Thursday 20 September 2018

The Speaker, **Ms Hickey**, took the Chair at 10 a.m., acknowledged the Traditional People, and read Prayers.

RECOGNITION OF VISITORS

Madam SPEAKER - Honourable members, I acknowledge the presence in the gallery of Miandetta Primary School grades 4, 5 and 6. Welcome to parliament.

Members - Hear, hear.

QUESTIONS

Royal Hobart Hospital - Patient Accommodation

Ms WHITE question to MINISTER for HEALTH, Mr FERGUSON

[10.02 a.m.]

Your plans to put patients at the Royal Hobart Hospital in storerooms and alcoves with handbells has even left the Prime Minister scratching his head. In the federal parliament yesterday Scott Morrison, Prime Minister, said, 'I do not think it is okay'. Now the federal health minister has written to you asking for an explanation.

Clinicians have been driven to taking desperate measures thanks to your lack of action on the health crisis. However, with your Canberra colleagues questioning how the health system has come to this on your watch, will you go ahead with your storerooms and handbells plan or, like the Prime Minister, can even you see that it is not okay?

ANSWER

Madam Speaker, I thank the Leader of the Opposition for her question. Once again she is choosing to not back our doctors, to not back our clinicians. With the support of this House we have empowered local doctors and clinicians at our hospitals to have more operational decision-making. It is a real shame that the Leader of the Opposition, who wants to put sick people into motel and hotel rooms, that have no clinical support, would try to misrepresent and ridicule the work of our clinicians.

The Hodgman Liberal Government strongly supports local management of the Royal Hobart Hospital. We will always listen to their ideas and the solutions that they put up for discussion. Why would that be ridiculed? Why should you shoot them down like this?

Ms White - What about the Prime Minister and what he says?

Mr FERGUSON - As the Prime Minister acknowledged, there is current pressure on our hospital. This Government acknowledges that. We want to put the safety of our patients at number one priority; not the politics of this being the number one priority for the Labor Party. As Dr Quarmby said yesterday morning, he should not have had to say it but he did say it, doctors

would never put patients into an inappropriate location. They would never do that. The Labor Party, which has no health policy and no credibility at all, continues to disrespect and ridicule our doctors for wanting to put forward positive ideas.

Dr Quarmby is not on his own on this. I am backing him, his Royal Hobart Hospital executive and his team are backing him. He is also backed by the AMA. He is backed by the Australian Medical Association. He is backed by the Australasian College of Emergency Medicine. Do they count? Do they matter? Do you care? They care for our patients.

This Government has reversed all the Michelle O'Byrne/Rebecca White cuts to health. We have opened up all the areas and we have fixed the redevelopment but we cannot make it appear tomorrow. I wish we could wave a magic wand and have the redevelopment finished but it is in its final year because this Government got the project started and it will be due for completion next year. That is good news. Until it is completed we have to work positively on solutions.

We have opened 22 extra beds in Hobart - I know you do not support them - that was last year's budget initiative and I am delighted those 22 beds opened in July. It is helping. We also opened about nine beds at the Royal Hobart Hospital as part of our winter plan, which was an innovation we have not made a lot of noise about but it is helping as well.

The Prime Minister was mentioned by the Leader of the Opposition. The Leader of the Opposition has been very selective -

Ms White - That is because the mental health observation unit was a complete failure. You had to do something with the space and the money you had spent.

Madam SPEAKER - Order.

Mr FERGUSON - The Leader of the Opposition has been very selective. The Leader of the Opposition who presided over the caucus committee that cut funding to the Royal Hobart Hospital -

Ms White - Presided over that did I?

Mr FERGUSON - Yes, that is right and selectively quotes the Prime Minister, who also had this to say:

> But I also believe that the Tasmanian Government, led by Premier, Will Hodgman, is exactly the right government to deal with the problems that you have highlighted.

He said that in his answer to Mr Wilkie, the member for Denison.

We also remember the time when the Rebecca White-led caucus committee slashed $0.5 billion dollars from our health system. We all remember what prime minister Gillard had to say about the then Labor-Greens government's cuts to health. They said it was completely unacceptable to the point they expressed no confidence through an intervention called the Tasmanian Health Assistance Program which was a direct intervention on those cuts.

I am sure I will be able to answer some questions on this subject in the near future and I will have more to say about the subject. I will conclude where I started and that is, the very noisy -

Ms O'Byrne - Honesty is very important. I imagine someone like you would know that.

Madam SPEAKER - Very noisy opposition.

Mr FERGUSON - I will not be shouted down. We are backing our team.

Mental Health Facilities - Progress towards Reopening the Peacock Centre

Ms WHITE question to MINISTER for HEALTH, Mr FERGUSON

[10.08 a.m.]

In December 2016 the Peacock Centre in North Hobart was gutted by fire. At the same time, patients seeking treatment for mental ill health are being forced to sleep on the floor of the ED at the Royal Hobart Hospital. This site is central to your promise to Tasmanians to establish 25 new mental health beds with 15 at the Peacock Centre. Almost two years on from the fire that badly damaged this facility, what actual tangible progress have you made in rebuilding, refurbishing and re-opening the Peacock Centre?

ANSWER

Madam Speaker, our support for improved services for Tasmanians with mental ill health is second to none. Our commitment is second to none. I understand it is political. We get that. At the last election Ms White's party promised $24 million for mental health. We promised $95 million for mental health and we have the plan. Two days ago the Leader of the Opposition asked me a question and she framed it in a way that sounded a little constructive. She was suggesting that we work on better outcomes for mental health. I said to her at the time, 'If the member really wants to be constructive, I welcome that.'

We are making progress and I can only repeat the answer I gave two days ago.

Ms White - What progress have you made at the Peacock Centre?

Mr FERGUSON - If you allow me to answer without being so rude.

Madam SPEAKER - Order. Let us listen to the answer.

Mr FERGUSON - The chief psychiatrist, Dr Aaron Groves, who joined us last year from his previous role in South Australia, is a true asset for our state. He has the team together, he has the right people in the room from across the clinical community including the Mental Health Council representatives, the consumers, the clinicians and the Asset Management Team.

They are working right now, on integrating our mental health services, so that it is not a competition between acute inpatient services and community packages. Implicit in that, is the work on Mistral Place and Peacock Centre -

Ms White - That is not the question. The question was: what are you doing about delivering the 15 beds at Peacock?

Mr FERGUSON - I do not accept the Leader of the Opposition, if she is suggesting, that nothing is happening. The best people are working on solutions. We are committed. The recent budget provides the funding so that we can provide those improved services. It is four times the size of Labor's commitment -

Ms White - It doesn't matter if you do nothing with it. I don't care how big it is.

Mr FERGUSON - Labor should not be embarrassed that their poor efforts have been quadrupled -

Ms WHITE - Point of order, Madam Speaker. It goes to standing order 45, which is your favourite. I draw the minister's attention to the question which is about what actual physical improvements have been made to the Peacock Centre since it burned down two years ago to accommodate the 15 beds that he proposes to establish there. I ask you draw his attention to that, please.

Madam SPEAKER - Thank you, Leader of the Opposition. That was well articulated. As you know, under standing order 45, my favourite, I cannot put words in the minister's mouth. He is likely to be able to answer very quickly.

Mr FERGUSON - Madam Speaker, the Government is working very hard on this. It is a sad fact that the centre burned down.

Ms O'Byrne - What have you done?

Madam SPEAKER - Please allow the minister to be heard in silence.

Mr FERGUSON - They do not want the answer. They can raise all the points of order in the world but they do not care for the truth. The truth is Asset Management is right now working on the very issue of rebuilding the Peacock Centre. The department is doing a great job on it.

What matters most is service delivery improvement. I told the Leader of the Opposition two days ago that options are being prepared -

Ms O'Byrne - You said there would be 15 beds.

Madam SPEAKER - Order, Ms O'Byrne. I give you a formal warning.

Mr FERGUSON - The member you have formally warned slashed mental health. We are building mental health.

In conclusion, I gave the Leader of the Opposition an assurance that options are being prepared. When I can share more information with her, I will do that.

What the Tasmanian public does not appreciate is this politicking. It serves no purpose, and it serves no good outcome for the community. The number of people that you are helping with your petty, political squabbling is zero.

Education - Extra Teachers and School Farms

Mr SHELTON question to MINISTER for EDUCATION and TRAINING, Mr ROCKLIFF

[10.12 a.m.]

Can the minister please update the House on the majority Hodgman Liberal Government's progress to employ 250 more teachers and revitalise school farms.

ANSWER

Madam Speaker, I thank the member for his question. I also welcome the students from Miandetta Primary School and hope they enjoy their visit.

We are getting on with the job of employing 250 more teachers with advertisements for specific school farm teachers already live and a further national advertising campaign beginning this weekend. We are now getting to the point where individual schools will experience the benefits. In particular, these benefits will be experienced in our school farms. I am pleased to announce today that 15 schools will be receiving a dedicated school farm teaching resource. They include Burnie High School, Cressy District School, Exeter High School, Hagley Farm School, Jordan River Learning Federation -

Ms O'Connor - We are 10 minutes into question time and we get another puerile Dorothy Dixer. It is quite amazing. People watching are going to find it breathtaking.

Mr ROCKLIFF - You could not even be bothered to turn up on time.

Ms O'Connor - Is that the best you can do?

Madam SPEAKER - Order, please.

Mr ROCKLIFF - Lilydale District School, Oatlands District School, Scottsdale High School, Sheffield District School, Sorell District School, St Marys District School, Tasman District School, Winnaleah District School, Wynyard High School and Yolla District School. Importantly, these school farms will now be networked to support each other to deliver best practice agricultural education.

Larger lead or hub schools will receive a full-time teacher. These are Hagley Farm School, the Jordan River Learning Federation Farm School and Sheffield Farm School. The remaining 12 schools will receive a 0.5 FTE school farm teacher at each school.

In addition, as part of our $16.1 million investment to revitalise school farms, schools will have access to a pool of funds to help cover the cost of their operations. We will also have consultation underway for our $4.3 million development at Jordan River Learning Federation School Farm and a $3 million redevelopment at Sheffield School Farm.

Ms O'Connor - Do you think it's reasonable that the third question is a Dorothy?

Madam SPEAKER - Ms O'Connor, through the Chair, please.

Mr ROCKLIFF - This network of well-resourced school farms will help prepare our young Tasmanians for the agricultural jobs of the future. They will draw on a specific agricultural education curriculum, which we have worked to embed over the last four years called Primary Schools to Primary Industries. This in turn will help deliver on our goal to grow the value of the agricultural sector to $10 billion by 2050.

This demonstrates that on this side of the House we have a strong plan for Tasmania's future backed by the conviction to deliver it. Two hundred and fifty more teachers on top of the 142 we have already employed over the last four years will have a big impact on student learning and teacher workload. Ten of these staff are going directly into our school farms. Plus we will have an Agricultural Centre of Excellence and Career Farm on the north west.

Members interjecting.

This is in stark contrast to those opposite, who are chiming in, who did not prioritise or value school farms, even though it has been abundantly clear that agribusiness is a clear pillar of our state's economy. On that side of the House they were literally selling farms while this side has a strong plan for the future. I welcome all of those new positions on our school farms.

Clarence City Council - Public Places By-Law

Dr WOODRUFF question to MINISTER for LOCAL GOVERNMENT, Mr GUTWEIN

[10.16 a.m.]

Are you aware of the Clarence City Council's outrageous attempts to shut down peaceful assembly and protest in their municipality? The Clarence City Council Public Places By-Law (No. 1 of 2018), tabled during the last sitting, banned the organising of, or participation in, an assembly, rally, public speaking or similar activity unless the written authority of the council's general manager is obtained. The same goes for beach cricket, which is prohibited without a permit.

Do you agree this reactionary by-law that follows the community unrest over Kangaroo Bay and Rosny Hill has strong authoritarian overtones and is likely to be in breach of the Australian Constitution? As minister, were you consulted about this attempt to shut down peaceful assembly and a protest? Do you support Clarence City Council's by-law, the ban on peaceful assembly and on beach cricket?

Mr Hidding - That was more like six questions.

Ms O'Connor - This is a serious question of freedom of assembly.

Madam SPEAKER - Order. Ms O'Connor and Mr Hidding, both of you should know better.

ANSWER

Madam Speaker, I thank the member for her question. Let us be clear that by-laws are a matter for local government.

Ms O'Connor - No, they're a matter for this parliament. It is tabled.

Mr GUTWEIN - They are tabled here, but by-laws are passed at the council table.

Ms O'Connor - Do you support the ban on peaceful protest?

Madam SPEAKER - Ms O'Connor, you are on your first warning.

Mr GUTWEIN - It sounds like the Greens, noting the understanding of their own irrelevance are now focusing more on local government matters. What I suggest to the member is that if you have a concern, write a letter to the council.

I could not help noting that Kangaroo Bay was mentioned by the member. There is expected to be foreign investment in a project at Kangaroo Bay and once again we see the soft underbelly of the Greens being demonstrated here in their views about investment in Tasmania from offshore.

Dr WOODRUFF - Point of order, Madam Speaker. Standing order 45: this question was about the by-law, a very serious concern about the by-law, and we want to know whether the minister supports the ban on protest and on beach cricket?

Madam SPEAKER - With all due relevance to standing order 45, I ask the minister to proceed and, hopefully, something will come out of his mouth that will answer that question.

Mr GUTWEIN - I support democracy, which obviously the Greens do not.

I make the point that if the member has a problem with a by-law passed by a local council then she should take that matter up with the local council.

Mental Health Facilities - Progress towards Reopening the Peacock Centre

Ms WHITE question to MINISTER for HEALTH, Mr FERGUSON

[10.20 a.m.]

The Peacock family bequeathed the building which became the Peacock Centre to the state Government in 1921, and it eventually became an important facility of Hobart and the southern district's adult community mental health service. It has significant heritage value and the Tasmanian Heritage Council will need to be closely consulted on any future use. Now that this week you have indicated strongly you will not be building a promised 10 mental health beds at Mistral Place, can you guarantee you will deliver 15 new mental health beds at the Peacock Centre?

ANSWER

Madam Speaker, I have a few comments to make in response to this question. I will not accept the Leader of the Opposition misleading Tasmanians. We are rock-solid in our commitment to 25 beds for mental health in southern Tasmania. We have been clear on this and could not be clearer. What we have said in our election document, which we are faithfully observing, is that we are getting the right people to work up the best model of care for our patients.

There is more politicking around mental health here than you can poke a stick at. The Leader of the Opposition is embarrassed that her policy was for 10 acute or sub-acute beds somewhere in Hobart - just 10. We are funding 25 and we have been very clear about this. Our commitment to the Peacock Centre is rock-solid and should not be questioned. The fact is that it burnt down. Our asset management team is working on what you would expect them to be doing to get good

architectural and planning advice. It is the work of professionals, which is more than I can say for members opposite.

I will give a further update to my previous answer before I deal with another matter. We are committed to rebuilding the Peacock Centre in Hobart, which was seriously damaged by fire last year, to provide 15 additional mental health beds for safe, supportive step-down care post-hospitalisation, or step-up care for those whose condition has escalated to avoid hospitalisation and community mental health services. The right model of care and staffing will be determined by clinicians - those clinicians who are being derided by Labor. It is estimated that 29 additional full-time equivalent staff will be employed to provide those services. Funding of $15.8 million is provided over the next six years to operate the additional beds and it is expected that construction will cost $9.2 million and take two years to complete. The new beds will open in 2020. These new beds will make a real difference and help Tasmanians to receive contemporary care in the right therapeutic environment.

Ms White - We are nearly at the end of 2018.

Mr FERGUSON - What is that I hear? Politicking and complaining from the Labor Party, which in its pre-election promise did not even commit to rebuilding the Peacock Centre.

Ms White - You cannot deliver on that.

Madam SPEAKER - Order.

Mr FERGUSON - How dare you bring up the bequest of the Peacock family and yet only six months ago would not commit to rebuilding it. We have not just committed to rebuilding it, we have committed to opening more services.

Before I conclude, I have some important information. It is a shame -

Members interjecting.

Madam SPEAKER - Order. The minister says he has some important information so he will be heard in silence until we hear that.

Mr FERGUSON - Madam Speaker, I have taken some advice on this. I am sorry to tell members of this House that when the department advised me on a careful view of the original bequest, the bequest was that that centre be used for services for patients and it is the case that that bequest has not been honoured over past years and past governments. We are returning the service. We are rebuilding the building and putting in the services the building was originally intended to provide. If members opposite want to politick on this then they ought to have a good look at their history. They failed to deliver those services to the community. We will provide them.

Mental Health - Numbers of Beds

Ms WHITE question to MINISTER for HEALTH, Mr FERGUSON

[10.24 a.m.]

After we saw shocking images this week of Tasmanians suffering mental ill health sleeping on the floor of the emergency department at the Royal Hobart Hospital, can you provide a time line of when and where the 25 mental health beds you have promised will be delivered? You have already

axed much-needed mental health beds at the Royal Hobart Hospital and you have this week indicated strongly that you will not deliver new beds at Mistral Place, and nothing has been done to progress at the critical rebuilding and refurbishment of work at the Peacock Centre, despite you saying those beds will open in 2020. Does this not mean that the number of mental health beds you are on track to deliver, despite your promises to Tasmania, is exactly zero?

ANSWER

Madam Speaker, I thank the Leader of the Opposition for her question, which again serves only to illustrate that the Government has a mental health policy of four times the value of Labor's, but unlike Labor, we are not walking away from health and we are listening to clinicians.

If Labor wants to look at their history, they cut mental health to the bone; they cut it and they cut it hard. If you looked at the Deputy Leader of the Opposition at the moment, you would think that they did not make any cuts the way they carry on. They cut it and they cut it hard. We are reinvesting, and I do not accept the Leader of the Opposition's appalling commentary on this. We are keeping our promises. Our funding is real and we have the right people in the room to develop the best model of care.

For the third time, Madam Speaker, the Leader of the Opposition does not want to hear this. Her colleagues do not want to listen; they do not want to hear it. The fact is that I have committed that when further options are available -

Members interjecting.

Mr FERGUSON - Madam Speaker, please.

Madam SPEAKER - Mr O'Byrne, that is not appropriate.

Mr FERGUSON - Madam Speaker, I beg that people take mental health seriously and not politick on it and abuse people on the way through.

Opposition members interjecting.

Madam SPEAKER - I ask the Opposition to be less rowdy and be more parliamentarian.

Mr FERGUSON - Madam Speaker, the Leader of the Opposition and the Labor Party made a promise for 10 acute or sub-acute beds somewhere in Hobart. They have been caught out. We made real promises and we said we would work with clinicians.

Last night I visited the Royal Hobart Hospital. I spoke with doctors and nurses at the hospital. They were insistent that they wanted the support to make operational decisions that would support patient flow.

We have seen some appalling politicking. Let me tell you, Madam Speaker, the doctors and nurses at the Royal were well aware of the politicking that they had been brought into by the Labor Party. They were very disappointed. I will quote one doctor - I will not name him but I will say what he said to me. He said, 'Thank you for the support of our clinical executive director and the executive team who have put forward the change proposal'. They said to me, 'Stand your ground.

Thank you for supporting us. We want what is best for clinicians'. That is what this Government intends to do. We will stand our ground; we are backing our team.

Public Sector Increase - Labor Policy

Mr BROOKS question to TREASURER, Mr GUTWEIN

[10.28 a.m.]

At their recent state conference, Labor voted to increase the size of the public sector by 10 per cent. Given this is now official Labor policy, what impact would this have on the state's budget and what would all of the extra public servants actually do?

