located in local government areas (excluding casinos and the TT-Line) -

| LGA | Number of EGMS |
|---|---|
| Break O'Day | 45 |
| Brighton | 60 |
| Burnie | 110 |
| Central Coast | 135 |
| Circular Head | 50 |
| Clarence | 180 |
| Derwent Valley | 48 |
| Devonport | 230 |
| Dorset | 45 |
| George Town | 55 |
| Glamorgan Spring Bay | 35 |
| Glenorchy | 240 |
| Hobart | 139 |
| Huon Valley | 37 |
| Kentish | 15 |
| Kingborough | 50 |
| Latrobe | 50 |
| Launceston | 366 |
| Meander Valley | 35 |
| Northern Midlands | 60 |
| Sorell | 90 |
| Waratah-Wynyard | 110 |
| West Coast | 65 |
| West Tamar | 65 |

## TABLED PAPERS

### Parliamentary Standing Committee of Public Accounts Annual Report 2018-19

**Mr Dean** presented the Parliamentary Standing Committee of Public Accounts Annual Report 2018-19.

**Report received and printed.**

## RECOGNITION OF VISTORS

**Mr PRESIDENT** - Honourable members, I welcome the Tasmanian Junior Beekeepers who are the guests of the member for Rumney. We also have members of the West Moonah Community House Men's Shed, who are the guests of the member for Elwick, joining us today.

I am sure all members welcome you to the Legislative Council and trust you enjoy your time with us today.

**Members** - Hear, hear.

## SPECIAL INTEREST MATTERS

### Tasmanian Junior Beekeepers

[11.11 a.m.]

**Ms LOVELL** (Rumney) - Mr President, it gives me great pleasure to share today with members the work of an inspiring group of young people in my electorate. I welcome to the Chamber today a small group of representatives from the Tasmanian Junior Beekeepers - Keegan, Lacey, Ella, Iola, Lilith, Callum, Marcus, Luca, Audrey, Elizabeth and Olivia - and their adult chaperones, Jo and Allan. It is a small group, but they assure me the most important one.

The Tasmanian Junior Beekeepers was the idea of a constituent of mine, Anita Long. Anita is not able to join us today, but has welcomed me - not to mention hundreds of others at various times - to her home where she created and now hosts the Junior Beekeepers. Anita is a hairdresser and a farmer, but her interests in beekeeping began at a young age. Anita remembers visiting the Royal Tasmanian Botanical Gardens in Hobart as an eight-year-old, in particular the Honey House which I am sure other members will recall.

While Anita was first drawn to beekeeping from that time on, it was not until many years later she began to keep her own bees, not until 2013 when Anita and her husband were hosting on their farm a number of hives belonging to a local beekeeper in Richmond. In 2015, Anita began delivering bee awareness lessons in primary schools. Anita describes being approached by students after her presentations - often by the students who were finding conventical lessons difficult to engage with - asking her for more information and even to come and see her hives and bees.

It was here the idea for the Tasmanian Junior Beekeepers first began. In 2017, Anita hosted a come and try day, hoping for maybe four or five children to come along. On that day, she ended up with 40. Now, only 18 months later, the Tasmanian Junior Beekeepers are made up of a core group of around 50 young people as well as up to 30 others who attend from time to time. Once a month and more often in school holidays, the group gathers at Anita's farm and learns about beekeeping.

Anita talks about beekeeping as a form of meditation as beekeepers need to be calm to keep their bees calm. Anita has described for me the steps her group takes to settle, focus and calm themselves before they approach the hives. She tells stories of some of her junior beekeepers who can tell by the nearby vibration of hive whether everything is as it should be. Hearing Anita talk with such obvious respect about this young group is nothing short of delightful. They are in incredibly good hands with Anita Long.

The Tasmanian Junior Beekeepers have achieved a great deal in a short period of time. They gathered their first harvest in February this year. They harvested the honey, created their own logo and labels, jarred the honey and sold it at the farmers' market in Hobart. Doing all the work themselves, they harvested 164 jars which were sold in a matter of hours. Some of the members have gone on to create their own products such as beeswax wraps, lip balm and produce bags, most of which is produced from the by-products of beekeeping.

These young entrepreneurs sell their products at various markets and have established quite successful businesses. This year Anita and one of the junior beekeepers, Laura, travelled all the way to Slovakia for the International Meeting of Young Beekeepers. It was the first time in 10 years a team from the Southern Hemisphere participated.

They raised the money for the trip themselves with a raffle, sausage sizzle and some crowdfunding. Next year they are hoping to field a full team of three at the meeting in Slovenia.

A group of 10 of the junior beekeepers and eight adults travelled to Mildura courtesy of a donation from Monsons Honey & Pollination to learn about pollination and beekeeping. In January, the Tasmanian Junior Beekeepers will be hosting the first meeting of young beekeepers in Australia.

This group is about much more than just beekeeping. Anita had a vision for a group that provided not only for a monthly activity, but also an opportunity for young beekeepers to take their interest and develop it into something they can take much further. It is the only junior beekeeping group in Australia, although a number of other states have been in contact with Anita and are looking to establish their own groups. This is extremely important as the average age of beekeepers in Australia is 59 years. I hope we see many more groups of young beekeepers emerge throughout the country.

It comes as a surprise to many that beekeeping is not just about honey production, as delicious as that part of it is. In fact, most beekeepers see honey as something of a bonus. Rather, beekeeping and pollination is critical to agriculture and food production worldwide, and that is their focus. One of out of every three mouthfuls of food is dependent on a healthy bee population. Our location and physical environment in Australia means we are ideally placed to foster a thriving beekeeping industry, as we have been able to keep relatively pest free.

This is why the beekeeping industry is so concerned about the threat to leatherwood trees in Tasmania. Leatherwood does not just provide Tasmania's unique leatherwood honey, but access to leatherwood trees also significantly extends the pollination season. Beekeepers have faced many challenges over recent years, with many leatherwood trees lost to bushfires and dry conditions, as well as the threat of logging. It was a great relief for many to hear that Sustainable Timber Tasmania has reached an agreement with beekeepers to accommodate their needs. Many supporters of the Tasmanian Junior Beekeepers signed a petition on this matter that was recently presented to the House of Assembly by Labor Leader and member for Lyons, Rebecca White, another big supporter of this group.

The Tasmanian Junior Beekeepers is a group of passionate, connected, active community members who are not only pursuing their passion but are also taking real steps to ensure Tasmania has a thriving beekeeping industry for many years to come. I invited them to parliament today so that we could all recognise their work.

To each of you here today, to your parents and your other adult supporters, to the woman who started it all, Anita Long, and to every Tasmanian junior beekeeper, from us in this place, thank you.

**Members -** Hear, hear.

## Medicinal Cannabis

[11.18 a.m.]

**Mr FINCH** (Rosevears) - Mr President, some of the medical profession seem to be confused about medicinal cannabis, and politicians and some members of the public even more so. There is resistance by the Tasmanian and some other governments to its introduction for treating conditions such as some forms of epilepsy and controlling severe pain. The official stand on medicinal cannabis goes something like this: currently there is limited evidence about the effectiveness of medicinal cannabis for use in different medical conditions and little is also known about the most suitable doses of individual cannabis products.

Despite official resistance, medicinal cannabis treatment can be accessed, but it is a difficult and cumbersome process. One of my constituents suffering from inoperable pancreatic cancer, Gordon Shaw, and his daughter, Georgina Knightley, had to fight long and hard for treatment. Georgina eventually found out about the Tasmanian Medical Cannabis Controlled Access Scheme, which she says is a well-held secret. She was finally introduced to a palliative care specialist at Launceston's Holman Clinic, which made an application to the access scheme. Georgina lost patience when it deliberated for six weeks. She wrote to the Minister for Health, demanding action. Approval was given and her father's condition improved dramatically. He was back in the garden, interested in food and much happier. Georgina Knightley says cannabis gave her father peace of mind till the end. There is no doubt that had he had it earlier, his suffering would have been greatly reduced. A constituent of the member for Windermere, across the Tamar, Lyn Cleaver, is a staunch advocate for the cause who treats her son Jeremy with medicinal cannabis for his very difficult epileptic seizures. Lyn Cleaver says she could not access cannabis for Jeremy until a score of other potential treatments had been tried - up to an iteration of 17 - without the relief needed for Jeremy. In the meantime, there was a danger of serious injury during his multiple seizures each and every day.

She says cannabis has been the only medicine that offers help to her son. Another example of the success of medicinal cannabis treatment is the renowned singer Olivia Newton-John, who came to Australia recently. You might have seen it on television - she was here to raise money for a cancer and wellness centre which bears her name. She is suffering from breast cancer and manages her pain with medicinal cannabis and says she weaned herself off morphine with the cannabis. Olivia Newton-John told an Australian television interviewer, Tracy Grimshaw -

> I think everyone should have access to it. ... it's been with us for thousands of years ...

In America and many countries it is no longer illegal -

> It's an important thing to make easier access for patients, particularly people in pain.

The official position on medicinal cannabis has some merit, but so does the need for it by people who know it works for them. What should happen next? Easier access immediately and a great deal of medical research, which has been weak, at best, for decades. Tasmania, with the Holman Clinic, Clifford Craig, the Menzies Centre and UTAS is very well placed for that research, especially with its easily traced island population. With Tasmania's poppy industry likely to be hard hit by the crackdown on the opioid epidemic in the United States, medicinal cannabis could be an alternative crop. There is no reason Tasmania could not lead the way with medicinal cannabis in Australia. Thank you.

## Marillac House

[11.23 a.m.]

**Ms ARMITAGE** (Launceston) - Mr President, today I speak about Marillac House, an accommodation house designed particularly for people who need an affordable place to stay when they visit Launceston for medical treatment.

Located in the Launceston central business district, Marillac House is only a short drive to hospitals and city-based treatment clinics. It also provides a homely, comfortable atmosphere for people receiving treatment and for those who look after them, by being close to our city park, coffee shops and entertainment.

Marillac House and those who work there strive to provide caring at times of need by providing in-house care and support for patients and their carers, family and friends. Marillac House was opened in October 2007 as a special work project of the St Vincent de Paul Society after Vinnies society members and the community concluded there was a lack of low-cost house accommodation and accessible support services for hospital patients, their families and their carers. In identifying these issues, it was found people travelling long distances were the most disadvantaged, such as those travelling from King Island, Flinders Island, the north-west coast and the east coast of Tasmania.

As a result, the services provided by Marillac House are comprehensive, but also allow a high degree of independence and self-service for those who are staying so guests can be in control of their environment. Each room contains tea, coffee and biscuits, laundry services are provided and a lending library for books and DVDs is available. While meals are not included, the central location of Marillac House in the Launceston CBD provides a vast range of options for all types of meals, supermarkets and entertainment. Assistance with transport or advice on what to do while in Launceston are provided by the staff of Marillac House, so the guests can take advantage of all there is to do around the city while knowing they have their home away from home not too far away. Nine rooms are available, ranging from single, double or twin rooms and family suites, each with their own facilities, and there is a live-in caretaker to provide assistance out of hours. Because of this, those who stay at Marillac House enjoy security, support and independence, with the knowledge that Marillac House staff work closely with local hospitals and allied health services to ensure comprehensive service delivery.

Moreover, many volunteers dedicate their time working at Marillac House to provide a high degree of comfort and support to guests during their stay. In March 2018, Marillac celebrated its tenth anniversary with an open day for members of the public to visit and understand the invaluable work being done by those who work and volunteer at the house. As a result, many people were

able to see the inner workings of the house, including the comfortable and safe environment that people in crisis can afford in their time of need.

Something which some people may not realise is that many people who stay at Marillac House stay there alone. As anyone could imagine, going through a health crisis alone would be an extremely intimidating and unpleasant experience. I therefore agree with the Marillac House staff and volunteers that it is more than just accommodation - it is a community. What makes Marillac House so special is not just the affordable, safe and comfortable accommodation, but those who work there and those who stay there. Truly special work is undertaken at Marillac House. I commend and thank all involved for their dedication to assisting vulnerable people in their time of need.

**Ms Rattray** - Hear, hear.

## West Moonah Community Shed

[11.26 a.m.]

**Mr WILLIE** (Elwick) - Mr President, before I start my contribution, I thank the member for Pembroke who was very accommodating in allowing me to give my special interest speech today. I welcome to the Chamber today Peter, Rosemary and Russ from the West Moonah Community Shed. The shed was first established in the mid-1980s. Like other sheds in operation across the country, West Moonah started out as a larger version of the backyard handyman's shed, a familiar part of Australian culture.

The community shed concept is well recognised as providing a safe and busy environment where men - and women - can contribute to the community and remain socially connected in an atmosphere of old fashioned mateship. While respecting the values of the traditional backyard shed format, today's West Moonah Community Shed was officially established in 2017, opening its membership to anyone regardless of their ability. Every member has equal opportunity to create and contribute - rightly so - and it is an aspect the shed is very proud of. There is no pressure or expectation when visiting a shed. This is indeed true at West Moonah Community Shed, where one can come and have a chat, relax by the fire or grab a coffee if that is all they are looking for.

The West Moonah Community Shed is made up of a diverse range of dedicated members, a mix of locals young and old, migrants and disability organisation representatives who enjoy a chat and working with their hands. Thanks to its dedicated volunteers, the West Moonah Community Shed opens every morning on weekdays, with members of the shed participating in various activities and building relationships with individuals in the community whose paths may not otherwise have crossed.

Not restricted by shed activities, West Moonah shed members also assist and take part in the West Moonah Community House initiatives. Members assist in maintaining the community garden, helping to coordinate the First Choice Food Co-Op initiative, and delivering training courses, including in woodwork and restoration. Shed members welcome the opportunity to lend their skills to the community projects. Just recently, shed members put together a street library for my office. Their expert craftsmanship was most appreciated.

Earlier this year, the community shed received a very welcome donation from the Rotary Club of Hobart which allowed their workshop to expand and double the space available. This has made

a massive difference to members, allowing for more attendees, courses and activities. The West Moonah Community Shed offers a vast array of activities, training opportunities and courses for its members. A hugely popular initiative was, or still is, the Coffin Club, which commenced early last year.

**Ms Forrest** - C-o-f-f-i-n?

**Mr WILLIE** - Yes. The Coffin Club makes it possible for people to build their own personalised coffin under the supervision of an experienced tradesperson. As part of a six-week course, participants construct a coffin, with their experience documented by a photographer. Participants then receive a short film at the end of their coffin building project. The Coffin Club has allowed for individuals and families to build a coffin together and in doing so generate healthy conversations about mortality and death. Not only does this reduce the financial stress on a funeral, as a coffin typically adds up to 30 per cent of funeral expenses, it is also helping to break down the stigma associated with death.

The value of the West Moonah Community Shed to our local community throughout the years has been significant. It not only provides practical life skills but, importantly, is also a place to meet friends, share stories and enjoy each other's company.

**Ms Rattray** - They have morning tea from 10 a.m. to 3 p.m. as well, like most other sheds.

**Mr WILLIE** - Yes, they are very welcoming and hospitable.

In closing, I recognise Mr Roy Scott, a founding member of the West Moonah Community Shed, who sadly passed away last week. Mr Scott was known to be a man full of character and a good friend to many. Mr Scott reflected the spirit of the community shed and its values. Again, I welcome members of the West Moonah Community Shed to the Legislative Council.

**Members** - Hear, hear.

## Mishca Linden, School Strike 4 Climate in Wynyard

[11.31 a.m.]

**Ms FORREST** (Murchison) - Mr President, I was caught up in a demonstration outside Parliament House this morning when I was already running late after having some medical assessments and then having my driveway blocked by a builder from next door. Feeling somewhat frustrated I got caught up in the protest outside, which denied my access to the building, which we know is actually illegal. It was interesting because it gave me the opportunity to speak about what I am speaking about now, with the protesters there and the media in attendance. I will continue my presentation on the basis that I have already talked a bit about it.

Mishca Linden is a grade 8 student who has lived in Wynyard all her life. When Mishca learnt that a climate strike had not been organised for Wynyard, she organised and led the student climate strike in the Wynyard Cow Park, which was attended by many locals of all ages. I am going to relay much of what she said in her speech at the event because she said it well.

Mishca said -

> I love growing up here because even though Wynyard is small, it's fun. I love swimming at the wharf with my friends in summer and swimming at Boat Harbour Beach. I like going to Wynyard High because I think we still get great opportunities even though we are a small high school.
>
> This year I have been learning about a lot of things at school: volume and area in maths; the Plague and Vikings in history; landforms and Viking expansion in geography; and cell structures in science.
>
> However, climate change wasn't something I learned as part of the regular curriculum. I started to learn about climate change when I was asked to make a short film for the Commissioner for Children and Young People on an issue that young people were worried about. My short film displayed the results of a survey I conducted on students at my school to see what they thought of climate change. I found out that teachers are the second biggest influence on what students thought about climate change, but only 29% of students said they been taught about climate change in school. I decided to learn more.

Mishca is interested in marine biology and chose to do her UTAS science fair investigation on the effects on ocean acidification on mussels. During her research, she began to see firsthand the effect on our oceans that climate change will have in her lifetime. Mishca went on to say in her speech -

> We have a problem: basically, the earth is heating up and increased amounts of $CO_2$ are affecting the oceans, the climate, ecosystems and US. The lungs of our earth, the Amazon, has been on fire; this ancient rainforest that doesn't normally catch on fire is burning to the ground. Vast tracts of QLD and NSW have already been in the grips of tragic and deadly bushfire, of a severity we've never seen before. It is only the beginning of spring and our Emergency Services are bracing us to prepare for worse to come. Is anyone else worried? Even if you don't believe in climate change, you cannot deny that our way of life is a problem. We have a problem that's getting worse and we can make a difference.
>
> I don't know why Scott Morrison isn't attending the UN summit that will be taking place in 3 days from now - 60 heads of state, including India's prime minister, France's president, the UK's prime minister and German chancellor are meeting in New York for a Climate Emergency Summit.
>
> I don't believe in passing up opportunities to learn about important things and I can't believe our Prime Minister is not going.

Mishca's concerns were shared by many other Australians, with one poll suggesting 71 per cent of those polled from all political backgrounds believed the Prime Minister should have attended. Another poll showed 90 per cent of Australians view climate change as a serious and pressing problem. Mischa continued -

> But I am here, and you are all here, and today we can have conversations so we can learn more about how we can fix this problem. Learning and talking to each other is the most important thing we can do. We are going to have to push harder

than yesterday if we want a better tomorrow because the climate crisis affects everyone.

This is not a mainland issue, this is not a young person's issue or a wealthy person's issue. This is an EVERYBODY issue. This is our issue. I wish Scott Morrison could see the Cow Park today. We are all here because we are a community. We have different ideas and beliefs, but we are a community and when you are part of a community you turn up and support one another.

As a community, today we are here to learn together so we can work to stop the worst of this crisis playing out. It's important we all stand together and not against one another. We are ready to learn more here today. … It's okay that we are all still learning about climate change. I'm not here today because I know the answers. That's for all of us to work out together. By each of us leading in our own way, and calling on others to do the same, I know that we will build paths out of this mess.

None of us want to live in fear of an uncertain future. I am growing up in Wynyard, Tasmania, but I am also growing up on this planet. It's time to respectfully work out solutions to this problem. Our leaders aren't showing us a clear way forward, so I think we need to make our own path here in Wynyard and leave a trail for others to follow.

Mishca is a young intelligent, passionate and articulate Tasmanian who is willing to stand up in front of a large crowd and raise her voice and express concerns many of us share. She is right - we must all increase our knowledge, share our knowledge and address the very real issues facing us as a result of climate change.

I commend Mishca for her courage and willingness to act in such an inclusive and proactive way. This is her future - and the future of our children and grandchildren. Let us listen to these young people, learn from them, share our knowledge with them, and work with them to ensure a safe sustainable secure and certain future for us all.

## Avoca Primary School

[11.37 a.m.]

**Ms RATTRAY** (McIntyre) - Mr President, today I share some exceptionally sad news with members regarding one of my favorite places in my electorate. My Avoca community will be saying farewell to its beloved school. Sadly, declining numbers have led to the decision by the community to make the very difficult decision to close the school effective from the end of this year.

There has been a school in Avoca since 1860 when the school opened with Mr JH Roberts as the head teacher and one other teacher, and with 43 students attending. Nine years later, Miss Carol Foster took over and served as head teacher for an incredible 37 years. Interestingly, Miss Foster as head teacher also taught a class of 40 students and perhaps not surprisingly she was the longest serving teacher in the school's history.

It was not until 1911 that a second teacher was appointed to the school to relieve the head teacher. From 1915 until 1927, a series of class monitors helped teachers with the student population of up to 68; after that, a junior teacher was appointed.

The school site moved several times over the life of the school until a new school was built in 1951 on its current site in St Pauls Street, Avoca. This coincided with students from Royal George attending the Avoca school for the first time. The school consisted of both primary and secondary students, with its biggest intake of 145 student in 1961, until 1974 when the secondary section closed. Over the next 30 years student numbers fluctuated between 73 and 49, with last year's student numbers falling to 19. In 2019, the number of enrolments has been around 11.

This clearly brought about the parents and friends association on behalf of the school community to make the decision to call for the school to be closed. Certainly, it was a very difficult and heartbreaking decision to arrive at.

I place on the record my sincere appreciation to Nick Finlay, school principal at Avoca from 2000 until his retirement in 2014. Nick had a delightful manner with the students and a great rapport with the community. I recall, from my time as the local member over those 15 years, the wonderful presentation evenings and significant events held at the school and the immense pride the staff, students and school community had in their school, which has never diminished over the years.

I have always been somewhat surprised in more recent years that those attending presentation evenings never seem to be any fewer, albeit student numbers were getting lower. When I looked around the hall, the faces from early years were still there supporting the school, even though their own children had long since left primary school. This is what the Avoca school community is all about - not only those families with students at the school, but those from the community supporting the school.

From memory, I have missed attending only one presentation evening, and this year's final one will be on my list of 'must attend' for 2019. A transition plan has been developed by parents, staff and the Education department which entails considering the needs of the remaining 11 students and putting in place the necessary arrangements as they prepare for the new school year at Campbell Town. The Campbell Town district school has been involved in the transition process and I feel sure the school community will welcome and support its new students from Avoca

The school community has planned a big celebration and reunion, aptly named the Avoca School's Last Bell, to be held at the school on 30 November, commencing at about 2 p.m. Past and present students, staff, friends, family and community members are all invited to come and celebrate 159 years of this special school. For almost 16 decades it has served Avoca, Royal George and the surrounding community exceptionally well. Thank you to everyone who has been part of or has supported the Avoca school in the past. I wish the community well as the next conversation - post the closure - will be in regard to the future of the school site and particularly those wonderful surrounding grounds, which are home to a number of community facilities such as a swimming pool and community garden. There is a big conversation to be had around what happens with a school. Certainly, a sad day for Avoca to lose their school.

## SUSPENSION OF SITTING

[11.43 a.m.]

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

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

This is for the purpose of the member for Windermere's briefing in Committee Room 2.

**Motion agreed to.**

**Sitting suspended from 11.43 a.m. to 2.30 p.m.**

## RECOGNITION OF VISITORS

**Mr PRESIDENT** - Honourable members, before we begin questions, it would be remiss of me not to welcome my mother Lorraine, president of the Kerry Finch fan club, to the Chamber today, and my sister and brother-in-law Mandy and Gary Boyer and their daughter Sophie. Welcome to the Chamber. I am sure you will enjoy the action of question time today.

**Members** - Hear, hear.

## QUESTIONS

### Tasracing - Point of Consumption Tax

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

[2.32 p.m.]

Given the consultation with the wagering and the racing industries regarding the introduction of the 15 per cent point of consumption - POC - tax on wagering in Tasmania has now concluded -

(1) What is the projected revenue from this tax?

(2) What percentage of the 15 per cent will the Government retain?

(3) What negotiations have occurred with Tasracing and the three codes to allocate the remaining percentage?

(4) When will this payment commence and how often will it be paid - for example, quarterly, half-yearly or annually?

(5) What formula will Tasracing use to determine the percentage allocated to each code, given that there will be a new funding formula negotiated with the codes by August 2020?

**ANSWER**

Mr President, I reiterate how wonderful it is to meet your family. Can I say to your family that they have a wonderful gentleman as a son and brother?

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

(1) The current licensing arrangement raises approximately $7 million per annum. Additional revenue from the new tax is expected to be in the order of $5 million per annum.

(2) The Government has committed to working closely with the local racing industry to ensure that the net benefits are appropriately shared between the Government and the industry.

(3) The answer is the same as for (2).

(4) Payment to the racing industry has not yet been determined.

(5) This has not yet been determined.

## Paediatric Surgeons - North-West Coast

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

[2.34 p.m.]

With regard to paediatric services in the north-west, according to the Tasmanian Health Service website, the Department of Paediatric Surgery at the Royal Hobart Hospital provides a statewide service to babies and children up to and including 14 years of age, 24 hours a day, seven days a week.

(1) How often do paediatric surgeons visit the north-west coast?

(2) Can you provide a list of names of visiting paediatric surgeons, dates and locations?

(3) Do paediatric surgeons bring their own staff with them to assist?

(4) Do paediatric surgeons do minor procedures on these visits?

**ANSWER**

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

(1) to (4)

I think the answers have been rolled together, but I will work it out as we go through.

The North West Regional Hospital currently has four paediatricians, one permanent registrar and one nurse practitioner to provide in-house paediatric services. These staff provide the following clinics - a cystic fibrosis clinic; a continence clinic; an asthma and allergy clinic, including skin prick tests; and a general paediatric clinic. It also provides services to the obstetrics and gynaecological service through newborn checks and assessments.

The North West Regional Hospital staff provide outreach clinics to the Tasmanian Aboriginal Centre, and to Smithton/Rosebery, Queenstown and King Island. There are also paediatric

clinics at the Mersey Community Hospital. The outreach paediatric outpatient services provided in the north-west include paediatric rehabilitation services and paediatric neurology services provided by the Royal Hobart Hospital staff, and paediatric cardiology and paediatric endocrinology services and cystic fibrosis team visits from Royal Melbourne Hospital.

Further, telehealth appointments are available for paediatric patients in the north-west through Tasmanian Health Service health centres and participating general practitioner clinics, and via the North West Regional and Mersey Community hospitals. While surgery is performed on some paediatric patients in the north-west by specialists where it is safe to do so and in line with the role delineation framework, there has never been a specific paediatric surgery list in operation in the north-west.

Depending on clinical urgency, north-west paediatric surgery patients are referred to clinics either in the north or the south of the state. The Launceston General Hospital provides non-complex elective surgery on children over the age of one year; however, complex paediatric surgery can only be performed at the Royal Hobart Hospital because it is the only hospital in the state with the clinical capacity to provide safe services at the required level of complexity and acuity.

To provide complex paediatric surgery, there must be a specialist paediatric inpatient unit, a director of paediatric surgical services, a specialist paediatric surgeon and specialist paediatric anaesthetics available 24 hours a day, as well as onsite paediatric ICU services.

## Paediatric Surgeons - North-West Coast - Supplementary Question

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

Mr President, I thank the Leader for what she has just read out, which does not, in any way, answer the question I asked. This question has been with the Government now for about a month. I will read it again.

According to the Tasmanian Health Service website, the Department of Paediatric Surgery at the Royal Hobart Hospital provides statewide services to babies and children up to and including 14 years of age, 24 hours a day, seven days a week. The question was -

(1) How often do paediatric surgeons visit the north-west coast?

The question was not about doing major surgery. I understand they cannot do surgery up here. I understand all the requirements needed for babies and children to have complex surgery. I understand it has to be at the Royal Hobart Hospital.

What I am asking is: when do paediatric surgeons come and visit the north-west to consult? I do not know how you could read this question any other way. I will be asking basically the same question again, because the Leader's response does not answer it. The other information is helpful and useful, but this is specifically asked on behalf of a constituent of mine who is having challenges even getting to see a paediatric surgeon. This question is supplementary, Mr President, and I will go onto my next one.

## Tasmanian Housing Debt Waiver

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

[2.39 p.m.]

With regard to the waiver of the outstanding housing-related debt agreement between the Commonwealth and Tasmania, the Treasurer, Mr Gutwein, has written to the federal Treasurer regarding the impact of Tasmania's GST and Commonwealth Grants Commission assessment.

(1) Has the state Treasurer received a written response from the federal Treasurer?