ANSWER

Madam Speaker, I thank the member for Braddon, Mr Brooks, for his question, and his interest in this very important matter. The simple answer is if that public sector were to be increased by 10 per cent, as has been proposed - and if the Leader of the Opposition's position is different, she has had every opportunity to explain that to this parliament since the Labor conference - this would set Tasmania's finances back decades.

Members interjecting.

Madam SPEAKER - Order. I have the choice of warning, warning again, then asking people to leave the Chamber, or just politely asking all to calm down and let the minister speak - which is what I am doing.

Mr GUTWEIN - Madam Speaker, it has been reported that the Labor Party backed a motion to increase the size of the public sector by 10 per cent -

Mr O'BYRNE - Point of order, Madam Speaker, that is not what actually happened. The Treasurer needs to be very careful that he does not mislead the House. That is not the motion that was passed and that was reported on in the media.

Mr BARNETT - On the point of order, it is a debating point. It is not a point of order it is a spurious interjection from the member for Franklin. It should be ruled out of order.

Madam SPEAKER - I am a bit perplexed by that one but I am just going to move forward.

Mr GUTWEIN - Let me explain exactly what has been reported and if that is not correct then they can put out a press release post question time.

Members interjecting.

Madam SPEAKER - Order. I am going to stand for two seconds. Everyone feel better? Please proceed.

Mr GUTWEIN - Madam Speaker, as it was reported, they backed a recommendation to increase the size of the public service by 10 per cent.

Mr O'Byrne - That is untrue.

Mr GUTWEIN - That is what has been reported. I suggest, if they have an issue, they take it up with the *Examiner*. That is what is reported and I am perfectly within my rights to speak about what has been reported. If they want to seek a retraction then that is a matter for them.

The head count of the public sector at the moment is approximately 30 000 people. If the public sector was to increase by 10 per cent, that would be an increase of around 3000 on a head count basis. Think about that for a moment. That is more than the population of Scottsdale, Deloraine or St Helens. It is a significant increase. The cost, as I have pointed out in this place before, would be around $1.2 billion across the forward Estimates.

Members interjecting.

Madam SPEAKER - Mr O'Byrne, you have warning number one. Ms O'Byrne, you have warning number two.

Mr GUTWEIN - I can understand why they do not like it and they have let the story run. Let us be clear they have let the story run. If they want it corrected then they should put out a statement to correct it.

Mr BACON - Point of order, Madam Speaker. I can help the Treasurer. I have the wording here of the motion that was passed.

> Conference further requires that Labor policy restrict outsourcing within the public sector.

Madam SPEAKER - That is not a point of order unfortunately, Mr Bacon.

Mr Bacon - I am trying to save him from himself, Madam Speaker.

Madam SPEAKER - Please proceed, Treasurer.

Mr GUTWEIN - There is no need to save me. I am simply discussing what has been publicly reported and I am perfectly within my rights in this place to do that. If their policy position is different then they can put out a statement post question time and explain it.

Maybe what this is about is a secret plan to boost flagging union membership. Yesterday we saw the leader in waiting in this place attempt to convince the parliament that they had not broken the law and their policy very clearly does break the law. It is in clear contravention of what is in the Fair Work Act and I suspect very strongly that it is an anti-discriminating policy. What we saw yesterday was the hero of the unions, Mr O'Byrne, using it as an opportunity to further his leadership ambitions.

Members interjecting.

Madam SPEAKER - Order. I have the whole frontbench with a warning. I am sorry but the Leader of the Opposition has a warning, we have two warnings for Ms O'Byrne, and we have one warning for Mr O'Byrne. Mr Bacon, I do not think you are innocent this time. My warnings are

about as useful as standing order 45 at the moment so they are going to be ramped up. Please understand that.

Mr GUTWEIN - Madam Speaker, I can understand why they do not like this. They have been prepared to let a story run and then they have been called out on it. I come back to the point I was making a moment ago about Mr O'Byrne's contribution yesterday.

Ms O'CONNOR - Point of order, Madam Speaker. Standing order 48. The Treasurer has had six-and-half minutes on his feet, answering a Dorothy Dixer that is purely political and designed to attack Labor. That means that in total, each question time now, we are subject to 24 minutes of Dorothy Dix questions. That is not what question time should be all about.

Madam SPEAKER - I hear your frustration but I do not think that is a point or order. Treasurer, can you perhaps wind up?

Mr GUTWEIN - Madam Speaker, I note there have been a significant number of interjections and points of order through this. I can understand that from that side of the House -

Madam SPEAKER - I did note your ability to be able to talk over them very well.

Mr GUTWEIN - Thank you, Madam Speaker, for that vote of confidence. I can understand why they are uncomfortable. Yesterday afternoon we had Mr O'Byrne in this place blatantly saying the law does not apply to the Labor Party. What arrogance.

The other point I will make about public sector employment is that Labor and the unions have been putting out -

Ms O'CONNOR - Point of order, Madam Speaker. I draw you attention to the fact that the Treasurer has now been on his feet for 7 minutes and 40 seconds.

Madam SPEAKER - Minister, you have 30 seconds to wind up.

Mr GUTWEIN - I will use the 30 seconds wisely to point out that Labor and the unions are putting out all sorts of ridiculous claims regarding the public sector at the moment. Case in point, our hardworking teachers. The AEU is claiming they are the worst paid in the country. That is false. We are not going to be drawn into the debate the Labor Party and the unions want us to have. Our wages policy is sensible, responsible and it is affordable.

In stark contrast to those opposite, we will not be handing a blank cheque over to the unions and we will not be taking their lead in terms of how we manage the size of the public sector.

Clarence City Council - Public Places By-Law

Dr WOODRUFF question to MINISTER FOR POLICE, FIRE and EMERGENCY MANAGEMENT, Mr FERGUSON

[10.37 a.m.]

Are you aware Darren Hine, Commissioner of Police, raised very serious concerns about the draconian Clarence Council by-law? The commissioner wrote that the general manager's new

powers to ban people from a public place may be an 'overreach that impinges against people's civil liberties.' He also said that the by-law, 'Does not properly define the operation or scope or limitations of such a strong new power or how its application may be enforced.'

Such strong comments by the commissioner should have been addressed by the Clarence City Council but they were not. Do you support your commissioner and will you act to rein in this rogue council by-law?

ANSWER

Madam Speaker, I will have a few comments to make and the overriding one is that I will look very closely at what Dr Woodruff has stated in her question to me. I will take advice on the point. To the question, do I support our commissioner, of course I do, and every member of this House ought to. As the Treasurer has already outlined in his role as Minister for Local Government, this is clearly a matter for Clarence City Council.

Dr Woodruff - No, it is a matter for parliament. It is going to come to you next week.

Mr FERGUSON - If you would be generous enough to listen to the answer, I say to Dr Woodruff that I will have a look at your words and if I have more to say to this House I will return. That does not necessarily mean I will have anything further to add to this matter.

The fact is, many people are consulted when looking at new by-laws being introduced by local government and I stand with the Minister for Local Government. This is clearly a matter for the Clarence City Council.

Tourism - Visitor Economy

Mr HIDDING question to ACTING PREMIER, Mr ROCKLIFF

[10.40 a.m.]

Can you inform the House on what improvements there have been for Tasmania's visitor economy in the past year?

ANSWER

Madam Speaker, I thank the member for Lyons, Mr Hidding, for his interest in this matter. It is a priority for the majority Liberal Hodgman Government to ensure that even more Tasmanians and their communities benefit from the jobs and economic growth generated from a very strong visitor economy. We are committed to encouraging visitors to enjoy everything our regions have to offer. It gives me great pleasure to share with the House today that our plan to boost visitation and focus on regional dispersal and visitor spending is working.

The results from the latest Tasmanian Visitor Survey showed all four regions of the state experienced growth in total visitor numbers in the year to June 2018. Importantly, the East Coast and the Cradle Coast regions increased their total share of the state's overall visitors. The Cradle Coast region received the strongest regional growth rate with visitation up 4 per cent.

Holiday-makers are also staying longer in Tasmania and spending more, with holiday nights up 11 per cent and holiday expenditure up 7 per cent from the same period in the previous year. Impressively, visitors to Tasmania in the year to June 2018 spent a record $2.4 billion, up 6 per cent on the previous year.

While Tasmania welcomed 1.3 million visitors for the first time, it is important to note that this represents steady growth of 2 per cent in the past year. We always knew the path to achieving 1.5 million visitors annually by 2020 would be challenging. That is why we must continue to work hard to support the sector. The tourism industry employs more than 38 000 Tasmanians and more than 85 per cent of our tourism operators are small or micro businesses run by passionate, hardworking and determined Tasmanians. This Government is proud to back our tourism, hospitality and events sector.

Despite the enormous benefits for the state, the Greens ignorantly continue to question the fantastic work the Premier has been undertaking in China in the past week. International visitors are unquestionably a key market for Tasmania's tourism sector and a majority of international visitors to the state have come from China - in fact, a 46 per cent increase in Chinese visitation over the last 12 months.

Results from the last International Visitor Survey showed a total of 300 000 international visitors came to the state in the year ending March 2018. That is 20 per cent more than in the previous year. International visitors stayed an average of 17 nights and in total they spent $559 million in Tasmania, up 32 per cent on last year. Earlier this week we welcomed Virgin Australia's first direct flight from Perth to Hobart. This service is good news and opens up an important domestic market, which has previously found accessing our island home a challenge and brings strong social and economic benefits to the state, tourism and business sectors.

There are currently 4.5 million air seats annually into and out of Tasmania's key access points of Hobart and Launceston. A total of 157 000 new seats were added to the Tasmanian air network, which is above the 140 000 target per annum required to meet the T21 goals. Increased access capacity not only helps our visitors get to the island, but it also provides Tasmanians with more travel options, improved affordability and in some cases reduced travel time.

I congratulate Tasmania's committed, professional, hardworking and determined tourism operators for their efforts, which have contributed to these latest results for our visitor economy.

Minister for Health - Support for Minister

Ms WHITE question to ACTING PREMIER, Mr ROCKLIFF

[10.44 a.m.]

You know that the health and hospital system is in chaos under this Health minister. With the revelations this week that mental health patients are sleeping on the floor at the Royal Hobart Hospital Emergency Department, and that the Health minister plans to place patients in storerooms with hand bells, does the Health minister still have your support or is it now finally time to ring the bell on the career of this Health minister?

ANSWER

Madam Speaker, I thank the member for her question. When it comes to mental health beds alone, you closed 40 beds. You shut down 40 beds and $40 million was ripped out when you closed

hospital beds around the state. You closed wards when you were in government. Between 2010 and 2014 was a painful time, but only for the staff that you sacked Ms O'Byrne. I remember being at three of the four rallies, including a mental health rally up the road, where hardworking people were very concerned about the cuts of the Labor-Greens government. Rallies were held in Burnie, Launceston and Hobart.

I support the investment into health that this Health minister is doing: record investment and record numbers of frontline staff.

Ms Standen - Do you support him?

Mr ROCKLIFF - Of course I support the Health minister. I am 100 per cent behind the Health minister and 100 per cent behind the Hodgman Liberal Government's policies in health.

Not only was it painful for the staff who lost their jobs between 2010 and 2014 but what about the patients who could not get access to appropriate health care? I was shadow health minister between 2010 and 2014. I remember the pain that you caused, Deputy Leader of the Opposition. You were there too, Mr O'Byrne. Ms White was chair of the razor gang.

Ms White - I was not. That is absolute rubbish.

Members interjecting.

Madam SPEAKER - Ms O'Byrne, I will give you a caution, because one more warning and you will have to go out.

Mr ROCKLIFF - It is important that those opposite have a lesson in history so they can have a full appreciation of the pain they caused. The pain inflicted on the health system between 2010 and 2014 involved closing down beds right across the state. Wards were shut down and we had beds in storage in Launceston; not in hospitals but in storage. We have taken those beds out of storage and are investing in the front line.

We are also investing record amounts into Health. We came out with a clear, strong policy on Health at this election in March 2018: not the flimsy seven attempts at a health policy that was delivered from the Labor Party. You could not work out your health policy. You had no idea. You are still smarting from the experience between 2010 and 2014, where the Deputy Leader, when she was health minister, sacked a nurse a day for nine months. That is the impact.

We are rebuilding the health system. It takes time. There are challenges, but the pain inflicted during four years of Labor and the Greens does take time to recover from. It takes time to rebuild a health system that was wrecked under Labor and the Greens. We will not shy away from rebuilding a health system that you destroyed, particularly the Deputy Leader of the Opposition. Every time the Deputy Leader mentions health in this place, it is hypocritical. There is no-one more hypocritical in this House than the Deputy Leader when she talks about health.

The redevelopment of the Royal Hobart Hospital is a case in point. It took a decade to decide on location, let alone start rebuilding it. It took this Health minister and this Government to start a well over half a billion dollar rebuild, which will be able to service the entire Tasmanian population.

When it comes to health, I remember a time when we had a federal Labor health minister disgusted at what the Labor-Greens government was doing in Tasmania. Nicola Roxon was the federal health minister at the time. We well remember the now-famous rift between Labor health minister Roxon with the failed former health minister, Ms O'Byrne. Ms Roxon said in October 2011:

> These cuts mean that Tasmania will have almost no chance of receiving reward funding that they signed up to try and achieve under health reform.
>
> The Commonwealth will not pay money for targets that are not achieved but we will do all we can to ensure that Tasmanians are not suffering further by a poor decision by a state government.

Do not talk about our federal government. Have a look at your own side and your own Labor health minister Roxon, who was appalled at the 2011 budget cuts when you ripped $100 million out of the health system and $500 million overall. Half a billion dollars ripped out of the health system. That is why we have challenges now in 2018, because we are still recovering from the disaster between 2010 and 2014, particularly the effects of the 2011 budget. I have 100 per cent confidence in the Health minister and 100 per cent confidence in the policies of the Hodgman Liberal Government because we are reinvesting health, not cutting it like you were.

Corrections - Prison Capacity and Proposed Facility

Mr SHELTON question to MINISTER for CORRECTIONS, Ms ARCHER

[10.51 a.m.]

Could the minister please update the House on the Hodgman Liberal Government's progress on delivering our plan to increase prison capacities and keep Tasmanians safe?

ANSWER

Madam Speaker, I thank the member for Lyons, Mr Shelton, for his question and his keen interest in this matter, particularly being a northern member in this House.

I am pleased to inform the House that expressions of interest have now opened for landowners in northern Tasmania interested in submitting their site for consideration as a location for a new prison. This Government has today sent invitations for participation in the process, targeted to northern Tasmanian councils, utility companies, the property sector and economic development groups alike. The Department of Justice will also continue canvassing potential crown land options and work with relevant state and federal government agencies to identify any suitable sites that are surplus to core government requirements. The department will also conduct a range of community engagement activities, including information sessions, with the expressions of interest remaining open for nine weeks and closing on 22 November this year.

This is a significant step towards delivering on our plan to increase prison capacity and keep Tasmanians safe. This Government is investing in the modern prison infrastructure our state needs to ensure serious and dangerous criminals are securely behind bars and we are committed to building a new prison in northern Tasmania at an estimated cost of $270 million to house approximately 270 prisoners. The prison will be built in two stages, with construction expected to

commence in the 2019-20 financial year on the first stage, providing for up to 140 beds following an extensive planning and design phase. Not only will this project deliver on our commitment to boost prison capacity but it is expected to create thousands of jobs which will further stimulate the growing northern economy.

This year's state budget included not only $45 million of a $150 million project for stage one of the new northern prison, but also a massive $70 million investment in a new southern remand facility on the Risdon Prison Complex site. These two new major projects are expected to create more than 4000 direct and indirect jobs during construction and depending on the access and shape of the northern site, the land size required will be approximately 20 hectares. Further land considerations must include open ground for bushfire plans, screening, approach roads, external services, security, non-road approaches to the prison and security outside of the perimeter.

Other consideration will be given to a range of factors, including the proximity of services such as health and law enforcement, courts and access by certain inmates to any education -

Mr O'Byrne - Is it a public prison or privatised?

Ms ARCHER - Mr O'Byrne, this is really good news for the northern economy and for our prison system. The factors also include access by certain inmates to any education, training establishments, therapeutic and other support services outside the facility.

Following the closure and sale of the Hayes Prison Farm by the former Labor-Greens government, Tasmania has had only one substantial adult prison. As I have said before in this House and outside the House, we know that Tasmania has not been immune to the growing national trend of increasing prisoner numbers and it has become increasingly clear that a new prison is needed not only to ensure the safety of the community and our Tasmanian Prison Service staff but also allow for greater education, rehabilitation and reintegration opportunities for prisoners. I thought Ms O'Connor would welcome that because the other side of incarceration is rehabilitating our prisoners so they can become resourceful members of our community able to reintegrate and reattach to their family members. They are very important programs that we deliver in our prison system and this prison will allow us greater opportunities to deliver on those types of training and education and other rehabilitation opportunities.

Not only will the northern prison relieve pressure on the southern Risdon facility, it will provide improved family connections for prisoners and create increased opportunities for them to find meaningful work on release. A total 46 per cent of our current prison population comes from the north or north-west of this state and their families reside in the north or north-west, so providing a northern prison facility is essential to improving those family connections.

This side of the House is delivering on our promises, implementing our plan and will continue to work hard to keep Tasmanians safe. In stark contrast, Labor has failed to promise even one single extra correctional officer. They backflipped on a promise for a new northern prison and only this week continued their flawed opposition to our initiatives such as the removal of the outdated practice of remission in this state. No other state in the country has retained remissions. To borrow a phrase from the Treasurer if he does not mind, it perfectly sums up Labor's lack of law and order policy. I remind the Labor Party that whingeing is not a policy and complaining is not a platform. On this side of the House we make no apologies for being tough on serious crime but we also want offenders to get their lives -

Ms O'Connor - Half of question time is taken up by Dorothy Dixers these days.

Ms ARCHER - I am informing the House, Ms O'Connor. We want our offenders to get their lives back on track and become productive, law-abiding members of our community.

In wrapping up, I look forward to the engagement from the community about potential sites for our new northern,

Mr Bacon interjecting.

Madam SPEAKER - Order, Mr Bacon. You have finally got your warning.

Ms ARCHER - I look forward to the engagement from the community about potential sites for our northern prison and delivering on this important element of our plan for Tasmania.

Housing - Royal Hobart Showground

Ms STANDEN question to MINISTER for HOUSING, Mr JAENSCH

[10.58 a.m.]

Tomorrow is the deadline for homeless Tasmanians who have sought refuge at the Hobart showground to be moved on. Those who will be forced to find somewhere else to live in their caravans or tents include a woman who is undergoing treatment for cancer whose seven children have been taken into care. You have repeatedly said people in dire situations like this will be offered crisis accommodation, but the fact is it is for short periods of time and they have had no option but to move back to the showgrounds. Have you been to the showgrounds since you made an unannounced visit in the first week of April to see first-hand the desperation of Tasmanians forced to live in the tent city? What do you say to those people in impossible circumstances who must find somewhere else to live by tomorrow?

ANSWER

Madam Speaker, I thank the member for her question. I acknowledge that the operators of the showgrounds have issued notices to vacate those people still residing in their camping area. I understand the showgrounds operates a commercial camp ground venture as part of its operations. We were advised here by your colleague that they are charged $25 a night. There is some flexibility for those having trouble meeting those fees but, seasonally, around this time of the year, the campground at the showground closes to enable the show to proceed.

We have had a running commentary on the showground and the need for people to visit. I can confirm again that Colony 47, the lead operator for Housing Connect, funded by the state government for this very purpose, with extra resources for this winter, visits the showground and other sites regularly to ensure that people who need assistance are offered appropriate assistance with their circumstances.

My latest update from Colony 47 is that as from 14 September there were nine people at the showground, two in tents, and seven in caravans or motor homes. Of those in tents, one was working with Housing Connect on accommodation options for them, one was not. Of the seven in caravans, five were working with Housing Connect, two were not. Of those working with Housing

Connect, those people have plans for alternative accommodation by the end of this week when the eviction notice takes effect. Of the three people who are not currently engaged with Housing Connect, or were not at the time that I received this advice, they were people who had advised that they did not want or need the assistance being offered to them.

Over this winter period, the Hodgman Liberal Government provided an additional $500 000 to Housing Connect to assist with the provision of services to people who are finding themselves homeless and in need of assistance for shelter and associated services. They employed an additional three people on the ground to be out every day visiting people in need to ensure they have connected with services that they need.

I am advised that throughout the winter period, there were 40 to 60 rooms available in the greater Hobart area every night; accommodation places for people who needed it. If additional resources were needed, we would provide them so that they were able to provide for that crisis in emergency response to people in dire housing crisis. That call has not come, but the offer remains.

I am not familiar with the details of the specific case that Ms Standen referred to. I ask her to provide me as much information as she has about the individuals. I do not ask for those details to be shared here because we respect the privacy of individual people in difficulty. I invite Ms Standen to provide the information to my office so that we can make direct follow-up inquiries. We take every report of people in need very seriously, particularly if there is an issue of safety for children or young people. We will follow up every single inquiry, every concern or report or allegation that is raised, whether it is directly through our office, our department, or in this place.

I note that three weeks ago at about this time, Ms Standen stood up here and asked me a question about how I could explain the tragic circumstances of a child born in Tasmania's north. The child's mother was the subject of an unborn baby alert, which was not acted upon. Immediately after birth, the child spent 28 days in hospital suffering the symptoms of drug withdrawal, and at no stage did the child safety service officers visit the hospital to check on the child's wellbeing. I have spent the last three weeks with my department trying to identify the case that Ms Standen raised in this place. We take every allegation and report of a problem for the safety, for the potential for harm to children, or a breakdown in our system or a concern about a young baby, in particular, very seriously.

My department has been working forensically over the last three weeks - since this time three weeks ago - to identify that case. Based on the information provided by Ms Standen, they cannot confidently identify which baby, which hospital, at what time has that range of symptoms. That range of facts provides us with the ability to follow it up. My department contacted Ms Standen directly, asked her for more information and she was unprepared to provide any more.

We take every single claim, report, allegation, assertion, concern about the safety and wellbeing of young people very seriously. We will not be discussing the details of individual cases in this place.

I ask that the Opposition takes their questions and this question time as seriously as we do when it comes to these cases to ensure that we do not get into a habit of this hit-and-run question time where you drop a couple of salacious facts for the benefit of the media but not be able to follow through. Give us the details to enable us to follow up on the needs of individual people who might be in harm's way.

Health and Homelessness Crisis

Mr O'BYRNE question to TREASURER, Mr GUTWEIN

[11.06 a.m.]

At the same time the health crisis, under your hapless colleague, the Health minister, has reached a point where patients will be moved into storerooms with handbells and at the same time homeless Tasmanians face being forced out of the showground's tent city tomorrow, you announced a blank cheque to Macquarie Point which could cost in excess of $100 million. Why have you washed your hands of both the health and homelessness crises in Tasmania?

ANSWER

Madam Speaker, I thank the member for the question. It goes to the heart of what the problem was under the previous government.

Mr Bacon - It is the lack of heart you are showing; that is what it goes to.

Madam SPEAKER - Mr Bacon, second warning.

Mr GUTWEIN - The member who asked that question was the former economic development minister. His track record says it all. He took us back into recession. It is obvious that what he does not understand is that if you drive investment, it will generate revenue, jobs, and receipts and enable us to put more money into Health and homelessness and Education.

In the last 12 months we spent more than $300 million more on Health than when we first came to government. We just rolled out the single largest affordable housing strategy ever in the state's history.

The question goes to the credibility of the member who has asked it. After four years as economic development minister, he took this state into recession and he cost us 10 000 jobs. Tasmanians were leaving the state in droves. He does not understand the fundamental principle that if you can drive investment you will create jobs, you will create revenue and then you will be able to invest, as we have been doing in record amounts, into health, education and looking after those who need a roof over their head.

Time expired.

PETITION

Claude Road - Speed Limit

Mr Shelton presented a petition signed by approximately 133 citizens of Tasmania, requesting that the Minister for Infrastructure take urgent action to rezone an appropriate section of Claude Road adjacent to the Claude Road Cemetery to 60 kilometres an hour to make road conditions safe.

Petition received.

CRIME (CONFISCATION OF PROFITS) AMENDMENT BILL 2018 (No. 34)

First Reading

Bill presented by **Ms Archer** and read the first time.

ANIMAL WELFARE AMENDMENT (REFORMATION) BILL 2018 (No. 38)

First Reading

Bill presented by **Ms O'Connor** and read the first time.

MATTER OF PUBLIC IMPORTANCE

Jobs and the Economy

[11.12 a.m.]

Mr SHELTON (Lyons - Motion) - Madam Speaker, I move -

That the House take note of the following matter: jobs and the economy.

The reason I am here in this place is because of the failings of previous governments when I was mayor of Meander Valley Council and wanting to make a difference, as I am sure everybody in this Chamber is, for the future of our children, my children, my grandchildren and our communities.

Dr Woodruff - You're certainly making a difference. It's just not a good difference.

Ms O'Connor - What about climate change - hello?

Mr SHELTON - All we expect from the Greens is interjections -

Ms O'Connor - Advocating for a climate policy?

Mr DEPUTY SPEAKER - Order, Ms O'Connor.

Mr SHELTON - It is a privilege to be in this place to work with everybody to achieve a better Tasmania for the future. It gives me great pleasure and I am very proud to stand on this side of the House and be part of the majority Hodgman Liberal Government, now in our second term, and be able to talk about the achievements of this Government over the past four-and-a-half, nearly five years. You have to remember where we were, and I do not want to dwell too much on the past, but Tasmania was certainly in a hole prior to 2014. Businesses, as we know, indicated that they believed the government's policy in those days worked against them. We now have one of the best business confidence indexes we have ever seen in this state.

There are now around 14 700 more jobs than when we came to power in 2014. I am sure that the Opposition will criticise some of what this Government has been doing, but from a general sense the Opposition surely cannot criticise where the Tasmanian state economy is at the moment.

Wherever I go in Lyons and right across the state visiting local government areas and businesses, everybody talks about how well the state's business economy is actually going. Indicators everywhere are up and it is a pleasure to be part of a government that is offering stability in government. That creates confidence, which then converts into investment and our private sector investment is substantially up.

Ms O'Connor - Where is all that money coming from?

Mr SHELTON - Jobs are critical. From my point of view as a grandfather, jobs are important for my children and in the future for my grandchildren. It relies on a great education -

Ms O'Connor - Do you understand what is happening with automation?

Mr DEPUTY SPEAKER - Order, Ms O'Connor. I am sure you will have the opportunity to make your contribution.

Mr SHELTON - Criticism from the Greens again. The reality is that two people out of 25 are basically irrelevant when it comes down to it.

Ms O'Connor - Is that right? Are the 50 000 people who voted Green irrelevant? This is how fascism starts, by dismissing minorities.

Mr DEPUTY SPEAKER - Order, Ms O'Connor. That is enough. No more.

Mr SHELTON - Mr Deputy Speaker, my role in this place is for stability and to enable to economy and the community to move forward. To do that you need to be able to talk to your community and convey what is going on to them. You need to talk up the economy, not like some sections.

When it comes to jobs, announcements were made in this Chamber this morning when the Acting Premier announced more jobs for teachers in our schools, more jobs employing people and uplifting the spirit within school communities with more employment, more teachers on the ground. I am sure Labor has looked at the achievement record at this point in time, but from 2014 to 2018 there has been an increase in teachers by 142.8 FTE. The Acting Premier announced more teachers to be employed in the future. There will be 15 more teachers dedicated to the school farm facility and what I see as a country lad is that as time goes on, there is more separation between the cities and the country. We need to bring that back and school farms are a great way of introducing young students in these school environments to that agricultural environment.

It also creates jobs for the future for children going into the school farm environment. There are highly technical jobs in agriculture now so you can be there as a farm worker working on the land, or a technician, a consultant or an agri-specialist. There are great achievements to be made by our young people in the agricultural sector.

In the civil construction sector, the other day I was there for the announcement of the Perth bypass. The Shaw and Vec consortium have won that tender. I did my apprenticeship at Shaw Contracting. Shaw Contracting has gone through some ups and downs as the civil construction industry goes through ups and downs with the state's economy. If people are spending money they are employed. If people are not spending money then things are tough.

The Government's investment in infrastructure is a fantastic thing for employing people. It does not matter which town you go into around the state, Shaw employs over 100 people now. From the days when I was working there, now they employ over 100 people and the Shaw utes that you see, the operators that operate their machinery, are in every community around the state. The sector is vital to those achievements and what we have been able to do in employing people.

The Wild Mersey is another one, and you mentioned it last evening, Mr Deputy Speaker. The work being done there by the Latrobe and Kentish councils and that investment in tourism creates jobs. The guys were there from the track companies with their excavators and that is employing people.

If you go down the peninsula and you ask any of the businesses there, the increased tourism, the vitality is there in the community. When you walk around the shops or the businesses there are signs on the door saying, 'staff needed - positon vacant'. That is a fantastic thing for our economy. It is going great guns and that revitalisation has been put into the east coast as well and I must acknowledge the previous infrastructure minister for the work he did on the east coast and the Great Eastern Drive. The east coast communities are benefiting from that work.

Time expired.

[11.21 a.m.]

Ms DOW (Braddon) - Mr Deputy Speaker, I am pleased to speak about jobs and the economy. Like the previous speaker, I too come from a local government background. As was said, most in the House are all here for the right reasons because they want to make a difference in their community and that is definitely where my passion comes from. During my time as mayor I wanted to encourage more investment in the north-west. There was a feeling that perhaps the north-west was missing out on the economic benefit that was happening around the other parts of the state. Something that I am also very passionate about is workforce development in our regional areas and I will also take the opportunity to talk to that today.

This Government has no economic reform agenda and it continues to under-fund our health system. Without an economic reform agenda or a single economic reform achievement to its name, it is difficult for the Hodgman Liberal Government to argue that it is responsible for the enhanced economic conditions our state is currently enjoying. That fact is we have seen enhanced global economic conditions feeding into national economic growth influencing the Tasmanian economy. This Government is not addressing the structural disadvantages that continue to impact on the lives of everyday Tasmanians. I want to focus on where I come from, which is the electorate of Braddon, and begin by asking the question: why are we not seeing this translate to jobs growth in the north-west, particularly given the low Australian dollar and the subsequent significant growth in exports?

The ABS recently confirmed that the jobs growth across the north and south is not occurring in the north-west. The figures will be about again later today and it will be interesting to see if these employment numbers have improved for the north-west in line with the economic indicators being experienced in the state. Recent ABS figures indicated that we have lost 1400 jobs in the north-west in the last year to June and that the participation rate is also falling. That is concerning to me because it means that fewer people are choosing to participate in the workforce and there are less jobs. We still have a significant skill shortage in our key industries including technical and soft skills. It should also be noted that in trend terms, July's ABS employment data release showed that Tasmania had the highest unemployment rate in the nation.

Let us now take the opportunity to look at workforce development in Tasmania, which is an area that I am particularly passionate about. This is a great area of need. I want to focus on the current requirement for almost 13 000 jobs to be filled on the north-west coast over the next five years. I want to understand what the Government is doing to plan for this considering our ageing population and stagnant population growth. A significant area of employment growth will be the service sector, including the aged care sector. This area offers significant employment opportunities in regional Tasmania. Does the Government have a workforce development plan for this sector?

I note with interest the article in today's *Advocate* and the advocacy from our regional mayors wanting certainty on national energy policy and the current threat to renewables projects that would bring much needed employment opportunities for their communities. The mayors are calling on the new Prime Minister to visit their region and provide certainty.

Whilst the National Energy Guarantee was not perfect, it did offer certainty to a number of projects like the Robbins Island and Jim's Plain wind projects. It also enhanced the business case for the second Tasmania interconnector, which will bring great employment opportunities to the regions. There are a number of key projects - and I alluded to a few before - but there are others in agriculture, advanced manufacturing, mining, the construction industry and tourism which will require a skilled workforce into the future.

Today the Acting Premier talked about the 4 per cent growth in the tourism industry - I think it was the Acting Premier and I stand corrected if it was not. This also highlights another issue around a skilled workforce in the tourism industry in the north-west and the Government's support for investment in new tourism products so we can make sure that the growth in tourism visitation continues to grow.

I also attended a presentation last week about the Government's infrastructure plan and I noted there were a number of projects in the pipeline. What was not talked about during that presentation was the workforce development plan to accompany this. It is really important that Tasmanians have every opportunity to be employed in these projects. We have heard this morning in the House about the northern prison project and the employment opportunities that will bring to northern Tasmania, particularly in the construction industry. It is important that we have a workforce development plan around these key government projects.

It is important also to talk about Labor's commitment to planning for the future growth of our key industries in Tasmania. We are committed to that and we are particularly committed to planning effectively for the skills that will be required for the future in many of our industries. As part of that work that we plan to undertake in Opposition, we will be forming an industry advisory council, with key partners. We have started that work already with meetings scheduled to be held before the end of the year. This is important long-term planning in Tasmania but in the meantime there must be a short-term mechanism for better understanding the current and future employment needs of the regions.

I recently attended TMEC, the minerals and energy council conference held in Burnie, which examined many of our current and future workforce challenges and reinforced to me the importance of stronger linkages between our education system and our key industries in Tasmania. In the absence of any government-led regional economic development plans, there is a real need for us to plan together with stakeholders, across all levels of government and across the regions. There is a real need for a focus on workforce development planning also.

It is great to see the member for Lyons bringing forward this matter of public importance today. It is disappointing when government time in the House is dedicated to devaluing the work of our wonderful union movement in this country and this state and hardworking Labor staff, when the real issue we should be focused on is about improving the economy, employment, health and wellbeing of our communities.

[11.28 a.m.]

Mr BROOKS (Braddon) - Mr Deputy Speaker, thank you for bringing on this motion because it is important. What we saw there was a classic display of how completely deluded those opposite are when it comes to how an economy actually works. Seriously, Ms Dow, I know you are only new here so you were probably stitched up by your leader to say that sort of stuff. I do not know who wrote that rubbish for you. 'No economic reform', you said. What about the local benefits test? The biggest purchaser in this state is the Tasmanian government. Your good mate in the front there, your future want-to-be leader, Mr O'Byrne, opposed the local benefits test to allow more local Tasmanian businesses the opportunity to tender and be part of the reform or buying within the Tasmanian government, and that has now increased. Not only has participation in tendering increased, but the results of local Tasmanian businesses winning those tenders has increased. What about planning reform? We fixed that too. That does not count?

What about the building reform where it is now cheaper to build the shed than it is to plan it? Under you lot, it was more expensive to get the planning approval than the actual shed cost to build. Do not come in here and tell us that there have been no economic reforms when the results do not show that and do not back up anything that you just said. What I found most amusing in your deluded contribution, if you could call it that, was that you glossed over the fact that business confidence is up, employment is up, unemployment is down, and investment is up.

Construction is up, and retail spend is continuously up. All those indicators are a direct reflection of government initiatives and the reform that we put in in the last term and we have continued in this term.

Then you come in here and make stupid, ridiculous comments like you just did. No wonder Burnie is going a lot better now they have a better mayor running the show than when you were there. If that is what you actually think, that shows how out of touch you are with how an economy works; how the real world works.

Where does the money that governments get come from? Do you know? It comes from the private sector. It comes from consumer and business confidence. That is where it is generated. That is where the jobs are generated. Jobs are not created by government. They are created by the policy framework the government sets, which gives business the confidence to create the jobs we need. That is why we are seeing record investment, record jobs and record spending by the Government. Not only because we have fixed the budget mess that you left - including a recession - but we have reformed the economy to the point where it is now functional.

I could not believe the rubbish you were talking. It proves that you have no idea of what goes on. The Labor Party even opposed the upgrading of the *Spirit*s *of Tasmania*. Mr Hidding introduced that initiative. It delivered more tourists to the area. When tourists come on the *Spirit*s, they stay longer. We know the Leader of the Opposition does not know what regional dispersal means. She had to ask the tourism industry body what it means. But that is a different story. Regional dispersal is getting people out into the regions. That project was opposed by those opposite. They whinged

about it like they normally do, but the *Spirit*s have delivered more people, which has led to cheaper fares - downward pressure on fares because of higher use. It means more people are here. That is why tourism is up.

If more tourists are here spending money, what does that mean for the economy? It means they are out in the shops spending. What has happened to retail spending? That is up too. It is not magic that does that. Your magic money tree, which does not exist, means you spend more than you have coming in. We see that from your record of debt and recession.

We have been able to provide a stable majority government and an incentive for business to invest. That is what the results show. That is what the delivery and outcomes have been because of the policy framework and the initiatives we have set. We had 94 per cent of businesses saying that when you were in government your policies worked against them. No wonder business confidence collapsed under the Labor-Greens disaster. No wonder it is now amongst the highest in the country under a majority government. You have never in your life understood how an economy works. You have never in your life understood how a business framework works. It is proven. It was proven by the contribution that we just heard.

You only have to look at the construction sector. I have mentioned two: planning reform and building reform. It leads to more construction which leads to a better economy and a more stable economy. You look at the numbers and compare them to what they were when you were in charge; contrast them to we have been able to put in place.

We are happy to admit that we have more work to do. It does not stop there and we will continue to do that. That is why we have been able to put record investment into health, education and public safety and still balance a budget. One, because we can count. Two, because we know how an economy works. By building the economy we grow the revenue streams to the Government, which gives you more money to spend on what is important in the community, rather than sacking your nurse a day for nine months like that side.

We have employed more nurses, teachers and police. We have reinvested money back into the community. We have been able to do that because of business confidence and our investment strategy.

Time expired.

[11.34 a.m.]

Ms O'CONNOR (Denison - Leader of the Greens) - Mr Deputy Speaker, here we are again: another Liberal matter of public importance debate, another puerile short-termism contribution from Liberal backbenchers. Every time we have an MPI debate on government members' day, it is some puerile garbage that does not go to the long-term issues facing Tasmania. It does not deal with the big public policy challenges this parliament will have to deal with. We hear the most banal contributions. The two previous contributions from Liberal backbenchers were banal, puerile, and short-sighted and did not go to the evidence. They contributed nothing to the public debate. Even on jobs in the economy, they contributed nothing to the public debate. It was not about making a substantial contribution that deals with some of the big employment challenges Tasmania faces.

For example, Mr Deputy Speaker, a report I hope you read, as the member for Lyons, which came out of the Regional Australia Institute two weeks ago, said that in Tasmania 60 per cent of all jobs are at moderate to high risk of automation. In rural and regional Tasmania, the picture is even

more challenging. Three-quarters of all jobs in rural and regional Tasmania, according to the Regional Australia Institute, are at moderate to high risk of automation.

What is this Government doing to modernise our skills, our training to make sure that young people today are not being given false hope, false promises or qualifications that will not hold them in very good stead at all? Nothing.

What the Regional Australia Institute report says very clearly is that the vulnerabilities, those sectors of the economy that are at greatest risk of being taken over by robots, are the areas of hospitality, retail, administration and manufacturing. What are the areas the Liberals in government are focusing on? Hospitality, resource extraction, retail and aquaculture, an industry that is rapidly automating. The report points to areas of employment that are at low risk of automation. They are education, health and health services - jobs that you need a strong public service for - construction, personal care, information and event management. We heard nothing from the previous two speakers from the government benches about what the Government is doing to make sure we are genuinely equipping young people for the jobs of the future.