(2) If so, please provide a copy of this response. If no response has been received to date, when is a response expected?

**ANSWER**

Mr President, I thank the member for Murchison for her question. If the member is of such a mind, we can resubmit that question and reiterate what you have just said. Would that be okay?

**Ms Forrest** - That would be fine. Thank you.

**Mrs HISCUTT** - Mr President, in the answer to the member for Murchison's question - hopefully the member will be happier with this one - the Tasmanian Treasurer has received a written response from the Australian Treasurer confirming he will direct the Commonwealth Grants Commission to fully exclude the waiver of Tasmanian's housing-related debt from its GST relativity calculations. I have that letter and seek leave to have it tabled and incorporated into *Hansard*.

**Leave granted.**

The document was incorporated as follows -

THE HON JOSH FRYDENBERG MP
TREASURER
DEPUTY LEADER OF THE LIBERAL PARTY

Ref: MS19-001381

The Hon Peter Gutwein MP
Treasurer of Tasmania
Level 9 Executive Building
15 Murray Street
HOBART TAS 7000

Dear Treasurer

I am writing to you regarding the Australian Government's waiver of outstanding housing related loans to support the Tasmanian Government's efforts to reduce homelessness and increase access to social housing. Further to the debt waiver agreement between the Australian and Tasmanian Governments on 8 September 2019; the Finance Minister has advised me that he has authorised the debt waiver under section 63 of the Public Governance, Performance and Accountability Act 2013.

I note that in exchange for the waiver of housing related debt, the Tasmanian Government has agreed to redirect the annual expenditure that would otherwise be dedicated to interest and principal repayments of the housing loans to programs that increase access to social housing, reduce homelessness, and improve housing supply across Tasmania (including by facilitating changes and pursuing reforms to planning and zoning), in addition to publicly reporting on the key actions and outcomes that have been undertaken with the funds from 2019-20 to 2041-42.

Recognising that Tasmania continues to have particular housing affordability issues resulting from a combination of pressures across the housing spectrum, and noting the terms outlined in the debt waiver agreement, I will direct the CGC to fully exclude the Commonwealth's waiver of Tasmania's housing related debt from its GST relativity calculations.

I have copied this letter to the Minister for Housing and Assistant Treasurer, the Hon Michael Sukkar NIP and the Tasmanian Minister for Housing, the Hon Roger Jaensch for information.

Yours sincerely

THE HON JOSH FRYDENBERG MP

6/10/2019

Parliament House Canberra ACT 2600 Australia
Telephone 61 2 6277 7340 | Facsimile: 61 2 6273 3420

## Housing Tasmania - Outstanding Maintenance

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

[2.40 p.m.]

With regard to Housing Tasmania's current property maintenance schedule and backlog -

(1) What was the total cost of outstanding maintenance for each of the last five years?

(2) What is the current full cost of the outstanding maintenance required on Housing Tasmania properties?

(3) How many properties have been awaiting maintenance for -

(a) up to one month;
(b) one to three months;
(c) three to six months;
(d) six to 12 months;
(e) 12 to 18 months;
(f) 18 months to two years; and
(g) longer than two years?

(4) What maintenance is required on currently tenanted properties?

(5) How many properties require maintenance to enable them to be re-tenanted?

**ANSWER**

Mr President, I thank the member for Murchison for her question. The answer has many facts and figures, which I will read through. The member will receive a copy of this later.

(1) to (5)

The total cost of deferred maintenance liability has been reducing each year for the past five years. In 2015, it was $90 million; in 2016, it was $85.5 million; in 2017, it was $85 million; in 2018, it was $73 million; and currently in 2019, the maintenance liability has dropped to $60 million.

The total cost of outstanding maintenance works orders is $437 605.78. The Government is pleased to report that of the outstanding maintenance work, no properties have been awaiting maintenance for more than a year; only one property has been waiting longer than six months, but less than a year. Eighteen properties have been awaiting maintenance for between three and six months, and 76 properties between one and three months; 131 properties have been awaiting maintenance under a month.

All up, this totals 226 households waiting for maintenance. The above figures refer to all outstanding maintenance required on tenanted properties. As of 19 September, 32 properties across the state are in various stages of turnaround to allow re-tenanting. This is consistent with our high occupancy rate and social housing, which was 99.2 per cent at the end of August.

## Bone Scans - Access

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

[2.43 p.m.]

I sent this question through probably five weeks ago and we have had two sitting weeks since then. The issue may now be resolved; however, I will still ask the question.

Regarding access to bone scans for Tasmanians -

(1) Where can Tasmanians currently access bone scans in Tasmania and where could they five weeks ago?

(2) What were the current waiting times in each region?

(3) How many patients are waiting for bone scans?

(4) Have some Tasmanians been required to travel to Victoria for bone scans?

  (a) If so, why could the bone scans not be undertaken in Tasmania?

  (b) How many Tasmanians have had access to bone scans outside the state in the last 12 months?

**ANSWER**

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

(1) Nuclear medicine bone scans are available at the Royal Hobart Hospital, the Launceston General Hospital and the North West Regional Hospital. Private services are also available through I-MED Radiology in Lenah Valley, Hobart and Launceston.

(2) There are no waiting times in any region; however, non-urgent patients may wait a few days for an appointment.

(3) There are currently no patients waiting for scans.

(4) Given the level of service provided in Tasmania, there is no reason for people to travel to Victoria for bone scans unless, of course, it is their personal choice.

**Ms Forrest** - I know constituents who could not get bone scans recently. I was told all the machines in the state had broken down. Maybe there was some misinformation there.

## Safety Audit - School Bus Stop

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

[2.45 p.m.]

With regard to the safety audit which the Department of State Growth has agreed to undertake in consultation with the Circular Head Council so that children may alight from a school bus to

access after-school care at Giggles Early Learning Service in Smithton, when is the safety audit expected to be completed?

**ANSWER**

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

State Growth is currently seeking to engage an independent consultant to undertake a safety assessment of the bus stop at 21 to 23 Smith Street as soon as possible. A proposal, including advice of fees and project timing, is yet to be received. Once the engagement is able to be confirmed and delivery timing agreed, State Growth will be in a position to advise on an expected date of completion.

## MOTION

### Consideration and Noting - Government Administration Committee B - Tasmania's North East Railway Corridor - Final Report

[2.46 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I move -

> That the final report of Government Administration Committee B on Tasmania's North East Railway Corridor be considered and noted.

This report has been a long time coming. I thank the member for Nelson for allowing this matter to go first, being an order as opposed to a motion. We have been waiting for quite a few weeks, so I am sure many members will be very pleased to see it finalised.

I also welcome your family, Mr President. I have met your mum before, and it is very nice to see all your family here in the Chamber. They may be quite aware of the North East Recreation Trail, depending on whether they are from the north-east.

**Ms Rattray** - I feel sure they support the train initiative.

**Ms ARMITAGE** - As the member for McIntyre notes, I think our report is fairly balanced between the train and trail. I am quite sure many in this Chamber are well aware of the reason this inquiry came to be. The Tasmanian Government announced its support of Dorset Council's initiative and introduced the Strategic Infrastructure Corridors (Strategic and Recreational Use) Bill in 2016. The purpose of the bill was to allow a transition of corridors from railways to recreational uses, providing a framework for their future management and arrangement for adjacent landholders.

The inquiry was established to provide an open public forum for the ongoing community concerns. I think we all know the angst and the divisiveness in the communities with regard to the issues between trail and train. We received some 63 submissions from both sides, train and track. We thank people very much for coming along and giving their time to provide information at our hearings. It is very important people come and give their views, and I am sure all members of the committee were extremely grateful to receive those.

As further background, funding of $1.47 million for a north-east rail trail was announced by the then federal member for Bass Andrew Nikolic in 2015 to convert the disused north-east rail line into a trail for cyclists.

There was concern by rail enthusiasts about pulling up the track. The concern really was between the two groups, whether trains or whether trails would prevail, and the committee spent considerable time in hearings, going to Victoria and New Zealand to investigate and looking at a variety of tracks and trains to try to work out what could be managed in that area, and hopefully to bring the community together.

On behalf of the committee, I thank the individuals and organisations who participated in our inquiry by putting in submissions and attending the hearings. I particularly recognise Dunedin City councillor Kate Wilson and CEO of Dunedin Railways, Craig Osborne.

When we went to New Zealand, it was interesting to see how the trails and the trains both work so well together. People were saying that they get on the trail, they ride there - it is an easy ride for people - and then they get on a train. The train could take them between different areas. One of the areas we went on the train, I am quite sure you would not want a trail. Members here would remember the Taieri Gorge and its steepness. You certainly would not want to be riding a bike along there. It was interesting to see how they worked well together. That was one of the things I really noted. I am sure other members will mention when they contribute to the debate that instead of being one against the other, it was working together with each other and was an outcome we tried to find when delivering our report.

From all accounts, from the results or reports I have had back - I am not sure about other members - the majority of people were actually fairly happy with our report, which is really a good outcome. I appreciate farmers are the one group I have seen in the media that still has concerns, but as for the cyclists and train enthusiasts, my understanding is they are now actually starting to work together.

It is a really good outcome for any committee or inquiry to have two competing groups actually starting to get on together and be pleased with the report we brought forward. It is appropriate to read out a letter we received from the vice-president on behalf of the North East Recreation Trail link. He is quite happy for me to read it out and this was following our report -

> The board of the North East Recreation Trail would like to acknowledge with thanks, the Final Report from the Committee's enquiry into and report upon tourism opportunities provided by the *Strategic and Infrastructure Corridors (Strategic and Recreational Use) Act 2016* in relation to Tasmanian North East Railway Corridor.
>
> We wish to acknowledge the effort and diligence with which the Committee has carried out the remit of this inquiry.
>
> The Final Report, backed by the substantial evidence collated during the inquiry, has provided a wealth of objective information available to all. We trust that both proponents, other stakeholders and the broader community can use this resource and its objective nature to recognise the merits of both proposals.
>
> We further trust that the Committee's efforts to shine a welcome spotlight on the issue will act as a spur for all involved to recognise the over-arching goal of

maximising benefit to the communities of the North-East and thus find a way of working collaboratively towards the kind of win-win outcome outlined in the concluding report.

Sincerely

Mike Scott

It was really good to receive positive feedback and to have also received positive feedback from people involved in the trains.

We went to Victoria and met with Brett Whelan of the Yarra Valley Railway. That railway is still under construction because they lost all their rail to a fire and are gradually rebuilding it; from memory, they have four kilometers at this stage.

One of thing Brett Whelan said was that the main thing is to keep the corridor. Even when track is pulled up in some of these areas for the trail to go through, the corridor is still there so we are not losing the corridor - whether we have determined it should be for a trail or rail, the corridor is still there. As he pointed out, this is really the main thing. Sometimes you lose the train and you have the track, but as long as you have the corridor, it is the main imperative.

We met with Damian McCrohan, President of Rail Trails Australia. He was showing us the areas where the trail met the train. When we were standing on the side of the trail, the number of people who actually came past using these walking trails was quite incredible. The other members will recall that the constant stream of people walking past us using these trails, which went from area to area, was almost unbelievable.

One of the things we really noticed, which came out in the report, is that it is important to have a starting point and a destination, so you are actually going from somewhere to somewhere, whether it be on the train or on the trail. It is really important to be heading in a direction.

When looking at our findings and our recommendations, it is interesting in regard to some landholders. When we were in New Zealand, the evidence we received was some of the landholders had been concerned early on, but none of that had eventuated and they really did not seem to have any great concerns.

I appreciate in the case of the north-east, certain landholders, one in particular, do horse training. Obviously if you are close to a train track, you know the time the train is going through and you can avoid doing your horse training at that stage. With unscheduled bikes, it is more difficult and a horse might shy or be frightened going around the tracks. Certain elements cannot really be controlled, and obviously that would not suit the trail and would be more suited to a train because people would know when the trains are or are not going to run.

Office of the National Rail Safety Regulator staff along with TasRail provided us with a great opportunity to experience the sections of the rail corridor firsthand. They also provided a very informative report. I would have to say it was probably the most enlightening part of the committee - certainly for me - to be on a hi-rail and to go along and see the rail, the track and some of the areas that were mentioned, and also discuss with staff the bridges and current standards for things like rail crossings. You start to get an appreciation of what you have to have in current standards. Obviously with occupational health and safety these days, it is getting stronger, not less.

It was fabulous for them to come along, and of TasRail to provide the drivers with the two hi-rails for us to have the day to go as far as we could. There were some occasions when we could not go on the hi-rail; some of us were on rails that had a longer wheel base and we could not get across the road. It was challenging for some of the TasRail people to get around to where we needed to go, but they took us as far as we could go. We went to the Wyena bridge, to Denison Gorge. That was as far as we could get because the bridges were in a fairly sad state of repair. Some of them obviously did not need as much work, but certainly we could not even walk across the Wyena bridge.

In relation to the bridges, the committee's report noted that -

> The rail bridges inspected were typically constructed with track laid in ballast, supported by the bridge structure. That is, a ballast-topped bridge.
>
> With the exception of the Second River Bridge (which has steel decking supporting the ballast) all other bridges had timber decking supporting the ballast. All of these had some level of decayed timber in the decking and local loss of ballast support. That is, ballast is falling through the deck, or spilling over the side of the deck, or both.

It goes on to say -

> Any modifications proposed for the bridges will require a detailed engineering assessment and design, constructed by those competent to do so and have engineering certification when complete.
>
> The railway bridge at Shepherds Rivulet at Wyena was observed as being close to collapse and will need to be substantially or fully replaced.

It was also acknowledged by the committee that the bridges were not suitable for track or train. It was not just that a train could not go over them; we could not walk on them and a bike could not go over them, either.

It was one of the recommendations of the committee that we ensure any sections of the north-east railway that are not repurposed for use as a rail trail be retained where safe to do so, particularly the section of the line between Lilydale and Wyena, in order that this section of line could be restored in future in the event that a heritage train becomes viable.

The feeling was that obviously there are sections of the line that a bicycle track would not be able to go along and would need to be diverted around the road. If they diverted around the road and they were not going over that section of track, do not pull up that section of rail.

Another recommendation was that any serviceable railway materials should be recovered and made available to Tasmania's tourist heritage rail sector, with priority given to L&NER as part of the rail corridor management agreement in the event that sections of the north-east rail corridor are converted to a rail trail. Anything pulled up that could be used could go to the train group.

We also acknowledge the valuable contribution of the honourable Craig Farrell, who was part of our committee until 21 May 2019. It was very good to have someone with us with the member's knowledge of trains. The other members of the committee were Robert Armstrong, Ivan Dean, Jane Howlett, Sarah Lovell and Tania Rattray, and I am quite sure they will speak on the report.

As I mentioned, there was a lot of angst in the community. We are now hopeful that much of that has been dissolved. I appreciate that, as we have read in the media, the farmers' group is likely to appeal. As well there has always been a concern that the money promised may not still be available. My understanding is the area it was coming from no longer exists. However, I have been assured that our federal members are looking into trying to keep that money to ensure it is there. I believe it would have been parked and quarantined. It is highly unlikely it would have gone to any other area. It is hoped it can still be used for what it was proposed to be used for.

Our main recommendation was obviously that we support the establishment of the heritage railway between Launceston and Lilydale and that it is necessary to negotiate with TasRail for access to the section of railway line between Launceston and Turners Marsh. To start a train at Turners Marsh in the middle of nowhere, where there is nowhere to park and nothing there, seemed inappropriate. In the hearings we heard it is very important that a train or any tourist venture has a good place to start and a good destination.

It was felt that it was important people could get on at Launceston. There were several areas at Launceston where perhaps something could be purpose-built with facilities for a tourist heritage train. If people wanted to bring their bikes, they could put them on the train; they could get to Lilydale and from Lilydale, they could ride on to Scottsdale.

Obviously, from Lilydale to the Lilydale Falls because of different issues, it would be riding along the road, so certainly not going along that first section. The trail goes along the road until it gets to the Lilydale Falls and from there it leads to Scottsdale; in some areas, possibly near Wyena, people would again need to go on the road.

I also extend my sincere gratitude to Natasha Exel, Julie Thompson and the other Legislative Council and parliamentary staff for their excellent and tireless work. Particularly Natasha and Julie were just amazing when we investigated different areas. They were our drivers; they negotiated where we were going. They organised everything, putting up with us and sorting us all out - sometimes for them it was probably like herding cats, but they were wonderful. Their performance was exemplary.

In closing, I thank the members of the committee who never went off track no matter how long it went on. On occasion there was much criticism in the media, on social media, in members' communities, but at the end of it, the members were steadfast. They kept on track with what we were trying to do - find the best outcome for the trail and the rail. I sincerely believe we have a good outcome for the cyclists and for the trains. This will also allow train enthusiasts the opportunity to work out whether they can get a train running from these areas and whether they can use sections of TasRail when they are not being used on weekends. Whether it is on a Sunday or some other time, it will give them a real opportunity to get a heritage rail up and running.

Thank you, Mr President. Thank you, everyone, for being part of it - all the committee members as well as Legislative Council staff.

[3.03 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I thank the former member for Apsley - Lilydale was part of the Apsley electorate prior to the redistribution. The member for Windermere now has responsibility for that part of it.

I stopped around Wyena but the famous Wyena bridge was not quite there anymore. We will get to talk about that.

I acknowledge, as did the Chair, the work of the committee secretariat - I believe they had a fairly arduous task. Considerable technical information needed a lot of assistance with regard to whether a track was suitable for heritage rail; I found this a challenge without any of the background. The committee secretariat certainly managed to gather the information we needed through the submission process, and they made sure we were well versed with what was being put forward.

As the member for Launceston, who chaired the committee, stated - and I might say she did an excellent job, as did all other members of the committee - Natasha Exel navigated the trail between Scottsdale and Tulendeena in her Jeep with sheer precision. I have never seen anything like it. I would not have driven my car up there, and I made it very clear I was not taking my car up that track. She did and got us there and we had a look at the -

**Mr Dean** - I did but I got a few scratches over my car.

**Ms RATTRAY** - I should imagine you did, hence I said there was no way I was taking my car up that track. They are prepared to do whatever a committee secretariat needs to do to gain the information, and that shows their level of dedication not only to their role but also to the committee process.

This has been a very useful exercise. I know some people in the community, and perhaps some within the parliament, felt that an inquiry into Tasmania's north-east rail corridor was a waste of time. I would not have put my hand up and said I would be part of the committee had I thought it would be a waste of time.

As the former member for the Lilydale and surrounding area right through to Wyena and then also being the member for McIntyre, which encompasses the bulk of the proposed rail trail, I felt it was a difficult journey to navigate as the local member because you were never going to be able to please everybody. We know that can be a really tough gig at times. Again, you come back to the evidence that you receive. That is what I did: every time I felt a bit overwhelmed by what we were hearing, seeing and gathering, I came back to the evidence we received. The evidence we received is the basis of the report. We know in this place that we can only report on the evidence we receive, albeit at times you think, 'That was interesting, I thought this and I thought that'.

One thing I will say from the outset is that until I had had the opportunity to ride on the Yarra Valley track, on that short stretch of rail, my view was that you needed a much longer rail experience. After riding on that train and having that experience, I did not feel it was quite as necessary as I had thought before. That in itself gave me a lot of confidence when it came to the committee findings and recommendations that a shorter trip and something more achievable for the rail enthusiasts would actually be a viable option.

The committee found it was really strongly evident that with a rail trail from Launceston, you would need a population hub for boarding and a destination where you could get off to have an experience - it could be to have an ice cream if you had your grandchildren with you, or, for an older person, a Devonshire tea. It would be somewhere you could get off and wander around, such as the lovely township of Lilydale, which is a vibrant place. That is how I came to the conclusion that the committee was putting forward a viable project. In my view, it will give L&NER an opportunity to build on the experience, once they put that first component together and make a success of that.

I am looking forward to when they work through negotiations with TasRail, which I think is achievable because TasRail appears to be quite receptive to the opportunity for heritage rail in Tasmania, particularly in the north of the state with such an enthusiastic group as we have here. That is my overarching comment in regard to this.

In regard to a few of the findings, my thoughts on the recommendations and also some information as late as 10 October in regard to where the rail enthusiasts' group is - I do not have any up-to-date information on the $1.47 million from the federal government and where that sits at the moment. I feel sure Dorset Council will be beavering away quite hastily to make sure it has access to that money.

**Mr Dean** - The federal member said she would be trying to reserve that money or would be doing whatever she could to get that money and ensure it was there.

**Ms RATTRAY** - The member for Launceston is referring to the fact that the fund it came from is no longer in operation. I am sure the money is floating around somewhere.

**Ms Armitage** - I am sure it would have been quarantined.

**Ms RATTRAY** - Yes. There were applications, over this journey, to the federal government to apply for extensions. I feel sure Dorset Council and its management would have been still going through the process and working out where the extensions lay and the access to that funding. I feel sure it will be still available. I will add that it is will take a lot more than $1.47 million to put a trail from Scottsdale to the Lilydale Falls, or into Lilydale, for that matter.

Significant work needs to be done on the stretch from Lilydale Falls into Lilydale itself. You will have to go the opposite side of the road to the sewage pond. Coming from Scottsdale on the left-hand side, there are driveways and culverts - and I doubt it is something as simple as 'We will just put a track up the side of the road'.

There is much work to do. Everyone in this place knows even putting a bike trail beside a significant piece of road infrastructure is not a simple exercise. There are at least three driveways along that stretch and the service station-cum-general hardware merchandise store is also significant. Whether you have to cross the road there and get to the other side, I am not sure. Somebody with much more knowledge and expertise than myself is probably already working on how that might unfold.

The member for Launceston also mentioned that there are quite a few places across the whole 68 kilometres of track where a bike trail will have to go around the track. Therefore, there will be negotiations with landowners, with the council, if it is Launceston City Council, in regard to some of the roads the trail may need to use to get on and off the trail. It will not be a straightforward Scottsdale-to-Lilydale journey on the rail track. There is a lot of work to be done.

I have spoken to the mayor about the Wyena bridge. I expressed my view in regard to that. We, as members, were not even allowed to walk on it. To be perfectly honest, there is no way I would have put a foot on it. Even if I could lose 20 kilos, I still do not think I would put a foot on it. It just did not look safe. There were certainly plenty of barriers there saying not to walk on it. Interestingly, with the other bridge we looked at closely, the Karoola bridge, we were told repeatedly by the very kind and generous TasRail staff who had put us into the rail carts and were driving along - those utes that have the wheels that turn into -

**Ms Armitage** - Hi-rail.

**Ms RATTRAY** - Thank you. They put us into those hi-rail vans and told us we were not to put one foot on Karoola bridge. Here we are on one end of it, and along comes a lady walking down the bridge with her dog. She had been out for her morning stroll. The TasRail people were just shaking their heads. Obviously, the locals had not read the memo, 'No walking on the bridge'.

**Mr Dean** - They would be much better off putting a sign up saying, 'Please walk on bridge'.

**Ms RATTRAY** - The bridge at Karoola did look, for all intents and purposes, quite able to take foot traffic, but I am not an engineer - I make that very clear. We were given that information, 'Do not walk on the bridge'. We said to that person when she reached our end, 'We don't think you are supposed to be walking on that', and she said, 'I do it every morning.' Anyway, we will leave that for TasRail to sort out. As members of parliament, we were not about to make a citizen's arrest of somebody walking their dog on a disused rail line. I thought that was quite funny at the time.

I seem to be waffling quite a bit and not addressing the findings. As I have already said, I felt the inquiry was beneficial. There certainly had been what I considered a lack of consultation in the process to develop the North East Rail Trail. It was a snap announcement at the time, all those years ago, when a federal election was looming and some money was being handed out. Certainly those in the farming fraternity who are landowners adjoining that rail corridor were not consulted. You would not consider that it had been an ideal consultation process. I had another word in mind, but I will not use that today.

It has certainly caused some angst and gathered enough momentum for a group to be formed. That group became quite mobile in its opposition. As the local member, I found myself at the time putting forward the case for those adjoining landowners, who said the trail was going to impede their farming operations and what they could do with their land; they felt some of their farming operations might be compromised in the future. They had every right to make those observations because they did not have as much information as could have been made available to them had there been a longer lead-up to the trail's announcement. Here we are; it is what we have.

The other important fact is that we should never dismiss Tasmania's rail history. Whether there are lines around the state that are not being used at the moment, we do not know what the future holds. I still strongly believe that - we do not know. They are talking of tram lines in Launceston. Who would have thought? I think they have been non-operational for 50 years.

**Mr Dean** - A long time.

**Ms RATTRAY** - A long time, but there is a discussion as we speak in this place about re-establishing tram lines in Launceston. We just do not know. We did not think when we were talking about the demise of the forest industry that we would need to put logs back on the rail up through the centre of Tasmania. We did not think that either; I certainly did not. We were pretty much assured that you could never double-handle it because it was just not cost-effective, but with enough subsidy you can do anything. That is what it was and what it is. I am not sure what the subsidy is right now, but initially it was subsidised significantly.

The point is that we do not know what the future holds and we should always be mindful of what we do and where we set our history. There is certainly enough evidence in the body of the report to support the fact that both a rail trail and heritage tourist railway have the potential to generate economic benefits for Tasmania.

The member for Launceston shared our experience in Dunedin, New Zealand where they have this terrific cooperative approach. It did not matter where we went and whom we spoke to in Dunedin, they worked together - hallelujah, they worked together. It was actually so encouraging because they saw the potential of both and worked out how you could make it work for the benefit of the region. We went a long way not only on a train, but bussed to look at areas that had benefited not only from heritage railway, but also rail trails and the bike experience people were genuinely embracing. This is certainly a good way to sell this proposal - to say it can work for both and can be a benefit to the region - both the Dorset and Launceston-Lilydale area and more broadly the north coast and north-east area.

They are collocated side by side - rail trail and heritage railway - and that gives you a warm feeling when you think 'Gee whiz, couldn't we have both and sit them side by side?'. Then you would not have to compromise so much. Effectively, it was very difficult because some of the terrain did not lend itself to that. While there were parts of the corridor where you may have been able to do this, there are certainly steep edges on both sides in some areas where people would have to get off. As an example, perhaps you could only ride your bike on Monday to Friday, and Saturday and Sunday would be for heritage rail. It just did not seem to work. Then, of course, you have to have the right bike to ride on whatever surface so it did not work.

I touched on the adjacent landowners and their concerns. Even though there was quite a bit of evidence to say that in areas where a trail has gone through agricultural land and farming areas, some of the issues raised by landowners did not come to fruition. You cannot always say that will be the case, but we had quite a bit of evidence to say those initial concerns of many landowners did not necessary bear out.

In regard to the heritage railway extending beyond Lilydale to Scottsdale, we certainly acknowledge the challenging and expensive exercise it would be to develop that due to the length of the line. I have already talked about the bridge repairs needed at the Karoola and the Wyena bridges, and there are additional auxiliary costs, the requirement to install level crossings and so on, so they are at the standard required by the National Rail Safety Regulator.

Our experience with the National Rail Safety Regulator when we went on the rail was very beneficial. They pointed out areas to do with the ballast under the rails that I was not able to pick out given that I do not have that expertise and engineering background. There was quite a bit in that. The level crossings were not quite as simple as perhaps reinstalling something that does not have lights and barriers, which was also of concern. Of course, in this place we always have to be mindful of the liability that comes with what we put forward but that certainly changed my view about what was achievable.

**Mr Valentine** - Are you saying about the crossings that lights are not always needed?

**Ms RATTRAY** - I am saying that the view of some, and perhaps mine initially, was that you do not need lights at every crossing, but the National Rail Safety Regulator pointed out the requirement for lights and barriers had actually increased from when they were previously there. Just because you only had a crossing sign in the past does not necessarily mean that a crossing sign would be sufficient in the future. They would all have to be reassessed and that in itself was quite a significant job and also a significant cost if the crossings did need lights and barriers. My apologies if I did not make that entirely clear.

The aspect of volunteers was one we spoke about a great deal throughout the inquiry. It is well known that the L&NER has a significant pull on volunteers. It has been one of their strengths through this whole process. It has that substantial support of volunteers who have just been getting on with the job while we have been deciding through our committee inquiry, and the Government's processes as well. They never seemed to be - excuse the pun - derailed from their focus the entire way through. You have to take your hat off and congratulate them for the commitment they have given and continue to give to this project. It has certainly been encouraging that they have never waned once.