Jobs in the economy: again, we had this debate in here. Where was the discussion about a plan for climate change? These people take their cue from people like the federal minister, Angus Taylor MP, who proudly proclaimed in federal parliament that the government that sits in Canberra with the narrowest of majorities on the floor of the House of Representatives, will not take a climate plan to the next federal election. Why? Because they do not believe in it. We have a federal minister of the Crown who is a climate denier, who proudly stands on the green carpet in the House of Representatives and basically said, 'Climate change - we do not care.' That is what we have to put up with in our parliaments.

Ms Haddad - That is right, does not believe it is real.

Ms O'CONNOR - Ms Haddad, you are right. You cannot quite believe it is real, can you? It is like something out of a terrible, tragi-comedy. This is the government we have in Canberra; not for very much longer, I suspect because our Prime Minister loves coal. If there is one image that will endure in the public mind in the years to come and among future generations, it is the then treasurer, now Prime Minister of Australia, standing with a lump of dirty black coal in his hand as a prop in question time. His sneering contempt for young people, future generations, biodiversity; for people living along the coastline who will be subject to sea level rise and his sneering contempt for people who live in Lauderdale who have already lost their backyards on Roches Beach. It is disgraceful that we are subject to these sorts of puerile debates that do not go anywhere near the real issues. It is disgraceful that our Prime Minister loves coal more than he does the people of Australia and our children. That is the only message you can take from that image.

Mr Ferguson - That is rubbish.

Ms O'CONNOR - It is not rubbish, Mr Ferguson. If we had a prime minister who cared about the people of this country, who cared about our children and our grandchildren, one of the first things he would have done is round up his Cabinet and say, 'We're going to tackle climate change'. He cannot and he will not because he is captive to the fossil fuel industry. He is consigning future generations to hardship and misery. The people of Australia are now taking climate change very seriously.

Climate change and energy policy have toppled prime ministers in this country. This next federal election, Australians who think and care and understand what the future holds will be looking to every political party to chart a path forward for this country to make sure we have a strong climate change policy in place and to make sure we are bringing down emissions. Under the Liberals, since they started going down when we had a price on carbon, emissions have soared. What does that mean? It means the air our children and our grandchildren will breathe will have the filth in it from the policies of today, and that is on the heads of the Liberals in Canberra and the Liberals here.

Time expired.

[11.42 a.m.]

Ms BUTLER (Lyons) - Mr Deputy Speaker, I thank my colleague, the member for Lyons, Mr Shelton, for bringing on this topic for discussion. Inequality is the biggest threat to the Tasmanian economy and it is something that the Government places no significance on at all. It is all about money, the golden era and everybody doing really well. We are not talking about the bulk of the population of the electorate of Lyons who are having difficulty with rent stress and cost of living. We need to get this into perspective if we are going to talk about the Tasmanian economy.

The Tasmanian economy is doing well but it should be doing a lot better than it is. We should be kicking it out of the park, if you want to put it in layman's terms. This Government has done nothing to enhance what is going on with our economy. There has been planning reform, and Mr Brooks named that before, but no key economic reforms or economic drivers. In reality you are riding a wave of prosperity but you are not enhancing that wave. You are doing nothing to make Tasmania and our economy bigger and better. We could be doing a lot better than we are.

After 16 years in opposition the Liberal Party got into office and has not done much. With a single economic reform achievement to its name it is difficult for the Liberal Government to argue it is responsible for enhancing anything. As I said, you have done nothing to make the wave you are riding at the moment bigger.

Saul Eslake described this Government as 'simply minding the store'. That is not something from a key economist that I would take as doing a great job of managing this economy. I see that as a confirmation that you are riding a fantastic prosperity wave but you are doing nothing to enhance it.

Inequality in Tasmania will always hold our economy back. The only reason the Tasmanian economy, or that wave you are riding at the moment is doing so well is because of the Australian dollar. There is a direct correlation between the Australian dollar and the Tasmanian economy. It does not have much to do with economic drive coming from this Government.

The east coast is one of the regions most heavily reliant on tourism in the southern hemisphere and it has consistently recorded a growth rate of 9 per cent and over. I cannot say there has been much that has come from the Government other than what needs to be done, ticking the boxes, but when it comes to amenities and proper investment into the east coast of Tasmania it is sadly lacking. We know that for every one tourism job that is created on the east coast of Tasmania there are seven spin-off jobs created. We also know that the East Coast Drive, which I know that my colleague, Rene Hidding, supports as well, will only be as good as it can be until the road between Swansea and Triabunna and Bicheno to Swansea is completed and upgraded. The locals are travelling on that road at 40 kilometres per hour because they know there are potholes and really big problems -

Mr Hidding - There are no potholes on that road.

Ms BUTLER - When was the last time you drove there? Visitors are seeking an experience driving that highway and some parts of it are frankly dangerous.

Tourism is the driver for economic change for that region and this Government is not investing enough in infrastructure to support it. There is poor training, poor facilities, limited apprenticeship options for people living in those areas, poor health options, and often poor services for those people.

State Growth has made a contribution to a collaborative approach. It is a consultation of sorts to survey where there are skills shortages in the Break O'Day region and that was initiated by the Break O'Day Council. TasCOSS is also part of that collaboration and that is an important document to see where those gaps are to address that inequality, because you cannot have a thriving economy - an economy that you can kick out of the park because it is thriving - until you address the disadvantage in our communities. We know that our economy will never go gangbusters until that is addressed. I cannot see anything coming from this Government to address that inequality.

There are more Tasmanians than ever before in work, but there should be more Tasmanians than ever before in work. The problem is that there is a lack of investment into literacy so a large percentage of our population cannot keep up and compete in that economy. There are people doing very well but not everybody is doing very well. Once more, the inequality needs to be addressed. We know there are still huge problems with casualisation of our workforce, wage theft in jobs and also a lack of security for those jobs. Labor is concerned with our stagnated labour force participation rate as well.

Time expired.

Matter noted.

POLICE OFFENCES AMENDMENT (CONSORTING) BILL 2018 (No. 37)

Second Reading

[11.49 a.m.]

Mr FERGUSON (Bass - Minister for Police, Fire and Emergency Management - 2R) - Mr Deputy Speaker, I move -

That the bill now be read the second time.

The Government remains committed to ensuring that Tasmania Police has the tools it needs to combat organised crime in this state. This bill is a further addition to the suite of legislation implemented by this Government to achieve that aim. Alongside the Removal of Fortifications Act 2017, the Police Offences Amendment (Prohibited Insignia) Act 2018, the Terrorism Legislation (Miscellaneous Amendments) Act 2015 and the Community Protection (Offender Reporting) Act 2016, this bill will give Tasmania Police another essential tool to break up existing criminal gangs and hinder the expansion of national and international organised crime into Tasmania.

I recently emphasised the insidious danger organised crime presents in my second reading speech regarding the prohibited insignia legislation. The House may recall that I highlighted the 2015 Australian Crime Commission's research report on organised crime, which noted the cost of serious and organised crime in Australia to be at least $36 billion a year. That is $36 billion spent trying to fix the serious physical and mental health problems caused by gangs dealing methamphetamine; $36 billion spent dealing with the impact of crime by people who are drug addicted and forced by gangs to pay off debts; $36 billion of damage caused by professional facilitators used by organised gangs to help them retain and legitimise proceeds of crime.

The Government has discussed at length the danger presented by organised outlaw motorcycle gangs as major distributors of methamphetamine in Tasmania. The evidence for this is incontrovertible, with senior gang members in Tasmania having been charged and convicted of some of the most significant methamphetamine importations in the state's history. They are not the only groups operating in, or seeking to, gain a foothold into the state. Tasmania Police intelligence also indicates that other groups are active in the trafficking of drugs, firearms and stolen goods.

The fact that these groups are organised, hierarchal and well-funded makes them difficult to stop via traditional law enforcement methods such as with conspiracy offences, especially when targeting the heads of these organisations. The Australian Criminal Intelligence Commission notes that criminal syndicates in Australia are:

> … diverse and flexible, with high-threat organised crime groups sharing a range of common characteristics, in particular transnational connections, activities spread over several markets, and the intermingling of legitimate and criminal enterprises.

Modern consorting legislation is an important crime-fighting tool to break down the networks and fabric of organised criminal syndicates and criminal gangs. Consorting is currently an offence in Tasmania, located at section 6 of the Police Offences Act 1935. It states that a person shall not habitually consort with reputed thieves. If they do, they are liable to a term of imprisonment of up to six months.

This legislation is well past its use-by-date. Tasmania Police advise it is impractical, difficult to prosecute and has not been effectively utilised for many years. The offence punishes repeated association with people who need not have a criminal conviction but instead just have a reputation as a thief. The offence applies to everyone, no matter their relationship to the other person, so as it currently stands, a parent cannot keep company with their teenager if one of them is a reputed thief. Equally of concern is that the offence does not apply to more serious types of crime that are normally the focus of organised criminal gangs, such as extortion, firearms offences, prostitution and drug offences.

All other states have updated their consorting laws in recent years to recognise that interrupting the criminal networks that traffic drugs, firearms and even people are a much bigger concern than people who have a common reputation for stealing things. This bill recognises that times have changed since 1935 and modernises the current consorting offence.

To achieve this objective, the bill draws upon consorting legislation introduced by New South Wales in 2012. New South Wales was deliberately chosen by our Government because that law has been tested by the High Court. In 2014 the High Court found that the offence was constitutional, noting it was 'reasonably appropriate and adapted' to serve the legitimate end of the prevention of

crime in a manner compatible with the maintenance of the constitutionally prescribed system of representative government.

The New South Wales model currently prohibits any person over the age of 10 years from consorting with a person convicted of an indictable offence once they have been given an official warning by a police officer that they are not to consort with that person. Warning notices can be done orally or in writing and have no set time limit or expiry date.

It is important to note that the New South Wales legislation was thoroughly examined by the New South Wales Ombudsman in 2016. The Ombudsman did not recommend repealing the offence but did make a number of recommendations for improvement which have been recognised in the drafting of this bill. Certain suggestions obtained from the public consultation undertaken by Tasmania Police have also been incorporated into the bill. In this regard the bill has a number of additional safeguards that are not found in the legislation of other states. I will now turn to the specifics of the bill and those differences.

To ensure that the aims of this bill are clear, an objective has been inserted into the bill. The bill states the objective of the consorting offence is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks. Such pre-emptive crime prevention laws are no longer a novel concept. The New South Wales Ombudsman review noted that laws that limit associations between people to prevent future wrongdoing already exist, including apprehended violence orders and laws providing for the continued detention of high-risk offenders. In the Tasmanian context, we can include police-issued family violence orders and orders issued by parole and probation officers to this list.

Clause 5 of the bill replaces the current consorting offence. The new offence states that a convicted offender must not habitually consort with another convicted offender within five years after having been given an official warning notice in relation to the other convicted offender. A convicted offender is a person aged 18 years or older who has been convicted of a serious offence.

It is important to note that this new offence will not apply to children. Unlike New South Wales, there is also a five-year time limit on the warnings, which recognises the importance of balancing crime prevention against the potential for people to eventually reform. These changes were adopted from the recommendations of the NSW Ombudsman.

The bill also recognises that organised criminal gangs are not just reputed thieves but people who commit crimes as well as a common range of serious summary offences, so the bill defines a serious offence as any indictable offence or any breach of:

- the Firearms Act 1996;
- the Misuse Of Drugs Act 2001;
- the Sex Industry Offences Act 2005;
- Part 8 of the Classification (Publications, Films and Computer Games) Enforcement Act 1995; or
- any offence from another jurisdiction that if it occurred in Tasmania would have been a breach of one of those acts.

Consequently, the provisions cannot be used to prevent associations between persons never convicted of an offence, or persons convicted of offences that fall below this threshold.

One of the concerns with the current consorting offence is that a person does not have to know the person they are associating with is a reputed thief. The new offence addresses this by adopting aspects of the New South Wales warning system. A convicted offender cannot be charged with consorting unless they have already been issued with an official written warning notice from a police officer. However, official warning notices can only be authorised by a commissioned police officer, and a commissioned police officer can only authorise the notice if they are satisfied that issuing the notice will further the objective of preventing serious criminal activity by deterring the person from establishing, maintaining or expanding criminal networks. Thus, this bill allows police to do what they do best every day and exercise their professional judgment about whether certain behaviours are reaching a level that should be addressed by a consorting warning notice.

Whilst giving police the discretion they need to do their job, it is important that safeguards are in place to protect vulnerable groups and people. Consequently, the bill also allows for a number of reviews of warning notices. In the first instance, a convicted offender who is issued a warning notice may make an appeal to a more senior commissioned police officer that it does not meet the threshold set by the legislation. That senior officer must review the decision and then uphold or revoke the notice.

As warning notices are administrative decisions of individual members of Tasmania Police, albeit very senior members, issued to individual persons, the Government has inserted a further review mechanism. This approach is consistent with the organised criminal groups legislation position paper that was circulated for public consultation.

Unlike most of the other states, this bill allows for a further review to the Magistrates Court. A convicted offender who is unsuccessful in their appeal to a senior commissioned police officer may then make an application to the Magistrates Court for a further review of the original decision. Such appeals will be determined under the Magistrates Court (Administrative Appeals Division) Act 2001.

To ensure that confidential criminal intelligence is protected, the bill also mirrors the provisions found in the Firearms Act 1996, the Sex Industry Act 2005, the Registration to Work with Vulnerable People Act 2013, and the Security and Investigations Agents Act 2002, all of which prevent criminal intelligence from being disclosed as part of the review.

Consorting is not defined in the bill as it is already well defined by the High Court and is a case-specific test best left to the courts. However, it should be noted that the mere fact a convicted offender meets another convicted offender after having been served with a warning notice is still not enough to satisfy a charge of consorting. In a small state it is easy to meet another person by coincidence in the street or at a coffee shop. It is not the intention of this bill to criminalise encounters where a convicted offender is not mixing in a criminal milieu or utilising, creating or building up criminal networks. The High Court has held that 'consorting' means 'associates or keeps company' and 'denotes some seeking or acceptance of the association on the part of the defendant'. Mere coincidental meetings are not enough; it must be habitual and sought out. To ensure that this is clear, the bill includes a clause that for habitual consorting to occur, the consorting must occur on at least two occasions within the five-year period after having been served a warning notice.

It is not the intent of the Government to criminalise everyday innocent relationships. The bill takes account of exemptions from other jurisdictions and adds additional exemptions which may be raised as a defence to consorting. These defences include:

- consorting with family members;
- consorting in the course of lawful employment;
- consorting for training and education purposes;
- consorting for the provision of health or legal services; or
- consorting in the context of lawful custody or complying with a court, probation or parole order.

These defences will also apply for convicted offenders who are utilising these services for their dependents. For these defences to be made out, they must be shown to be reasonable in the circumstances. What may be reasonable in a major metropolitan area may not be reasonable in other situations. This bill gives the courts the flexibility to decide on a case-by-case basis if the exemption is a reasonable one.

Finally, the bill takes into account all the technological changes that have occurred since 1935 when the offence was first created. The offence has been extended to include consorting by electronic or other forms of communication. Cheaper and more advanced technology continues to provide organised criminals gangs with a diverse range of resources to conduct their activities and impede law enforcement investigations. These provisions will ensure that criminal networks established through Facebook, Twitter or SMS messaging will not be immune from these provisions.

The Department of Police, Fire and Emergency Management will conduct a future assessment of the effectiveness and practicality of the legislation with a view to determining if its reach should be increased at a later date.

Mr Deputy Speaker, this bill sends a strong signal to organised criminal groups in Tasmania, or those thinking to expand their networks into our state, that their activities will not be tolerated. This bill is constitutionally robust, fair, efficient and effective.

I commend the bill to the House.

[12.04 p.m.]

Dr BROAD (Braddon) - Mr Deputy Speaker, I rise to give Labor's position of the Police Offences Amendment (Consorting) Bill 2018. We will be requiring a Committee process to discuss some amendments and we hope that my comments and those of the member for Denison, Ms Haddad, will be taken in the way they are intended and that we can have a good discussion about improvements to this bill.

The time frame we have given to consider the written legislation has been too short. A bill of such seriousness needs serious consideration. This bill was tabled on Tuesday and is being debated today. We think it is a much better process for us to be given time to consider the written legislation as it is so we have the ability to draft amendments and consult with stakeholders.

I note there was no consultation with stakeholders about the content of the written bill and that is not good enough in this instance because this bill is of a very serious nature and stakeholders should be given an opportunity to consider the bill in its written form.

I know the minister will use the position paper that was presented much earlier in the year as a defence to that lack of consultation. However, a position paper is one thing and seeing the bill as written is another. Significant stakeholders and those who are potentially affected by this bill should have the opportunity to consult and review the bill and potentially propose amendments. The number of days given has not been long enough for this to occur.

In the discussion of the Police Offences Act amendments regarding insignia the minister did describe - almost a back-handed compliment - how Labor managed to get its position on the insignia bill out into the media and to frame up the reasons for our position on that paper. The way this has been rolled out has limited the opportunity for us to get our position out in the media and that seems like it is part of the strategy in bringing on this bill; tabling it on Tuesday and debating it on Thursday. The seriousness of this bill should have seen a longer period of consultation.

I will go through the minister's second reading speech and I believe there are some inaccuracies in this speech. I will also go through what has happened in other jurisdictions and have an especially long look at what happens in New South Wales, including the review of the legislation in the New South Wales. This has informed Labor's position and has informed the amendments we will be proposing in the committee stage.

This bill is to create a new offence of consorting or update the offence of consorting. As the minister has highlighted here, the old offence of consorting is not fit for purpose any more and it needs updating. As the minister has outlined in his second reading speech, if applied it could have very bad consequences. It has been characterised largely as targeting outlaw motorcycle gangs and the element of organised crime around motorcycle gangs. However, this could apply to anyone.

In our briefing with the police, which was gratefully received and I thank them for that, the way this bill is drafted means this could apply to offences such as organised shoplifting.

As stated, the bill is targeting organised crime gangs and high-level offences such as extortion, firearms offences, prostitution and drug offences.

The minister went on to say that all other states have updated their consorting laws in recent years to recognise the interrupting of criminal networks if they traffic drugs, firearms, and even people. I do not believe that is accurate. From what I understand, Western Australia does not have a consorting law. I do not think the ACT has anything, although the ACT is not a state, so that is not accurate. Also the way the consorting laws operate in other states can be very different from what is proposed here.

This bill draws largely upon the New South Wales bill introduced in 2012. The New South Wales legislation was thoroughly examined by the New South Wales ombudsman in 2016. The ombudsman did not recommend repealing the offence of consorting but the ombudsman did make a number of recommendations for improvement, which have been recognised in the drafting of this bill. However, not all the recommendations of the ombudsman have been recognised in the drafting of this bill. This is where we are proposing our amendments.

The aims of the bill are pretty clear in terms of the objective of the division which is, 20B Object of Division III. We draw some comfort that there is an object in this bill which can give magistrates or inspectors, and people issuing consorting orders:

> The object of this Division is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks.

We draw some comfort from that. It is something that is not contained in the New South Wales bill and I throw a bouquet to the drafters of this bill for including that object. It was mentioned in the New South Wales ombudsman's review but I am not sure if it has been adopted. That is a significant improvement on the consorting legislation in other states and is very valuable and will be reflected on by inspectors or senior police in reviewing an inspector's decision and, indeed, the Magistrates Court.