The L&NER has put together a very significant advisory group. Current members of the advisory group are Professor David Adams, a Pro Vice-Chancellor of the University of Tasmania, who gave significant evidence to the committee; and Mr Chris Martin, civil and structural engineer at CSE Tasmania - according to his wife he is never home because he spends a lot of time looking at projects of this nature and is involved with trains and heritage rail. You only have to wander around the Sheffield SteamFest and you will see the work Chris Martin does in regard to this. Other members include Miss Wendy McLennan, Dorset councillor and chair of L&NER. Wendy has significant background in management; she has credentials as long as your arm when it comes to being involved in community organisations. Mr Robert Ravens, the owner of Bridestowe Lavender farm - he and his family have elevated Bridestowe Lavender farm to one of the most iconic features in Tasmania. I spoke about that recently as a special interest topic - they are now a marketing tool for an internet-based company promoting Tasmania and Bridestowe. He has significant expertise in putting together a project of this nature.

Then there are the people who have been heavily involved in railway over the years. Not only the older brigade and more mature people, but young people who must have trains in their blood, like your good self. I mean that in all seriousness. If you receive a train set early enough, you are hooked. Having four daughters, I did not buy a train set for any little ones in my early days. I think that may have been remiss of me now. Mostly dolls houses.

**Ms Armitage** - I have train sets.

**Ms RATTRAY** - There you go, the member for Launceston has a number of train sets.

In all seriousness, they certainly have pulled together a significant membership for an advisory group to move forward with a heritage rail project in the north of the state. I congratulate them on that.

I have already touched on the fact you need, according to what I gleaned - certainly it was part of our findings - a population hub. Ideally you have to have departure and destination points that access population hubs and have facilities, or the potential for facilities to be established. That was very clear. You need to be able to have car parking, toilet facilities, refreshments and ticketing, all those things that come with the whole experience. What the committee has put forward in the way of starting from Launceston and accessing that line out to Lilydale - establishing that, getting it up and running, getting some runs on the board and people talking about that experience - will actually give some momentum for the future if that is where this well-coordinated volunteer group believe they can head in the future.

The key, as I have already mentioned, will be the cooperative approach with TasRail. I am encouraged by what I have heard so far in regard to accessing the line. That has everything in place. There are a couple of points around the Launceston CBD that would accommodate an area for those facilities. They do not have to be permanent initially - they could be demountables in the first

instance while they are getting up and going. You can do all sorts of wonderful things with shipping containers. Perhaps, a little shipping container village. They might well be able to receive some support from somebody in that business who might be willing to provide a couple of shipping containers and get them assembled in that arena straight up so they get going sooner rather than later, particularly while they have been working on the restoration of their rail carts.

Finding 16 is -

> It is not envisaged that the North East Rail Corridor will be used for the purpose of freight transportation in the foreseeable future.

Again, we do not know what the future holds, but I support the recommendation. The committee made it clear that if parts of the line were not needed for the rail trail, they would stay in place while we wait to see what the future holds. I am very firm in supporting that recommendation and I believe that is given quite a bit of support by the L&NER group.

Moving on to the recommendations, recommendation 2 is one of the important ones. It probably should have been number 1, and it is providing 'a leadership role in bringing all parties together to form a cooperative arrangement'.

It is amazing what strong leadership can do. I think most of us in the committee would acknowledge the role of Brett Whelan in the Yarra Valley. It was absolutely outstanding to see the way Brett Whelan coordinated and brought that group together. From my understanding, it has not always been the cohesive group it is today. That expertise is really valuable and to have someone of Brett Whelan's enthusiasm and expertise, the Yarra Valley Railway people must be clapping their hands every day they wake up when they see what has been achieved by this outstanding gentleman who is very enthusiastic.

I am not saying we need a Brett Whelan; we would be happy to have one, but somebody with that same enthusiasm and some expertise with regard to that leadership role is really important. We want the success not only of the heritage tourist railway, but we also want the success for the rail trail because the $1.47 million of Australian taxpayers' money will then need to be met with probably the same amount of money by the Dorset municipality and any other grants that Dorset Council can secure. It is a significant investment in something of which almost half resides in the next municipality. That is a big commitment. I am a Dorset ratepayer so I will be looking for a successful outcome, as I am sure anybody else would be with regard to that.

I have talked about the accessibility of suitable facilities for passengers - that is a given - but it is certainly high on our list of recommendations that it ensures, where possible, that the rail trail is co-located within the rail corridor and that rail infrastructure is not removed unless necessary for construction of a rail trail. Leave it there unless it is absolutely necessary, because even though some of those steel sleepers needed some more ballast, moving ballast is heavy and tedious work but it is work that can be undertaken by volunteers. We have already talked about the high level of volunteerism within that organisation, so it is not beyond the realms of the organisation to undertake that work.

Recommendation 8 commits to making any serviceable railway materials recoverable available to Tasmania's tourist and heritage rail sector, with priority given to Launceston and North East Railway as part of the rail corridor management agreement. It is really important L&NER be able to access whatever infrastructure there is in the way of good sleepers. If the timber ones are not

necessarily that readily available, sometimes you are better off replacing something rather than repurposing. That would be very useful in regard to the steel sleepers when you just have to put ballast back under them and make sure they are fit for purpose and the rail regulator can tick them off.

There is the opportunity to support other Tasmanian tourist and heritage rail across the state rather than flogging them off for not much. That would be the case if you were to sell for scrap metal - there is not much value in it anymore. The value to other Tasmanian heritage rail enthusiasts around the state would be of more value. I fully support the rail bank.

The last recommendation ensures any development on the north-east rail corridor should include interpretation that acknowledges the corridor's railway heritage. That is a really important key aspect of maintaining the corridor because we know that corridor will always remain. If any future government decides trains are the go again, the corridor is there. To have interpretation as people are riding their bikes along the trail is really important; there is some significant rail heritage and that should be acknowledged. We looked over quite a bit of it. I know we were expecting a bit more than what we saw in a couple of places, but there was some really strong interpretation in some areas. The Tunnel is exceptional, and just naming up some of those little places you pop through on the way is significant.

I have been provided with a copy of a letter that the chair of Launceston and North East Railway provided to the minister. I do not intend to read it out. I gave the name of those four key advisory group members and that is important. This group will drive tourism, heritage rail and this project until there is nothing left but to get it up and running. I am pleased they have taken that initiative and the committee has provided them with some very good recommendations in the report to go to the Government, because it will need some support, even if it be in kind, to be able to get a lease arrangement with TasRail. They may well need some other initiatives. Dorset is well assembled in its intention to continue on with its rail trail project, and there is enough support in and around not only the Dorset team itself, but also in other government areas to make that work.

As I said I am not going to read all the letter, but certainly they are well assembled to be able to push forward with this project. The Government Administration Committee B comprised Rosemary Armitage as chair and Robert Armstrong as deputy chair; Ivan Dean; Craig Farrell - our President now - until 21 May; Jane Howlett; Sarah Lovell, who substituted for Jo Siejka; and myself. We were absolutely committed to this process, because we felt we wanted to make sure as much consultation took place as possible. There was some disappointment the committee did not recommend the line go from Lilydale right through to Scottsdale. I still believe our recommendation to have access to the line from Launceston to Lilydale initially will have the runs on the board for getting a successful initiative up and running. Who knows then where the future might lead for them? If people pick up a few bikes on the way or decide they have ridden out from somewhere and decide to hop on the train, that is all the better for a cooperative approach.

I look forward to seeing what the future holds and I appreciated being a member of that committee. I note the report.

[3:48 p.m.]

**Mr DEAN** (Windermere) - Mr President, when this matter first came up and we started talking about having an inquiry on this matter, I admit I was between a rock and a hard place as to whether or not I would be a part of that committee. I did not think whatever inquiry was undertaken, we would come up with a conclusion where both parties would agree.

It was going to be pretty tough going, particularly because of the way this whole thing began. It got off to a very rocky start. We probably would not even have seen the need for an inquiry had it been discussed in the right way in the first place. I hold the Dorset Council somewhat responsible for the way it started and the way it progressed in the earlier stages. But, as members have already said, we have come up with a report that both the L&NER and the North East Rail Trail have agreed with. We understand those two meetings at this present time so I do not need to go through that. The reports I have had and the comments from both sides have been good. I have not heard from the council and I am not expecting to hear. It was a real shame it started off -

**Ms Rattray** - Which one?

**Mr DEAN** - The Dorset Council. It is a real shame it started off the way it did. I think the mayor has to accept a lot of responsibility for that, as does the general manager. Very clearly a wedge was driven between the groups right from the beginning of this whole thing. That wedge was widening the groups and causing friction.

The reason I agreed to go on the committee in the end was because I knew we had some very intelligent and knowledgeable people on both sides. When you have the right mix of people, you know and feel in yourself, if you do it right yourself, you can probably bring them together and get an agreed position to move forward with. That is what has happened and I am very happy for that.

My disappointment in this whole thing came from the mayor speaking on ABC radio. I thought about whether I should refer to this, but I am going to. I was absolutely disappointed in some of the comments the mayor made. I refer to an ABC northern Tasmania 'Drive' interview on 27 June 2019, when the mayor made some very ordinary statements about this committee and what it could and could not do. If you do not challenge some of these statements, those people believe that what they have said and done is right and acceptable, when it is not acceptable - far from that. I am totally disappointed.

The interviewer, Piia Wirsu, asked this question: 'The inquiry will inform both Houses of Parliament as they are deciding on this, though, won't it?'. The mayor, Mr Howard, answered -

> No. Look, the inquiry won't - it is not capable of finding out anything that we don't already know. That is the reality of it. I mean, the sign says that, if you passed grade three maths, you can work out that it is not possible to run a train all the way to Scottsdale because the rail link report says that is going to cost $16 million from Turners Marsh to Scottsdale.
>
> The proposal to give the train a short section around Turners Marsh through to Lilydale at least gives them a chance of some sort of success, but even that is debatable given that Heritage Rail around Australia struggles.

The mayor goes on with some further comments -

> Yes. If someone wants to pay for it. But, if you are looking at converting a rail line to a bike trail, you are looking at about $45 000 a kilometre. But, if you are looking at co-locating a bike trail in the same corridor as a train, therefore you've got to build a bike trail, you are looking at between three and four hundred thousand dollars a kilometre. So I don't see who is going to throw that sort of money at the project.

Then we get the mayor making this comment -

> Well, it has been in there for about three years, and it has never, ever been used, because the Legislative Council have effectively stalled the process for so long with their inquiry, by the time they come out with their decision today, it then still has to go back to and be decided by both Houses of Parliament. Following that, we have to lodge DAs with both Launceston City Council and Dorset. The train people, unless it is 100 per cent train track, they will appeal those. They will then appeal to the Supreme Court. By the time we get all through that process and then put a tender out, it will be well and truly into next year and we wouldn't get it started in this next financial year.

Then he goes on to make this statement -

> Well, we clearly can't meet that deadline. The Legislative Council inquiry ensured that. And I still say that that was the reason that the inquiry was held. They haven't found anything we don't already know, so it was just a decision on some of those pro train members of that committee to try and run us out of time. They have been successful in that. There is no doubt, we cannot - we have to have all the invoices in by March 31. We have no hope of doing that. So that money, I would imagine, will effectively be lost and we will have to look for either substitute funding or we would have to fund it out of our own resources.

We have the mayor, with the greatest respect, making comments that were not helpful to try to bring this matter to a conclusion. I was extremely disappointed in those comments. I am not quite sure whom the mayor was referring to as train enthusiasts. It may have been myself. I can say very clearly that I am not a train enthusiast. In fact, I am a bike enthusiast, I ride bikes regularly and in different countries around the world -

**Mr Valentine** - Some with harder seats than others.

**Mr DEAN** - You are right. I am no train enthusiast, but I saw it as important, through this whole inquiry, to try to get that balance. Yes, I accept at times it could have been seen that I was batting more in favour of heritage rail than I was for a rail trail. That is the way it might have come out, but that was not the case. I was just trying to ensure a fair go for both sides. That is what I was trying to get.

Then, I think, we were accused at one stage of going on a junket and wasting everybody's time and money by going to New Zealand as well. Again, that was disappointing. If you look at what we gained out of going away, it was extremely valuable. Other members have mentioned that. I do not want to go into all the detail. It was extremely valuable in putting this report together. Let me tell you, it is no junket to go away when you arrive at your destination about midnight or whenever it was -

**Ms Rattray** - At 3 o'clock in the morning.

**Mr DEAN** - At 3 o'clock in the morning. We then had to get out of bed at 6 or 7 o'clock, or whatever it was, stuff some breakfast down our throats and then get on the bus and do what we did for the rest of that day. We got back late that night again and were trying to find room for a bit of

a meal here and there as well. To top it all off, we got back into Australia to be held up for an extra night or so because our plane would not fly us out. If you think that is a junket -

**Mr Armstrong -** We had a good guide in Kate.

**Ms Rattray** - We were well hosted, Mr President.

**Mr DEAN** - It is just disappointing. I might say, to the benefit of NERT in particular, when all of these things were explained to them, they were very good. In fact, they came to me, because I raised some issues I was not happy with, and apologised. For that I hold them in the highest regard - that they were able to come in and accept they had made some statements that were not right and that they should not have made them.

**Ms Rattray** - Those Facebook posts.

**Mr DEAN** - Yes, I was very pleased they were able to do that. I accepted that. We have moved on. We have a position now that we did not have before.

**Ms Rattray** - Mr President, I did not get an apology.

**Mr DEAN** - Didn't you?

**Ms Rattray** - No, for that picture.

**Mr DEAN** - I did. I do not want to repeat a lot of what I have said. Right from the word go, I was against pulling up rail and line. I am against that, in particular for the north-east line. It is an iconic line. It is of significant heritage interest which will grow stronger as we move forward in time. A rail line can only exist in particular areas - the right inclines, the right geographical conditions - but a rail trail can exist virtually anywhere. We need to preserve these lines as best we can. I think the member for McIntyre has already referred to the Midland Line - the line from Bridgewater through to Launceston or Bell Bay - where we were told that it would never be used for logging again, double-handling just was not on et cetera, and it was only within three to four years of that statement being made that we now find it is being used for timber hauling and so on and it must be doing very well. Things change; things become different after a time. Who knows what could happen with that north-east line after a period of time?

The north-east has a preponderance of forested areas and timber. We have a lot of timber coming out of that area and into Bell Bay. Some of the radiata pine is probably going south as well from the north-east. You see truckloads going north to south so I expect a lot of it is coming out of the north-east and might be coming out of the north-west also. There is this movement of timber. A lot of differing information was provided to us during this inquiry about the cost of repairing the line and bridges. Many exaggerations were made and very clearly people put a certain spin on their costings for getting some of this infrastructure right to suit their positions.

It is true that reinstating or repairing the track for heavy freight movement would need a huge amount of work at huge cost. But that is not what this was about. I keep referring to it as the heritage train rather than NERT. The heritage train is light rail and what this track is all about. It is about railcars and other things, such as a type of exercise bike they now put on rail lines. For this type of infrastructure, light rail is all that is necessary and needed. The heritage rail people will be considering progressing some of these other activities.

I think Sarah Hirst told us in the initial part of the inquiry that businesses would develop if this line became a rail trail. It was mentioned that several businesses could really get up and run on the use by people using this rail trail walk area.

I cannot see that happening in that way - if you look at the Tonganah to Billycock Hill rail trail, what is the use of that? I asked on many occasions what use there was of that trail and I could never get an answer. Could not get an answer on the actual use of it, and I queried about putting counters on the things so people could come back and tell us roughly how much use it was now getting. I was told that could not happen or it was too costly or had not been thought of.

You go to New Zealand and they have counters on a number of areas on their tracks and trails. They can tell you almost every day of the week how many people are walking and riding certain sections of these tracks. They have it worked out extremely well and, as they say, it is virtually no cost to set up these cameras or counters they use. They can do it, but here we cannot do it and I wonder why.

We have seen many letters in the paper recently from heritage rail people, and one of the comments they made is very true. What they say is that anybody can jump on a train; anyone from one week to 120 - if you live that long - can ride on a train. Not everybody can jump on a push bike, not everybody can walk long distances or push prams or rollerskate. Not everybody can, so it very important because, as these people keep saying, we cater for anybody and everybody and not just one section of people. That is why they are so very strong on having a heritage rail for a good part of the north-east line.

I agree with NERT's comments about the situation where much concern was expressed by some of the farmers and other people along this line that there would be a lot of pilfering, trespassing and other things happening along this walking or riding trail if it got up. I do not accept that. I accept what NERT is saying - there would be little, if any, of that sort of thing happening. That is the experience in New Zealand, as the member for McIntyre mentioned. There were a few concerns apparently, but no big issues at all. The people who behave in that sort of way are too damn lazy to walk a 20-kilometre track or ride a pushbike to do that sort of thing, so they are not going to do that. I do not accept the position where people are saying it is likely to happen. I cannot see that happening.

I must admit I was having some difficulty in accepting all the findings and recommendations of the report, particularly in the early stages. I was concerned about shutting off an opportunity for heritage rail to extend from Lilydale to Wyena in particular - an area taking in the tunnel at Denison Gorge and giving access to Bridestowe Lavender farm. That complex in itself is going to or is already undergoing a great deal of development and it will become quite a big enterprise, with accommodation and other things happening in that area. It will become a focal point, a very strong attraction for tourism in this state, stronger than what it already is. It has a lot going for it. Their current visitations are about 50 000; that is a lot of people and the numbers are likely to grow even greater.

It is an important part of this track from Lilydale to Wyena and my position is that it needs to be kept open as best it can be for the purposes of heritage train being able to use it in future. If they become successful and have the rest of it up and running from Turners Marsh through to Lilydale and probably Turners Marsh back into Launceston, we need to ensure that happens. I will go to the report in a moment.

When we are on TasRail, the gorge is an area you can probably go through right now and probably would not know you have been there. When you stop and have a look around, it is a picturesque area. You can visualise what it used to be when the train station was there and the walks through the man fern glades and all of those other things - you can just see it. From old photographs we saw, it is a beautiful area. As I understand, people have said they intend to, if they get that far, restore the heritage train to its previous position of providing these walks and opportunities for people who would take a train. It would be interesting to see if that happens, but I am saying we should not shut it off.

I will not support anything through this place that does not give protection preservation to the train line where possible, and I will urge others here to do likewise.

I have recently ridden the Fernleigh Track in Newcastle. Other members here might have done this. There they have kept parts of the rail line intact, but they have removed it in other areas where it was fairly difficult to put the rail trail in. They have retained bits and pieces of it; they have not pulled it all up.

I am going to look at a couple of the recommendations.

Recommendation 6 is one I stood strong on in putting this report. It reads -

> Ensures that, where possible, the rail trail is co-located with the rail corridor and that rail infrastructure is not removed unless necessary for construction of the rail trail.

I stood very strong on that and I believe that should be the case, that we should not just rip it up for the sake of ripping it up if we can put the rail trail close to it and that is successful.

The other point I made was recommendation 7 -

> Ensures that any sections of the North East Railway that are not repurposed for use as a rail trail be retained where safe to do so, particularly the section of line between Lilydale and Wyena, in order that this section of line could be restored in future in the event that a heritage train becomes viable.

That is the one I have spoken about. It needs to be kept open as best as possible in the circumstances.

Point 8 has been referred to by other members -

> Commits to making any serviceable railway material recovered available to Tasmania's tourist/heritage rail sector, with priority given to L&NER as a part of the Rail Corridor management agreement in the event that sections of the North East Rail Corridor are converted to a rail trail.

I am saying that any equipment pulled up needs to be made available to L&NER and not sold off. The mayor made this comment on ABC radio and I quote -

> We reckon we can build it for maybe $1.5 million and, of course, we'll have the railway line and sleepers to sell to pay for some of that.

I will not support any order coming back through. I am not quite sure what happens now. As I understand it, an order will come back into this and the other place in relation to this matter, but I am not quite sure what depth of information will be in that order. Will it, for instance, refer to and comment on the infrastructure that has been pulled up and that this infrastructure will be made available to L&NER, or will it be silent on that? Will it comment on, for instance, the track from Lilydale to Wyena and that it be left open wherever possible and in the best condition possible to allow a heritage railway to use it in the future if it is able to and is successful? I am wondering what level of information will be in these orders we will see in the other place and in this place. As I understand it, both places have to agree to it, so if one was not in agreement with it, it would have to go back to the drawing board and be reconsidered. Perhaps the Leader can tell us what level of information will be included in that documentation.

As I said, I had some disappointments on the way through this, but I hope we can sort them out at the end and now we have a position we can move forward with.

[4.13 p.m.]

**Mr ARMSTRONG** (Huon) - Mr President, of all of the committees I have served on, I do not think I have witnessed a more passionate group of people who wanted to give their support to either the rail trail or the heritage rail project. I would even go so far as saying at times their passion went a bit too far. Having said that, it was most interesting to hear the details of each of their proposals and how they believe they would be successful. We need to recognise that the north-east rail line is part of Tasmania's rail history, as we were told by you, Mr President, in your younger years of growing up in north-east Tasmania. We also need to recognise there are potential economic benefits for both the rail trail and heritage tourist railway, but both will require a great deal of support from operators to operate.

After listening to all the evidence, my conclusion is that both projects have a lot of work to be done to get them up and running. It became very obvious during our site visit that some of the current rail is in a bad condition. I am not only talking about the sleepers. Many seem to think if the sleepers are okay, the line is okay. This is certainly not the case. That is just one part of the equation, as the rail regulator informed us. The sleepers, rails, ballast, bridges, culverts, and drainage as well as the crossings are in need of much work and hence funding. The rail crossings are of a major concern for the heritage or tourist railway, as it is for a freight rail. Even if it is a passive crossing, it still has to have a certain amount of warning infrastructure. If it is classed active, the infrastructure has to have all the so-called bells and whistles that come at a huge cost.

To get the infrastructure to a standard required by the National Rail Safety Regulator, a Lilydale to Scottsdale heritage railway is an extremely costly and challenging proposal. It was coincidental that this Rail Safety Week it was reported that there has been an 18 per cent increase in rail safety incidents.

Some members of the community raised that once the rail has been pulled up, we will never see a train travel the north-east line again. This is of concern to some because of the huge timber plantations now growing in the north-east. They believe the timber could be transported by rail in the future. I will not go into that now because I think other members have already touched on the logs being put on trucks and then onto rail et cetera. They say it will not happen, but it is always a possibility that it could happen.

We also heard of a rail trail starting and finishing at points other than Launceston and Lilydale. However, there was evidence that a rail trail and a heritage train both need a departure and

destination hub that has infrastructure such as secure parking, access to shops, accommodation and toilets. That makes other suggested departure and destination points such as Turners Marsh and Coldwater Creek inappropriate.

We also heard that heritage rail does not have to be a long line, as we witnessed in Yarra Valley, which is four kilometres long at present and will be approximately 13 kilometres when complete. The member for Windermere was so excited when we were there because he actually saw a fox on the line. It is worth noting that the Yarra Valley Railway has received $3 million in government funding to date. The cost of their 4-kilometre ride is $18 and they told us they are very busy, but they only operated on certain days of the week.

The heritage rail supporters wanted the Launceston to Scottsdale trip, which would have taken approximately eight hours return with proposed cost of $100.

The rail trail supporters have secured federal funding of $1.47 million, subject to a carryover of that funding. These funds would enable the rail trail to commence, noting that a lot more funding would still be needed for the construction and maintenance. During the hearings they said, as the member for Windermere touched on, that they would be selling rails et cetera to help with the funding.

The committee saw in Dunedin how a heritage train and rail trail can complement each other, as the Chair of the committee told us. That was a really good operation because you had the heritage railway take the passengers to a certain point, then they hopped on their bikes and rode into - I cannot remember the name of the town, but it was up in the hills in New Zealand. It really worked well and they complemented each other. They were very complimentary of each other too; they were there working with each other. That was a great example of how the north-east rail corridor, incorporating a heritage railway from Launceston to Lilydale and then a railcar from Lilydale to Scottsdale, could work.

After careful consideration of all the evidence, I believe the recommendations of the committee are the most appropriate way forward. I wish both the heritage rail trail and the heritage railway committees and volunteers all the best in their endeavours.

Mr President, I also reiterate the Chair's acknowledgements of the committee and staff, as well as those organisations and individuals who participated in the inquiry.

[4.20 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, the Government welcomes the final report from the committee into the future use of the north-east rail corridor. The committee's final report supports the Government's position that there is potential to generate economic benefits for both a rail trail and heritage tourism railway and these uses can be complementary.

There is indeed great potential for cycling and heritage rail tourism on Tasmania's non-operational rail network. The report confirms localised concerns by adjacent landowners about rail trails were not substantiated elsewhere by neighbors of rail trails in locations visited by the committee. This is a very important finding that should be heeded by all those who have been vocal in this debate, because it has become unnecessarily heated at times.

The Government acknowledges the need to progress with this project, with the Dorset Council ready to deploy $1.47 million from the Australian Government to construct a rail trail. These

substantial funds were applied for about three years ago by Dorset at a time when there was no alternative proposal to the rail trail project and the council saw the project as a natural adjunct to the existing trail between Scottsdale and Billycock Hill.

The council and its mayor, Greg Howard, should be commended for the work that went into that original application and the manner in which he and his councillors have conducted themselves since then. The Government also commends the rigor applied to the investigation by committee members, including fact-finding tours of mainland and international rail trails and heritage operations. The Government also commends the contribution of the Office of the National Rail Safety Regulator - ONRSR - including its chief executive, Sue McCarrey, for its expert advice on the regulatory requirements to operate tourism rail operations in Australia.

Achieving rail safety accreditation is no simple or cheap matter, as ONRSR has made clear to committee members and stakeholders. Even after achieving the requisite permissions and licences, operators of railways are subject to ongoing checks to ensure infrastructure, including track formation and signals and rolling stock, are maintained to the highest standards. The accreditation of rail operators is also closely overseen; the standards for passenger rail accreditations are also generally more exacting than for most freight rail operations.

The Government has considered the report's finding and recommendations and intends now to move to the next steps. The Government is a strong supporter of Tasmania's booming tourism industry, which is growing our economy and creating jobs right across the state. That is why Treasury was commissioned to undertake a detailed report regarding both the north-east rail cycling trail put forward by Dorset Council and the alternative tourist and heritage rail operations proposed by Launceston and North East Rail on the redundant north-east rail corridor. Both proposals clearly have strong support in the community.

After having carefully considered the Treasury report, while it is clear heritage rail carries with it more financial risk, both projects have the capacity to generate economic and employment benefits. That Treasury report is now supported by the report from Government Administration Committee B. The Tasmanian Government will always stand up for jobs in regional Tasmania and our view is both parties deserve the opportunity to develop this valuable asset in their own way. With access to separate parts of the corridor, allowing both component uses of the rail corridor will maximise the chances of both projects becoming viable tourist attractions to the benefit of everyone in the state's north-east.

The Government's proposal for the corridor was to allow a cycle trail to be established on the Scottsdale to Lilydale Falls section of the north-east rail line with a walking and cycling pathway to be created adjacent to the road between Lilydale Falls and Lilydale.

To facilitate the heritage rail, the section from Lilydale to Turners Marsh was offered as the first stage to allow the proponents to gain accreditation, make the necessary infrastructure investment to the satisfaction of the National Rail Safety Regulator and begin to operate a heritage rail service. Subject to the successful completion of the first stage, the Government proposed the section from Turners Marsh to Coldwater Creek be made available. Subject to accreditation and scheduling, access to the main Launceston to George Town line would also be considered.

In terms of the inquiry recommendations relating to removal of rail infrastructure, the retention of sections of the line and the donation of the recovered railway material to the heritage and tourist rail sector, I am pleased to advise these are enshrined in sections 99, 100 and 101 of the Strategic

Infrastructure Corridors (Strategic and Recreational Use) Act. Some of these sections might clarify what the member for Windermere was asking about.

Section 99 provides that a corridor manager may not remove railway infrastructure unless the minister has issued the corridor manager with a railway track removal notice. The minister may only issue this notice if he is satisfied that -

> (a) it is not reasonably practicable, or would be unreasonably costly, for the designated recreational use to occur on land within the corridor, other than the land on which the railway track is situated; and
>
> (b) the removal of the railway track is reasonably necessary for the purposes of enabling the use, or the safe use, of the corridor for the designated recreational use …

Section 100 provides that the minister may only dispose of rail infrastructure by first giving notice in two published newspapers circulating generally in Tasmania of that intention and inviting any person interested in using the rail infrastructure for the purposes of that intention or for the operation of a railway in Tasmania to apply to have the infrastructure disposed to them. If one or more persons apply, the minister may choose to dispose of rail infrastructure to one of those persons if the requirement is satisfied. It is a requirement that the person removes the rail infrastructure from the corridor within six months.

Section 101 provides that railway infrastructure may not be removed from a corridor except with the approval of the minister, which may only be issued where, if a permit is required under the Land Use Planning and Approvals Act 1993 for that removal, the permit has been granted. It should be understood the operational Tasmanian network is an open access network. Access to the operational lines falls under the Rail Access Framework Policy issued by the Tasmanian Government in 2018.

Access under this framework is undertaken through direct negotiations between the access seeker, such as L&NER and TasRail. The policy sets out the roles and responsibilities of the rail operator and access seekers, and includes a cost-effective dispute resolution process should the need eventuate. The policy operates in parallel with the legislation requirement under the Rail Safety National Law, which defines the requirements around rail accreditation.

Broadly, an access seeker will need to be accredited for above rail operations and hold the necessary insurance determined by TasRail. TasRail will require accreditation for the operation of passenger services on the Tasmanian rail network.

While TasRail operates the freight line between Burnie and Brighton, with operating lines to Bell Bay, Fingal and Boyer, the Government was elected with a policy to allow third party access to its operating lines subject to accreditation and scheduling. The following excerpt is taken from that policy -

> As part of the progression of Rail Access Agreements with TasRail, a re-elected Hodgman Liberal Government will facilitate the opening of the State's operational rail network to pre-qualified tourist and heritage railway operations on one designated weekend per year.

Mr President, this invitation to our heritage rail groups remains open, subject to them achieving the regularity approvals. Were this approval granted to the Launceston and North East Rail organisation, this would provide a heritage rail experience over a total of around 21.5 kilometres of non-operational line between Coldwater Creek and Lilydale, assuming the L&NER group successfully completes the first two stages, as well as access to the 52-kilometre TasRail operational line between Launceston and Bell Bay, subject, of course, to accreditation and scheduling on the terms I have just described.

In terms of cycling, the Government's previously stated position - which is now supported by the committee's report - allows the Dorset Council to continue what it has started, with the existing rail trail between Scottsdale and Billycock Hill being extended to Lilydale, providing around 70 kilometres of cycleways in total.

The Hodgman Government is committed to spreading the benefits of our tourism boom into our regional areas, and should they proceed, these projects will be fantastic for everyone in the state's north-east. Importantly, allowing both parties to develop their projects will minimise the costs and risks involved to each party and maximise the chances of both projects becoming viable tourist attractions that will create jobs and add to the north-east economy.

I note Launceston's peak tourism and business bodies have thrown their support behind the Government's proposal, including Neil Grose from the Launceston Chamber of Commerce and Chris Griffin from Tourism Northern Tasmania. Both have called on both parties to meet sooner rather than later to agree on how they will work together.

At a meeting last year, the Launceston City Council also agreed with the Government's assessment that both projects have the capacity to generate economic and employment benefits, both directly and indirectly, in the northern region. The council also agreed to write to both proponents urging them to work together to develop an agreed outcome, whereby both the rail trail and the proposed heritage railway can successfully coexist by extending the proposed heritage rail line to Wyena. Effectively, the council was proposing the infrastructure corridor between Lilydale Falls and Wyena be shared.

Used to the challenges of the local terrain, the limitations of the existing corridor, the need for a deviation around the tunnel for the rail trail, as well as the need to meet mandated regulatory safety requirements - the cost of which would place both projects in jeopardy - the Government's policy towards both projects clearly strikes the right balance. Since the Government's decision was announced on 26 July 2018, the Department of State Growth commenced progress on the preliminary requirements necessary for both Houses of parliament to consider approval of the draft corridor notices for the two projects.

The tabling of those draft corridor notices was deferred while the committee conducted its investigations. This was done in deference to the committee to wait until the report had been finalised. I am led to believe they will probably be tabled tomorrow. So that was with the reports now that the public investigations have concluded.

In terms of next steps for either project to proceed, the section of the north-east line on which they will operate needs to be declared to be a strategic infrastructure corridor under the act. Section 6 of the act provides the minister may declare land that is designated on a central register plan to form a corridor by using a corridor notice. The minister may only issue a corridor notice where

both Houses of parliament have first approved of the draft notice. Consideration by both Houses of parliament is five sitting days without disallowance.

Subject to the approval of parliament of a draft corridor notice, a number of transitional matters will need to be dealt with to come into effect concurrent with establishment of a corridor. These relate to the transitioning of land from the current administrative arrangements under the Rail Infrastructure Act 2007 to a strategic infrastructure corridor. Subject to the establishment of a corridor, the act provides for two mechanisms for access by future land managers for designated recreational purposes such as a rail trail. The act provides for the appointment of a corridor manager by notice and for tourist and heritage rail, the act provides for a lease. It is recommended that a draft corridor notice is progressed for the Turners Marsh to Lilydale section of north-east line for tabling. A staged approach recognises the challenges facing the development of the railway line for operation services, including the need to gain accreditation and ensure work for the repair and replacement of existing rail infrastructure and for any other existing improvements on the land is done before commencing operations.

We recognise this has been an emotive debate, but what the Government has proposed provides the opportunity to deliver a unique mix for both projects, and we are looking forward to the proponents both having the opportunity to bring their visions to reality. When the Dorset Council originally applied and won the $1.47 million dollars in federal funding for its rail trail proposal, it is unlikely it contemplated the need for Tasmanian legislation to be enacted to make this possible. The Hodgman Government developed the Strategic Infrastructure Corridors (Strategic and Recreational Use) Act 2016 to facilitate the alternative use of the non-operational rail lines on the Tasmanian Rail Network and to provide a framework for their ongoing management. This act established the steps to allow a third party to use a non-operational section of the TRN, whether for the purposes of operating rail services or an alternative purpose.

The conversion of the non-operational north-east line for a rail trail and heritage rail is made possible by this act. There is no reason the two projects cannot be compatible. In fact, they could complement each other and make a substantial contribution to the north-east economy. This is acknowledged in the committee's report. I hope both parties now grasp the opportunity to get on with building and delivering their own projects.

In summing up, the Government welcomes the final report from the committee into the future use of the north-east rail corridor. The committee's final report supports the Government's position that there are potential benefits for both the rail trail and the heritage tourism railway and these uses can be complementary. The Government has also previously undertaken a comprehensive assessment of both the heritage rail and rail trail proposals. What the Government has proposed and what the committee now supports provides the opportunity to deliver this unique mix of both projects, and we now look forward to the proponents bringing their visions to reality. The Government certainly appreciates the committee's efforts. We understand it was very divisive to start with, but the input the committee has made has been absolutely wonderful. We certainly appreciate it. The Government has considered the report's findings and recommendations, and now intends to move forward. We definitely note the report and welcome it.

**Report noted.**

## MOTION

### Anti-discrimination Act 1998 and Religious Discrimination Bill

[4:37 p.m.]

**Ms WEBB** (Nelson) - Mr President, I move -

That the Legislative Council -

(1) Acknowledges that Tasmanians enjoy the strongest and most comprehensive anti-discrimination protections in Australia and that the Tasmanian Anti-Discrimination Act 1998 sets a standard for protection that has fostered a fairer and more inclusive society that is applauded by other Australian states and territories and around the world.

(2) Supports Section 17 of the Tasmanian act which prohibits any conduct which offends, humiliates, intimidates, insults or ridicules a person based on certain attributes including age, race, gender, disability, marital status, pregnancy, family responsibilities, gender identity and sexual orientation.

(3) Notes that twice in recent years, attempts have been made in this Parliament to weaken the protections available under section 17 of the Anti-Discrimination Act to Tasmanians who are vulnerable to hateful, humiliating and intimidating language and that both times this Chamber said no, not least because the biggest proportion of complaints under section 17 come from people with disability.

(4) Is concerned that the federal government wants to weaken the right of this Parliament to make human rights laws for Tasmanians by proposing a Religious Discrimination Bill that will weaken section 17 in the same way this Chamber has refused to countenance.

(5) Notes that the proposed federal government's Religious Discrimination Bill will make Section 17 of the Tasmanian act unworkable so that it would no longer offer the protections we currently enjoy.

(6) Is concerned about other provisions of the Religious Discrimination Bill that appear to allow bullying and abusive statements in the workplace, and in the classroom, and discrimination in the provision of health care and in the provision of other services.

(7) Believes people of faith should be protected from discrimination, as they are under the Tasmanian Anti-Discrimination Act, but does not believe statements that purport to be religious should have a special legal status over and above other forms of communication.

(8) Condemns the federal government for its attempt to weaken protections for Tasmanian women, LGBTQI people, Aboriginal people, ethnic and religious minorities and people with disabilities.

(9) Calls on the state Government to consult with affected communities so that Tasmanian people who may be negatively impacted by the proposed bill can have their views heard and considered before forming its response.

(10) Calls on the state Government to defend Tasmanians who are vulnerable to discrimination, hatred and abuse, by rejecting the proposed federal bill.

Mr President, I am very pleased to speak to this motion, and I start by acknowledging the Tasmanian Aboriginal community as the traditional and ongoing custodian of the land we meet on today. I pay my respects to their Elders, past and present, and acknowledge they never ceded this land on which we are standing.

Mr President, I move this motion for debate because the federal government has proposed a piece of legislation which, if passed, would leave vulnerable Tasmanians with less protection against discrimination than they currently enjoy. The proposed legislation would do this by rendering a state law passed by this Chamber no longer workable. In fact, the federal bill specifically targets our Tasmanian Anti-Discrimination Act 1998 with the intent of diminishing its protections.

As citizens, as representatives of our community and as legislators for this state, this is a matter that deserves our attention. It warrants our discussion and I believe it requires of us a clear statement of response. That is the purpose of this motion. I ask that members in this place join with me in considering a strong response to this proposed federal bill and the potential impact it holds for our state.

Equality is important to me. Rights are important. From my work, which has focused on social justice for many years, I have an avid appreciation of the protections we put in place for those who are marginalised, stigmatised, discriminated against and vulnerable. Articulating and respecting rights assists us to live in a community that is fair, safe and inclusive. Putting in place discrimination law is one way we do that. It is about ensuring equality. It protects all of us from the harms of discrimination and prejudice, and requires all of us to behave in ways that promote the equality and the equal opportunity of all others.

However, rights and equality are also about balance. Balancing some rights against each other and against protections from harm is an ongoing challenge and a matter of discussion for us as a community.

I believe the proposed federal bill misses the mark on balancing rights and protections, and the potential negative impacts of that imbalance pose a danger to the Tasmanian, and ultimately Australian, communities.

Therefore I brought forward this motion. The first point of the motion asks that the Legislative Council acknowledge that Tasmanians enjoy the strongest and most comprehensive anti-discrimination protections in Australia, and that the Tasmanian Anti-Discrimination Act 1998 sets a standard for protection that has fostered a fairer and more inclusive society that is applauded by other Australian states and territories and around the world.

Our Anti-Discrimination Act came about as a result of over 20 years of committed advocacy, community consultation and political negotiation. It has earned its place in our justice system and

it has demonstrated value for many Tasmanians who have found a resolution to harmful discriminatory experiences.

Associate Professor Terese Henning, the Director of the Tasmania Law Reform Institute, gave a speech last year on the twentieth anniversary of the enactment of the Tasmanian Anti-Discrimination Act. In that speech, Associate Professor Henning noted the standing and success of our act. She said -

> Since the Anti-Discrimination Act became law most of us have come to understand, if we did not before, that attribute-based discrimination is a very real problem in Tasmania; that many of us have experienced discrimination that has blighted our lives, minimised our life choices or otherwise caused us serious distress. Many of us lived with discrimination and no possibility of remediation before the Anti-Discrimination Act was enacted.

Further in that speech, she also said -

> The Tasmanian Anti-Discrimination Act was lauded at the time of its enactment as world's best practice. One reason that it received such an enthusiastic response is that it was a late addition to Australia's anti-discrimination laws which meant that we had the opportunity to learn from mistakes made in other Australian jurisdictions and from problems that had been identified with Anti-Discrimination Act laws elsewhere.

Having recognised the quality and the positive impact of our act, Associate Professor Henning went on to note the need for vigilance in preventing the erosion of the protections it provides. She said of the act -

> Our experience in this regard teaches us of the need to be vigilant in preventing the erosion of the rights protection it provides, both directly in narrowing its scope and increasing its exceptions and indirectly through procedural and practice requirements that limit the Commissioner's and/or Tribunal's ability to apply the Act properly and in accordance with its original legislative intent.

Associate Professor Henning's exhortation to vigilance in protecting our act was timely and highly relevant to the situation we find ourselves in today. We find ourselves in a position of needing to strongly advocate to maintain the level of protection our act provides to the Tasmanian people.

One reason Tasmania is considered to have the nation's strongest anti-discrimination laws is because of section 17. I will speak now about the second point in the motion I have moved. It asks the Legislative Council to support section 17 of the Tasmanian act, which prohibits any conduct which offends, humiliates, intimidates, insults or ridicules a person based on certain attributes, including age, race, gender, disability, marital status, pregnancy, family responsibilities, gender identity and sexual orientation.

Other Australian states, in their anti-discrimination legislation, do not have such an extensive list of behaviours as those covered under section 17. It is this more extensive list in our act that captures many of the discriminatory, harmful experiences in the daily lives of, for example, people with a disability or LGBTIQ+ Tasmanians.

The wording of section 17(1) reflects section 18C of the federal Race Discrimination Act. It covers the same offensive conduct - offends, humiliates, intimidates, insults or ridicules - except that section 17(1) in our act covers more attributes than simply race under that federal legislation.

Section 17 protects Tasmanians who are vulnerable to hate, prejudice and stigma from being subjected to humiliating and intimidating language. The statistics tell us that of complaints made under section 17(1) of the Tasmanian act, over a third are on the grounds of disability; another third are on the grounds of race, gender and age; and the remaining third are on the remaining 10 grounds in that section. Complaints on the grounds of sexual orientation and gender identity make up 5 to 10 per cent of complaints.

The Tasmanian Anti-Discrimination Act is consistent and balanced. Section 17(1) has been well examined in this place and confirmed by this parliament. Further to that, it has also been tested by the Supreme Court in 2018. It was found by that court to not unduly impinge on freedom of religion or free speech, and to be valid under the Australian Constitution. Justice Brett of that court made a careful, rigorous argument that freedom of religion and freedom of speech are not unfettered rights, and that the Tasmanian Anti-Discrimination Act strikes the right balance between these rights and the rights of citizens to live free from hate and vilification.

Mr President, this motion states support for section 17 in the face of a proposed federal bill that would render it unworkable and allow Tasmanians included in the attributes it covers to be humiliated, intimidated, insulted or ridiculed in the name of religion.

Personally, I would go much further than support of section 17. I would add my gratitude and admiration for section 17 and our act, which I believe makes our state a kinder, safer, more mature and thoughtful place to live for all Tasmanians. I can also say that I hold great pride in section 17 of our act. I am proud we lead the nation in best practice protections. I believe section 17 has encouraged us to give more attention to dealing with issues such as bullying in our schools and our workplaces, and sets as normal the expectation that we endeavour to be more thoughtful, moderate and kinder in the way we interact with each other.

Notwithstanding my gratitude, admiration and pride, in this motion I ask my colleagues to join with me in supporting section 17 of our Anti-Discrimination Act.

The third part of this motion asks the Legislative Council to note that twice in recent years attempts have been made in this parliament to weaken the protections available under section 17 of the Anti-Discrimination Act to Tasmanians who are vulnerable to hateful, humiliating and intimidating language, and that both times this Chamber said no, not least because the biggest proportion of complaints under section 17 come from people with a disability.

A similar proposal to the proposed federal Religious Discrimination Bill came to this place most recently in 2017. In 2017, in the same way that this federal bill proposes to allow humiliating, intimidating, insulting and ridiculing language, if that language is in the name of religion, the state Government brought a proposed amendment to our Tasmanian act that sought to allow conduct connected to religious belief under both section 17, and also section 19 at the time, a section which relates to incitement to hatred. Those amendments to the Tasmanian act were not supported by the Legislative Council in 2017. Other members will be much better placed to recall this period than I, as they were participants in those debates.

At the time those attempts were made, I was outside this Chamber in other roles, which included working with, and for, some of the most vulnerable members of the Tasmanian community, many of whom were at risk of having their protections lessened under the amendments proposed.

While I was able to see media reporting on the debates at the time and read *Hansard* after the fact, other members who participated in those debates will know firsthand the significant distress caused by the proposal to weaken the protections available to a wide range of Tasmanian people, including those with disability, women, Aboriginal Tasmanians, culturally and linguistically diverse Tasmanians, older Tasmanians, and gender- and sexually diverse Tasmanians. My understanding is that distress was expressed to members in large numbers of letters, emails and other communications. Other members will be better placed to reflect those who made exhortations that this place stand firm in defence of our state's robust and effective Anti-Discrimination Act - and stand firm you did.

We now see a similar attempt to do at the federal level that which was attempted by the state Government in times past - an attempt to privilege one group of people over all others in their licence to engage in discriminatory speech.

While it is not in our power here to stop the progress of a federal bill, it is most certainly in our power to be staunch and consistent in expressing our denunciation of its impact on our state's sovereignty and our Tasmanian community.

The fourth element of this motion asks that the Council is concerned that the federal government wants to weaken the right of this parliament to make human rights laws for Tasmanians by proposing a religious discrimination bill that will weaken section 17 in the same way this Chamber has refused to countenance.

I think 'concern', as a word used here, is a fairly mild term to use in this instance, when we are talking about what could be seen as a challenge to the very foundation of our Federation. The states, including Tasmania, created our Federation. Our federal Constitution allows the Commonwealth certain powers and confirms that states and territories undertake their role of governing for the good of their communities, including legislating in a manner reflective of the values and needs of those communities.

In seeking to override the protections our Tasmanian Parliament has enacted against discrimination, the proposed federal bill could be seen to undermine our Federation and the sovereignty of the Tasmanian Parliament to do its work of governing for all Tasmanians. I believe it is wrong for the federal government to be attempting to do this.

Clause 41 of the proposed Religious Discrimination Bill 2019 specifically overrides every anti-discrimination law in this country. It allows people to make statements of belief that would otherwise amount to discrimination under the laws that it seeks to override.

In the case of Tasmania's section 17, under this federal bill, people would be able to make statements that insult, offend, ridicule and humiliate others if it is done as a statement of belief. In its submission made to the consultation process on the federal bill by Equal Opportunity Tasmania, that submission says on page 5 -

> The draft Religious Discrimination Bill 2019 is not particularly clear in defining what is meant by a 'statement of belief'. Clause 5 of the Bill provides a 'statement of belief' is a statement of a 'religious belief'. 'Religious belief' is defined to mean 'holding a religious belief'. This is not helpful drafting.

I agree with Equal Opportunity Tasmania on that assessment; that is not helpful drafting.

We can contemplate illustrative examples of this override in a submission to the consultation on the federal bill that was made by Associate Professor of Constitutional Law at Monash University, Luke Beck, a leading expert on religious freedom and the Australian Constitution.

On page 7 of his submission, Associate Professor Beck says -

> For example, in none of the following scenarios involving a 'statement of belief' would the person on the receiving end of the statement of belief be able to lodge a discrimination complaint:
>
> - An employer tells a gay worker 'being gay is a form of brokenness'.
>
> - A school principal tells a school assembly 'trans people choose to reject God's nature'.
>
> - A childcare provider tells a single mother 'God will judge you harshly for taking away the child's right to have a father'.
>
> - An employer points to a Catholic worker's desk with a small picture of the Virgin Mary and says 'look at that Catholic superstitious nonsense'.
>
> - An employer refers to a male Sikh employee wearing a turban as 'a towel head'.
>
> - A doctor tells a gender-non conforming patient that 'God condemns your sin'.
>
> - An employer tells a female worker that 'women should not be in positions of leadership over men'.
>
> - A cafe owner tells a customer with a disability that 'disabilities are God's punishment for sin'.
>
> - A pharmacist tells a Muslim customer 'All Muslims will go to Hell'.

No other discrimination act - state, federal or territory - operates in this way of overriding protections that we have right now against statements of that sort.

Since the passage of the first anti-discrimination acts in this country, the Commonwealth's Racial Discrimination Act 1975 and the New South Wales' Anti-Discrimination Act 1977, all discrimination laws have operated effectively alongside each other, without directly interfering with each other. This bill seeks to undermine and change that. I think it undermines and changes every piece of protection we have in this country and also the way we operate as a federation.

Further, and again from the submission by Equal Opportunity Tasmania made on the federal religious discrimination bill, on page 4 of that submission - it is quite a lengthy quote, though quite pertinent - it says -

> Currently, Australian anti-discrimination law operates so Commonwealth and State antidiscrimination legislation works concurrently together, and neither overrides the other.
>
> For example, section 13 of the Disability Discrimination Act 1992 (Cth) states: 'This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.' There are similar provisions in the Sex Discrimination Act 1984 (Cth), Age Discrimination Act 2004 (Cth), and Racial Discrimination Act 1975 (Cth).
>
> The equivalent provision in the draft Religious Discrimination Bill 2019 has the note: 'Nothing in this subsection detracts from the operation of Part 4'. Part 4 of the draft Religious Discrimination Bill 2019 is the part relating to 'statements of belief'. This would have the effect that a statement of belief retains priority over all other discrimination laws.
>
> This is contrary to established discrimination law principles, and contrary to the principle of human rights being equal. I note that Recommendation 3 of the Religious Freedom Review (Report of the Expert Panel, dated 18 May 2018) recommended that anti-discrimination legislation 'reflect the equal status in international law of all human rights, including freedom of religion'. The draft Religious Discrimination Bill 2019 goes against this recommendation and gives statements of belief unequal and priority status.

The protections provided to the Tasmanian people in our Anti-Discrimination Act were not arrived at in a quick or simple process. It required time and effort, political will and a great deal of consultation with the community to deliver that legislation. I ask that we again stand as representatives of the Tasmanian people and make a clear statement that it is an unacceptable overreach for the federal government to try to run roughshod over our community and our right as a state parliament to legislate in the best interests of our community.

The fifth point of this motion asks that the Legislative Council note that the federal government's proposed religious discrimination bill will make section 17, Prohibition of certain conduct and sexual harassment, of the Tasmanian act unworkable, and that it would no longer offer the protections we currently enjoy. The proposed federal bill singles out Tasmania's anti-discrimination legislation, specifically section 17 - it is noted in the bill, with the clear intention to render it unworkable. The effect of this will be that the Tasmanian people will lose discrimination and hate speech protections, including people with a disability, LGBTIQ+ people, women, members of racial and religious minorities, people in unmarried relationships and single parents.

In the submission from Equal Opportunity Tasmania, Tasmania's Anti-Discrimination Commissioner makes the case for this being a severe limit on access to justice. On page 5 of that submission under the heading 'Overriding State Law', the Tasmanian Anti-Discrimination Commissioner says -

> I strongly oppose the draft *Religious Discrimination Bill 2019* overriding State discrimination law as, for the reasons given below, it curtails State sovereignty, diminishes existing human rights protections, and will severely limit access to justice.
>
> I note the Commonwealth Attorney-General's public assurances that the draft *Religious Discrimination Bill 2019* 'is not intended to displace state law'. Yet, contrary to established discrimination law principles in Australia, the draft *Religious Discrimination Bill 2019* explicitly displaces and overrides State law.
>
> The *Anti-Discrimination Act 1998* (Tas) is legislation passed by the Tasmanian Parliament to protect Tasmanians. In 2017, the Tasmanian Government attempted to exempt religious speech from the operation of section 17(1) of the *Anti-Discrimination Act 1998* (Tas). Community groups in Tasmania, in particular groups representing people with disability, gave information to the Tasmanian Parliament about how vulnerable Tasmanians would be negatively impacted by the State allowing offensive, humiliating, intimidating, insulting and intimidating conduct to be directed toward them under the guise of religion. The Tasmanian Parliament maintained the protections in the *Anti-Discrimination Act 1998* (Tas). It would be wrong for the Commonwealth to override the decision of the Tasmanian Parliament that Tasmanians should be protected from discrimination and offensive, humiliating, intimidating, insulting and intimidating conduct.
>
> The Explanatory Notes for the Exposure Draft of the *Religious Discrimination Bill 2019* state at paragraph 422 that section 17(1) of the Anti-Discrimination Act 1998 (Tas) should be overridden due to 'its broad scope and demonstrated ability to affect freedom of religious expression'. This statement is not correct.

The commissioner goes on to say -

> The practical effect of clause 41 (read in conjunction with the note to clause 60) of the draft *Religious Discrimination Bill 2019* will be that when a respondent to a complaint under the *Anti-Discrimination Act 1998* (Tas) alleges they made a 'statement of belief' the complaint would fail. This would significantly impact access to justice.

The submission went on to explain that, were the religious discrimination bill to be enacted, 'clause 41 of the draft Religious Discrimination Bill 2019 would provide a defence to complaints made under the Anti-Discrimination Act'. That defence under federal law would mean that the Tasmanian Anti-Discrimination Tribunal would have no jurisdiction to deal with the complaint.

The Equal Opportunity Tasmania submission then provides some examples of instances in which this lack of jurisdiction would mean that access to justice would be lessened for Tasmanians. Those examples can be found on page 9 of the submission. They include the situation of a man sacked because he was living with his de facto partner, a child with a disability being bullied at school and misogynistic behaviour toward women. It makes the point that, of those examples, none of them would have access to justice if the federal religious discrimination bill were to provide a defence of those things being statements of belief.

The submission points out that, and this is very relevant to this part of the motion -

> If the draft *Religious Discrimination Bill 2019* was law, that type of complaint would not be able to be dealt with under the *Anti-Discrimination Act 1998* (Tas).
>
> Preventing complaints being dealt with under the *Anti-Discrimination Act 1998* (Tas) where a respondent alleges they were making a 'statement of belief' would restrict access to justice for people.

Similarly, the Australian Human Rights Commission in its submission considers that this overriding of all other Australian discrimination laws is not warranted, and sets a concerning precedent.

Associate Professor Luke Beck, a constitutional and religious freedom expert from Monash University, in his submission warned the Coalition's exposure draft bill may be incompatible with international law, and therefore not supported by the external affairs power in the Constitution.

International human rights law requires that people are treated on an equal footing under human rights laws. The proposed federal bill treats people differently. It gives people who hold a religious belief more rights than people who do not. Under this bill, people who hold religious beliefs can make statements on any topic and those statements can insult, offend, ridicule or humiliate other people if those statements are based on a claimed religious belief. For non-religious people, they are only protected in this way for statements on the topic of religion or for statements that arise directly from their non-belief. Given this inconsistency in treatment, it is likely that this proposed bill is inconsistent with international human rights law and as such is likely unconstitutional in its function of overriding state laws.

I move on to the sixth point in this motion, which asks that the Legislative Council is concerned about other provisions of the religious discrimination bill that appear to allow bullying and abusive statements in the workplace and in classrooms, and discrimination in the provision of health care and other services. Protecting one group from discrimination should not extend to allowing that group to harm others. The protections for vulnerable groups under Tasmania's Anti-Discrimination Act were, in most cases, hard-fought gains in safety and opportunity, won over long periods of time, in which those groups suffered the deplorable and harmful impact of unconstrained discrimination.

That discrimination has not magically disappeared in its entirety but those vulnerable groups now have a legislative protection and a recourse to seek a resolution when discrimination is experienced. To turn around now with this proposed federal bill and undermine that protection and take away the avenue for recourse by rendering it unworkable is wrong. Particular concerns have been raised that the discrimination based on religious belief allowed under clause 41 in the proposed bill will be given licence in a range of settings, such as workplaces, schools, health care and other service provision.

Women's Health Tasmania have raised this in email correspondence, which I will believe other members may also have received. They said -

> The list of everyday situations where people could be subjected to these unprovoked 'judgements' on the basis of who they are is potentially endless. The list of groups who could be adversely affected is almost as long.

> But their options to seek redress will be short. They would no longer be able to seek the support of the Australian Human Rights Commission (AHRC), or state and territory discrimination bodies. Nor would employees be able to access the Fair Work Commission.