However, there is another issue with this bill in that the minister has stated that this bill applies to a convicted offender, a person over 18 years of age who has been convicted of a serious offence. A serious offence in people's minds may be something that is tried by indictment and everything tried by an indictment is a serious offence. However the issue in the drafting of this bill is that a 'serious offence' is also defined upfront, in proposed section 20A, as being:

> (a) an indictable offence, whether the offence is tried on indictment or summarily;

In effect, that brings in any criminal offence. Pretty much any criminal offence can be upgraded to an indictable offence and that is a catch-all, which means the majority of crimes in Tasmania could potentially apply as a serious offence. We draw some comfort from the object of this division being to prevent serious criminal activity from deterring convicted offenders from establishing and maintaining and expanding criminal networks, but the idea that it only applies to a serious offence, in what I believe would be the public's understanding of a serious offence, is a little bit different in that it can bring in pretty much anything.

The bill also defines a serious offence as any indictable offence or any breach of an offence under the Firearms Act 1996; the Misuse of Drugs Act 2001; the Sex Industry Offences Act 2005; and the Classification (Publications, Films and Computer Games) Enforcement Act 1995; or this other catch-all, any offence from other jurisdictions that if occurred in Tasmania, would be a breach of one of those acts.

I do not have a problem with any of that; it is just that there is an issue there with the definition of 'serious offence' and, we draw some comfort from the object of the bill being inserted. However that is potentially an issue down the track.

As it says here:

> Consequentially the provisions cannot be used to prevent associations between persons never convicted of an offence or -

And, this is the bit:

> … or persons convicted of offences that fall below that threshold.

The threshold, because of the way that first definition 'a serious offence' is defined that could potentially draw in things that are quite a low bar.

There are some improvements to this bill from other jurisdictions. Official warning notices can only be authorised by a commissioned police officer and it has to be a written warning. A consorting notice has to be delivered in person. That is an improvement.

I will go through other jurisdictions in a bit more detail but it could be a verbal warning from a beat cop in effect. As we have seen from examples from New South Wales, it can be resolved by people being targeted with consorting legislation that the original intent of the bill was not supposed to apply to. Having a commissioned police officer make that decision and having to receive a report from another police officer is an improvement on other jurisdictions.

Other protections have been put in place: the addition of a review of a senior police officer and also the review of the Magistrates Court. All through the insignia bill we were calling for judicial review. We know there are judicial reviews in other legislation. It is a shame we did not have the ability to convince the Government that it was a good idea to also insert a judicial review into the insignia bill. It is something that we strive for and it meant that we could not support the insignia bill because it did not have a judicial review.

This does have a judicial review; however, we will be seeking through the Committee process some clarifications about the operation of the judicial review. We need to clarify how it will operate. Will it be a simple review of the decision? Did the police officer have the correct information before them to make that decision? Will there be an opportunity for a defendant to mount a defence?

We understand that criminal intelligence is protected. In the second reading speech the minister said that this bill also mirrors the provisions around the Firearms Act, the Sex Industry Act, the Registration of Work with Vulnerable People Act, Security Investigations Act, et cetera. However, the way that it operates is by striking out provisions from the Magistrates Court.

The acts governing the operations of other magistrates' courts get very specific and discusses things that the magistrates' court may or may not consider and describes the release of information. Rather than striking out provisions, we want to be assured that the striking out of those provisions does not have any unintended consequence in the ability of a defendant to mount a defence. We understand that there is criminal intelligence and information that should not be shared and become public. People whose information, such as informants, and people who could be potentially threatened and harmed if their evidence came to light, should be protected. We do understand that; however, we want to be assured that a defendant will have a chance to mount a defence against the consorting order.

The intention of this bill is to criminalise encounters where convicted offenders are not mixing. The High Court upheld the challenge of the New South Wales legislation. We also have a discussion of a High Court definition of consorting. That is why consorting is not defined in the legislation. We do not have a problem with that.

Consorting must occur on at least two occasions within a five-year period after having been served a warning notice. We could debate whether five years is too long a period but maybe it is an issue that the upper House may consider. However, we would like to consider some of the

exemptions which have come from other jurisdictions. I will go through what other states do and highlight the additional exemptions that we would like.

At the moment the exemptions include consorting with family members, consorting for lawful employment, training education purposes or obtaining health or legal services, whether you are in custody and so on. We think that the definition of 'family' as it stands in this bill is too narrow. Also, some of the occasions where people may consort, not for a criminal purpose but another purpose, should be amended to reflect issues that were raised in other jurisdictions. That is an outline of where I am trying to go to in this discussion.

I turn to the position paper that was put out by the Government earlier on in the year which forms the basis for the legislation as drafted. As I highlighted, it would have been far better if after this process, that stakeholders and people who made representations, were presented with the draft bill so they could comment. That is not going to happen now. In the position paper on page 15, it says -

> In 2012, when New South Wales updated their consorting legislation, the Parliament required the Ombudsman to prepare a report into the new law after three years.

The report made 20 recommendations for improvement but did not recommend that consorting legislation should be repealed. They made a series of recommendations, some of which are discussed in this position paper. It does not discuss all of the recommendations but it makes reference to the defence of consorting with family members be extended to kinship relationships between Aboriginal people. That was one of the recommendations from the Ombudsman's report. It is not contained in this Police Offences Amendment (Consorting) Bill. It did not talk about some of the issues that came out of the consorting laws in the way that it was applied.

The consorting law report on the operation of part 3A Division 7 of the Crimes Act 1900, which was prepared by the New South Wales Ombudsman in April 2016. There were a lot of submissions received. I note that in the second reading speech the minister stated -

> that the department of Police, Fire and Emergency Management will conduct a future assessment of the effectiveness and practicality of the legislation with a view to determining if its reach should be increased at a later date.

Our position is that like the New South Wales legislation, that should stand as part of the bill. I will return to that.

Public concerns about the operation of the consorting laws, page 2 of the New South Wales Ombudsman Report -

> Consorting is a controversial offence as it involves the criminalisation of social interactions between people, who may be otherwise unconnected with a criminal activity. The object of the offence is to allow police to intervene in an attempt to prevent future offending.

It highlights that the validity of the new consorting law was subject to a constitutional challenge and that was upheld. Three of the High Court justices noted that the desirability of consorting provisions such as this is not relevant to the task before the court. The High Court's assessment was

limited to determining whether it was valid in light of the implied rights protected in the constitution. It was a relatively narrow challenge and it failed.

The use of the consorting law is the main point I will get to. The Ombudsman's report examined the use of the consorting laws by the New South Wales police. This report is split into two. It discusses the consorting law as applied by specialised squads, particularly the gang squad in New South Wales. From my reading, it was generally well applied to the specialist squads. However, there were issues when it was used by general duties police. The majority of the use of general duties police at local area commands was concentrated in Sydney metropolitan areas with pockets of significant use in western New South Wales.

One of the issues is: who was targeted by police? Demographic analysis of the consorting data revealed high use of the consorting law in relation to Aboriginal people. Overall 44 per cent of people targeted by general duties officers were Aboriginal compared to 13 per cent of those targeted by specialist squads.

The proportion of women, children and young people subject to the use of consorting law who were Aboriginal was especially high, with half of them adult women and 60 per cent of children and young people identified as Aboriginal.

This highlights why we need a review, because without this Ombudsman's review there would not have been the impetus to change the original bill and make some improvements, although not everything has been adopted.

The Ombudsman also identified clusters of use by general duties police officers in relation to people experiencing homelessness. In one Sydney metropolitan area we were advised by a community service provider that people were no longer attending their support services for fear of being further targeted. That was improved in New South Wales by extending the scope of the exemptions and that has been carried over to this legislation, which is a good thing. However, an issue raised with us was that the use of the consorting law in relation to certain disadvantaged and vulnerable groups demonstrates the breadth of circumstances in which the consorting law may be applied and illustrates some negative consequences that may arise from this operation. Towards the end, before this Ombudsman's recommendation, it was starting to be used increasingly to target minor crimes such as vagrancy and so on, which disproportionately targeted homeless people, especially around train stations.

This is from the Ombudsman's report again:

> … criminological research law enforcement experience indicates that organised crime groups are adaptable and are likely to respond to successful law enforcement strategies by altering their methods. It follows that members and associates of high risk OMCGs, for example, may change the way they associate or communicate with each other in response to the Gangs Squad's use of the consorting law. In acknowledging this adaptability, as well as the potential risks associated with inappropriate but lawful use identified in this report and the lack of quantative evidence to enable the evaluation of crime prevention outcomes linked to the use of the consorting law, we recommend a further independent review of the operation of the consorting law be conducted in the future. This should occur where normal use of the law has been established and implementation of any of the recommendations made in this report has occurred.

This is why we believe that a periodic review should stand as part of the bill. Number one is to see if the bill is being applied as it is intended and that it is targeting what the public would consider serious offences. On the flip side, is it effective in stifling criminal activities or does the bill need to be strengthened down the track? We believe there should be a review built into this legislation, as was done in the source legislation that came from New South Wales.

I will go into more detail about what is done in other states. How am I going for time, Mr Deputy Speaker?

Mr DEPUTY SPEAKER - You have another 13 minutes.

Mr Ferguson - If the member wants more time, I want to hear everything he has to say and we would move to extend his time if necessary.

Dr BROAD - That is much appreciated, minister, thank you. I will slow down.

Mr Ferguson - I want to hear every one of your arguments so we do not water it down.

Dr BROAD - We are not intending to water it down, minister. We are not picking things out of the air. We simply want to strengthen the bill to reflect the Ombudsman's report and the way that this legislation operates in other states. In saying that we recognise the significant improvements the drafters have made in this bill when compared to other states. Our intention is to be constructive and improve the bill.

A review done by the New South Wales parliament said that:

> Often the stated aims of governments when introducing such laws has been to target the activities of motorcycle clubs (sometimes referred to as 'outlaw motorcycle gangs'). However, the legislation itself almost never refers specifically to such organisations and usually applies generally to any person or group that can be shown to meet the definitions of terms employed in the respective Acts, such as 'criminal organisation' ...

When it is played out in the media it is discussed as targeting specifically outlaw motorcycle gangs, but it applies to everybody holus-bolus. Although the public may get the perception this is targeted at bikies, it is not; it is targeted at significant organised crime.

As the minister has stated, in Tasmania we have a consorting offence in the Police Offences Act 1935 that in section 6 says, 'A person shall not habitually consort with reputed thieves'. Defining 'reputed thieves' is problematic. It also says:

> A person shall not be convicted of an offence against this section if he proves to the satisfaction of the court that he has sufficient lawful means of support and that he had good and sufficient reasons for consorting with the persons with whom he is charged with having consorted.

This is the ancient language of legislation, talking about 'sufficient lawful means of support'. That might have meant, from what I gather from the member for Bass, Ms O'Byrne, something along the lines of you had to have 30 cents in your pocket or some arcane definition of 'lawful means of support'. The other section was, 'No proceedings under this section shall be taken by any

person other than a police officer'. It is very loose and part of this bill is to strike out that provision, which is not a bad thing.

This legislation draws very largely on that of New South Wales. The offence of consorting in the New South Wales legislation is focused on consorting with convicted offenders and this is defined to someone who has been convicted of an indictable offence. In 2012, the New South Wales government passed the Crimes Amendment (Consorting and Organised Crimes) Act which amended the Crimes Act 1900, creating the offence of consorting, so obviously they had some updating to do.

Going through some of the definitions of the act, 'consort' in New South Wales means 'to consort in person or by any other means, including by electronic or other forms of communication'. That brings in some of the issues the minister talked about in his second reading. A 'convicted offender' means 'a person who has been convicted of an indictable offence, discarding any offence under section 93X'. I do not know section 93X but this sets the bar at an indictable offence, which is a little different to what is defined in Tasmania in that a 'serious offence' means 'an indictable offence, whether the offence is tried on indictment or summarily'. That is the difference. They set the bar in New South Wales at an indictable offence. I am not sure if that is the updated bill. The other thing is that a person needs to habitually consort with convicted offenders or consort with those convicted offenders after having been given an official warning in relation to each of those convicted offenders. The maximum penalty is three years or a fine of 150 penalty points or both.

It says that a convicted offender does not habitually consort with another convicted offender unless they consort with at least two convicted offenders, whether at the same time or on separate occasions or the person consorts with a convicted offender on at least two occasions. An official warning is given by a police officer orally or in writing. In New South Wales it could be orally or in writing and has to be done by a police officer. One thing this bill proposes to do is make the consorting an offence between two convicted offenders. In other jurisdictions it could be one convicted offender and it might be a crime for somebody who has no convictions to consort with a convicted offender.

In Tasmania it is proposed it is going to be an offence between two convicted individuals and that consorting notice must specify those two individuals. That is also an improvement. It is also an improvement that it has to be done in a more formal manner through an inspector or above and not done by a police officer on the beat. That is an improvement on what is done in New South Wales.

In New South Wales there is a defence. Their legislation says the following forms of consorting are to be disregarded for the purposes of section 93X:

(a) consorting with family members,

I note here that 'family members' is not defined. In the legislation we are discussing, 'family members' is defined and we believe that definition is too narrow.

(b) consorting that occurs in the course of lawful employment or lawful operation of a business,

(c) consorting that occurs in the course of training or education,

(d) consorting that occurs in the course of the provision of a health service,

(e) consorting that occurs in the course of the provision of legal advice,

(f) consorting that occurs in lawful custody or in the course of complying with a court order.

The important bit was this stands as part of the original bill, part 29 of the act, section 71, the report by Ombudsman on the consorting offence. This is the bit that spells out the Ombudsman's review which stood part of the original 2012 bill and when the ombudsman did that review, recommended that that review be periodic and ongoing.

(1) As soon as practicable after the end of the period of 2 years from the commencement of Division 7 of Part 3A … the Ombudsman must prepare a report on the operation of that Division.

(2) For that purpose, the Commissioner of Police is to ensure that the Ombudsman is provided with information about any prosecutions brought under section 93X.

(3) The Ombudsman may at any time require the Commissioner of Police, or any public authority, to provide any information or further information the Ombudsman requires for the purposes of preparing the report under this clause.

(4) The Ombudsman must furnish a copy of the report to the Attorney General and to the Commissioner of Police.

(5) The Attorney General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Attorney General receives the report.

(6) If a House of Parliament is not sitting when the Attorney General seeks to lay a report before it, the Attorney General may present copies of the report to the Clerk of the House concerned.

(7) The report:

(a) is, on presentation and for all purposes, taken to have been laid before the House, and

(b) may be printed by authority of the Clerk of the House, and

(c) if so printed, is for all purposes is taken to be a document published by or under the authority of the House, and

(d) is to be recorded:

(i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and

(ii) in the case of the Legislative Assembly, in the Votes and Proceedings of Legislative Assembly,

on the first sitting day of the House after receipt of the report by the Clerk.

The effect of that particular part of the New South Wales legislation which does not stand as part of this was that it highlighted issues with the operation of the legislation which resulted in improvements. Some of those improvements have been carried over into the Tasmanian Government's draft of the consorting bill. However, not all of them have been adopted.

One of the amendments that we will be putting forward today in committee is to insert that provision into this bill. We will circulate that amendment as soon as we finalise it, understanding that we have only had a couple of days. We have been trying to get that drafting done in the absence of having specific legislative drafting services available, especially at such short notice.

What has happened in Queensland? Queensland also has a consorting offence within its criminal code from 1899. The Criminal Act 1899 specifies consorting. In the definitions, conviction means a finding of guilt, or the acceptance of guilty plea by a court. A recognised offender means an adult who has a recorded conviction, other than a spent conviction, for a relevant offence.

A relevant offence means an indictable offence for which the maximum penalty is at least five years imprisonment including an offence against a repealed provision of an act, or an offence against - and it goes to list a whole bunch of codes relevant to the criminal code. I have not had time to search through them because there are 15 of them. It spells out precisely which areas of the code you can be in trouble for consorting. It also brings in the following provisions of the Weapons Act 1990, and it talks about the catch-all, an offence against the law of any state or Commonwealth or a place outside Australia that if the offence had been committed in Queensland it would be a relevant offence under the previous paragraphs I have described.

Then it goes on to say an offence against any of the following provisions - a criminal code of the Commonwealth, so that brings in a lot of crimes that you can potentially be pinged for consorting. The meaning of 'consort' is defined in Queensland: 'a person consorts with another person if the person associates with the other person in a way that involves seeking out, or accepting, the other person's company'.

The person's association with another person need not have a purpose related to criminal activity. In Queensland it could be the case where you are catching up for an ice cream and because you are convicted of offences you could potentially be consorting, then you can get into trouble. We did see some things in Queensland where this law was used perhaps inappropriately, but I do draw some comfort from the drafting of this bill, particularly the object of the division. Obviously getting an ice cream together would not be a serious criminal activity to deter criminal offenders from establishing, maintaining and expanding criminal networks; however you can do that in Queensland.

It goes on to talk about habitually consorting with recognised offenders, so a person commits a misdemeanour if a person habitually consorts with at least two recognised offenders, whether together or separately at least one occasion on which a person consorts with each recognised offender, mentioned in paragraph (a) happens to be the person given an official warning of consorting in relation to the offender. Again the maximum penalty is 300 penalty points or three years' imprisonment which, I think, is exactly the same as New South Wales.

There are some defences: a person does not habitually consort with a recognised offender unless the person consorts with the offender on at least two occasions. This section does not apply

to a child. Now, there are some protections similar to what is proposed in this bill. In section 77C of the Queensland act, particular acts of consorting are to be disregarded, for example:

> (1)(a) consorting with a recognised offender who is a close family member of the person;

Again, they have just said here 'close family member'. They have not gone down the definitions road.

> (1)(b) consorting with a recognised offender while the person is:
>
> (i) genuinely conducting a lawful business or genuinely engaging in lawful employment or a lawful occupation; or
>
> (ii) genuinely receiving education or training at an educational institution; or
>
> (iii) genuinely obtaining education or training at an educational institution for a dependent child of the person; or
>
> (iv) receiving a health service; or
>
> (v) obtaining a health service for a dependent child of the person; or
>
> (vi) obtaining legal services; or
>
> (vii) complying with a court order; or
>
> (viii) being detained in lawful custody.

This says a 'close family member', whereas in the Tasmanian legislation it was defined as a 'family member'. In New South Wales, it was stated as being a 'family member' and not defined.

> 'Family member' in this bill is defined as a spouse of the defendant; if the defendant is in a significant relationship with a person; a child of the defendant, a parent of the defendant; a sibling of the defendant; a relative, or step-relative, of the defendant, who lives with the defendant.

That is a rather narrow definition of family. New South Wales defines it as 'a family member'; Queensland defines it as 'a close family member'. In Queensland they have this defence: 'Proof that the consorting was reasonable in the circumstances lies on the person', so it is up to the defendant to establish.

Mr DEPUTY SPEAKER - Order, Dr Broad. I need to indicate that your time has expired. The minister has indicated that you can have extra time. I need to put a question that your time be extended by a certain amount.

Mr FERGUSON - Mr Deputy Speaker, I move -

> That the House give leave to Dr Broad to continue his contribution until 1 p.m.

Speaking briefly to that motion, I want to say it is all interesting, but my purpose and that of the Government moving this way to give that extra time is to listen to the arguments around this bill. We are less concerned with legislation in other states being read into *Hansard*. This is quite an exceptional thing to do, and we are doing this in order to get the arguments out on this legislation, which is my purpose in moving this motion.

Leave granted.

Dr BROAD - Thank you, Mr Deputy Speaker, and thank you, minister.

A close family member is defined in Queensland and this is along the lines of where our amendment will lie.

> A close family member in Queensland means the spouse of the person; someone with whom the person shares parental responsibilities for a child; a parent or step-parent; a child of the person; a grandparent or a step-grandparent of the person; a grandchild or a step-grandchild of the person' a brother, sister, stepbrother or stepsister of the person; an aunt or uncle of the person; a niece or nephew of the person; a first cousin of the person; a brother-in-law, sister-in-law, parent-in-law, son-in-law or daughter-in-law of the person.

That is a more broad definition of what a family member is, rather than the relatively narrow definition of a family member as stands part of this bill at the moment.

There is another important consideration which has been highlighted by the member for Bass, Ms Houston. That is the other consideration that a person who, under Aboriginal tradition, is regarded as a person mentioned in paragraph (a). Under Aboriginal tradition the family associations are more general than the strict European interpretation of family membership. Ms Houston will give that perspective to consider that the definition, as it stands and drafted in this bill, is too narrow and does not take into account the perspective of Aboriginal tradition or Aboriginal understandings of family. It also talks about a dependent child. That is the reason for giving a long-winded explanation of what is done in other states.

Going through the amendments that we would like, we are talking about inserting the periodic review as outlined in the New South Wales legislation and recommended for continuance in New South Wales law. The reasons for wanting a review were those outlined by the New South Wales Ombudsman. We will also seek to expand the definition of family member along the lines of the way that Queensland defines it. We would like to respectfully take into account the opinions of the Aboriginal community and their ideas and understanding of the family unit.

Victoria has a slightly different approach. It dealt with the consorting through a vagrancy act. That does not add anything to the debate where we are going with our amendments.

The South Australian Government passed the Statutes Amendment (Serious and Organised Crime) Act 2012 which created a new offence of consorting within the Summary Offences Act 1953. It talks about a maximum penalty of two years but not a fine. The provisions for other events are much the same as here.

Western Australia does not appear to have a generic consorting offence. However, it does have offences for consorting specific to drug traffickers and child sex offenders. The place where they

go in Western Australia for consorting is for drug offenders and child sex offenders. What is being proposed in this state and what is in effect in other states is broader than that.

The defence includes the words such as 'it is a defence to the charge under subsection (2)', which is about consorting,' if the accused person was a de facto child of a lineal relative for those terms as defined in another section'. They are talking about lineal relatives, so again that is a lineal relative. Is that more defined?

Mr Ferguson - Sounds like it might capture your great-grandfather.

Dr BROAD - If you are lucky enough to have your great-grandfather still being alive, then that would be a good thing.

The Northern Territory has some interesting acts in general. This consorting between known offenders picks up all sorts of issues that are more associated with vagrancy, which is not of any benefit to what stands part of this bill. It talks about any person who wanders abroad, or from house to house, or places himself in any public place, street, highway, court, or passage, in order to beg or gather alms, or encourages children to do so, et cetera.

We will hopefully talk in the Committee stage about inserting a periodic review.

We will be trying to widen the definition of family member. Also, in some circumstances people may consort not for criminal reasons but for justifiable reasons, which are not captured in the way that this bill is drafted. That concerns significant cultural or family events and significant Aboriginal cultural events as well, which the member for Bass, Ms Houston, will discuss at some length.

However, we also will be asking a series of questions in the committee stage to elicit some more information about the operations of the magistrates' side of the review process. We are seeking assurance that the defendant will have the opportunity to defend themselves, to present evidence that the consorting was lawful or that the consorting order is unreasonable.

I thank the police again for the briefing. For the minister's benefit, we outlined our proposed amendments to the police in that briefing. The Assistant Commissioner and the Inspector indicated that they were generally supportive of those amendments. We believe that our amendments do not take away from the intent of the bill. I believe that amendments we are proposing do not water down the bill. We think the amendments we are proposing will improve the function of the bill over time. It will ensure that 'that the object of this division is met in that it is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks' and that it is applied to the serious criminal offences and not relatively minor offences which would otherwise not be the intent of the bill.

That is the aim of our amendments. We hope they are taken in good faith and that we have a good debate in the committee stage and the amendments are supported.

Mr Ferguson - I ask you to commit that you will circulate the amendments during lunch.

Dr BROAD - Yes, we will do it as soon as we get them. Thank you very much.

[12.55 p.m.]

Dr WOODRUFF (Franklin) - Mr Deputy Speaker, this is a complex bill that selectively applies elements of the Magistrates Court and the Administrative Appeals Division Act 2001. I want to put on the record how outraged we are at the complete arrogance of this Government in giving the parliament two days to treat such a serious matter. It is very clear this bill was never designed to get the support of the Greens and the Labor Party because it has been impossible for us to have conversations with stakeholders about the concerns they have raised. It has also been impossible for stakeholders to have time to look at the detail of the bill and make their comments.

I thank the police, including the police officers from New South Wales who flew down and gave me a briefing yesterday, which I was lucky enough to be able to fit in although I had to cancel something else I had, given it was the only time it was offered to me. I thank the police for going through the details in the bill and answering all the questions I asked.

Let us be clear that this was never brought on in a manner designed to get our support. I expect the minister already has a media release drafted ready to push out as soon as possible to make clear the position of the Greens and the Labor Party on this matter, because this is all about continuing a 'tough on crime' mantra. The minister had a piece in the *Mercury* today talking up their 'tough on crime' policy. It is quite clear that this serious issue the police are grappling with and Tasmania is seeking to manage is not being treated seriously by this Liberal Government. If it were, we would have had time to attend to the complexity of the issues this bill raises.

Parliamentary processes matter and elements of this bill deal directly with freedom of association and the court's ability to review decisions that have been made. These trample on long-held aspects of the democratic Westminster tradition of our state that we live in and the way we choose to live as people, and there may be reason for doing that. We already remove people's freedom of speech and association in prescribed situations but we always do it with great care, great caution and with as many checks and balances as are needed. That is exactly what we have not had time to pay attention to on this serious matter.

It is clear this has been a bad-faith process and shame on the minister and the Liberal Government for treating it like this because it is a serious issue. It is obvious to me, and I hope to other people watching, that they should have actively been trying to seek the support of all parties on this serious matter. It is clearly impossible to make an informed decision about the concerns stakeholders have raised when they have not themselves had time to properly treat the detail of the bill.

I understand that the police feel the minister has already provided stakeholders with the contents of the bill, but a consultation draft is not the same thing as a tabled bill. It is not the same thing when you have key stakeholders being the Tasmanian Bar, the Lawyers Alliance, the Civil Liberties Council and other groups. It is false to say it is and disrespectful to pretend that it is.

We are deeply unhappy at the minister's treatment, arrogance and, frankly, laziness on this matter. It is not the way you do business.

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

Resumed from above.

Dr WOODRUFF (Franklin) - Madam Speaker, the minister was encouraging me to get onto the substance of concerns. It seems he was not comfortable hearing the first and serious concern we had which is about the failure to consult properly with the Labor Party and the Greens in trying to achieve tripartisan support for this bill.

I thank the police for the work they have put into this. It reflects badly on the minister that his staff, the police and all the other people involved have put so much effort into this bill and he is using it as a political football.

There are a number of issues I want to identify and I will flag now that we have moved amendments to the things I am raising. The Greens have done the work in the past two days to attempt to draft amendments to the very serious concerns stakeholders have raised about aspects of this bill. This is despite the fact we have no support from the parliamentary drafters and a very small team. I thank the staff involved, particularly Thomas - he knows his skills - for the very masterful way we have been able to prepare amendments at such short notice on such a serious matter. We will be discussing those amendments in detail in the Committee stage for this bill. I understand the Labor Party has amendments as well and we will look at those.

In summary, we consider the scope of the offences covered under this bill is far too broad. The scope of serious offences includes all indictable offences, whether the offence would be tried on indictment or summarily as well as a range of other things which are identified in the act that are covered under the Firearms Act, the Misuse of Drugs Act, the Sex Industry Offences Act, the Classification (Publications, Films and Computer Games) Enforcement Act and other offences listed in the definitional section. A more specific list of offences should have been provided for in a schedule. We do not have the resources to draft such an amendment, although that could have been done. In the time provided we were not able to do that.

We are concerned there is no time limit on when an offence has occurred for a convicted offender. That is unreasonable and there are issues about the age the person was when they were convicted of an offence. We are concerned about previous offences which might have happened in a person's life that perhaps happened when they were under the age of 18. It could be decades later and because of the range and scope of the offences covered by this bill, and the failure to pick up on either the time past for the offence having occurred or the age of the person, whether they were a youth at the time, we are very concerned by both of those facts.

The five year operation of the order not to consort also seems excessive. That was raised by a number of stakeholders. I recognise points made by the police who provided the briefing that other states have longer than a five year period for an order; some do not have a time limit. The fact that other states have far lower bars in this matter is not a reason to take five years as the appropriate time. It would appear that nothing would stop an order being reissued on the expiration of the order. In other words there is nothing in the bill which discusses when an order expires whether it could or could not immediately be reissued. On that basis, we believe a shorter time frame is reasonable. That would enable a process to be formally undertaken and potentially the process could be questioned or appealed if that is believed to be unreasonable.

We also have concerns that provisions around protecting intelligence are too broad. It is clear and essential that the intelligence of the manner in which surveillance is conducted, the processes around the operations of the police, any factors that might put at personal risk a witness or that might be an issue for a national security risk or a public safety risk: all of these are serious matters that should not be divulged to an applicant. However if an appeal is requested and goes to a magistrate, all the evidence that is provided by police, that has been mounted about the making of a consorting order all of that is treated, in the first case, as being confidential. Rather than letting the magistrate and then in the correct process a judge determine what evidence should be confidential and which should be able to be seen by an applicant or the applicant's lawyer rather than that occurring it is all treated as confidential. Therefore none of it is made available to the applicant or their lawyer for review. These are very concerning matters and we have drafted some amendments in an attempt to find a remedy.

This bill also puts aside the provisions of the Magistrates Court (Administrative Appeals Division) Act 2001 that allow for a decision to be stayed and the requirement for any review to be de novo. This removes the possibility for the applicant to have any recourse to the decision that was made to bring in a consorting order upon them. The bill deliberately prevents a decision by a magistrate from being appealed to the Supreme Court. It removes the part of the act which would enable that to happen. An explanation for why that has been done was not given. This is a very serious departure from the mechanisms that all citizens living in Tasmania have available for us, which is to appeal a decision on the basis of the evidence that has been provided, the review of the evidence and the assessment that has been made.

I point to a letter from Premier Will Hodgman sent to Mr Richard Griggs from the Tasmanian Human Rights Act Campaign Committee on 1 February this year, before the election. It was regarding whether the Liberals would support a human rights act in Tasmania and the Human Rights Act Campaign Committee was established to try to get such an important bill through this place with the support of all parties. In providing reasons why the Liberals would not support a Human Rights Act, Mr Hodgman said -

> Most Tasmanians are confident that their basic rights are protected and the rule of law is strongly entrenched in our political culture. Our system of democracy contains safeguards and includes common law principles that ensure many protections are upheld by our judges applying these principles.

This law specifically removes the opportunity for a person to seek a judge's assessment of the evidence and it removes the possibility of a trial in a supreme court. Given the Premier's confidence, it speaks volumes about why we should have a human rights act in the state. Until we do, we will continue to see bills like this coming before us. People have no recourse and no appeal on the basis of the fact that they remove fundamental human rights. They remove rights and freedoms which we have come to accept and some would say, take for granted, especially people like the Premier. Although the Premier is trained as a lawyer, he seems to be blithe to the legislation that we have before us today. Maybe it is because he chooses to absent himself from parliament and spend time in China instead of being here, in his state, managing these weighty matters. He is not fully attentive to the fact that we have before us today a bill which does not ensure that the freedoms we have come to expect would be upheld by a possibility of taking it to a judge for a final decision.

What we have in Tasmania, under the Liberals for the past five years, is a culture of increasingly draconian rules, by-laws and legislation. There is a march, which the Liberals seem determined to continue down the path of, and it is a dangerous march. We stand for Tasmanians who are

concerned about the changes that are happening around the world, in Australia at the federal level with laws, and the changes that are happening right here today under the Liberals; an erosion of democratic rights, of the freedom of speech and the erosion of the right to associate with people without sufficient checks.

Tabled today is another example: the return under section 19 of the Public Account Act. We will be talking about this next week. What it brings to mind is another attack by the Liberals on those who stand up against hatred and hate speech. The Anti-Discrimination Commissioner has had $40 000 cut from the budget: $40 000 from a budget which is none too big; in fact, needs to be a whole lot bigger. The Liberals do not pay any attention to anti-discrimination legislation. The role of the Anti-Discrimination Commissioner has always been one that they have tried to do down. It is not surprising that if they need to trim the jib in the budget of government that it would be one of the first places that they would be looking at.

It is not surprising that in the House again this morning we had the Minister for Local Government pretending to parliament in question time that he has no responsibility, no jurisdiction, over by-laws created at the local council level, despite the fact he is the Minister for Local Government. He is the minister responsible for overseeing the Local Government Act, for intervening in councils; so much so that he dismissed two councils in the last term of government. This is the same minister who pretended to us in parliament, who had the gall to stand here and say that it is a local government issue that they are making by-laws. It is not true. It has been here on the Table of the House.

The Greens have brought it on to disallow the draconian by-law, which will seek to shut people down for wanting to play cricket on the beach, kick a football in the park, collect money for charities, to take some wedding photographs on a lawn in a public place, to have a barbeque at the Kangaroo Bay barbeque shelter with some friends - maybe talk a bit of politics, maybe not. Maybe there might be a union gathering. Some unionists might meet there to have a coffee and have a chat about stuff. You might have a launch of something. Charities might be having a fundraiser. None of these things could happen without the general manager of Clarence City Council signing it off.

You have to go to council now when you want to play cricket at the beach with your friends. You have to fill in a form. You probably have to pay some money because council could not possibly afford to process these sorts of things without having some money, staff time. They have to recoup costs.

This is the sort of garbage that the Clarence City Council has passed in order to go through the motions of using our public spaces. We will be bringing on that this awful by-law be disallowed in our private members' time next week. We expect the Minister for Police and the Minister for Local Government to support our motion. The Commissioner of Police made it quite clear that he considers it to be that it is the right of people to assemble in peaceful means, and to protest is a fundamental democratic right. This by-law is authoritarian and it does not stand up to the constitution.

This is exactly the culture that this bill drops into today. It was on the notice sheet two days after it was tabled. We will table a number of amendments. They are what we have been able to do in the time that we have had. I want to make it clear that they cannot be a comprehensive response to all the concerns that have been raised from stakeholders. Also in drafting amendments, we have not had time to go to stakeholders and get their views, but we will bring them in here today

in good faith. We will not be able to support this bill because of what the Liberals have done in the manner of bringing it in. It is clearly impossible to do that.

These are organisations which made submissions with one day's notice. The Tasmanian Bar made a submission recognising the desirability of Tasmania Police to have modern policing tools to combat organised crime and criminal groups. However, the Tasmanian Bar is alarmed at the content of the bill we have before us and they urge the parliament not to pass it.

We also had comments from the Australian Lawyers Alliance. They pointed out that if a form of consorting law is required the aims of the legislation need to be addressed by a different legislative model because the current ones do violence to fundamental liberties that are basic to democratic policies. They also say that the current bill demeans the Magistrates Court and judicial officers who tirelessly serve it and force upon the court an appeals process that disregards basic principles and traditions of procedural fairness and justice.

Richard Griggs, the Tasmanian director of Civil Liberties Australia, made the point that he was surprised and disappointed this bill has been listed for debate with just two days' notice, given the serious negative impact the proposed law would have on freedom of association. He also said that in the lead-up to the March state election the Liberal Government expressed its support for freedom of expression.

I point to the comments the Premier made in the back of the letter I referred to before from 1 February where he said:

> … Court found that our parliamentary democracy essentially requires a measure of freedom for individuals to express political views and debate issues.
>
> The Tasmanian Liberal Party believes that all people should have the opportunity to advance to their full potential. We also believe in the most basic freedoms of parliamentary democracy - the freedom of thought, worship, speech and association.

I might leave the last word with the Premier on that matter because that makes it clear that the manner in which this has been brought on is a political stunt about a very serious matter. It is a stain on the minister for Police that he has chosen to do that in this way. We will, in good faith, discuss our amendments and listen to the amendments from the Labor Party in the hope members of the other place will listen to the points we raise and may consider to take some of them into account when they are making their own deliberations.

[2.53 p.m.]

Mr BROOKS (Braddon) - Madam Speaker, I support the Police Offences Amendment (Consorting) Bill 2018 and congratulate the minister on his initiative in trying to drive an agenda of a safer community. That is what this is about. I listened to Dr Broad's contribution and he went through some of the specific areas of it but I would like to go through some aspects of it myself and go through some things that are important around the legislation.

The bill, if passed, will make it an offence for a person having been served with an official warning to habitually consort with another convicted offender within five years of having been given that official warning. Some may ask what 'habitual' consorting means. It occurs when intentional contact takes place effectively on at least two occasions within that five-year period after

the convicted offender was served with the official warning. Some of the mechanisms and protections around that have been covered already by the minister and by Dr Broad. That was highlighted previously during this debate specifically by the fact that a commissioned police officer, under proposed section 20D(1), can only provide an official warning, so there is a broader protection for those concerned about the mechanisms of this legislation.

Contact must have taken place on at least two occasions within that five-year period after the convicted offender was served with the official warning, and 'consorting' means 'associates or keeps company'. It is important that people look at what this means because some language has been bandied around that it is going to stop people from having a beer at the pub together and all that sort of stuff. It is not like that at all. It is targeted at a specific cohort of people - convicted criminals.

An official warning can only be issued to a convicted offender which under the act is someone who has been convicted of a serious offence and is over the age of 18. A serious offence includes an indictable offence, an offence under the Firearms Act 1996, the Misuse of Drug Act 2001, the Sex Industry Offences Act 2005, Part 8 of the Classification (Publication, Films and Computer Games) Enforcement Act 1995, or an offence under the law of the Commonwealth or another state or territory which if it occurred in Tasmania would be an offence referred to above. We are not talking about a speeding fine or a parking fine that some have pushed in the hysteria around this legislation. We are talking about offenders convicted of serious offences.

An official warning is the first part of this process and it can only be authorised by a commissioned officer under proposed section 20D. A commissioned officer is a police officer at the rank of inspector or above. I am fortunate to know several inspectors and hold them in the highest regard. They do not get to that position by being not well regarded for their capability and progress through the ranks of the Police Service. As was pointed out by Dr Broad and the minister, there is a difference in the protections and in the way this legislation is drafted based on other jurisdictions and examples and other areas where we have sought to improve it. Official warnings will be issued in writing to the defendant.

Another important aspect of the legislation is around the review of these warnings. A warning is only the first step. A person who has been served with an official warning has 28 days in which to contact the Commissioner of Police and request a review of the decision to authorise the official warning. Effectively they can seek a reconsideration of that warning that is issued to them.

That review must be undertaken by a police officer of higher rank than the officer who authorised the official warning. We are now getting into senior officers of the police service. If the lowest rank is an inspector who can issue an official warning then the next level up would be a commander or above. They are senior police officers in the Tasmanian Police Service.

That review will take place by a commander or above, depending on who authorised the official warning. The officer will confirm that the warning was appropriate after the review or will revoke the official warning and they will have the ability to do that. Should the warning be found appropriate by the reviewing officer, the person to whom the warning applies can apply to a magistrate for a review of the decision.

Over the years I have been in this parliament and privileged to represent the people of Braddon, we have heard concerns about this Government taking away people's rights. This Government cannot do that. People will always have the right to seek recourse through the courts. This legislation is no different. They can seek that review through the Magistrates Court as is clearly

outlined in the bill. This is an important aspect for those who are concerned that it cannot be a targeted vendetta on an individual. There is a serious review process that is afforded those who are served with a warning. That is an important aspect we need to focus on.