Mr President, if we can first consider the potential impact in workplaces. Currently, work health and safety laws impose a positive duty on employers to prevent bullying and discrimination laws require businesses to provide their services free from discrimination, yet clause 41 would authorise some forms of bullying and discrimination. A range of legal academics, the Diversity Council and others have warned that the Coalition's proposed religious discrimination bill will be unworkable for employers and will thwart policies designed to create safe and inclusive workplaces.

Indeed, the Australian Industry Group has made a submission to the consultation process on the proposed federal bill warning that the bill bans employers from setting codes of conduct which indirectly discriminate on the grounds of religion and could come into conflict with policies designed to promote tolerance and diversity in workplaces.

The Australian Industry Group warned the bill could -

> limit the ability for employers to regulate, respond and manage instances of inappropriate conduct by an employee that may cause conflict with, or detriment to co-workers, notwithstanding that such conduct may occur when an employee is not performing work.

The Australian Industry Group submission also went on to say -

> The potential for the provisions of the proposed legislation to be used to advance and protect extremist opinions or behaviour, of whatever kind, in the name of an undefined religious belief should not be underestimated. The provisions of the bill, as drafted, would seriously impede the ability of employers to maintain appropriate standards of conduct and to protect their employees from harassment and discrimination.

In its submission the Australian Industry Group said the draft bill, as well as being inconsistent with existing workplace laws, was - and again I will quote their exact words - 'unbalanced, unworkable, and unfair upon employers'.

They did note that over time the courts have developed principles about where and when employers could regulate their employees' actions outside work and the proposed laws would disturb these principles in a major way and had the potential to increase conflict and disharmony in Australian workplaces.

Quite frankly, I am not going to spend very much time on the slightly bizarre specific provision for companies with revenue of more than $50 million, which stops the sacking of employees for expressing religious views, unless they are able to show the action was necessary to avoid unjustifiable financial hardship. That, in a situation where the protection of a right being asserted can apparently be traded off against financial hardship, does not seem to be at all consistent with an accepted international approach to human rights.

I would like to move on to look at the healthcare area. This proposed bill effectively puts the personal religious views of the health professional before patient need. It risks creating considerable complexity and uncertainty for health services. Under this law, it would be easier for doctors with objections to use their religious belief as a reason to refuse to provide care to a patient and, additionally, potentially to refuse to provide information or referral to unbiased advice and care elsewhere.

A particular risk is posed to health services such as abortion, euthanasia, contraception and sterilisation. In a debate at the National Press Club last week, Fiona Patten, in her role as an ambassador for the National Secular Lobby said -

> Consider a midwife refusing to deliver a single mother's baby. A rural pharmacist refusing to fill a teenage girl's prescription for the pill or a Christian nurse simply refusing to treat a Muslim. Bizarrely, the bill does not offer non-religious health practitioners the same right, even though they may hold the same beliefs.

This issue of conscientious objection is outlined on page 3 of Equal Opportunity Tasmania's submission on the federal bill. Under the heading 'Clause 8(5)-(6), Conditions that are not reasonable relating to conscientious objections by health practitioners' - I will read in this slightly lengthy quote -

> Clause 8 (5) of the draft Religious Discrimination Bill 2019 provides that where State or Territory law provides for conscientious objection, a rule that restricts or prevents a health practitioner from conscientiously objecting is deemed not to be reasonable and the rule will amount to indirect religious discrimination.
>
> Clause 8(6) of the draft Religious Discrimination Bill 2019 provides that where State or Territory law does not make provision for conscientious objection, a rule that restricts or prevents conscientious objection will be deemed to be not reasonable, unless the rule is necessary to avoid an 'unjustifiable adverse impact' on:
>
> - the provision of the relevant health service; or
> - the health of a person who is seeking that health service.
>
> The effect of clause 8(6) is to potentially make unlawful a health service provider's rules relating to health practitioners undertaking procedures, providing information, prescriptions or referrals. This would result in patients losing the ability to access medical procedures, or obtain information, prescriptions and referrals. In my view, it would be against the public interest to prioritise a person's religious belief over another person's right to access health care.

That view was shared by Tasmania's Anti-Discrimination Commissioner in the submission from Equal Opportunity Tasmania. I also refer here to the Victorian Equal Opportunity and Human Rights Commission submission to the consultation on the federal bill. The commission also raised significant concerns about this aspect of the proposed bill on page six of its submission -

> Further, clause 8(6) does not set out any other obligations to patients, such as the provision of information, the requirement to disclose the objection, and the making of an effective referral. The absence of real consideration for patient care

> and wellbeing is a concern to the Commission, particularly given research has demonstrated ongoing compliance challenges for doctors with their existing legal obligations for conscientious objections to abortions in Victoria.
>
> In practice, these provisions will lead to confusion for patients, health practitioners and services, as well as have a negative impact on service quality, even where state and territory legislation provides for effective referrals. The lack of clarity about the operation of conscientious objections can create uncertainty and avoidance in patients, particularly those from marginalised backgrounds who may have experienced stigma in mainstream health services. An absence of clear guidelines means a patient may be disrespected by a clinician, not provided a health service, information, a prescription or referral, and the health organisation is unaware as there are no reporting requirements on the health practitioner.
>
> The Commission is concerned that the applicability of clause 8(6) is unclear and could undermine efforts by employers and health professional bodies to set standards and clarity legal obligations to ensure the provision of safe, inclusive and quality health services, particularly in rural and remote areas. It may also create resource implications for specialist services such as trans and gender diverse health services as patients feel unsafe accessing mainstream health and GP services.

I share the concerns expressed by both the Equal Opportunity Tasmania and the Victorian Equal Opportunity and Human Rights Commission around the impact on the provision of health care from this bill.

The final area I wanted to speak briefly about is faith-based organisations and businesses, which has also been raised as a matter of concern under this bill. The proposed bill could allow religious institutions, schools, charities and businesses to be made exempt from engaging in discriminative practice under other state and Commonwealth discrimination laws, including ours, especially in relation to employment and the provision of goods and services. Equal Opportunity Tasmania again raises concerns about this and talks about the clauses under which the religious discrimination bill exempts a religious body for conduct carried out in good faith that reasonably conforms to its doctrines, tenets, beliefs or teachings. Clause 10 would cover a broad range of conduct, they say. Clause 10(1) states the clause applies to conduct that may reasonably be regarded as being in accordance with religious beliefs. It is a broad approach that would capture a wide range of conduct as long as it had some connection with religious belief.

It says in its submission -

> Further, the definition of 'religious body' set out in Clause 10(2) is extremely broad. The broad definition of 'religious body' could have the consequence of permitting discrimination in a wide range of areas, including schools, charities, hospitals and aged care homes.

When this place debated proposed amendments to the Tasmanian Anti-Discrimination Act in 2017, there was much discussion about the definition of a religion and the wide range of faith groups that may be captured by that definition and, as such, be protected and their actions sanctioned under

the amendments to the act. Similarly, this proposed federal bill, in its definition of a religious body, could cover a very wide range of workplaces and services.

The final aspect I would like to speak about is women. I particularly mention women here as a group at risk of being made more vulnerable under this proposed bill - vulnerable to health care and services being withheld, and vulnerable to damaging, intimidating and offensive comments and behaviours. The Victorian Equal Opportunity and Human Rights Commission warned in its submission that this bill would mean that religious believers could be free to publicly shame rape survivors, and an unmarried woman would be powerless to seek redress if a doctor, on the basis of a religious conviction, told her she was sinful and dirty for requesting contraception.

The Victorian commissioner also noted that a clause in the draft bill stating that expressions of belief should be protected from anti-discrimination laws could have the effect of emboldening some people to characterise survivors of sexual assault or rape as being blameworthy for not being sufficiently modest or chaste. I share these concerns for women under the proposed law. It makes me feel even more motivated to speak up and defend our Tasmanian laws, which protect women in all these circumstances. The idea of contemplating the withdrawal of that protection for Tasmanian women is something I find quite appalling.

I have a high level of concern about provisions in the religious discrimination bill that appear to allow bullying and abusive comments in the workplace, in the classroom and discrimination in health care and the provision of other services. I believe that most reasonable people would share some measure of concern on this.

Point (7) of the motion asks that the Legislative Council believe that people of faith should be protected from discrimination, as they are under the Tasmanian Anti-Discrimination Act but does not believe statements that purport to be religious should have special legal status over and above other forms of communication. This proposed federal law includes positive measures to protect against discrimination on the basis of religion and, for these, is to be applauded.

The Australian Human Rights Commission, among many others, has endorsed those elements of the proposed bill that protect against discrimination on the grounds of religion. The commission points to a valuable consistency between these proposed protections for religion alongside the existing federal discrimination laws that offer protection for race, sex, disability and age. Judging by a quick scan of the submissions and the public comments made by prominent stakeholders, if the proposed federal bill focused on these elements alone, there would likely be resounding support for its introduction.

Yesterday I heard the federal Attorney-General, Christian Porter, discuss the proposed legislation on ABC radio's AM program. As part of that discussion, he relayed a story as an illustration of the rationale for this bill and this matter of protecting people on the basis of religion. I am going to describe the story briefly and I hope it is accurate. It was simply about a Jewish man in New South Wales who was denied access to an event at the New South Wales parliament on the basis of his religion. The Attorney-General suggested that this federal law was required to ensure that such discrimination on the basis of religion was not legal and that anyone who experienced such discrimination could have recourse to address it.

I think this is a good illustration of what the Australian Human Rights Commission, and most of us would agree, says is a positive reason for the introduction of those aspects of the proposed bill that would indeed provide federal protection and recourse for such situations. We, of course, would

not require it here in Tasmania because we are already protected in that way. In fact, the Tasmanian legislation could stand as an exemplar for the federal legislation in order to extend those protections to other parts of the country.

The proposed bill goes substantially beyond these well-supported elements of protection. The Australian Human Rights Commission also noted and warned against the fact that this proposed bill went further and suggested that the bill contains -

> … unique provisions that have no counterpart in other anti-discrimination laws and appear to be designed to address high-profile individual cases. As a matter of principle, the Commission considers that this is not good legislative practice. As a matter of substance, the Commission considers that this may lead to unintended and undesirable consequences.

International human rights law relies on the concept of equality and non-discrimination. Under international human rights laws, freedom of thought, conscience and religion and freedom of expression are both expressly limited. The limitations on them protect the fundamental rights and freedoms of others, including the right to equality and non-discrimination. Indeed, freedom of expression or what we would probably generally refer to as 'free speech' is stated to carry with it special duties and responsibilities to respect the rights of others. No good argument has been made as to why we would treat statements of religious belief differently in the context of freedom of expression. Why would we? Why would we privilege it above other non-religious statements? It appears to be an attempt to write special rights and privileges into Australian law to make it lawful for people or organisations to say anything they want as long as it is construed as a religious belief and regardless of whether it humiliates, intimidates, insults or ridicules a person.

Religion plays an important role in our community. It is an important aspect of many people's lives. The right to have a religious faith, to give expression to that faith and to undertake activities relating to that faith is one I support but not at the expense of protecting the rights and the safety of others.

Mr President, I am going to speak to point (8) of the motion, which condemns the federal government for its attempt to weaken protections for Tasmanian women, LGBTIQ people, Aboriginal people, ethnic and religious minorities and people with disabilities.

The word 'condemn' could be regarded as an overly strong word to use in this context; however, I believe its strength is warranted. In this proposed bill, the federal government is attempting to allow some people in our community to say things to other highly vulnerable people that will humiliate them, will insult them, will ridicule them and will intimidate them.

In my view that is entirely unacceptable. In fact, I find it quite contemptible. At a time that we are in so many other spheres so focused on combating bullying and the recognised damage it causes, including right here in this place with the recent passage of more robust bullying legislation, how can we possibly countenance this appalling backward step in our compassion and humanity?

Excuse my presumption, but I suggest that none of us in this place is likely to bear the full consequences of this federal bill if it is passed. None of us is likely to be told that in essence we are sinful, that we are an abomination, that we are disgusting, that we are freaks of nature, that we are subhuman, that we are flawed and broken, that we are evil, of the devil and, in our nature, a danger to children in the community. Unlike so many Tasmanians - Tasmanians with a disability,

Tasmanians who are a minority faith, Aboriginal Tasmanians, LGBTIQ+ Tasmanians - not one of us will have to do anything other than imagine what it must be like to hear those things said to you.

Imagine not just the instances it might occur to us, but also the daily fear and expectation that it may occur at any time in a public place, in the place that you work, where you go to the shop, when you need health care or when you take your children to childcare services every day. We can only imagine what it would be like to endure and the toll this would take on us and our families.

For 20 years now in our state, previously the most backward on these matters, we have offered our fellow Tasmanians our love and support and, importantly, our legislative protection in the face of such experiences. How dare the federal government attempt to take that away from us? How dare the federal government threaten the protection that we as a community extend to our brothers and sisters, our neighbors and friends, our work colleagues and all our fellow citizens? How dare we, any of us, fail to stand up, to speak up and to make every effort to defend those protections.

Given the gravity of the impact of this proposed bill from the federal government, I choose to use strong terms and express myself strongly in my response. I believe 'condemn' is exactly what is warranted. That brings me to the final two points of this motion.

Number (9) calls on the state Government to consult with affected communities so that Tasmanian people who may be negatively impacted by the proposed bill can have their views heard and considered before forming its response.

I believe no response has been made formally by our state Government in the consultation process on this proposed bill. It may be that the state Government is responding through other channels and if that is the case, I think the Tasmanian community has a right to know what response is being made on their behalf by their state Government. Who has the state Government consulted with to date as it considers the proposed federal bill?

What assessment has the state Government made of its likely impact on our state act? What processes is it undertaking to arrive at a position on this? How will it be advocating for that position with its federal counterparts? I believe that Tasmanian people should reasonably expect that their state Government will staunchly defend our state laws and the protections provided under them to our community.

Under point (10), we call on the state Government to defend Tasmanians vulnerable to discrimination, hatred and abuse by rejecting the proposed federal bill. Again, I am going to quote from Professor Terese Henning who was speaking last year on the twentieth anniversary of our Anti-Discrimination Act. In her speech, she said -

> What I have attempted to show in this address is that while our Anti-Discrimination Act is widely accepted and revered as part of the fabric of the Tasmanian justice system and society, we cannot be complacent about it. It is not immune to threats in various guises from those who oppose its application or seek to narrow its protections.

Mr President, our state and our people have the most to lose from the proposed federal bill. We are, in fact, being targeted by it and the protection of our most vulnerable people is being threatened. This proposed bill should be rejected by all of us, but especially by our state Government as it should be the key defender of our state's sovereignty, defender of our

demonstrably successful and lauded state law and defender of the people of Tasmania - and most importantly and especially, those who face discrimination. I commend this motion to my colleagues in this place and ask them to support it.

[5.35 p.m.]

**Ms SIEJKA** (Pembroke) - Mr President, the Anti-Discrimination Act 1998 is a piece of Tasmanian legislation that Tasmanian parliamentarians and all Tasmanians should be very proud of. More than 20 years ago, Tasmania's Labor attorney-general Judy Jackson introduced the Anti-Discrimination Act. It was nation-leading at the time and remains so now. It could be argued it provides a model for the nation.

As we have hard, the act protects Tasmanians as well as anyone visiting our island state from discrimination or hate speech on a range of attributes - race, sex, age, gender, marital status, sexual orientation, political belief and, importantly, religious belief. The law allows faith-based organisations, including schools, hospitals and charities, to select employees on the basis of the employees' religion. This is a clear exemption allowable under the act for religious organisations to operate in a way that upholds the values of their particular faith.

The act also prohibits discrimination by these organisations on the grounds of any of the attributes protected in the act. In effect, what this means is a Catholic school can legally favour Catholic staff but cannot disfavour LGBTI staff. This protects not only the rights of LGBTI people but also, for example, single parents, de facto partners, divorcees and people with disabilities.

As a result of these protections, religious organisations have not only continued to operate in Tasmania but have in fact flourished. Their practice has improved and their organisations are more successful as a result of these protections. This is evidenced in an LGBTI community award for best practice in aged care being won by Baptcare, a faith-based organisation, last year.

When winning the award, Baptcare manager Andrew Billing said -

> The Baptist faith tradition, like many others, was born from the fires of discrimination. As such, Baptcare take prejudice and equality seriously. This is well expressed in one of our We Care values - respect. To us this means understanding and embracing each person's individuality, standing up for their equality and protecting their dignity.

As members are aware, the protected attributes are much broader than LGBTI. While discrimination against LGBTI people by religious organisations may have been the motivation behind this draft bill, the ramifications will be much broader. Overriding section 17(1) of the Anti-Discrimination Act will mean that in practice, language that humiliates, intimidates, insults or ridicules someone - in other words, hate speech - will not constitute discrimination as long as the language is used because of religious belief, or argued that way.

This means hate speech against anyone with any of those attributes in section 16 is okay as long as it is based on a religious belief. Most religions have negative views on people because of difference. For example, there are many negative views expressed about women, people living with disabilities, single parents and people of minority faiths. Hate speech against people will be lawful if that view is commonly held in a religion. As an example, discrimination based upon a person's gender will not be considered hate speech if it is made as a statement of religion and argued that way.

Thirteen organisations representing Tasmanians across the state have called for the rejection of any federal government attempts to water down the protections in the act.

Tasmanians have the highest rate of disability within Australia. Tasmanians living with disability remain concerned these changes will allow religious groups to discriminate against them. I understand that the majority of complaints made and upheld under this section of the act are regarding discrimination of people living with disabilities. We should ensure their protections are upheld and strengthened, not diminished.

This is a state rights issue. The federal government's attempting to override state-based anti-discrimination laws in this way sets a dangerous precedent regarding states to be able to make their own anti-discrimination and other rights-based laws.

In 2017 the Liberal state Government attempted to allow religious hate speech, but this was blocked by the parliament, not least because the largest number of complaints under our hate speech provisions are from people with disabilities.

In conclusion, the Anti-Discrimination Act has operated for 21 years. It was nation-leading when it was introduced and it remains so now. The integrity of Tasmania's hate speech laws have been upheld by the state parliament and Supreme Court. Therefore, Tasmanians arguably have the most to lose from any federal law seeking to allow discrimination based on religion. Recognising this, the Tasmanian Labor Party has already written to our federal counterparts to raise our concerns and to defend our legislation. I believe that we, as Tasmanian parliamentarians, should be proud of and defend the Anti-Discrimination Act.

[5.40 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I thank the member for Nelson for bringing forward this motion regarding the federal government's proposed religious discrimination bill, with a very thorough and in-depth assessment of the potential harm of the federal bill,. That we as a state should stand firm and ask the government of the day to also uphold our own legislation is to be lauded.

Religious freedom is something that touches a number of other issues, including freedom of speech and discrimination. The member's motion presented me with the opportunity to consider these issues and how they relate to one another. I intend to begin by briefly tracking the series of events that I believe led to this motion being brought before us. I will then address the issues of anti-discrimination and free speech. Finally, I will share correspondence from a couple of stakeholders who have expressed their support for the member's motion.

Something I believe we should all strive to do when discussing politics is not to assume ill intent on the part of those who disagree with us. In tracing the origins of this motion and then detailing my own views, I have been mindful of this implication when considering this motion. I hope my remarks today will reflect the situation.

Issues of free speech, anti-discrimination and religious freedom have been at the centre of heated public debate since the 2017 marriage equality plebiscite. It was pleasing that 61.6 per cent of Australians voted in favour of marriage equality. As a result of the vote, legislative barriers for same-sex marriage have rightly been removed.

The mark of a respectful society, in my view, is not only one that recognises the values upon which it was founded, but also one that recognises that it has not always lived up to these ideals. In

my view, the prohibition of same-sex marriage represented a failure to live up to our own values. Among these values are equality, diversity, inclusion and tolerance.

However, I note that 38.4 per cent of Australians did not vote in favour of same-sex marriage, so the question remains: why did these people vote against a proposition that I believe to be so straightforward? I do not believe that 4 873 987 voted 'no' out of bigotry. Indeed, it has been suggested that many of the 'no' voters had concerns about the erosion of religious freedom and free speech. Born from these concerns was the federal inquiry into the status of the human right to freedom of religion or belief.

The honourable member's motion raises concern about federal encroachment in the form of its Religious Discrimination Bill, which has been proposed as a result of the inquiry. The motion highlights that Tasmania is a world leader in the anti-discrimination space. On this note, I ask the member for Nelson the following: Under point (1), you mentioned that the Tasmanian Anti-Discrimination Act 1998 sets a standard that is applauded by other Australian states and territories. Could you provide any examples where international jurisdictions have also praised the Tasmanian approach?

I have noted that in other debates in this Chamber the member has asked for clarification and for the production of evidence to better inform the members in this place when we are debating issues, motions, bills and the like. I note that section 109 of the Constitution allows the Commonwealth to override states' legislation. It reads -

> When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

The fact that the Commonwealth can override state legislation alone does not provide reason or justification for it to do so. This concern regarding federal overreach was shared by a number of stakeholders. For instance, Civil Liberties Australia's vice-president, Rajan Venkataraman, said -

> The Anti-Discrimination Act was passed by Tasmania's Parliament and duly received Royal Assent. CLA believes that the Tasmanian Parliament should be very concerned about this federal government proposal to pass a law limiting the scope of Tasmania's legislation and dictating what Tasmania's laws do and do not apply to. Indeed, we believe that other states and territories should be equally concerned about this approach by the federal government and we suggest calling upon those other jurisdictions to express their concern in similar terms.

In fact, constituent Richard Hale included in his correspondence the comment -

> This time around, there are even greater concerns, not least that Tasmanians should have the right to make our own human rights laws without meddling from Canberra. In this regard I direct you to those constitutional lawyers who have questioned whether the Federal Government has the power to override our law.
>
> For example, Luke Beck, Associate Professor of Law at Monash University, has written that the proposed Tasmanian override may breach section 117 of the Constitution (which deals with discrimination against citizens depending on their state).

Mr President, I am glad that point (4) of the honourable member's motion expresses these concerns about the weakening of the Tasmanian bill.

I am an advocate and supporter of free speech. While there is no explicit right to free speech in Australia, it is certainly an ideal that we should keep at the front of our minds. The implied freedom of political communication is a crucial pillar of our democracy. I would never intend to restrict or stifle legitimate or political discourse. I acknowledge that there is a tension between absolute free speech and anti-discrimination laws.

Existing anti-discrimination laws such as section 17 of the Anti-Discrimination Act of Tasmania promote diversity and inclusion by protecting vulnerable members of the community from vile abuse. Free speech advocates inaccurately portray such laws as being draconian. Right wing commentary surrounding section 18C of the Commonwealth Racial Discrimination Act, though not directly relevant to this motion, provides an illustrated example of this kind of misinformation.

In 2011, the Federal Court held that journalist Andrew Bolt had contravened section 18C of the Commonwealth Racial Discrimination Act in two articles he had written for the Herald and Weekly Times. The articles were headed 'It's so hip to be black' and "White fellas in the black". They claimed that light-skinned people who identified as Aboriginal do so for personal gain.

Speaking outside the court, Mr Bolt described the verdict as a terrible day for free speech in this country. He also said - 'It is particularly a restriction on the freedom of all Australians to discuss multiculturalism and how people identify themselves'.

The notion that anti-discrimination is being weaponised to prevent people from discussing political issues is simply untrue. I am able to provide a 2017 ABC news article to members who are interested to see some of the remarks that have been held to be in breach of section 18C by the court. I will not read them here; I like to keep this Chamber strictly rated PG but these remarks are not political discussion, they are vile abuse, hurtful and degrading. Like section 18C, section 17 of the Tasmanian Anti-Discrimination Act is deserving of praise for excellent protection that it offers to vulnerable people.

Point (7) of the motion expresses valid concerns that hateful statements that are purportedly religious will be granted a legal status above other forms of communication. In my view, legislative bodies are capable of drawing a fair and reasonable line regarding hateful rhetoric without encroaching on free expression.

Members will be well aware that a number of noteworthy community groups have come forward in support of this motion. Robin Banks of Equality Tasmania wrote the following -

> Our strong discrimination law has had concrete outcomes: more inclusive schools, more productive workplaces and more respectful public debate.

This certainly sounds to be a noble goal. Fiona Strahan from Disability Voices Tasmania raised concerns about the federal bill's impact on people with a disability. She informed us of the following -

> The majority of discrimination complaints to Equal Opportunity Tasmania are by people with disability. At times, these complaints have been more than the

> combined complaints based on sex and race, yet I know so many people with disability who do not complain when they could - sometimes because of the emotional and physical cost, but often because discrimination is so common.

There are many problems with the proposed federal bill. I cannot possibly address them all in this short speech. I thank the other honourable members for their involvement in this discussion.

Another issue that I do wish to touch on briefly is the issue of women's access to health. Women's Health Tasmania raised these concerns as follows -

> The problem with this Bill is that it will introduce very dangerous special rules which will allow health service providers to refuse to provide services on religious grounds. And at the same time, it will also make it harder for employers and professional health bodies, such as health regulatory bodies, to require health professionals to treat all patients regardless of a health service provider's religious views. These employers and professional bodies will be forced to defend policies and standards that ensure that all patients are treated according to their health needs.

In conclusion, Mr President, the origins of the Commonwealth bill can be traced to concerns arising from the 2017 same-sex marriage plebiscite. These are concerns that I view to be completely misguided. Tasmania has superb anti-discrimination laws that protect vulnerable people from prejudice and hatred. Let's hope we can keep it that way. I support the motion.

[5.50 p.m.]

**Ms FORREST** (Murchison) - Mr President, I advise that I will going beyond six o'clock. I am happy to adjourn if you give me an indication.

Our Tasmanian discrimination law is among the most discussed, debated and scrutinised of any legislation passed in this state. It is also one of the most respected and strongest in the country, and often referred to by the jurisdictions as a model to aspire to. I know the member for Mersey was asking the member for Nelson about that. I am basing my comments based on conversations I have had with other members of parliament around this nation at various conferences et cetera. I am sure the member for Nelson will provide some other detail as well where it has been cited as very strong.

A simple *Hansard* search of the number of times the act has been discussed in the Tasmanian Parliament yields hundreds of results, and rightly so. As lawmakers our role is to ensure we achieve the best and fairest outcomes and fairest legislation for all Tasmanians - a job I take very seriously.

Recently, provisions seeking to extend exemptions available to acts of discrimination on the basis of religion were extensively debated in our parliament in 2017 and were rejected because they risked fundamentally diminishing the protections available under the existing act.

Consistently our Tasmanian Parliament has decided that the Anti-Discrimination Act achieves the right balance of protections against those who treat fellow Tasmanians less fairly because of their gender, race, sexual orientation, disability and other characteristics, whilst at the same time allowing for diversity of views and beliefs.

The right to free speech is important to all Australians. However, this right is not an unmitigated freedom to say whatever you want. There are established boundaries and social standards. The right to free speech has an inherent obligation to moderate our own contributions.

With rights come responsibilities and an obligation not to harm. This is particularly important with the rise of social media, creating greater challenges as it allows hate speech to spread very quickly and very widely.

The Tasmanian Commissioner for Children and Young People made a number of observations in her submission to the exposure draft of the religious discrimination bill released by the Australian Attorney-General, the honourable Christian Porter. I will quote some sections of her submission to remind us what these rights and responsibilities are, not only as they relate to children, but to us all.

I will be repeating some that has been said by other members, but in the contents of my speech I want to make sure that I cover the points I want to raise.

The Commissioner for Children and Young People in her submission wrote under her preliminary comments section that 'Article 18 of the International Covenant on Civil and Political Rights (ICCPR) recognises that everyone has a right to freedom of thought, conscience and religion'. Further down she says -

> The United Nations Convention on the Rights of the Child (CRC) also recognises that children have the right to freedom of thought, conscience and religion.

She goes on to say -

> However, both Article 18(3) of the ICCPR and Article 14(3) of CRC acknowledge freedom to manifest one's religion or beliefs may be limited. As Tasmania's Anti-Discrimination Commissioner said in her submission to the Expert Panel on Religious Freedom Protection in Australia:
>
> > Under international human rights law, distinction is made between the freedom to choose and hold a religious belief which is regarded as absolute and not capable of any limitation, and the freedom to manifest one's belief, which may legitimately be subject to reasonable limits.

She went onto say -

> We all have fundamental rights to equality before the law and non-discrimination regardless of our beliefs, as outlined in Article 2(1) and Article 26 of the ICCPR. As is noted by the Expert Panel in its report on its religious freedoms review:
>
> > In accordance with Article 26, people of faith are entitled not to be discriminated against on the basis of their faith and are entitled to equal and effective protection against discrimination on the grounds on their religion. Similarly, those who adhere to atheistic, agnostic and other belief systems are also entitled not to be discriminated against on that basis and to an equal and effective protection against such discrimination.

She goes on to say that Article 2 of the CRC guarantees all children a right to non-discrimination. Article 2.2 states that parties 'shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child's parents, legal guardians or family members'.

We actually have a responsibility to keep these things in mind when we are looking at what the proposed federal bill might enable. It also further said that the special rapporteur on freedom of religion and belief also noted that 'it is a right held by individuals and not by religions or religious organisations. The right is not designed to protect particular convictions, truth claims or belief systems (religious or otherwise)'.

It is important to keep those things in mind when we are considering what the proposed legislation may well do. The draft religious discrimination bill, which is due to be introduced before the end of 2019 in the Australian Parliament as we have been informed, also seeks to override sections of Tasmania's discrimination law by making them inoperable in circumstances where discrimination or related conduct is undertaken based on a person's religious view. The proposed changes are deeply concerning. This motion brought by the member for Nelson acknowledges these concerns and calls on the Tasmanian Government to consult broadly with those most likely to be negatively impacted by the proposed changes, and ensure our strong and effective laws are not overridden. I know a lot of these bodies are making their own submissions to the process as well.

I do not intend to address all the points separately. The member for Nelson did that very well. Rather, I want to speak in broad terms about the intent and purpose of the motion, a motion I support. I support it particularly as this proposal from the government seeks to override our laws that we have reaffirmed a number of times in this place including only last year.

**Mrs Hiscutt** - I can see the member for Murchison is about to launch into her reasons. It being a minute to six, would you like to adjourn at this point for a dinner break?

**Ms FORREST** - I can pick up where I left off. Mr President, I move that the debate stand adjourned.

**Debate adjourned.**

## SUSPENSION OF SITTING

[5.58 p.m.]

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

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

This is for the purpose of a dinner break. For information, I will not ring the bells before four minutes to seven.

**Motion agreed to.**

**Sitting suspended from 5.58 p.m. to 7.04 p.m.**

## MOTION

### Anti-Discrimination Act 1998 and Religious Discrimination Bill

**Resumed from above**.

[7.05 p.m.]

**Ms FORREST** (Murchison) - Mr President, before the dinner break I was referring to something the children's commissioner had said in her submission to the federal government. I wanted to talk about how these concerns have been raised, particularly about the implications for the Tasmanian law which really need to be taken very seriously. It seems I am not alone in my views, with many organisations expressing very real and similar concerns with the proposed changes at the federal level. A very real concern to me is the level of concern expressed by those directly associated with the people likely to be negatively impacted by the proposed changes.

I am sure members received an email outlining the number of these organisations that have expressed their support - the Association for Children with Disability (Tas) Community Legal Centres Tasmania, Disability Voices Tasmania, Engender Equality, Equality Tasmania, Speak Out Association of Tasmania, Tasmanian Disability Education Reform lobby, Transforming Tasmania, Unions Tasmania, Women's Health Tasmania, Working it Out, TasCOSS. I also understand the Tasmanian Aboriginal Centre was also a signatory to that communication with us.

When you think about who those people represent, they are people who are much more likely to be exposed to this sort of hate speech than perhaps we are. It does not mean we are not going to be exposed. I certainly have had my fair share - not compared to a lot of people - but I have in this role. When you stand up for something people have differing views on, you can cop it.

I want to refer to some of these contributions from some of these organisations, not all of them. I may be repeating some of what has been said previously, but I wish to do this in context.

In the submission from the Tasmanian Anti-Discrimination Commissioner, Sarah Bolt, to the draft religious discrimination bill 2019, she described some of the cases her officers dealt with that would be negatively impacted. In her submission, she says -

> Equal Opportunity Tasmania received a complaint from a worker living with his de facto partner. The employer discovered the man was living with his partner, but not married to her. The employer told the man that it was their religious belief that this was sinful behaviour. The worker told his employer that it was his private life and nothing to do with his work. The worker was able to make a complaint under the Anti-Discrimination Act 1998 (Tas), which was successfully resolved through conciliation.
>
> If the draft Religious Discrimination Bill 2019 was law, the complaint would not have been able to be dealt with under the Anti-Discrimination Act 1998 (Tas).

I will come back to why that is the case, but I want to read these examples first -

> Child with disability bullied at school. The Anti-Discrimination Act 1998 (Tas) also applies to education.

I referred to the rights of children earlier, from the Commissioner for Children -

> If a child is bullied in school as a result of having a disability, they are currently protected by the Act and could lodge a complaint. If the draft Religious Discrimination Bill 2019 was law, the complaint would not be able to be dealt with under the Anti-Discrimination Act 1998 (Tas) if the bullies said they were stating their religious beliefs.

In terms of misogynistic behaviour -

> The Anti-Discrimination Act 1998 (Tas) also works to ensure women and men are treated equally. If a woman is humiliated, intimidated or harassed on the basis of her gender, she is able to make a complaint. If a person has a religious belief that women are not equal to men and stated that belief to women he worked with and humiliated, intimidated or harassed them, the affected women would currently be able to make a complaint under the Anti-Discrimination Act 1998 (Tas). If the draft Religious Discrimination Bill 2019 was law, that type of complaint would not be able to be dealt with under the Anti-Discrimination Act 1998 (Tas).

Preventing complaints from being dealt with under the Anti-Discrimination Act 1998, in which a respondent was alleging they were making a statement of belief, would restrict access to justice for people. Ms Bolt says -

> From my experience as Anti-Discrimination Commissioner, I am aware people choose to lodge complaints under State anti-discrimination legislation, rather than Commonwealth legislation, as the process can be quicker, is more informal, and there is a presumption against costs. These are significant factors in providing access to justice. In my view it would be against the public interest to deny this avenue of complaint to people in situations where a person alleges (even fancifully) they were making a 'statement of belief'.

A lot of these people do not have a lot of resources. They are poor, they come from disadvantaged backgrounds, and it is making them more vulnerable to these sorts of actions by others. These genuine concerns cannot be ignored.

The Tasmanian children's commissioner similarly raised real concern about the application of the proposed bill, particularly with regard to the overriding of the Tasmania's anti-discrimination laws. I want to read another section from her submission -

> By specifically overriding section 17(1) of Tasmania's Anti-Discrimination Act. protection is provided for what may otherwise amount to discriminatory and/or harmful statements based on religious belief, which may underly, promote or justify discriminatory behaviour on the basis of attributes otherwise protected under anti-discrimination law.
>
> The effect of privileging statements of religious belief in the way proposed in the draft Bill will mean that complaints will no longer be able to be made under section 17(1) of Tasmania's Anti-Discrimination Act about the following if it is argued that the statement amounts to an expression of a religious belief:

- children with disability are suffering from divine punishment and may therefore be bullied on this basis;

- a young unmarried mother is living in sin and therefore not worthy of support;

- a young gender fluid person who is accessing a service is told they will go to Hell because of their gender identity.

These attitudes underpin and justify discriminatory conduct and bullying of children and young people who, because of a particular attribute, are seen to be different and unworthy of respect.

Additionally, in my respectful opinion, privileging statements of belief in the way proposed by Clause 41 has the very real potential to undermine the work underway in Tasmania to create a bully-free State - a state of kindness.

Other members have mentioned the work we did recently on the anti-bullying legislation.

Section 17(1) of the Anti-Discrimination Act prohibits persons engaging in any conduct which offends, humiliates, intimidates, insults or ridicules some other person on the basis of a range of attributes, including race, age, sexual orientation, gender identity, disability or parental status in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed. This section of the act has been intensely scrutinised and a substantive body of case law exists to determine how its provisions are applied in practise.

What the Commonwealth bill seeks to do is override Tasmania's anti-discrimination laws by providing that most statements of religious beliefs would not breach section 17(1) of the Tasmanian Anti-Discrimination Act. In practical terms, this means that existing protections under Tasmanian anti-discrimination laws would no longer be available. In effect, conduct that offends, humiliates or intimidates another person would be allowed if all done in the pursuit of a religious belief. The potential impact of such a move by the Commonwealth is quite alarming.

For example, the member for Nelson quoted some of these examples: a single woman seeking a script for a contraceptive pill or other contraceptive device could be told she is a sinner because she is engaging in sex outside marriage; a child being raised by a single parent could be told that their mother or father will burn in hell; a person with visual impairment could be told they are not worthy in the eyes of God because they have a guide dog and dogs are considered unclean; a lesbian or gay man could be told that being gay means they support bestiality and incest; a Muslim woman could be abused because it is considered she is dressed in a way that represents the view of heathens; a woman dressed in a short skirt or skimpy clothing could be told she was asking to be raped; and a person seeking access to termination services could be harassed and berated for her decision.

These are the sorts of behaviours that Tasmania's anti-discrimination laws seek to regulate, and the current law does not prevent a person from holding religious views or beliefs. It simply requires any expressions of faith directed at others to be done in a way that is civil, respectful and avoids expressions of prejudice. This is consistent with a modern understanding of rights and freedoms in our community. Removal of these protections could also mean, for example, that a person with a disability would have no recourse in the situation in which, based on religious belief, the person

says that disability is the work of God or punishment for some former sin, nor would a transgender person be able to lodge a complaint if they were told they were mentally ill or broken.

Freedom of speech is a right respected in our community but is not an absolute right. There are, and should be, appropriate checks and balances, and it should not give a licence to denigrate under the guise of religion. In discussion with those who suggest more freedom to speak is needed, when I have asked what a person wants to say that they cannot now without fear of complaint to the Anti-Discrimination Commissioner, they are often at a loss to articulate it, especially when they know they are free to hold their religious views. It is how they express their views that is at issue.

The draft bill proposed by the federal Attorney-General removes everyone's obligation under anti-discrimination law to treat people, because of their gender, sex or orientation, disability or age, in the same way that they themselves expect to be treated - with civility and respect. People can respect the rights of another to hold particular religious beliefs and speak to them with civility. There is no expectation we should share the same beliefs, especially when we may fundamentally disagree with the beliefs of others. We can have those conversations and agree to disagree.

Current anti-discrimination laws do not deny people of faith holding views that some may consider contrary to modern principles or precepts, nor do they deny people of faith the ability to express their views on issues in debate. On the contrary, under Tasmanian law, a person's right to hold religious views and beliefs is protected. People are protected from discrimination on the basis of their religion. Many people of faith have indicated, in debates on this matter in 2017 and more recently, that they feel deeply uncomfortable with any attempts to provide a licence for religious groups or those of a religious faith to engage in discriminatory and offensive conduct. They do not want to be party to a law that permits people of religion to discriminate against people with a disability, to degrade, humiliate, offend or intimidate or insult or ridicule them in any way. These people have also said they consider our law should ensure that views on issues such as abortion or homosexuality are expressed in a respectful way rather than through comments or actions that insult, humiliate or intimidate, and I agree with them.

The proposed bill is likely to result in anything but respect and civility. The main problem with privileging religious beliefs above other groups is that it elevates those beliefs in a way that says the legitimate views of others are not worthy of protection and sends a message that, as a community, we are happy to allow conduct that insults, offends and ridicules when it is done in the name of religion and on no other basis. Any attempt by the Commonwealth to override state law has historically only occurred in the most exceptional and rare circumstances. The member for Mersey mentioned that. The power is there and we know it is. It was used in the Gordon below Franklin matter. Whether you agree with that power or not, it is there, but it should be used only in the most serious of circumstances.

Our state Government has in the past, quite rightly, challenged the right of the Commonwealth to do this. To allow this now in order to permit only those who hold a religious belief to publicly discriminate against others sets a concerning precedent and it cannot be justified. It is important that the Tasmanian Government defends our current anti-discrimination law and rejects attempts by the Commonwealth to seek to override the Tasmanian Anti-Discrimination Act.

Section 17(1) prohibits language that humiliates, intimidates, insults or ridicules Tasmanians who are often part of minority groups, including the LGBTIQ community. Our legislation provides the same level of protection offered to racial minorities by section 18C of the Racial Discrimination Act, which is Commonwealth legislation.

Tasmania is the only state that offers this protection to LGBTIQ people. Under section 17(1), landmark cases have been taken against hateful anti-LGBTIQ materials, including the case against a flyer distributed in Hobart which made homosexuality out to be a health hazard. If section 17(1) is weakened it will be harder to take action against this kind of homophobic material. The Tasmanian Anti-Discrimination Act does not have exemptions allowing hate speech in the name of religion or discrimination or hate speech by religious or other organisations.

This has actually helped create a much more inclusive workplace culture for LGBTIQ members. For example, as I think the member for Pembroke mentioned, the Baptist welfare agency, Baptcare, received an LGBTIQ award in 2018 for the work it has done in fostering that sort of approach. The proposed religious discrimination bill will undermine this culture of respect and inclusion by allowing demeaning speech between employees and against clients in the name of religion, especially in large organisations.

This is particularly concerning to me as we see more and more services that have historically been provided by the public sector, such as disability services and care, housing and social services, service that are necessary to provide care and support to already disadvantaged and vulnerable Tasmanians, being outsourced to not-for-profit providers and other providers, many of which are owned and operated by religious organisations. The same concerns exist in the areas of health care and education provided by religious organisations. The proposed bill will make it much harder to tackle the ingrained prejudices in these settings, and in society generally, against Tasmanians with a disability, members of the LGBTIQ community and other marginalised groups and will continue to limit their ability to participate in and contribute to our workplaces.

As I indicated, this proposed bill will allow discrimination in health care. There are currently no exemptions in the Tasmanian Anti-Discrimination Act allowing health care to be withheld from LGBTIQ people, for example. This has fostered better healthcare access and outcomes for LGBTIQ community members. The religious discrimination bill will undermine this by allowing Tasmanian healthcare practitioners to refuse their services to an LGBTIQ person if it offends their religious beliefs. This could mean that a transgender person is refused health care related to gender transition; a gay man is refused a prescription for PrEP, a medication prescribed to prevent an HIV negative person from getting HIV from an injecting drug user sexual partner who is HIV positive. Or a child can be refused health care because their parents are in a same-sex relationship.

The Tasmanian Anti-Discrimination Act was passed just a year after homosexuality was decriminalised in Tasmania. It was Tasmania's commitment to never again demonise a vulnerable minority. Today, religious schools conduct LGBTIQ, disability and race anti-bullying and inclusion programs. Public anti-gay hate that was ubiquitous before 1998 has virtually disappeared. That is good news. The same dramatic increase in inclusion can be seen from other social minorities. Tasmania has seen none of the religious extremism that has plagued the other states, thanks to laws like section 17(1) of our Anti-Discrimination Act providing a shield against such extremism.

As mentioned by other members as well, there have been two attempts to try to water down section 17(1) of our Anti-Discrimination Act, but both these initiatives have failed because a majority of upper House members were convinced that section 17(1) provides important protections for vulnerable Tasmanians. The proposed religious discrimination bill is not just about section 17(1) though, important as it is. It would negatively impact on many others in our community in addition to members of the LGBTIQ community. It also puts at risk protections afforded to Tasmanian women, Aboriginal people and ethnic and religious minorities, and people with

disabilities, as well as those who live in de facto relationships and people with certain health conditions. It puts at risk the integrity of our health system as it allows open slather on refusal to serve patients.

In a letter from Jo Flanagan from Women's Health Tasmania, she clearly articulates the concerns related to access to health care, especially for women. I will quote from her letter -

> The problem with this Bill is that it will introduce very dangerous special rules which will allow health service providers to refuse to provide services on religious grounds.

As I said, a lot of these services are provided by religious organisations -

> And at the same time, it will also make it harder for employers and professional health bodies, such as health regulatory bodies, to require health professionals to treat all patients regardless of a health service provider's religious views. These employers and professional bodies will be forced to defend policies and standards that ensure that all patients are treated according to their health needs.
>
> Laws to protect conscientious objection already exist. Because the right to conscientious objection is considered extraordinary, these only relate to the most contentious issues, abortion and euthanasia. These laws are very defined and they are conditional. They include requirements to refer a patient to another doctor or to treat a patient in a life threatening situation. The Religious Discrimination Bill doesn't provide these kinds of clear guidelines. Under this Bill, health professionals cannot be restricted in their rights to conscientiously object by any guidelines imposed by their employers or by regulatory bodies.
>
> What is even more alarming is that these conscientious objection laws apply not just to individuals but to institutions which organise themselves on religious lines. This will include hospitals and insurance companies owned by religious institutions, of which there are many. Under these laws, it will be possible for these institutions to refuse to treat or insure groups of people.
>
> The impacts of this are so broad-reaching that it is almost impossible to imagine. Here are some of the people potentially affected -women and girls seeking access to reproductive health services; anyone seeking access to contraception; parents seeking access to vaccination services; LGBTIQ people and their children; divorced people; unmarried couples; single parents; people with addictions; people with HIV; people with disabilities; people needing blood transfusions; women generally if the health service provider's religion has strong views on gender.
>
> These are the types of health services which are covered by this Bill: all medical health services; pharmacies; optometrists; occupational therapists; psychologists; podiatrists, physiotherapists.
>
> And this is the kind of service delivery most at risk of raising a conscientious objection: sexual health services; reproductive health services; IVF services; transgender health services; vaccination services; palliative care (end of life

> directives); blood transfusions; drug and alcohol services; any general health service working with a vulnerable population; any health service to a woman if there are religious proscriptions on gender.

That was from Jo Flanagan. They have been through the draft bill. We have to pause and think: what is this potentially seeking to do? I cannot for the life of me understand the driving force behind it, even though people talked about the postal survey and the legalisation of same-sex marriage, but this goes so much further than that.

The Tasmanian children's commissioner also expressed concerns in this area about the access to health services for women and children.

Jo Flanagan added more further on in her letter. She said -

> The USA has seen these kinds of dangerous religious freedom laws flourish and has produced disturbing examples of cruelty towards marginalised groups: the infant children of LGBTIQ couples refused medical checkups.

This is what has really happened in the USA -

> ... all hospitals in Mississippi given the right to refuse treatment to trans people, whether or not that treatment is related to transitioning.

They may be there with a heart attack -

> ... and women refused treatment for miscarriages.
>
> It has also produced brave whistle blowers who report their wish to treat their patients but who are prohibited from doing so by the institutions they work for.
>
> Under this Law, health practitioners will be permitted to refuse to perform lawful, safe and justifiable treatment that will benefit patients.
>
> Under this Law, adverse impact on patients is permitted. Patients' rights to accessible and safe care should always come before the religious beliefs of health professionals.
>
> This broad right to conscientious objection runs the risk of a significant expansion of discrimination and harm to patients.

We really need to understand the full potential implications of what is being proposed and the breadth of its reach. When we consider the full impacts, I suggest this motion must be supported.

Current Tasmanian Government policies that prevent bullying and promote inclusion are consistent with section 17(1) of our Anti-Discrimination Act. For example, the Tasmanian government schools anti-bullying program is based on the relevant sections of our Anti-Discrimination Act, including section 17(1).

The recent Stop and Prevent Bullying Meeting Communique, supported by the state Government and released recently by the minister and the community sector also draws its legitimacy from section 17(1).

As I have discussed, many but not all of the concerns I and other stakeholders have are these. There are more but I am not going to go into all of them, but I wish to consider and comment on what is likely to happen if section 17(1) is weakened.

By allowing humiliating and intimidating speech, but only in the name of faith or religion, privileges one form of speech and one form of belief above all others. These are concerns raised by many who have lodged their submissions. All citizens should have equal rights and responsibilities under the law, regardless of whether they are people of faith. When one group has special rights not available to others, it undermines the credibility of the law and is an attack on basic Australian values like equality of opportunity and a fair go for all.

The church child abuse scandal shows the damage done when faith leaders feel that they should not be held to the same standards as everybody else. If section 17(1) is weakened, it will no longer offer protections I have already outlined and, worse still, it will send the message it is acceptable to humiliate and intimidate people on the basis of who they are, based on another person's religious belief.

As we discussed in 2017 in this place, it is also very difficult to define what religion is. I am going to repeat a little of what I said back then but also, I note today, there is an article in *The Conversation* that talked about the fact one of the biggest hurdles for the Coalition's religious discrimination bill is how to define religion. Back when we were debating this earlier, I went to a paper called 'Legal Aspects of the Protection of Religious Freedom in Australia' by Associate Professor Carolyn Evans from the Centre for Comparative Constitutional Studies at the Melbourne Law School, in June 2009. She describes the challenge, and I quote -

> In an early Australian case, Adelaide Company of Jehovah's Witnesses v Commonwealth ('the Jehovah's Witnesses Case') Latham CJ referred to the problems of defining religion when he noted that: 'It would be difficult, if not impossible, to devise a definition of religion which would satisfy the adherents of all the many and various religions which exist or have existed in the world'. His Honour also noted that 116 'proclaims not only the principle of toleration of all religions, but also the principle of toleration of absence of religion'.
>
> ...
>
> Murphy J took an expansory approach to defining religion. His Honour rejected the notion that there is a single criterion to determine a religion or a closed set of categories of religions. He said that it is better 'to state what is sufficient, even if not necessary, to bring a body which claims to be religious within the category'. This very vague language makes it difficult to determine what is necessary in order to determine whether a group is religious, especially given that Murphy J then went on to discuss a wide range of circumstances in which a body may be determined to be religious.
>
> ...
>
> The vagueness of Murphy J's definition is compounded by the fact that His Honour denied that a religion must involve belief in a god, that it must claim exclusive access to religious truth, that it must have consistently claimed religious status over time, that it must be involved with propitiation and propagation or that

> it must be accepted by the public. This definition is in some ways the most consistent with the very broad approach adopted in international law but not particularly useful in defining the boundaries of the definition of religion.

It just shows the enormous task in defining religion. I will get to what the draft bill actually has in it. When we consider how religious exemption as proposed might apply, it is clear there is going to be no straightforward simple definition of what religion actually is and, in the exposure draft, religion is not even defined as such. The draft bill states that religious belief or activity means holding a religious belief; or engaging in lawful religious activity; or not holding a religious belief; or not engaging in, or refusing to engage in, lawful religious activity.

The breadth of religious belief, including the lack of belief, has the potential to unleash all manner of cruel and unkind words and behaviour toward our fellow Tasmanians in the name of religious belief, including no belief or atheism where hate is directed at those with Christian or other beliefs. This was a matter also raised by Kristen Hilton of the Victorian Equal Opportunity and Human Rights Commission in her submission regarding the exposure draft for the religious discrimination bill. So it is not just Tasmanians who are saying this. I have now moved to Victoria.

Ms Hilton wrote -

> Clause 41(1) of the exposure draft provides that 'statements of belief' do not constitute discrimination for the purposes of anti-discrimination law. Clause 5 defines a statement of beliefs as where a statement:
>
> (i) is of a religious belief held by a person; and
>
> (ii) is made by the person in good faith; and
>
> (iii) is of a belief that they may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teachings of the religion.
>
> This provision also applies to statements made by non-religious persons, but requires that the statement must directly arise from the fact that the person does not hold a religious belief, and the statement must be about religion.
>
> Religious statements of belief, on the other hand, need only 'be reasonably regarded as being in accordance with the doctrines, tenets, beliefs or teaching of the religion' - a broader test, for example, than those afforded to religious bodies under other religious exemptions. This means the scope of protected speech for non-religious statements is narrower than religiously motivated statements.
>
> The Commission has concerns that this provision fails to appropriately balance the right to religious expression with the right to be free from discrimination. This balancing act is a feature of modern human rights law.

Ms Hilton went on further -

> However, by carving out special exemptions for religious belief, this provision privileges religious expression over the right to be free from discrimination. This imbalance is two-fold. First, it makes some groups, such as LGBTQI people,

> more vulnerable to religiously motivated hate speech by reducing protections for them. For example, the exposure draft gives licence to the sort of harmful statements that were made towards the LGBTI community during the Same Sex-Marriage Survey process.
>
> Second, it may undermine equality of participation in public and political debates by granting religious communities greater levity for expressing their views than other communities that do not enjoy the protections in clause 41(1).

Ms Hilton went on to comment on proposed exceptions and expressed concerns they will be difficult to apply or use. She wrote -

> There are exceptions provided in clause 41(2) of the Exposure Draft where a statement is malicious, would or is likely to harass, vilify, incite hatred or violence toward another person or group, or would counsel, promote, encourage or urge conduct that would constitute a serious offence. However, it is unclear what statements will meet this threshold. Our preliminary view is that clause 41(1) arguably sets a higher threshold than the test in Victoria's Racial and Religious Tolerance Act, which from our experience will make it difficult for individuals to rely on this exception.

Offensive, humiliating and insulting language is also prohibited under a large number of statutes. This includes legislation covering anything from child care to motor vehicle registration. Since 1858, it has been an offence punishable by imprisonment to insult a member of parliament. Section 3 of the Parliamentary Privileges Act 1858 says -

> Houses empowered to punish summarily for certain contempts.
>
> Each House is hereby empowered to punish in a summary manner, as for contempt, by imprisonment in such custody and in such place as it may direct, during the then existing session or any portion thereof, any of the offences hereinafter enumerated, whether committed by a Member of the House or by any other person.

So we can send them off down under to the member for Hobart's office.

Among other offences, the section states - and these are the offences -

> (c) The assaulting, menacing, obstructing, or insulting of any Member in his coming to or going from the House, or in the House, or on account of his behaviour in Parliament, or endeavouring to compel any Member by force, insult, or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before either House;
>
> (d) The publishing or sending to a Member any insulting or threatening letter on account of his behaviour in Parliament.

Mr President, it would be the height of hypocrisy for us as lawmakers to retain a protection and deny that to others.

Clearly the language in our Parliamentary Privileges Act needs to be contemporised because I am sure women are singly protected - well, they need to be - even though section 24A of the Acts Interpretation Act 1931 does deal with this in broad terms, but I know I have certainly received letters - threatening letters, demeaning letters, during my time in this place, based on the religious beliefs of another person. It is really important these acts are modernised to include women explicitly. We should not have to rely on another act to give that meaning to it. It is wrong.

As I mentioned earlier, section 17(1) of our Anti-Discrimination Act does not allow someone to complain simply because they feel offended. This is a bit of a misunderstanding by some who seek to be mischief-makers at times. Whether somebody is offended, humiliated, intimidated, insulted or ridiculed must be something that would be anticipated by a reasonable person. There are a growing number of court decisions that have established what a reasonable person would anticipate. In this area, the reasonableness threshold is higher than for many similar offences. The other point is that you have to have regard to all the circumstances as well.

Critics of the current legislative provisions often argue that we should allow religious exemption when there are other exemptions that already apply to section 17(1) for academic, scientific and artistic purposes or for acts in the public interest.

It is a reasonable question; however, we all know that all too often prejudices are expressed under the guise of religion. For example, physical disability is said to be a mark of sin, and mental disability is often blamed on demonic possession. On this issue related to disability, some may have a view that people would not seek to humiliate or insult those with a disability under the guise of religious belief. I am sure members would have read an email from Fiona Strahan, who has lived experience of this. I will quote some parts of her email to explain how it does happen -

> The majority of discrimination complaints to Equal Opportunity Tasmania are by people with disability. At times these complaints have been more than the combined complaints based on sex and race. Yet I know so many people with disability who don't complain when they could, sometimes because of the emotional and physical cost, but often because discrimination is so common.

And further -

> It is common though perhaps surprising to know that those of us with visible disability, not just physical but sensory and neurological encounter name calling, ridicule and uninvited personal opinion when going about ordinary life. People with invisible disability can encounter this too when they disclose a disability. We know that with religious interpretations of mental illness.
>
> This may be surprising to read, often in response to those stories people will say 'surely that's rare, or it doesn't happen any more.'
>
> Yes people do, and yes it does.
>
> Prior to speaking at the recent rally in Hobart on this Bill I polled my disabled colleagues and friends and everyone had an experience where one or more people had approached an individual with a disability and without asking projected their negative religious interpretation upon them.
>
> Examples of these include:

- being surrounded by a group of strangers and having them pray that this person be able to walk again
- told that their short stature is sign of sin and punishment
- that the person must have done something bad in their past life
- followed and touched and told that Jesus loves you and will heal you
- yelled at from car windows you should be in hell
- a teacher told by a visiting teacher that her disability was something she had to learn from because of something in her past life

This happens in spite of existing Anti-Discrimination legislation across the country, and the best Anti-discrimination Act in the country here in Tasmania.