This allows due process and the opportunity for those who are served with a warning to state their case as to why it should be withdrawn, after a review by a more senior police officer at the commander level or above.

There are some defences that are available under the act as well. Those defences include: consorting with a family member which includes a spouse, a child, parent, sibling or relative who lives with the defendant; or of it occurred in the course of genuine lawful employment; if it occurred in the course of attending genuine education or training or accompanying a dependent who is receiving education or training; occurred when attending medical facilities for treatment, either for the defendant or his/her dependent; occurred whilst attending the rooms of a mental health professional for treatment either for the defendant or his/her dependent; that occurred in the course of seeking advice from a legal practitioner; or occurred in lawful custody or in the course of complying with a court order, parole or probation.

There are defences available included within this act that give clarity, that it cannot be accidental. That is something that the minister clearly outlined and will continue as we go through the committee process where we can examine the clauses in more detail.

People have raised some concerns with me about why we are doing this, and we have seen the previous legislation - without reflecting on a previous vote of the House - that was an important step in standing up to organised criminal activities through organisations whose effective sole purpose - although they may not say so - is for criminal activity. That was the whole point. This is a further step.

The Police Offences Act 1935 already contains an offence of consorting. However as has been pointed out, the language used at present is outdated and there have not been any successful prosecutions for some years. The current offence states that a person shall not habitually consort with reputed thieves. I have not heard that saying for a while.

Since 2004 every other Australian state has updated its consorting legislation and it is well overdue. The proposed legislative change will strengthen the ability of Tasmania Police to disrupt the activities of organised crime groups include outlaw motorcycle gangs. That is the reason for this legislation.

This is about looking at community safety, disrupting criminal organisations and organised crime groups. That is what this legislation is about. That is what this Government's agenda is about. There have been concerns in my own electorate on the north-west and across the state of the growing potential presence of these organised crime groups, which include outlaw motorcycle gangs coming here. We do not have the legislative powers other states do.

There have been some constitutional questions raised and it is important the proposed law is modelled on New South Wales legislation and that has been tested in the High Court and the court ruled in a 6 to 1 majority that legislation was valid and we stand by this legislation. I am sure the Attorney-General will know more about that than me, given I have never been to court. I have watched once to see what happened, to clarify.

Ms Haddad - I am glad you clarified that.

Mr BROOKS - We have seen concerns raised from some in the community and some hysteria that this is going to stop friends from riding their bikes on the weekend and having a beer at the Forth pub or wherever they go. There will be no impact on average, law-abiding members of the public. It is not going to impact them whatsoever. Official warnings can only be issued to those who have been convicted of a serious offence and it only stops him or her from consorting with another convicted offender. It is clear the intention of this proposed legislation is to capture those engaging in criminal conduct, not the general public.

For the millions of people who are watching this online at the moment or who are going to read *Hansard* tonight, this is not targeted at the punter on the road and the general public. As I have very clearly said, this is about organised crime groups including outlaw motorcycle gangs and criminals who have been convicted of serious offences.

It is not going to stop the general members of the public from associating even though some have tried to say it will. It does not do that. It does not prohibit family members from maintaining relationships and it clearly says that in the legislation. It does not prohibit people from working which has been another concern raised by some. Through the consultation process and to the minister's capability in a challenging portfolio and in his honest and respectful way, he has taken on board the concerns and consulted on some previous legislative changes in other states and areas where there have been problems. It does not prevent any person charged with this offence from the principles of natural justice. They have the right to a trial, where police must prove all the elements of offence or appeal to a superior court. It does not remove that whatsoever.

The legislation is all about disrupting and removing organised criminal activity and those that are seeking to wreak havoc on our communities. This gives the police an additional resource in their resource bag to do that. The Government has taken advice on the constitutionality of the bill and the Government is confident that the bill is sound. It has taken advice from a wide range of sources including the Solicitor-General, whose legal opinion has been considered and incorporated into the bill. This legislation only applies to adults.

There were some suggestions that consorting is unfair or an overreach. Again, if you look at the Queensland Taskforce on Serious and Organised crime chaired by the honourable Alan Wilson QC, the former Supreme Court judge, it recommends that Queensland replaces VLAD laws and introduce consorting, noting they are arguably fairer because they are not contingent on the declaration of criminality by the executive branch of government and are, then, less exposed to any risk of misuse. They are targeted at associations with persons who have been proved to be guilty of criminal offending in a court of law. They target habitual rather than one-off associations and they provide for warnings about offending conduct. They provide exceptions to allow all persons to participate in civic life, for example, lawful employment.

We have not dreamt this up over a day. There has been some serious work on this legislation. It is important to note that we have considered what other jurisdictions have done and they have been incorporated into this legislation that the minister has proposed. That is a key part of it.

Some are asking, 'Why don't you wait until they are committing the offence and then charge them?', rather than, 'Why do you need this?'. It is readily known that organised gangs enforce a code of silence, with victims refusing to cooperate with police and witnesses being intimated into not giving evidence. Even if successful, a prosecution of one gang member has limited effect on

the gang's network as a whole. This makes combatting organised crime extremely difficult, whereas consorting breaks down that structure by breaking the networks. It does not rely on civilian witnesses. That is an important aspect of this legislation.

This legislation is focused on ensuring that the community is protected, putting in place mechanisms for the police and giving them the resources that they need to apply appropriate legal restraints on people. This bill is aimed at deterring and preventing criminal networks and preparatory criminal activity. It is similar to other existing laws, such as police family violence orders, restraint orders and probation orders. These all impose conditions to regulate and prevent future serious crime from occurring. Prevention is better than reaction. Police should not be left frustrated and unable to act when they possess evidence demonstrating actions and associations between known serious criminals but have no way of sheeting home responsibility for any particular planned crime. This legislation addresses that.

To the minister's credit, he has considered this wisely and consulted widely, including the requirements of the Ombudsman, reports and previous legislation. That shows the seriousness of this Government in not only approaching this in an appropriate way but also not apologising for standing up for the victims of crime.

For the reasons I have outlined, it gives the police the power to make Tasmania continue to be a safer place. It is targeted at criminals and organised gangs, including outlaw motorcycle gangs. I support the bill.

[3.16 p.m.]

Ms HADDAD (Denison) - Madam Speaker, I am glad to be able to make a contribution to the debate today on the Police Offences Amendment (Consorting) Bill 2018. I am reluctant in some ways to contribute to the debate. The reason for this is simply because of the disturbing haste with which the Government is pushing this bill through the parliament. It was introduced to the Chamber only two days ago and here we are at the second reading stage.

Any minister knows when introducing legislation in a hurry like this that the level of scrutiny and debate is necessarily limited. The Government, by their own declaration, has had this law planned for some time. Indeed, they flagged it when they introduced the insignia bill some weeks ago. However, a draft bill was not circulated to stakeholders or the legal fraternity. The bill has only been on the Table for two days, meaning the time for consultation and critical review by stakeholders, by the community, by the opposition parties is drastically shortened.

I always aim to make considered, constructive observations and arguments based on reason and based on evidence, but no-one can be expected to make a considered and reasoned argument or amendments to the best of their ability a mere two days after a bill's introduction. It is the work of this parliament to review all legislation introduced by the Government. I acknowledge I have had the benefit of a briefing from Tasmania Police. That was very useful and also somewhat comforting as some aspects of the bill at face value gave me grave concern. I thank Assistant Commissioner Glenn Frame and Inspector Andrew Keane, as well as DSI Dave Adney who had travelled from New South Wales to brief parties on the bill. I thank the minister's office for facilitating at briefing for the Labor Party yesterday. Some parts of the bill gave me significant reasons for concern on first reading. Some of my concerns were somewhat alleviated as a result of the briefing.

I also know that no bill is incapable of improvement by the usual process of dissection, dissertation and debate by the parliament. There is much of this bill that causes me concern. My

natural instinct is to proceed with extreme caution when considering any law that curtails the rights and freedoms of individual citizens.

I have read up on the similar laws in other states and recognise much of the quite reasonable community concern here that consorting laws can be abused, misused and used to unfairly or unlawfully target particular individuals, groups, friendships and families. I do not want to see that happen in Tasmania. I have concerns that because we are a small state with small cities, towns and communities that there is even more risk of such laws being abused.

That said, Labor recognises that there is organised crime in Tasmania and we need to ensure police have the tools at their disposal to disrupt criminal activity. Such powers as those contained in this law must be tempered and accompanied by protections for people subjected to or likely to be subjected to them. I understand the reasoning given to us in the briefing that laws like this are intended to disrupt criminal activity rather than to gain convictions for consorting as such. Indeed, the member for Braddon, Mr Brooks, went into some detail to explain to the Chamber the safeguards, as did the minister, to give some comfort to the House that it is the intent of the bill to disrupt criminal activity and the laws will not be targeted at people having a beer together, friends, associates, family members and the like.

I take comfort from that assurance from the minister and the department in the briefing. However, the concerns here and in other states need to be put on the record. There is much in this bill that we are asked to take on faith. I have faith in the current workings of the bureaucracy that the intent of the law is not to unfairly target individuals. However, as I said in my contribution on the insignia bill, I want to be confident that no matter what administration is in power in the future, in five, 10, 15, 20 years and beyond, those laws are not able in theory to be misused. That is why we will be moving some amendments, including trying to insert a review mechanism for the act, which we will come to when we reach Committee.

I acknowledge the parts of this bill that significantly differ from other states, and they have been described as safeguards, namely that officers will not be able to issue a consorting order on a whim but rather must apply to an inspector before an order can be issued; that orders must be in writing and not given verbally; that both or all the alleged defendants must have been previously convicted of an offence, not just one, as is the case in some other jurisdictions; that there is an opportunity for internal review within the police of an order issued under the act; that there is provision for a Magistrates Court review, albeit I have some concerns about the changes to the operation of the Magistrates Court jurisdiction; and that the act contain a clear objective which must be considered by the officer, the inspector, the internal review officer and the magistrate, and that is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks.

That is a significant change from the other jurisdictions with similar consorting laws and is important to recognise. The expectation is that all parties, when making a decision about an order issued under the act, would put their mind to the objective of that act. That is a prudent way to proceed. In doing that we would hope, and logic would tell us, that the laws will not be able to be abused in the way they have been in other states, for example, by targeting people having a drink and so on. As I mentioned earlier, it is somewhat to be taken on faith that each person in that chain of command will put their mind to the objective of that act and there is a certain level of subjectivity in doing so, although I note that is a significant positive departure when comparing this bill to consorting laws elsewhere. While these measures will not necessarily satisfy all critics of the legislation, they do go some way to improving on what is in place in other states.

It is our job as an opposition and alternative government to attempt to amend and improve law in a constructive and productive way that means it can achieve its aims within reason and protect the community at the same time.

We will be moving some formal amendments in this Chamber. One is for a period review two years after the commencement of the act and every four years thereafter to be conducted by the Ombudsman. We have drafted some amendments that have been circulated as to what information the Ombudsman should be furnished with to conduct that review. We drafted another amendment which would widen the definition of 'family'. The current definition is somewhat narrow and does not recognise the different definitions of family that are experienced within Aboriginal communities. Jennifer Houston, the member for Bass, will be covering that in more detail in her contribution. Our third amendment attempts to increase the defences available to an order to specifically include cultural events, religious events and Aboriginal cultural events.

The short time frame for consideration of this bill means that more complex amendments we believe the legislation could benefit from have not and cannot be drafted in a way that is legally cogent and useful for this Chamber to consider. We will be raising these issues in our contributions but also in Committee by way of questions and asking the minister for assurances that those concerns will be considered and addressed in the upper House.

To flag some of those concerns, there are 28 days in which an alleged defendant or someone subject to an order can apply for an internal review. Thought should be given to allowing the internal review time frame to be extended. This is because with an appeal to a Magistrates Court, that avenue of appeal is only enlivened after an internal review has first been sought and completed. Thought should also be given to allowing the internal review officer the power to extend that time frame on exceptional or compelling circumstances that may have prevented the defendant from lodging their application for an internal review within those 28 days. Similarly, if there is a limit on time frame for lodging Magistrates Court reviews, discretion should be given to a magistrate or to the registrar of the court to extend that time limit in exceptional or compelling circumstances.

I want to raise some concerns about the Magistrates Court power of review. There are significant changes in this bill to the operation of the Magistrates Court in their administrative appeals division capacity, namely that the applicant or defendant will not be given information on which a decision for an order against them was made, as would be the case in any other type of administrative review. I recognise the reasoning for this is to prevent sensitive information or criminal investigation information being divulged or disclosed to the defendant. I acknowledge there would be circumstances in which it would be inappropriate to divulge that information publicly or to the defendant, but the magistrate, under the current drafting of the bill, would be furnished with all that information.

It must be noted this is an unusual way for administrative or merits review processes to occur. Thought must be given to the possibility of giving the defence an abridged statement of reasons which would at least give them some reasons for the decision. The principle of giving a statement of reasons to the defence is an important one and other tribunals and decision-making bodies around the country sometimes allow for abridged statements of reasons where sensitive information necessarily needs to be withheld in matters of national security and other sensitive areas of law.

There has also been reasonable concern raised about what kind of appeal the Magistrates Court will be hearing and whether it should be a hearing de novo, meaning new evidence that was not

available at the time of internal review should be available to be considered by the magistrate. I believe this would benefit from some clarification either here or in the Legislative Council.

I put on the record these concerns to make them clear to the House and to the public. They are issues we will be seeking clarification on in Committee and seeking assurances from the minister that thought will be given to dealing with those concerns in the Legislative Council.

Laws such as this must only be considered in extreme situations and with extreme caution, because provisions in this bill sacrifice fundamental rights that underpin our democratic ideals. They take away natural justice from a person we would ordinarily consider unacceptable. When sacrificing so much of what the free world fought for over decades and centuries to enshrine in our legal DNA it must be done with care. While I recognise the need to deal with the very real risk of serious crime around the country and around the world the rights that are sacrificed in such laws as this must be raised by us, the Labor Party, as a socially progressive, civil libertarian party. This is why I put thought and time into raising these reservations and caveats and make these observations about the provisions of the bill: also because of the disturbing pace with which the minister is bringing this through the parliament, denying the opportunity of properly considering every measure to make a more constructive and reasoned contribution to the debate.

Before I finish my contribution I note that despite the lack of consultation there has been a number of very organised and considered views provided to the parliament from a number of stakeholder groups as well as from some very passionate community members and for their sake I do want to put some of those views onto the public record via *Hansard*.

Before doing that I will go to some of the comments Mr Brooks made about the fact that governments cannot remove rights. I believe he was going down a path of arguing that there are certain rights that are inalienable and that governments do not have the power to remove those rights. That is not always the case and there are several instances particularly in Commonwealth law where governments can and do remove rights of review. For example, under section 502 of the Commonwealth Migration Act 1958 a denial of a visa on character grounds by a minister is not a reviewable decision, and there are a number of other decisions under the Migration Act that are not reviewable decisions. Similarly, under many of the terrorism offences that were introduced in the Commonwealth Parliament following the attacks in September 2011 and since, control orders and the like - and I apologise to the Chamber that I have not been able to do detailed research into control orders in terrorism legislation - but I do recall from that period of time that there are a number of rights that are, arguably, quite rightly removed from members of the community under those pieces of legislation. They are removed nonetheless and not always with review mechanisms in place.

I wanted to rebut that thought from Mr Brooks that governments do not have the power to remove rights from citizens because governments do have that power and that capacity. As I have tried to convey in my second reading contribution, when governments choose to remove rights from individual citizens and groups in our community it must be done in extreme circumstances, with extreme caution and with suitable safeguards and mitigating strategies which this bill does go some way to providing.

My objection is the short amount of time that we have had to really scrutinise this bill. I acknowledge the constructive approach we took with the insignia bill. We are trying to be extremely constructive with this bill also and to be helpful to the Tasmanian public. We will be putting on the record things that would improve this legislation, allowing the Government to

achieve its objectives but doing so in a way that protects individual citizens, groups, families and the like.

I will put on the record some of the views of the stakeholder groups that have contacted me in the last day.

The Tasmanian Bar Association is concerned with the definition of 'serious offence' in proposed section 20A in that it includes quite minor offences such petty shoplifting or minor drug possession charges. I acknowledge the assurances that we have been given by the department, the minister and other Government members that it will not be used for those purposes. The fact is that as the legislation is currently written it is not impossible that it could be used.

Mr Ferguson - It comes back to the objective.

Ms HADDAD - Objective, exactly right, and I have covered that. I acknowledge that those decision-makers will have to put their mind to the objective of the act and that is a positive thing but much is to be taken on faith in this. I do want to put those concerns on the record.

Second, the Bar Association is also concerned that the definition of a convicted person includes convictions that a person may have received as a youth. As the future operations of the bill are limited to adult offenders, it is worth consideration of an amendment. I believe there might be a Greens amendment of this nature. This would limit people able to be subject to an order under the act to those convicted as an adult, not as a young person.

The association goes on to argue that there is possible unconstitutionality in the bill. I am not a constitutional lawyer but I flag that the Bar Association has some concerns that the Magistrates Court Administrative Appeals Division, which is a division of the Magistrates Court, is invested with federal jurisdiction under sections 39 and 39A and 68 of the Judiciary Act of the Commonwealth 1903, and the Magistrates Court therefore exercises federal jurisdiction power under section 71 of the Constitution. A state court that exercises that federal jurisdiction is constitutionally required to maintain institutional integrity consistent with a chapter three court. In particular, the association is also concerned that proposed section 20E imposes unacceptable external controls on the Magistrates Court and fundamentally undermines the independence of the Magistrates Court by mandating that the court in that Administrative Appeals Division take into account and make its decision on information provided to it by the executive government from the person seeking review. The association alleges that could actually make that section unconstitutional.

I addressed that in my second reading contribution, acknowledging that there is a difference made in this act to the way that the Magistrates Court operates and there could perhaps be some thought given to how sensitive information could be dealt with. An abridged statement of reasons is one possible avenue that the Government could consider.

The Law Society of Tasmania also has concerns about the bill. In particular they question the definition in proposed section 20C(2) that says consorting on at least two occasions within a five-year period is to habitually consort. They believe that could be a contradiction in terms and it is at least a test that is too easy to fail. They also suggest that there should be a defence provision for an exemption for religious activities. Labor will be moving an amendment, which would include a defence for people attending religious or cultural activities including Aboriginal cultural activities.

Civil Liberties Australia, Tasmania division, also expressed concern at not having enough time to properly scrutinise the bill. They point out that in the lead-up to the March state election, the Liberal Government expressed its support for freedom of expression and stated that in a letter to them the Premier said the Liberal Party believed in the most basic freedoms of parliamentary democracy - the freedom of thought, worship, speech and association. Freedom of association was regarded as a foundational right which served as a vehicle for people to enjoy other important rights. It is nice to have your policy quoted back to you, but it is worth putting those things onto the public record that the Liberal Party does claim belief in freedom of association. In passing consorting laws, any government of any persuasion must recognise the elements of those laws, which in fact go to limit freedom of association.

I have had concern from some union colleagues that the bill is discriminatory to Aboriginal people; that Aboriginal family groups are not defined in the strict Anglo way that the act states. Further, a disproportionate number of Aboriginal people are convicted of crimes and this legislation could be used to further disadvantage their engagement with the justice system. We also have amendments drafted which would go to that concern. They also raised concerns with me about the opportunity for people to mount a defence in the Magistrates Court appeal process under the act.

Finally, I have also had a couple of constituents contact me individually. I will not name them but they are members of the public not representing any particular groups, and one in particular went to a great deal of effort to express some very reasoned and considered views on the bill, some of which I have addressed in my contribution or in the amendments we plan to move. Out of respect to the person who put the effort into putting this much information in a letter to me, I would like to put their concerns on the record as well.