The Royal Commission into Violence, Abuse, Neglect and Exploitation has begun in recognition of the systematic and systemic abuse of people with disability throughout our society. It is likely that religious bodies and organizations who have often been primary providers of services to disabled people will be examined, again.

This Bill is alarming in the increased protection provided to people to be able to say or behave in a way on the basis of religious belief to others, *whilst* undoing protections for minorities such as people with disability, women, Aboriginal and Torres Strait Islanders, our multi-cultural communities and the LGBTIQ+ communities.

...

Since I have come to understand the impact of this Bill I and others have become increasingly concerned by the real threat to our own safety, well being and continuing contribution in our communities across Tasmania. This Bill will under the guise of religious freedom increase the vulnerability of disabled people.

It is impossible to understand how in a secular and diverse society, with little if any religious conflict or violence that this Bill is even being proposed.

This is an anti-social cohesion Bill.

Other examples of prejudice being expressed under the cover of religion include: women told to cover their bodies or risk sexual assaults against them, when the reality is men should not rape or assault women regardless of what they are wearing; the LGBTI people, unmarried partners and single parents being told by some that they are sinful and broken; ensuring equal protection for those groups, meaning guarding against hateful speech under the cover or religious values, and other examples.

The Australian Government has defended its attack on section 17(1) by saying it is not an override. While this may be technically true, the High Court of Australia may need to declare section 17(1) to be invalid to the extent that it is inconsistent with section 17(1) for the latter to be overridden, but this is a point of semantics.

The religious discrimination bill clearly limits the operation of section 17(1) so it is effectively weakened. Section 17(1) will effectively be rendered inoperable by the religious discrimination bill.

The Tasmanian Anti-Discrimination Commissioner referenced this issue, among others, in her submission to the exposure draft of the religious discrimination bill. She wrote -

> Clause 41 of the draft Religious Discrimination Bill 2019 provides that a 'statement of belief' does not constitute discrimination for the purpose of any Australian anti-discrimination law; does not contravene 17(1) of the Anti-Discrimination Act 1998 (Tas.); and does not contravene the provision of a law 'prescribed by the regulations'.
>
> The draft Religious Discrimination Bill 2019 is not particularly clear in defining what is meant by 'statement of belief'.
>
> Clause 5 of the Bill provides that a 'statement of belief' is a statement of a 'religious belief'.
>
> 'Religious belief' is defined to mean 'holding a religious belief'. This is not helpful drafting.
>
> I strongly oppose the draft Religious Discrimination Bill overriding State discrimination law as, for the reasons given below, it curtails State sovereignty, diminishes existing human rights protections and will severely limit access to justice.

With regard to the assurances by the Commonwealth Attorney-General that the exposure draft of the religious discrimination bill 2019 is not intended to displace state law, Ms Bolt made it clear in her view this is not the case.

This is the key aspect of this concern particularly for Tasmania, so I will read a significant part of Ms Bolt's submission here. I know the member for Nelson did too, but it is in context of what the really serious concerns are.

The Commonwealth Attorney-General says 'Don't need to worry, we are not overriding it'. This is what Ms Bolt wrote -

> Yet, contrary to established discrimination law principles in Australia, the draft Religious Discrimination Bill 2019 explicitly displaces and overrides State law. The Anti-Discrimination Act 1998 (Tas.) is legislation passed by the Tasmanian Parliament to protect Tasmanians.
>
> In 2017, the Tasmanian Government attempted to exempt religious speech from the operation of section 17(1) of the Anti-Discrimination Act 1998 (Tas.). Community groups in Tasmania, particularly groups representing people with disability, gave information to the Tasmanian Parliament about how vulnerable Tasmanians would be negatively impacted by the State allowing offensive, humiliating, intimidating, insulting and intimidating conduct to be directed toward them under the guise of religion. The Tasmanian Parliament maintained

> the protections in the Anti-Discrimination Act 1998 (Tas.). It would be wrong for the Commonwealth to override the decision of the Tasmanian Parliament that Tasmanians should be protected from discrimination and offensive, humiliating, intimidating, insulting and intimidating conduct.
>
> The Explanatory Notes for the Exposure Draft of the Religious Discrimination Bill 2019 state at paragraph 422 that section 17(1) of the Anti-Discrimination Act 1998 (Tas.) should be overridden due to 'its broad scope and demonstrated ability to affect freedom of religious expression'.

It is actually said in the explanatory notes. That is what they are saying about our law. I am going back to Ms Bolt's comments -

> This statement is not correct. Section 17(1) of the Anti-Discrimination Act 1998 (Tas.) contains a 'reasonable person' test. Conduct is only unlawful if a reasonable person, having regard to all the circumstances, would have anticipated that the affected person would be offended, humiliated, intimidated, insulted or ridiculed. Further, section 55 of the Anti-Discrimination Act 1998 (Tas.) provides a defence to section 17(1) ...

And further -

> The Supreme Court of Tasmania has considered section 17(1) of the Anti-Discrimination Act 1998 (Tas), noted its benefits and held it does not infringe benefits of freedom of communication. In *Durston v Anti-Discrimination Tribunal* (No. 2) [2018] TASSC 48, Brett, J said -
>
> In my view the primary purpose of the Anti-Discrimination Act is to prevent conduct which discriminates against or otherwise adversely impacts upon a person, because that person possesses or shares a defined attribute with others. Such legislation seeks to prevent and redress conduct which is seen as unjust, divisive, and anathema to modern society. Accordingly, the Act has the higher purposes of the individual protection of all members of society and the overall maintenance and enhancement of social cohesion. The consequential benefits of the achievement of these purposes is the enhanced capacity of all members of the community to express views and participate in the political and social life of the community. As already discussed I am of the view that these purposes are compatible with the maintenance of the system of representative government prescribed by the Constitution.
>
> ...
>
> Further, I accept the necessity of s17 because it directly targets conduct which is contrary to the purpose sought to be achieved by the statute.
>
> ...
>
> I do not think it is either necessary or desirable to be any more prescriptive about the meaning or application of s55. It is sufficient to observe that the application of the section in any particular case will depend upon the circumstances of that

case. Ultimately, the concepts of 'good faith' and 'for a purpose in the public interest' will be matters for judgment by the court or tribunal in question.

A broad interpretation is appropriate, and many cases will turn on factual questions. For example, a verbal attack on a person or group of persons on the basis of a prescribed attribute which is ostensibly in the public interest, but in reality, has as its dominant purpose the causation of insult and offence to persons sharing that attribute, will be unlikely to satisfy either requirement. On the other hand, legitimate debate about the same subject-matter, conducted with a conscientious attempt to avoid the effects to which 17 refers, and conducted solely for the purpose of putting a view, at least perceived by the maker to be for the benefit of the public, will be likely to fall within the exception.

The question for me in this case is whether this provision creates sufficient space for legitimate public debate and comments so as to satisfy the test of adequacy in balance. Having regard to broad consultation discussed above, and in particular the wide and flexible ambit of 55, I am satisfied that the answer to the question must be in the affirmative.

That is the end of that quote from Brett, J, and we will continue on with Ms Bolt's quote -

The practical effect of clause 41 (read in conjunction with a note to clause 60) of the draft Religious Discrimination Bill 2019, will be that when a respondent to a complaint under the Anti-Discrimination Act 1998 (Tas) alleges they made a 'statement of belief' the complaint would fail. This would significantly impact access to justice.

The Anti-Discrimination Act 1998 (Tas) is State legislation and where complaints cannot be otherwise resolved, they are referred to a State tribunal, the Anti-Discrimination Tribunal, for determination.

If the draft Religious Discrimination Bill 2019 were to be enacted, it would become Commonwealth legislation. Clause 41 of the draft Religious Discrimination Bill 2019 would provide a defence to complaints made under the Anti-Discrimination Act 1998 (Tas) (i.e. where a person has made a 'statement of belief').

The Tasmanian Anti-Discrimination Tribunal cannot deal with complaints involving a Federal question (such as the defence available in clause 41) as it does not have jurisdiction to do so, even if the raising of the defence is 'fanciful'. Similarly, as Anti-Discrimination Commissioner, I cannot refer a complaint involving a Federal question to the Anti-Discrimination Tribunal, as to do so would be an error of law. This is because the tribunal would lack jurisdiction to deal with the complaint.

In *Fenton v Mulligan* (1971) 124 CLR 367 Barwick CJ said at 373: 'if federal jurisdiction is attracted at a stage of the proceedings, there is no room for the exercise of a State jurisdiction which apart from any operation of the Judiciary Act the State court would have had ... there is no State jurisdiction capable of concurrent exercise with federal jurisdiction invested in the State court.'

> This means that when a respondent to a complaint under the Anti-Discrimination Act 1998 (Tas) said they were making a 'statement of belief' when engaged in the discriminatory or prohibited conduct, the complaint would fail for want of jurisdiction.
>
> I note clause 41(2) attempts to put some limitations on a 'statement of belief' and says clause 41 will not apply to statements that are, for example, malicious or likely to incite hatred. However, due to the federal diversity issue, neither I nor the Anti-Discrimination Tribunal would be able to consider this. This means that where a person made a statement of belief that incited hatred and someone made a complaint about this under the Anti-Discrimination Act 1998 (Tas), the complaint would still fail. When the respondent said they were making a 'statement of belief' they would be raising a federal question and neither I nor the Anti-Discrimination Tribunal could determine.

I appreciate that was a long quote, Mr President, but you have to put it all in context as to why it cannot work. It will mean our Anti-Discrimination Tribunal and commissioner will have real problems in dealing with some of the things we have worked so hard to achieve in this state. I hope the federal Attorney-General gets to understand this, too.

Some critics have also suggested our section 17(1) infringes on free speech and/or freedom of religion. On this point, many of you may recall the instance during the election in Tasmania when the former member of Nelson was up for election previously. The author of an anti-gay flyer mentioned earlier, James Durston, was found to have breached section 17(1); he appealed to the Supreme Court saying his free speech and freedom of religion were being infringed. Justice Brett found that section 17 of the Tasmanian Anti-Discrimination Act 1998 (Tas) does not infringe these rights and is valid under the Australian Constitution. As I noted earlier, Justice Brett made a careful and rigorous argument that freedom of religion and freedom of speech are not unfettered rights and the Tasmanian Anti-Discrimination Act strikes the right balance between these rights and the rights of citizens to live free from hate.

Other critics refer to the case where Hobart Archbishop Porteous, in their words, was hauled before the tribunal to answer for his faith by simply stating Catholic doctrine on marriage. For the benefit of including this on the public record, I will relate the facts about the case related to Martine Delaney and Archbishop Porteous because they have been misrepresented many times. I am not saying it was in this place, but they have been in broad conversations.

In 2015 Archbishop Porteous distributed a booklet about the Catholic Church's view of marriage called 'Don't Mess with Marriage'. In September that year, Martine Delaney lodged a complaint under sections 17 and 19 of our act against parts of the booklet. In particular, her complaint was against the booklet's suggestion that same-sex relationships 'mess with kids' and the booklet's failure to distinguish between Catholic doctrine and scientific fact. Martine Delaney had a long history of taking cases against materials that inspired hate against LGBTI people, most of which were successfully resolved in conciliation. Ms Delaney said at the time her goal of the complaint against 'Don't Mess with Marriage' was not to silence the church, but to foster a more mature and respectful debate about marriage equality. The Archbishop was asked to attend one voluntary conciliation session. The Archbishop later told a Senate religious freedom inquiry that the session he attended was valuable and good, because he said. 'I think I understood the other position more clearly'. As a result, it is noted in the Standing Committee on Foreign Affairs,

Defence and Trade inquiry on freedom of religion and belief. That is from page 29 of the inquiry's report from 5 June 2018.

In the conciliation session, Ms Delaney presented the Archbishop with a version of Don't Mess with Marriage that included her minimal edits. When it was clear the Archbishop would not change a single word, Ms Delaney withdrew the case. The booklet continued to be distributed.

What this history shows is the complaint was not against Catholic doctrine, but against the demeaning way the doctrine was presented. The Archbishop was not hauled anywhere and the process was not onerous. The complaint was not litigious and did not seek to censor the Church because it was withdrawn when it became clear no progress could be made.

Mr President, section 17(1) of Tasmania's Anti-Discrimination Act has allowed members of many different social groups to have their concerns heard and has brought people together with diverse views to find mutually satisfactory solutions to their agreements. Isn't that a better way of doing it? This is how it was designed to work and this is how it has worked.

Section 17(1) has made Tasmania a demonstrably better place. Section 17(1) is not unusual in prohibiting offensive conduct and does not place special burdens on free speech or freedom of religion. This makes it more difficult to understand why the federal Attorney-General and the Australian Government want to override or undermine it.

The one feature of section 17(1) that makes it different to other laws that prohibit offensive language is that it generally protects those who are disadvantaged, stigmatised, marginalised and vulnerable from those who are powerful and in positions of authority.

It seems that section 17(1) is under attack precisely because it protects the vulnerable and holds the powerful to account. This, more than anything else, is why we must protect section 17(1) from being weakened, especially as we, ourselves, some of the most powerful and privileged people, are unlikely to feel the wrath.

The draft religious discrimination bill undermines both the letter and spirit of Tasmania's world class anti-discrimination laws. It gives permission for the kind of prejudice and hate that will diminish Tasmania's society. It tries to turn back the clock to the time discrimination was acceptable in Tasmania, and that is not okay.

In a submission to the exposure draft, Kristen Hilton, the Victorian Equal Opportunity and Human Rights Commissioner summarised her concerns -

> In summary, we are concerned that the exposure draft:
>
> - privileges religious expression over anti-discrimination protections for other groups, particularly lesbian, gay, bisexual, trans, intersex and queer people (LGBTIQ) and women, and undermines the coherence of Australia's anti-discrimination framework by overriding state and territory law (cl 41);
>
> - restricts the ability to create safe and inclusive workplaces, by preventing employers from imposing reasonable conduct rules on employees' religious expression outside of work hours (cl 8(3)-(4));

- undermines access to safe and inclusive health services and creates a risk of confusion among health providers seeking to comply with existing conscientious objection laws and policy directives, and where no state and territory conscientious objection laws exist, it introduces broad conscientious objection provisions without appropriate safeguards or regulation (cl 8(5), 8(6));

- prevents employers from deciding compliance with certain employee conduct rules (that extend to conduct outside of work or deal with conscientious objection) are inherent requirements of the job, restricting their ability to make employment decisions consistent with the promotion of the mission, values or human rights culture of the organisation or service (cl 31(6)-(7));

- departs from traditional anti-discrimination laws by defining persons as including religious bodies or institutions (cl 5), affording religious businesses protections against discrimination ordinarily provided only to individual persons;

- elevates to the rights of religious bodies over those of individuals and other bodies by expanding when they can lawfully discriminate based on religious belief or activity (cl 10(2)).

Mr President, when identifying likely harms in the introduction of the bill Ms Hilton wrote -

> Clause 41 provides that statements of belief are protected from anti-discrimination law. In practice this can mean religious people making statements of belief may be exempt from complying with other laws that non-religious people must comply with.
>
> This provision is likely to give licence to harmful and offensive statements in areas of public life. Examples of speech that may be permissible under this Bill include:
>
> - Homophobia, Bi-phobia, Transphobia, Intersex-phobia - we know the high rates of abuse that the LGBTIQ communities receive online and the harm it causes. Clause 41 may permit a range of hateful conduct aimed at LGBTIQ people and communities causing significant harm, such as being told they would go to hell for their sins.
>
> - Misogynistic abuse - 47 per cent of women aged 18-24 have experienced gendered online abuse and harassment. This provision may contribute to, or exacerbate, misogynistic abuse under the guise of religious expressions. For example, by emboldening some people to characterise survivors of sexual assault or rape as being blame-worthy and not having been sufficiently modest or chaste.
>
> The Commission draws attention to the interaction of this provision with clause 8(3), which may prevent conduct rules that regulate such statements amongst co-workers outside of work hours. These statements may be more

> harmful where an affected person must share a workspace with someone who engages in hate speech.

Ms Hilton made a number of recommendations to address all areas of her concern in her submission, which was provided to us all, and I encourage members to read through that.

Mr President, I appreciate this has been a long and extensive contribution, but I believe it is such an important matter.

I conclude with a quote from Tasmania's Anti-Discrimination Commissioner, Sarah Bolt, who quoted Simeon Beckett, a barrister with experience in discrimination law, who stated publicly that in overriding of our state law, the claimed defences and the related provisions in the exposure draft -

> … makes the draft Religious Discrimination Bill 2019 so procedurally flawed it is bound to fail and it is the procedural mess the defence [in clause 41] would deliver for everyone that will fatally undermine the government's aim.

I cannot see why they would want to do this, but hopefully if they actually read and take seriously all the submissions provided, there will be a rethink.

Mr President, I support the motion. I urge all members as well to send a clear and unambiguous message to the Australian Government that we object in the strongest terms to the draft exposure religious discrimination bill and the policy intent that sits behind it.

[8.06 p.m.]

**Mr FINCH** (Rosevears) - Mr President, I have had a legal assessment of this motion and intend to provide that in support of this motion by the member for Nelson.

I will not read through the motion numbers, but in answer to point (1) of the motion, particularly important aspects of the Tasmanian Anti-Discrimination Act include the breadth of its protection for all Tasmanians from discrimination, the breadth of its expectation that we treat all others without discrimination and its clarity and accessibility of its processes for all Tasmanians. This law does much more than simply create a process whereby an individual who feels they have been subjected to discrimination or related conduct can complain about that conduct. It sets a standard of community expectations about how we, as Tasmanians, will engage with each other, how we will ensure that all Tasmanians are afforded a fair go and not be subjected to others expressing derogatory and demeaning views of us or behaving towards us in prejudiced and derogatory ways.

This is the nature of law. It provides not only formal mechanisms for resolving disputes but also sets or articulates community standards.

Motion point (2) - in 2014, the then government proposed extending the scope of section 17 to cover all attributes, including religious belief, affiliation and activity. While some additional attributes were agreed to by the Tasmanian Parliament, the extension to include religious belief, affiliation and activity was opposed by the current government.

Section 17(1) is a provision that drew on previous discrimination cases across Australia, but it made it clear that unlawful discrimination can include conduct that causes offence on the basis of a personal characteristic, such as that person's disability, that intimidates a person on the basis of a personal characteristic such as that person's race or ethnicity, that humiliates a person on the basis

of a personal characteristic such as that person's marital status, that insults a person on the basis of a personal characteristic such as the person's gender identity and that ridicules a person on the basis of a personal characteristic such as the person's age.

It draws on that case law and sets out in clear terms what sort of conduct might, in the relevant circumstances, constitute unlawful conduct akin to discrimination.

It is important to recall that discrimination is defined to include less favourable treatment on the basis of the particular personal characteristics. It should not seem novel to suggest that humiliating a person because they are Aboriginal is less favourable treatment, insulting them because of their sexual orientation is less favourable treatment, ridiculing or intimidating them because of their disability is less favourable treatment, or being offensive about a person's personal characteristics such as their gender or gender identity, is less favourable treatment. What the Tasmanian act does that is unique is spell this out in a specific provision, rather than requiring people to read this meaning into the definition of discrimination. To do this is responsible lawmaking. If a lawmaker knows how a complex concept such as discrimination has been interpreted by courts, it is appropriate to ensure that the prohibition of conduct clearly spells this out for the public. That way, all members of the community, not only experts in discrimination laws, can understand what is the community standard of conduct.

Motion point (3) - the dominance of complaints under section 17(1) from people with disability has continued. In her 2017-18 annual report, Anti-Discrimination Commissioner, Sarah Bolt, reported that almost 52 per cent of complaints under section 17(1) included allegations of a breach on a basis of disability. The next highest included allegations of a breach of section 17(1) on the basis of gender, almost 29 per cent; age, 25 per cent; race, 16 per cent; and sexual orientation, 8 per cent. The report noted that a complaint can allege breaches on multiple grounds or attributes. The previous year, 2016-17, saw disability identified as the basis of a section 17(1) breach in over 60 per cent of complaints, with age identified in 33 per cent, gender in 15 per cent, race in 13 per cent and sexual orientation in 7 per cent.

Motion point (4) - the federal bill has the direct effect of weakening protections put in place by the Tasmanian Parliament, through weakening section 17(1) and weakening the protections against discrimination. This undermines the role of the Tasmanian Parliament in making laws for the good governance of this state. It does this in the name of religious freedom, purportedly under international law, yet fails to reflect the important mechanism set out in those international laws for ensuring that protection of particular rights or freedoms do not undermine other rights and freedoms. By failing to reflect those mechanisms, the federal government is not acting consistently with its international law obligations. Article 18 of International Covenant on Civil and Political Rights states -

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19 of the same international agreement states -

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

   (a) For respect of the rights or reputations of others;

   (b) For the protection of national security or of public order (order public), or of public health or morals.

Article 26 of this covenant states -

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

There is nothing in article 16 that makes it subject to the kinds of limits found in articles 18 and 19. Australia is, and has been for almost 40 years, a party to this international agreement.

Motion point (5) - the process for dealing with complaints under the Tasmanian act will be seriously hampered by the provisions in the federal bill. It will add a level of complexity to the commissioner's role in dealing with complaints, making the complaint process slower, more complex and potentially more expensive for parties, many of whom are financially disadvantaged and have little or no access to legal or advocacy support. It will undermine the intended informality of the early stages of a complaint, when the parties are encouraged to sit down together to try to understand each other's perspective in an effort to resolve the complaint early. The last annual report of the Tasmanian Anti-Discrimination Commissioner, Sarah Bolt, reported that 45 per cent of early conciliation meetings resulted in the complaint being resolved. This level of resolution is possible because the parties are able to come together without unnecessary formality and preliminary technical legal steps. This will be undermined by the federal bill.

Motion point (6) - the bill not only expressly seeks to undermine section 17(1) of the Tasmanian Anti-Discrimination Act; it also undermines the fundamental protection against discrimination found in sections 14 and 15 of the act. This protection ensures that people are protected against words and actions that are discriminatory, abusive, ridiculing or bullying of a person because of their inherent personal characteristics. It gives special status to such conduct if it is based in religious belief, licensing people to engage in disrespectful and abusive conduct if they do so in the name of their religious belief. It is unlikely that most people of religious belief will seek to be able to publicly behave in such bigoted ways, but the bill licenses those who do. It also shifts the community standards of respect and decency in our dealings with each other, which are set by discrimination laws, away from being a standard that applies to all of us to being a standard that applies unless you assert a religious belief.

Motion point (7) - the federal bill proposes, for the first time in Australian law, to give special legal status to religious statements, allowing the override of all discrimination protections in Australian law. This is extraordinary and appears to have no basis in an established need. Discrimination laws have to date set out community expectations of all of us and provided protection from all of us from discrimination.

Motion point (8) - the bill weakens both the protection under section 17(1) and the broader protection against discrimination under sections 14 and 15 of the Anti-Discrimination Act. The federal government has argued this is being done on the basis of the federal government's response to the report of the Religious Freedom Review, chaired by the honourable Philip Ruddock. That review found that by and large, Australians enjoy a high degree of religious freedom and indeed it -

> ... encourages the Commonwealth, State and Territory governments to consider the appropriateness of existing exceptions in discrimination laws that seek to protect religious freedom.
>
> ...
>
> Those jurisdictions that retain exceptions in anti-discrimination laws for religious bodies with respect to race, disability, pregnancy or intersex status should review them, having regard to community expectations.

The expert panel made no recommendations that statements of religion or indeed anything similar, be permitted to override either general discrimination protections under other federal discrimination laws or state or territory discrimination laws, or that they be permitted to override the protection in section 17(1) of the Tasmanian Anti-Discrimination Act.

In its response, the federal government noted that some of the recommendations relate exclusively to the states and territories and that its intention in some instances to consult with the states and territories reflects shared responsibility for the area of policy between the Commonwealth and state and territory governments and that it would proceed initially in a way that seeks a coordinated and cooperative approach.

The Government stated its intention to proceed by -

- developing a General Amendment Bill for introduction to Parliament as soon as practicable, containing amendments to existing Commonwealth legislation

relating to freedom of religion, including amendments to marriage law, charities law and objects clauses in existing anti-discrimination legislation;

- developing a Religious Discrimination Bill to provide comprehensive protection against discrimination based on religious belief or activity. The Government will work with the Opposition, crossbench and stakeholders in a consultative process which aims to allow for bipartisan agreement on a Bill which can be introduced into the Parliament with broad cross-party support;

- establishing a standalone position of Freedom of Religion Commissioner at the Australian Human Rights Commission;

- supporting the Australian Human Rights Commission to increase awareness of the importance of freedom of religion;

- commencing a process with all State and Territory Governments seeking their consideration to review and amend their own existing policies and legislations which pertain to freedom of religion to ensure a high degree of consistency across Australia; and

- referring recommendations that pertain to the States and Territories to a proposed Council of Attorneys-General Working Group and the Council of Australian Government (COAG) Education Council, as appropriate, to consider all relevant recommendations.

The extent to which the response considered state or territory laws, such as section 17(1), seems to be limited to statements of belief, relating to the nature of marriage -

> Relatedly, the Government will consult with States and Territories on the terms of a potential reference to the ALRC to give further consideration to how best to amend the current Commonwealth anti-discrimination legislation to prohibit the commencement of any legal or administrative action, pursuant State-based anti-discrimination legislation analogous to section 18C of the *Racial Discrimination Act*, that seeks to claim offence, insult or humiliation because a person or body expresses a view of marriage as it was defined in the *Marriage Act* before being amended in 2017.

It is relevant to note that the Government has referred all the recommendations relating to limiting the scope of exemptions or defences for faith-based in relation to excluding people with particular characteristics from education, work, et cetera, to the Australian Law Reform Commission for separate inquiry. This is despite the Prime Minister, Scott Morrison, making a clear commitment prior to the Wentworth by-election to legislate to protect children from discrimination by faith-based schools on the basis of sexual orientation. There is little correspondence between what the expert panel found and recommended in relation to religious freedom and what the Government's bill seeks to enact.

On the motion points 9 and 10, just to wrap up, the Tasmanian state Government has not made public its response, if any, to the exposure draft of the bill. It is extraordinary for the federal government to expressly name a specific provision of a specific state law to be affected by a federal bill. It is also extraordinary for the relevant state government to not speak up against this target

undermining of state parliamentary power. This silence has the potential to set a disturbing precedent in relation to any other Tasmanian statute that the federal government seeks to override.

The Tasmanian Government should, in responding to this bill, reflect the will of the Tasmanian people as made clear by the Tasmanian Parliament in relation to previous attempts to water down section 17(1). These, as we have heard, and you know, were rejected by the Tasmanian Parliament. I support the motion.

[8.26 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, my contribution will be short. I support section 17 of the Tasmanian act which prohibits any conduct which offends, humiliates, intimidates, insults or ridicules a person based on certain attributes including age, race, gender, disability, marital status, pregnancy, family responsibilities, gender identity and sexual orientation.

In 2017, when the bill was before us to remove that section I, along with many others in this House, voted against that to keep in section 17(1) of Tasmania's anti-discrimination legislation. I do not believe it should be overridden by the draft religious discrimination bill 2019.

I appreciate the emails and copies of submissions that we received as well, including the one from the children's commissioner, Leanne McLean. It is very important that we send a message to the federal government that, as far as we are concerned, irrespective of who you are, no one should be exempt from giving hate speech. I do not think it matters who it is - no one should be subjected to hate speech.

I agree with most of the points in the motion. As I mentioned to the member for Nelson, I have concern with the section with 'condemn'. I prefer, as an independent in the House of Review, not to use the word 'condemn' as I do not consider it appropriate to condemn the federal government or anyone else for putting up legislation for consideration and debate. From my perspective I am an independent member advocating for vulnerable people. I certainly would not use the word 'condemn'. I have mentioned to the member for Nelson about removing point (8). I have a motion to that effect. I do not believe (8) adds to the debate, but I do believe it could be inflammatory, which is rarely helpful in these situations.

Just looking at points (9) and (10), previously I would have liked, in 2017, when we debated the Government's bill, for it to go out to public consultation. I hope that, on this occasion, it does. I believe there are many in the community who have not had the opportunity to put their beliefs forward. I still consider that is important.

Rather than go on, I think it has been covered very well by many members in this House. I note the time. I do not believe that I have any more to offer, apart from saying that I certainly support the motion.

I would like to move an amendment. I am hoping that members in this House, while I am sure that many will support the member for Nelson's motion, I hope that they see that to 'condemn' the federal government for its attempt to weaken protections for Tasmanian women, LGBTQI people, Aboriginal people, ethnic and religious minorities, and people with disabilities - I do not believe the word 'condemn' is helpful.

We need to be working together. We need to be respectful and I consider that the word 'condemn' is not respectful and that we should be looking to put our point across without using words such as 'condemn'.

I ask members to support removing point (8) from the motion.

[8.30 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I was giving this some thought last night and I wonder if that was to be changed from 'condemns the federal government for its attempt to weaken protections' to 'rejects the federal government's attempt to weaken' -

**Ms Armitage** - I would be happy with that. I was not happy with the word 'condemn'.

**Mr VALENTINE** - That still puts across what the member is considering.

**Ms Armitage** - If you want to amend my amendment, or I withdraw my amendment.

**Mr VALENTINE** - It is probably easier for you to withdraw. I learnt from the last episode.

[8.32 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I seek leave to withdraw my amendment.

**Ms Forrest** - Through you, Mr President, while the member is on her feet, we probably need to know what the member for Hobart -

**Ms Armitage** - He has said what it is. He is changing the word 'condemn' to 'reject'.

**Mr Valentine** - I will distribute it tonight.

**Ms ARMITAGE** - I am satisfied as long as we take the word 'condemn' out. It is inflammatory and not helpful. I do not have a problem with the word 'reject'.

**Leave granted; amendment withdrawn**.

[8.32 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I will deal with the amendment at the end of my offering if that is okay.

I ticked off every document that was being mentioned by other members and I have nothing left. They have all been dealt with. All of the submissions that we have received from various bodies, various individuals for the most part have been dealt with. I thank the member for Nelson for bringing the motion forward. It is an important motion. I have received a number of submissions from those who are very concerned about the possible impact of the proposed religious discrimination bill if it was to eventually become law. They have all been read in as I said, most of those.

We are not in the Australian Parliament, but I believe we have the right to make the strength of our feelings known to the state Government on the attitude of this House to the potential overriding of our own Anti-Discrimination Act which was endorsed in this House - not by all members, it was a majority at the time, in 2014, if I am not mistaken. If the Government provides

a response to the Australian Government on the religious discrimination bill it is important the concerns of this House are communicated to it.

For the benefit of members, I would like to read the simplified outline of the religious discrimination bill. It is not that long and I believe it needs to be read in so that all are aware of what the bill is trying to achieve.

> This Act makes it unlawful to discriminate on the ground of religious belief or activity in a range of areas of public life. It is unlawful to discriminate on the ground of religious belief or activity in relation to work, in certain other areas such as education, and in providing goods and services (see Divisions 2 and 3 of Part 3).

**Mrs Hiscutt** - Is the honourable member speaking to the amendment or are you -

**Mr VALENTINE** - No, the amendment has been withdrawn.

**Mrs Hiscutt** - Your amendment?

**Mr VALENTINE** - I have not moved my amendment yet. As I said, I was going to move it towards the end of contribution, if that is okay.

> However, it is not unlawful to discriminate on the ground of religious belief or activity if a particular exception or exemption applies (see Division 4 of Part 3).
>
> Statements of belief do not generally constitute discrimination (see Part 4).
>
> Certain conduct involving advertisements and victimisation is an offence (see Part 5).
>
> Conduct that is unlawful or an offence under this Act is unlawful discrimination for the purposes of the Australian Human Rights Commission Act 1986. Complaints can be made under that Act to the Australian Human Rights Commission about such conduct.
>
> The office of the Freedom of Religion Commissioner is established by this Act (see Part 6). The Australian Human Rights Commission has a number of functions in relation to this Act (see Part 7).
>
> This Act has effect subject to certain geographical and constitutional limitations (see Part 8)
>
> Provision is made for miscellaneous matters such as delegation and protection from civil actions (see Part 9).

That is the simplified outline which is actually in the bill itself, to be clear as to what the bill is doing.

I turn to the definitions and I see in the definitions, religious belief or activity means -

(a) holding a religious belief; or
(b) engaging in lawful religious activity; or
(c) not holding a religious belief; or
(d) not engaging in, or refusing to engage in, lawful religious activity.

Then a religious body is dealt with and there is a separate subsection with regard to that.

Religion itself is not defined and so I thought that if religion is not defined - at least not that I can see in the lead-up - I should do a little homework on that with data from the Australian Bureau of Statistics, and this is what I found. We are talking about Australia here because that is where the law may be applied if it gets through -

> Christianity is once again the dominant religion in Australia, with 12 million people and 86 per cent of religious Australians identifying as Christians. There was roughly a seven per cent drop in the number of Christians since 2011.
>
> More than two in five (43 per cent) of Christians are Catholic, the largest broad denomination, while a quarter are Anglican (25 per cent).
>
> Just over two million Australians indicated a religion other than Christianity, accounting for 14 per cent of religious people and eight per cent of the total population.
>
> Australia is home to a diverse collection of people, and this is also apparent through the wide variety of different religions recorded on the Census.

I want to run through these because when we are talking about religious discrimination, it is important to understand we are not just talking about Christian people here. We are talking about anyone who holds a particular belief that is identified as a religion -

> The most prominent non-Christian religions are: Islam - 600 000 people; Buddhism - 560 000; Hinduism - 440 000; Sikhism - 130 000; and Judaism - 90 000.
>
> Sikhism is in fact the fastest-growing religion in Australia since 2011 (74 per cent increase) ahead of Hinduism (60 per cent increase).
>
> Other Spiritual beliefs practised by Australians include Middle Eastern religions - Baha'i, Mendaean, Druse, Zoroastrianism and Yezidi; nature religions - Paganism, Wiccan, Animism and Druidism; East Asian beliefs - Taoism, Confucianism, Ancestor Veneration and Shinto; and Australian Aboriginal traditional beliefs.
>
> Although Australia remains a predominantly religious country, about one third of all Australians - 30 per cent or 7 million people - indicated either 'no religion' or a secular belief, such as Atheism, Humanism or Agnosticism. The number of people indicating they had 'no religion' has increased by almost 50 per cent from 2011 to 2016.

The 2016 census also found Islam and Australian Aboriginal traditional beliefs were the religions with the youngest median age of 27 years. I do not know that I will go through that; it is incidental information. It might be of interest, but I do not think, given the hour, that we want to be going through that because I do not think it is directly applicable to what we are debating here tonight.

The number of religions with the highest proportion of females and males and all of those sorts of things makes no difference to this motion.

I read those two things in because I wanted to put this in context about religious discrimination and what it would mean if that ever came into force because there are a heck of a lot of people; in fact I think when we were having the same-sex marriage debate, there were 1200 religions -

**Ms Armitage** - There were 1200 in Australia, I think.

**Mr VALENTINE** - I think I recall that. It is a lot of different religions, and you can bet your life there would be a lot of aspects of their religions where some of those people - and I would suggest those who might be considered the extreme elements of those religions - may well verbally abuse others if they feel they are totally outside the way they believe in aspects of their behaviour that might offend them. We are not just talking about Christian behaviour and Christian people and how they might think about other people's behaviours. While they are predominantly the case, 60 per cent of Australians, it is a much broader field than that. I say the extreme elements because, quite honestly, I like to think that the general followers of the various faiths out there are respectful of others.

The intention here is not to demonise religions or those who follow a faith; it is to provide protection for those who are on the receiving end of inappropriate words that may be spoken. Often they may be people with a disability. A member referred to, I believe, 30 per cent of cases that go to the Anti-Discrimination Commissioner involve people with a disability. It may be over a third, but I do not know the exact figure, so I stand to be corrected if that is not the case.

Unless we have walked in the shoes of those who suffer disability or perhaps some physical attribute that draws them to the attention of those around them, we will not fully understand the impact the actions of others have on them.

Anti-discrimination acts are there to make sure people have the opportunity to live fulfilling lives without having to endure the various impacts that can follow the inappropriate behaviour of others.

Depending on a person's particular circumstances, what does not offend one individual may significantly impact another.

When I was growing up, 'Sticks and stones may break my bones but names will never hurt me' was a bit of a mantra that some of us were taught, for those who may remember that when we were children. We were taught that by our parents in an effort to help us shrug off things like bullying, but if you are somebody who is of short stature or wheelchair-bound or has some physical impediment, verbal abuse is likely to happen far more regularly than something that might be thrown at you in the school playground. We should never underestimate the psychological impact that verbal abuse has on people, whether they have a disability or not, when that verbal abuse is fairly regular.

Mr President, with respect to the motion before us, I am not suggesting there are many in our community of a particular religious conviction or faith that are likely to go around verbally abusing people, but the law must protect people should it occur, whether they have a disability or not.

Given the Anti-Discrimination Act is the most protected act in Australia of its kind, it is absolutely important that our state Government hears from those in our community who are likely to be impacted by the proposed religious discrimination bill. That is what is being called for in the member's motion.

I was going to read a number of things, but that has all been done, so others have saved me that task. Mr President, I move -

Part 8, Leave out the words:

'Condemns the Federal Government for its'

Insert instead:

'Rejects the Federal Government's'

**Amendment agreed to.**

[8.46 p.m.]

**Mr ARMSTRONG** (Huon) - Mr President, I thank the member for Nelson for bringing forward this motion and fostering debate on a number of issues that have been topical for some time. I will not address each of the 10 paragraphs of the motion separately because to do so would take quite some time and that has already happened several times here tonight. I will mention some of the paragraphs I believe are at the forefront of what this motion hopes to achieve.

I will begin with points (8), (9) and (10). I cannot agree with the assertion in point (8) that we in the Tasmanian Legislative Council should be trying to flex our muscles, puff out our chest and condemn the federal government for attempting to weaken protections for the groups mentioned in that clause. I cannot accept - and I believe many others cannot accept - that a federal government would intentionally give the green light for anybody or any organisation to bully, vilify, hate, humiliate and intimidate minority groups.

I say the same in referring to point (6): does this Chamber really believe that a government would intentionally enact laws, knowing those laws would allow bullying and abusive statements by others in the workplace and discriminate in the provision of health care and other services? If you believe that would happen, you also believe in fairies at the bottom of the garden. I believe that all governments have a duty to revisit and review legislation from time to time to see whether legislation is working and working in the way intended by the legislation when first brought before the parliament.

The real issue in this motion revolves around the draft package of religious freedom bills, including the religious discrimination bill. These draft bills are in response to earlier inquiries into the protection of religious freedom under Australian law, and the draft bill is implementing some of the recommendations of the Expert Panel on Religious Freedom. When releasing the draft bill, the federal Attorney-General, Christian Porter, said that new laws would ensure religious people were protected in the necessary and difficult balancing exercise. It seems obvious that the federal

government continues to struggle with trying to strike a balance between the right to freely express yourself and ensuring that right does not incite violence, hatred or harm. What has to be remembered is that it is draft legislation and the Government has stated it will consider any submissions received in its development of the bills.

In summary, what the Government has done is to listen to the community as a whole, with its early inquiries into the protections of religious freedoms; had an expert panel look at the issue, no doubt by taking evidence; and released a draft bill for comment, after which it will then consider any further submissions. Governments should not be castigated for that. On the contrary, we should expect all governments to act in the same way. Simply because some of the amendments may offend certain groups does not mean that the Government should not review legislation and consider amendments.

Who knows where this exercise will end? Who knows whether the Government will proceed with the draft legislation as it is now or at all, for that matter, or whether they will make amendments? This procedure is always happening with legislation and then it has to go through both Houses. I cannot agree, therefore, that this Chamber should condemn the federal government for its actions to date.

**Mr VALENTINE** - Point of order, Mr President, that has been changed.

**Mr ARMSTRONG** - Yes. It is interesting to note that on 29 August last, the Labor Party's shadow attorney-general said it was too early to say whether the Opposition would offer bipartisan support and said they would listen to the whole of the Australian community before a decision was made. Is that not the way it should be, rather than this Chamber condemning? As the member for Hobart stated, that has been changed.

After saying all that, I find it hard to accept that any person or organisation should be able to incite hatred, serious contempt or severe ridicule of any group or persons. Everybody should be treated the same, and I am not alone in those thoughts, I am sure. Archbishop Julian Porteous stated in *The Examiner* in March 2017 -

> I want to state clearly again that I am absolutely opposed to hate speech, as is the Catholic Church. True religious belief is fundamentally incompatible with inciting hatred.

It is never acceptable for any reason to incite hatred against anybody.

He went on to say that, 'if we are serious about preventing hate speech we should remove all the current exceptions in section 55.', and I totally agree with him. He and many others have continued to say that there should be either a full repeal of section 17, or at least a deletion of certain words within section 17.

I turn my attention to points (1), (2) and (3) of the motion, and again I cannot agree with these points. In doing so, I hope that people do not try to shout me down or criticise me for this opinion simply because it differs from theirs. This behaviour has become more prevalent in recent years. In the thought-provoking novel published in 2016, written by Mark Manson, entitled 'The Subtle Art of Not Giving a' - I will not continue - 'A Counterintuitive Approach to Living a Good Life', he says -

> Numerous professors and educators have noted a lack of resilience and an excess of selfish demands in today's young people. It is not uncommon now for books to be removed from a class' curriculum for no other reason that they made some feel bad. Speakers and professors are shouted down and banned from campuses for infractions as simple as suggesting that maybe some Halloween costumes really aren't that offensive.

He goes on to state -

> The more freedom we are given to express ourselves, the more we want to be free of having it to deal with anyone who may disagree with us or upset us.

More importantly, he notes that the more exposed we are to opposing viewpoints, the more we seem to get upset that those other viewpoints exist, and is that not the truth? That is where section 17 becomes relevant, because if you breach any of the conduct set out in that section, you can be marched before the Anti-Discrimination Commissioner. Most in this Chamber have heard real-life stories of people who have endured this process for allegedly offending someone even though there was no intent to offend.

Look at what happened to Archbishop Porteous when he distributed a booklet entitled 'Don't Mess with Marriage'. This booklet did nothing more than state a Catholic position on marriage. The views at the time did nothing more than reflect what had been the Catholic doctrine for thousands of years. Further, it stated what was, at the time, Australian law.

You might ask: how can he be taken before a tribunal for that? An objection was taken by Martine Delaney on the basis of a comment in the book referring to the words 'same-sex marriage messes with children'. Interestingly, after marching the Archbishop through the doors of the commission, Martine walked away from any further proceedings.

Some could well argue this process was to make a political point and endeavour to quieten those who voiced a contrary voice to Martine.

When section 17 was being debated in the House of Assembly, the then minister, in answering a question about whether public debates during this issue would be subject to a complaint under section 17, replied -

> The answer to that is no. The reason is that the test is not whether an individual is offended, but whether a reasonable person, having regard to all the circumstances, would have anticipated that the person would have been offended.

He went on to say -

> An issue ... is one where a reasonable person would expect passionate debate and would not expect an expression of those opinions to be personally offensive.

There was no intention for this section to be used by Martine when it was enacted, yet because of the way section 17 is worded, an individual was taken to the tribunal, contrary to parliament's intention when the bill was enacted.

The courts have found that section 18 of the Commonwealth act, which mirrors section 17 of the act, requires conduct with profound and serious effects and is not to be likened to mere slights. People may say, 'Well, what is the problem? The courts have made it clear what the section requires'. But everyone knows it may take months and even years before matters such as these get to court, and the time and costs leading up to court are significant.

The Archbishop paid a significant sum to solicitors to defend his name, while the complainant walked away paying nothing. It is our duty to ask: is that fair?

In a QUT case where three students entered unknowingly an Indigenous IT laboratory to use a computer which no-one else was using and were asked to leave because they were not Indigenous, the following day, one of the students stated on Facebook that he was being discriminated against on the basis of race.

The person who asked him to leave the laboratory went to the commission with a complaint against the students who she had asked to leave and who stated they were discriminated against. That case lasted for years. The complainant wanted $250 000. The court deemed her case to be without merit, but this matter dragged on for years. It was lucky that the barrister who acted for the two students did so without payment from them.

That barrister, Arthur Morris, emphasised a person could easily fall foul of section 18C, not only in theory but also in practice by making an utterance that neither the speaker nor a responsible person in the speaker's position could ever have imagined could be found offensive.

The former Australian Human Rights Commissioner, Tim Wilson, in an article on 9 November 2016 stated the history of section 18C commenced in 1994 with the then Attorney-General, Michael Lavarch. He noted that 18C was necessary because of three major inquiries: a national inquiry into racist violence, the Australian Law Reform Commission report into multiculturalism and the law, and the Aboriginal Deaths in Custody royal commission.

The royal commission did not recommend the current law as stated in section 18C, but rather it recommended a law prohibiting racial violence, discrimination or hostility.

The Australian Law Reform Commission inquiry recommended making incitement to racist hatred and hostility unlawful. Even one of the commissioners dissented, saying -

> In a democratic and pluralist society freedom of expression is of special importance which may necessitate tolerance of obnoxious and hateful views which do not incite violence.

The Human Rights and Equal Opportunity Commission inquiry into racist violence recommended a civil offence against incitement of racial hostility, an expression of prohibition of racist harassment as well as a criminal offence against racial violence. Importantly, none recommended making offence of insulting or humiliating speech unlawful.

In my opinion, section 17 of the Tasmanian act does not need to be revisited to ensure fairness to all and to recalibrate the pendulum which I and many others think has swung too far.

Freedom of speech is often chilled and snuffed out by those who merely do not like what people are saying and, therefore those people claim offence, not because they are actually offended but because they do not like hearing opinions that are different to theirs.

I could go on and mention the Bill Leak case or the numerous comments stating similar views to what I have said, but I hope I have made my point. Not everyone applauds this. Numerous people say it has gone too far, and I am one of those.

In closing, I strongly believe reasonable restrictions should be placed on the freedom of speech doctrine and those restrictions should be applied to comments that are obviously hateful and may lead to inciting violence. Nobody should by a public act incite hatred or serious contempt for, or severe ridicule of, a person or a group of persons because of their race, sexuality or religious belief, affiliation or activity, but let us find the right balance between freedom of speech on the one side and protecting individuals from speech that any reasonable person would say is just over the top.

I do not think the law as it stands has found that balance, and I cannot support the motion.

[9.02 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, as we know the federal government released the draft religious discrimination bill 2019 for consultation in August. The Tasmanian Government is committed to free speech in allowing all Tasmanians to express their views reasonably and respectfully.

We have given careful consideration to the draft bill and how it interacts with Tasmania law. The Government acknowledges the Commonwealth Government's intention to prevent discrimination on the basis of religion and we wholeheartedly support the Commonwealth in this intention.

We understand these types of reforms can be contentious and complex, which is why we have thoroughly considered the draft bill as Tasmanians would expect us to do. We welcome the federal Attorney-General's personal consultation regarding the draft federal bill directly with stakeholders in September. Section 17(1) of the Anti-Discrimination Act 1998 (Tas) prohibits conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of one of the following attributes - we have been through them before, Mr President, and we will go through them again.

Attributes of race, age, sexual orientation, lawful sexual activity, gender, gender identity, intersex variations of sex characteristics, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities and disability. Currently, exceptions to section 55 of the act are for protections to academics, artists, scientists and researchers.

The Tasmanian Government considers it an anomaly that people undertaking respectful religious discussion or debating good faith are not afforded the same right to free speech as those engaged, for example, in an artistic academic or scientific endeavour.

In an attempt to address this imbalance, the Tasmanian Government previously attempted to amend the act through our Anti-Discrimination Amendment Bill 2016. This bill sought to amend section 55 of the act to provide that section 17(1) would not apply if the relevant conduct was a public act done in good faith for religious purposes. While the bill passed the House of Assembly, it was ultimately defeated in the Legislative Council. Importantly, we believe any law must strike

the right balance between providing protection from discrimination and unlawful conduct, while still allowing for the responsible expression of beliefs, public debate and discussion on important issues.

I note that the Commonwealth draft bill has been developed as part of a package of reforms to implement recommendations made by the expert panel that undertook the recent Religious Freedom Review. The bill prohibits discrimination on the grounds of religious belief or activity, and establishes a new office of the freedom of religion commissioner. The Attorney-General has been involved in discussions with the federal Attorney-General, Christian Porter, to ensure all Tasmanians are able to express their views reasonably and respectfully. The federal Attorney-General indicated it is highly likely there will be further consultation of this bill through the federal parliamentary committee processes.

The Tasmanian Attorney-General, Elise Archer, has been involved in discussions with the federal Attorney-General, Christian Porter, and his office during the consultation process. The Attorney-General also wrote to the federal Attorney-General to indicate that the Tasmanian Government is of the view that every member of the community should enjoy full freedom of religious belief and freedom of expression. The Tasmanian Attorney-General indicated that it is important that laws strike the right balance between providing protection from discrimination and unlawful conduct, while still allowing for the responsible expression of beliefs, public debate and discussion on important issues.

I am happy to release the letter sent by the Tasmanian Attorney-General, Elise Archer, to the federal Attorney-General, Christian Porter. Madam Deputy President, I seek leave to table that letter.

**Leave granted.**

**Mrs HISCUTT** - Mr President, in summary, the Government acknowledges the Commonwealth Government's intention to prevent discrimination on the basis of religion. Every member of the community should enjoy full freedom of religious belief and freedom of expression, and that laws strike the right balance between providing protection from discrimination and unlawful conduct, while still allowing for the responsible expression of beliefs, public debate and discussion on important issues. The Government does not support the motion. The motion is not supportive of the intention of the bill, and instead condemns or rejects the federal government for seeking to prevent discrimination on the basis of religion.

Further, the state Government is encouraging Tasmanians' views to be heard. The federal Attorney-General has been consulting and advised he expects consultation to continue as part of the parliamentary committee process. The state Government has also advised of the bill's interaction with the Tasmanian Anti-Discrimination Act. Thank you, Mr President.

[9.09 p.m.]

**Ms WEBB** (Nelson) - Mr President, I start by expressing how much appreciation I have for my colleagues in this place for engaging in this discussion today on the motion. I have actually received messages while we have been having this discussion with people really impressed at the level of engagement and the time and effort put in, the thoughtfulness brought to the debate and the consideration of this motion. Thank you for that.

I moved the motion because I believe that this is a really fundamentally important thing for us to respond to and make a clear statement about. Many of us here have had an opportunity to contribute to that today and to be clear about where we stand on different things. It is important that we have had an opportunity to do that.

I do not want to spend too much time wrapping up. We have all been here a long time already. I might make mention of a couple of brief things, if I could have your indulgence, Mr President, and colleagues.

I want to clarify a couple of small things from the member for Huon's contribution. I want to emphasise, as a starting point for that, that the member expressed concern at being criticised for his contribution in this debate. It is a shame that there would be any sense that there might be criticism for having a view. What I would do is engage in discussion and debate on the content of the member's views as we would on the content of other views expressed here. In fact, that is what we do here. Having a different opinion, being engaged in discussion on the content of your views that are being expressed or assertions being made, is not the same as being criticised. I would like to say up-front that that is the intent with which I am engaging with some matters that were raised in the member for Huon's contribution.

I want to make sure that the record is clear on what the motion does do and does not do. It certainly does not castigate - that was the word used - the federal government for consulting on a piece of legislation they wish to bring and for considering submissions for that legislation. That does not appear in any points of this motion. There is no castigation for this process being undertaken by the federal government. This motion is about the content of the bill that the federal government is consulting on at the moment, and the impact it would have in this state and on legislation that we have established in this state for some decades. We need to be careful that we are clear on what we are talking about in this motion and what we are not talking about in the motion.

I find it interesting that we would have to take it on faith, ironically, that the federal government's intentions are entirely pure and good, and they could never countenance doing some of the things that many experts, academic and otherwise, have said that this religious discrimination bill does in fact do. It is interesting. I know the member for Huon questioned us as to would we believe that the federal government would do things that sanctioned bullying or allowed discrimination or allowed derogatory comments, and that sort of thing. Could we believe that the federal government would do such a thing? I guess what I do believe is that with all best information that I can see in my scan of the submissions on this bill is that that is what this bill does allow. Then if we do consider behind that what the federal government's intention was, if we go along with the member for Huon and refuse to believe that the federal government could intend such a thing, the only other option we would have would be to somehow imagine that the federal government has done such a thing through misadventure or a lack of competence in drafting the legislation, because in fact that is the effect that the experts tell us it will have. If you are dismissing intention you then have to question capacity to execute. I am not going to get caught up in that too much longer.

The last thing I am going to mention in relation to that, because it is important to have the record fairly straight on this from assertions made, is that the situation around Martine Delaney and Archbishop Porteous was brought up. I know the member for Murchison covered some of this in her contribution. I want to be quite clear and reiterate that there was no marching the Archbishop before a tribunal. The Archbishop never appeared before a tribunal in that case. The Archbishop voluntarily attended a conciliation meeting - one conciliation meeting. The Archbishop did that

because that is the first stage of that process and, in it, that is where a discussion happens between someone making a complaint and the defendant in that complaint. If the Archbishop chose to spend considerable amounts of money, as we have heard, on this exercise, it was his choice to do so. That process does not have to cost people considerable amounts of money. It is a straightforward process we have in order to best, most peacefully, resolve disputes.

The fact that after that, the matter was withdrawn by Martine Delaney, and we heard from the member for Murchison quite clearly about the rationale around that, demonstrates that that process was a straightforward process under our act. There was no marching anybody; there was no particular disadvantage to the Archbishop as a result of that. We want our act to be able to protect people and allow matters to be brought before it when there is an issue where people feel they have been harmed.

**Ms Forrest** - He also said to a Senate inquiry that he found it useful.

**Ms WEBB** - Thank you for reminding me of that, member for Murchison. We have those words from the Archbishop himself, that he found that process useful, which he said to a Senate committee on the matter.

There tends to be three cases that are talked about in any discussion around this issue. Rather than freedom of speech often being snuffed out, as might be asserted, and has been here tonight, the same three cases come up - I think they are three cases - versus the tens of hundreds of people who are able to be supported and protected through anti-discrimination legislation. It speaks for itself.

I accept that the Leader spoke about the Government's position. It was interesting to hear that they have thoroughly considered the bill and written to the Attorney-General. I would be interested to take a look at that letter. I still did not hear an answer to some of the questions I posed around who did the state Government consult with when considering this bill? What evidence did they take on board and what expert advice was sought to inform a response to this federal bill? Perhaps that is information I can receive at a different time.

I will wrap it up there. I know we are all tired, it has been a long day. I thank you all from a deep place that we have had this conversation, that there has been a lot of support expressed for our very robust protections in this state and the fact that it does make our community safer and kinder and more mature, and that we can continue to think of ourselves as real leaders in this space, nationally and internationally.

I just remembered the question the member for Mersey put to me when he got up. I am going to take that on notice. During the time that has elapsed since you asked me that question about citing particular mentions of Tasmanian legislation being held up and acknowledged as being best practice and world-leading, I have had messages from the present and the most immediately past anti-discrimination commissioners in this state who have both said I can say this, but it is probably hearsay if we are going to be technical. They both have heard and heard repeatedly from colleagues nationally and beyond that Tasmania is held up as exemplary when it comes to our anti-discrimination laws. They both said people are jealous of our laws here. For a more academic response to that, I am going to have to take it on notice and get back to you.

**The Council divided -**

| AYES 9 | NOES 5 |
|---|---|
| Ms Armitage | Mr Armstrong |
| Mr Finch | Mr Dean |
| Ms Forrest | Mrs Hiscutt |
| Mr Gaffney | Ms Howlett (Teller) |
| Ms Lovell (Teller) | Ms Rattray |
| Ms Siejka | |
| Mr Valentine | |
| Ms Webb | |
| Mr Willie | |

**Motion, as amended, agreed to**.

## BURIAL AND CREMATION BILL 2019 (No. 42)
## DISPOSAL OF UNCOLLECTED GOODS BILL 2019 (No. 16)

### First Reading

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

## ADJOURNMENT

[9.27 p.m.]

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

> That the Council at its rising adjourn until 11 a.m. on Wednesday 16 October 2019.

I remind members of our 9 a.m. briefing in Committee Room 2 on rock lobsters and then we go on to the genetically modified organism briefings.

**The Council adjourned at 9.26 p.m.**