They say there are no exemptions in this bill for political or religious activity. There is also no limit on when someone is a convicted offender under the bill, so they could be crime-free for 20 years and still fall under auspices of this bill. A time limit since conviction could ameliorate that fact. This person believes that the five-year length of a warning notice is too long. Warnings could be reviewed by a commissioned police officer every year, for example.

Further, they go on to say that a convicted offender should have to be notified when they have been seen consorting with a prohibited person for the second time. They argue that the first conviction should only be a nominal fine, with any subsequent consorting in the warning period being punishable by the punishments listed in the bill.

They also argue that an appeal to the warning notice should be able to be lodged at any time, not just within 28 days. I mentioned in my second reading contribution that it is worth considering giving some discretion to the reviewing officer in the police, or magistrate or registrar in the Magistrates Court to extend that time under circumstances where a defendant was unable to lodge their appeal. This person also argues that under appeal circumstances the Magistrates Court should be able to stay its decision until after an appeal is heard. They recognise the necessity for police to often not be able or be very cautious to reveal operational intelligence, and that is recognised by us in our contributions to this bill as well, but some middle ground could be brokered where a minimum standard of evidence could be provided to the defence. I have suggested that an abridged statement of reasons might go to that fact.

As I have tried to explain in my contribution to this bill, Labor is intending in the short time provided to us - just two days - to provide constructive and logical amendments that will protect people from potential misuse of this bill. We take on faith the indications and the safeguards that

are in the bill, including the objective of the act and the fact that will have to be in the minds of each decision-maker, but that is a good start. However, there is still always the possibility that laws can be abused and this is our opportunity as an opposition party to put those concerns on the public record and have them recorded on the *Hansard* as a message to the community that we recognise that laws need to be watertight and there is a need to be sure that things will not be abused.

I believe our amendment to insert a periodic review clause would go some way to improving community confidence in the Government's assurances they have given us here and in the legislation that it is not the intention that the laws will be targeted at particular individuals or groups. We will be moving an amendment that, as soon as practicable after the end of the period of two years from the commencement of the act, and at each four years thereafter, the Ombudsman would prepare a report on the operation of the act. We intend that the Ombudsman would be furnished with all the information he or she would require to do a thorough review of the operations of the act. We would want to know not only whether orders have been unfairly issued to members of the community, but whether there are groups within the community who have been disproportionately or unfairly subjected to orders, as has been seen in other states, where we have seen control orders being unfairly issued to homeless people in train stations.

We would want to know that from the Ombudsman's Review but we would also want to know how effective those laws have been. Has there been a disruption in organised crime, has there been a reduction in organised crime and has the tool provided to the police done what they needed it to do, which is to disrupt criminal activity? I acknowledge that the intent of laws like this is not to obtain convictions for consorting but rather to disrupt criminal activity. We have all heard some fairly persuasive examples of criminal activities that have been diverted or prevented as a result of laws like this in other jurisdictions. A periodic review of the operations of the act would allow the public to have confidence that the laws are working and crime is being reduced and prevented as a result of these laws.

I thank members for the opportunity to contribute to this bill and look forward to asking further questions in Committee. We will be going into Committee to ask a series of questions outside of the drafted amendments simply because we need to put on record those concerns around the clauses we have not been able to draft useful amendments to. We have drafted amendments where we can. Where we have not been able to draft amendments, we will ask questions in Committee and hope the minister will give us some assurance that those things will be looked at by government and in the upper House.

[3.47 p.m.]

Ms ARCHER (Denison - Attorney-General) - Madam Speaker, I do not have carriage of this bill so I will not be responding to matters that were raised by my shadow. I will leave that to the Police minister. Suffice it to say a few things were mentioned in that contribution which I know my colleague will address.

In terms of review and the court giving reasons, you cannot partially give reasons. That was a troubling contribution. The minister will refer to various sections of the relevant act in that regard. I can see what the shadow attorney-general is trying to suggest but there are court procedures to follow and you cannot half-provide reasons.

This bill demonstrates this Government's commitment to give Tasmania Police a range of tools to combat the growing scourge of organised crime in this state. Community safety as well as

looking after victims of crime and our most vulnerable is a core priority of our Government and we will continue to do whatever is needed to keep Tasmanians safe.

The track records of the current and former governments on this issue could not be more different. When I was shadow minister for police and emergency management as it was then known, I called out the then Labor-Greens government for slashing frontline police, implementing cuts to Tasmania Police's car fleet and cutting police recruitment courses indefinitely, amongst many other things, I might add. Unlike Labor, we committed to give Tasmania Police not only the laws but also the resources they need to dismantle and disrupt organised crime in this state. We are now delivering on that commitment in a number of ways and in particular by bringing forward this bill.

In our first term of government we restored police numbers after Labor had sacked 108 officers when in government. In addition to replacing those numbers, we are recruiting 125 more police on top of that statewide. Tasmania's crime rate has dropped and clearance rates for total offences exceed 50 per cent for the first time in more than 45 years. We have restored Tasmania Police's serious organised crime capability with the establishment of the Serious Organised Crime Unit. That is something we promised as part of the 2014 election. It was implemented in our last term. That unit in turn has been provided with additional funding support to the Confiscation of Profits Unit within the office of the Director of Public Prosecutions. This has been very successful and a unit established with funding from this Government.

Members may recall that I recently updated the House that as a result of the work of the Special Confiscation of Profits Unit within the office of the Director of Public Prosecutions, in excess of $3 million has been seized from criminals and criminal organisations since the unit was established in 2015. Today, I tabled the Crime (Confiscation of Profits) Amendment Bill 2018, which will refine the act, to ensure that our laws provide the best possible tools that are needed to combat organised crime. That was following the independent review of the existing legislation by Damien Bugg AM, QC, both former Tasmanian and Commonwealth Director of Public Prosecutions, a very well-respected individual in this state and, indeed, nationally.

As the minister touched on in his second reading speech, in 2017 this Government introduced a range of effective tools in the Removal of Fortifications Act that allow Tasmania Police to disrupt attempts by organised crime groups to conceal their criminal activities in fortified club houses. We have also committed $3.4 million over four years to provide cameras to all frontline officers aimed at improving the safety of our officers and the community and, of course, victims of crime. Let us not forget the victims of crime in this debate.

I understand that has now passed so that roll-out can continue. These are important tools for police, not only for their safety but for evidentiary purposes, in terms of protecting our police, our victims of crime, our most vulnerable and, indeed, also the accused in circumstances. It is a win-win all around. These are important tools for police and they will be rolled-out around the state in coming months.

This House recently passed the Police Offences Amendment (Prohibited Insignia) Bill 2018 which is a further part of our plan to keep the community safe from organised crime. To be clear, the bill we are debating today provides parliament with yet another opportunity to provide Tasmania Police with further tools to keep Tasmanians safe. I am glad to have this opportunity to speak in support of it and to provide, hopefully, some more comfort to the House in relation to the constitutionality in a moment.

Tasmania Police has made clear the increasing danger that outlaw motorcycle gangs pose to Tasmania. I know members have taken up the Government's offer for briefings. In considering laws in that state, the New South Wales Ombudsman has previously stated that consorting laws provide police with an additional tool to disrupt serious crime. It is trite to say that a lot has been said both interstate and in Tasmania about the constitutionality of consortium laws. I can assure members that this Government has given careful and detailed consideration to this issue, taken advice, and we are confident that the bill is constitutionally sound.

As the minister noted in his second reading speech, this bill is modelled on New South Wales consorting laws. The minister has provided some detail on why this was the case but it is important to stress that this is significant for two reasons. First, in 2012, the New South Wales Parliament required that state's Ombudsman to prepare a report into New South Wales consorting legislation after a three-year operational period. As directed, the Ombudsman conducted a thorough examination of that states consorting laws, finalised in 2016. It made 20 recommendations, seven of which related to legislative amendments. As the minister indicated those recommendations were recognised in the drafting of this bill. It has been highly advantageous to have the work of that state and also seeing their legislation in operation to take on the recommendations that have since been made.

Second, and most importantly relevant to my role as Attorney-General, New South Wales consorting laws have been considered by the High Court in the matter of Tajjour v New South Wales (2004) 254 CLR 508. That High Court matter found their consorting laws to be constitutional and the High Court cases are the highest authority in the nation. In that matter the point was forcefully made by Justice Hayne who said that the consorting law did not -

> prohibit the expression or dissemination of any political view or any information relevant to the formation of or debate about any political opinion or matter.

He added that instead the legitimate purpose of the section was to prevent the association between certain persons. In short, such laws are a legitimate means to tackle organised crime, protect our community and the victims of crime. They represent an appropriate and measured response to a serious threat. I support the bill.

[3.56 p.m.]

Ms HOUSTON (Bass) - Madam Speaker, as it stands this is a discriminatory bill. Unintentionally, this bill could have serious consequences for some of the most vulnerable and disadvantaged in our community. While undertaking a review in 2016, the New South Wales Ombudsman found that 44 per cent of people targeted by anti-consorting laws were Aboriginal. It also found that half of all the women subject to consorting laws were Aboriginal. While some protections are in place in the Tasmanian bill, the narrow definition of family, and the lack of exemptions for religious and cultural activity are a cause of concern.

My other concerns are as follows:

First, the over-representation of Aboriginal people in the criminal justice system means a larger percentage of the Aboriginal community will have criminal convictions and are more likely to spend time in prisons. The Australian Law Reform Commission states that nationally Aboriginal people are 16 times more likely to be imprisoned than the non-Aboriginal population. In Tasmania that can be around 20 per cent of the prison population being Aboriginal. Therefore, Aboriginal people will be impacted much more by this law.

Second, the definition of a family member is much too narrow and does not align with the Aboriginal definition of what constitutes a family member. The bill fails to take into account the complex and extended family relationships that are central to Aboriginal community and culture. The bill defines a family member as 'a spouse or someone in a significant relationship with the defendant, a child, a parent, a sibling or a relative, or step-relative that lives with the defendant'. This definition does not include the highly valued relationships with aunts, uncles, cousins, second and third cousins and those considered as such through cultural connections that are often connected to place and people - kinship.

The United Nations Declaration on the Rights of Indigenous People affirms that indigenous people are equal to all other peoples while recognising the rights of all peoples to be different and to be respected as such. It further recognises, in particular, the right of indigenous families and communities to retain shared responsibility for upbringing, training, education and wellbeing for their children, consistent with the rights of the child. This requires the participation of a broad range of family members than is currently recognised in this bill and the understanding that Aboriginal people possess a different definition of what constitutes family.

The Queensland consorting laws have an extended definition of family that recognises the complexity of Aboriginal family and kinship and how it differs in Aboriginal culture and tradition.

There are no exemptions outlined in the bill for cultural or religious activities, which impact on people's rights to be able to participate in their culture. There are no exemptions for significant life events, such as weddings, naming ceremonies, funerals, or sorry business, or visiting critically ill family members.

The bill may also have other consequences such as a significant impact on cultural events and gatherings and community meetings and the ability of people to reintegrate into their community and away from consorting with other criminals. It will impact on people with historical offences and Aboriginal people are largely overrepresented in this. There is no time frame. Someone could have committed an offence when they were 18 or 19 years old and are now in their forties but would still be covered by this. It will have a serious impact on the ability of people who have criminal pasts who are now making a significant contribution to their community for them to run diversionary programs that will keep others on straight and narrow. Under the existing bill, cousins would not be able to attend a grandfather's funeral if both of those cousins or more of them had previous convictions, no matter how historical they were.

The New South Wales Ombudsman looked at the application of these laws and reported numerous concerns in relation to disadvantaged and vulnerable people and specifically in relation to Aboriginal people, with 44 per cent of the people impacted by these laws being Aboriginal. That is significant, given they were then 2.5 per cent of the population in New South Wales.

The proportion of Aboriginal population that falls within the definition of 'convicted offender' is very high. The overrepresentation of Aboriginal people in criminal justice statistics creates a sustainably increased potential for Aboriginal people and people they spend time with to become subject to consorting laws. Many people from this group will fall within the definition of 'convicted offender'.

In order to determine the proportion of Aboriginal population convicted offenders for the purpose of the consorting laws, the Ombudsman sought information from the Bureau of Statistics. They were able to establish that at any given time, 27 per cent of Aboriginal people would fall under

this category of having a conviction. That is a quarter of their community who would not be able to associate, which is a significant problem, especially given there is no time limit on convictions. If there was a time limit of five or 10 years there would be much more scope for that, but this is a large number.

We have to remember that historically, all around Australia, even Aboriginal children had convictions. People could be convicted at 18 because they were in out-of-home care. There is a whole range of things where people who might never have committed what is considered a crime now have past criminal convictions, and it would take a lot of digging to determine what they were.

The data showed that nearly 40 per cent of all Aboriginal men in New South Wales had been convicted of an indictable offence in the past 10 years, compared to 5 per cent of all other adult men. That includes people from culturally and linguistically diverse - CALD - backgrounds who often have a higher rate of incarceration as well. This means that around four out of every 10 Aboriginal men would fall within the definition of a convicted offender and any person who associates with this man. In Tasmania there are some protections if the other person happened to be a convicted offender but the rates are not very different here. We need to build in these protections so people can continue to engage with their communities and their families because we know that cultural disconnection leads to high levels of criminality, so we are creating a problem we are trying to prevent when we look at this group.

The New South Wales police force has a general policy framework in place for the management of Aboriginal issues. In the New South Wales police force's Aboriginal strategic direction, Aboriginal people are recognised as the most disadvantaged group in Australian society. That is no different here. It is noted that the overrepresentation of people in the criminal justice system had been a challenge for policy makers and a source of advocacy and concern for many, particularly in the Aboriginal community themselves. The police force stated its commitment to work with Aboriginal communities and other justice agencies to investigate the implications of culturally appropriate policing strategies for Aboriginal communities and seek the cooperation of Aboriginal people in their promotion. Successful implementation of the Aboriginal strategic direction in various commands is underpinned by strong relationships between police and Aboriginal communities, and there is a lot of work to do in that area here. As they stand, these consorting laws would make the situation worse.

There is no specific reference to the use of the new consorting laws in relation to Aboriginal people in the consorting standard operation procedure. There are no exemptions built in and this was a flaw found in the New South Wales legislation on which our legislation is based. There was no guidance for officers in relation to whether they should consider kinship ties between Aboriginal people as falling within the definition of family. Queensland has overcome this problem and has a clause in place that recognises that Aboriginal people have a different definition of family, a cultural definition that may not be as traceable and as clear-cut as the lineal definition currently in the bill.

There were numerous regional differences with the way this was applied and it was found that anti-consorting laws were applied more frequently in smaller towns and remote communities of New South Wales, and that is also a risk here. A partial explanation for regional differences in the proportion of Aboriginal people subjected to consorting laws was found to be the demographic makeup of different communities featured in the data, such as the proportion of Aboriginal people relative to non-Aboriginal people in a particular region.

We find in Tasmania that Aboriginal people tend to occupy particular areas in larger numbers and we find that the most disadvantaged and vulnerable communities in our cities and regions have

the highest number of people with convictions and therefore associating with someone in your community, albeit at a social event, could be a problem and there are not many alternatives. There may only be one football club or one school. While there are exemptions to this, it is also problematic in smaller communities where there are is higher number of convicted offenders and a higher number of Aboriginal people.

The Ombudsman consulted with a range of commands in relation to the use of consorting laws in relation to Aboriginal people. Police consistently advised that individuals were targeted for consorting based on their suspected involvement in current offending and not because of their Aboriginality. They also consulted with police officers from six regions about their use of the consorting law. The majority of the use of the consorting law was by police officers in small and remote towns. The operation of the consorting law in areas with small populations was different in many respects to how it operated in metropolitan areas.

Officers from these regions were particularly conscious of the importance of maintaining positive relationships with the community. Many officers recognised the misuse of consorting laws could undermine relationships between police and the community. A number of the officers advised that they knew most people in the town and were able to make informed judgments about the context about certain associations. For example, they would not target people for consorting if they were related.

That may be a little more difficult in Tasmania where families are more widely spread out and often in different regions and come together in places they consider home for particular events, cultural events or community meetings. Local police may not be able to recognise that these people are related and may only know about their previous criminal convictions. They do not have the discretion that is available to officers working in small towns in New South Wales.

Officers from several commands indicated that the consorting law was of limited utility for them because of the extensive family and kinship ties between Aboriginal people and the community. In contrast, other officers considered that adopting a definition of family that included kinship relations would be problematic but would determine their use of consorting laws.

Police reported that among other strategies, they most commonly used the consorting law in relation to drug, theft, robbery, and break and enter offences. These offences tended to involve several people in company with one another. Consorting targets were identified and high-risk offenders were targeted. Police identified people through information received from the community in many cases. Consorting was valued as providing an additional proactive tool that could be used to approach and engage individuals. However others advise that the existing police power such as conducting bail compliance checks, search powers and move-on directions provided more effective and less cumbersome proactive tools in some of these communities.

The Ombudsman met with an Aboriginal legal service provider in a rural town, that described the relationship between police and the Aboriginal community as strained and characterised by a significant lack of trust and cooperation. The legal service considered effective operation of consorting laws would be unlikely in their community and in other small communities where everyone knows everyone, because in inevitably all members of the community will be consorting at some point in time.

They reported that Aboriginal people in their community already felt targeted. The definition of a convicted offender captured some Aboriginal elders and community leaders and the use of

consorting laws might hinder the ability of community leaders to engage with members of their own community. This engagement was considered especially important for diverting young people from the criminal justice system. It was feared that the use of consorting would aggravate the existing problem within their community. Further, there was significant concern that many Aboriginal people in the community might have difficulty understanding consorting warnings but would not make this known to police.

There is a risk that this could become a significant problem here too, because again the connection between elders and communities is not always clear and communities do not always live in the same regions as their elders. People have moved around for housing, because they might not able to choose where they live if they are in social housing, and for work or for educational purposes. They found the application in bigger cities like Sydney was very different and it was often targeting people who were homeless or living in temporary accommodation.

In New South Wales they can issue a verbal warning, whereas there is a much more thorough process here. According to the police in the cities, individuals to be targeted for consorting were nominated on the basis of assessed and validated information. The commander further explained that Aboriginal males between 16 and 20 years of age represented the most problematic demographic for the command and the Aboriginal community was sick of a small core of kids who were engaging in crime. They may or may not be related but they could be targeted by consorting laws. Unless there was a definition of cultural activities built into the amendments this group of kids would not be able to participate in community activities, as many of those elders who run diversionary programs had convictions that were many years old.

When the Ombudsman consulted with a Community Legal Service in the same Sydney area, they explained that social isolation was a significant problem within the Aboriginal community. The potential for consorting laws to further dismantle fractured communities and isolate people was a great concern. In their view the consorting law ignored the unique dynamic within Aboriginal communities. These dynamics mean that isolating convicted offenders from other people may exacerbate rather than limit offending behaviour. In their experience, criminal behaviour was best resolved by connection of all of us, not by separating us. It was suggested that by isolating people from the community the consorting law had the potential not only to increase the risk of offending but also to put people at risk of health issues including depression and anxiety.

The submissions received by the ombudsman express significant concern about the impact of consorting laws on Aboriginal people and communities. Many submissions argued that the context in which the consorting law is used in relation to Aboriginal people was not aligned with the purpose of the consorting law and therefore its use was inappropriate. The concern that Aboriginal people are more exposed to the operation of the consorting law was reiterated throughout the submissions and in consultation.

The Aboriginal Legal Service commented that Aboriginal people are more likely to socialise and congregate in public spaces because of a range of cultural and socio-economic factors. Additionally, the nature of social and kinship relations between Aboriginal people make them more likely to be in contact with other members of the community and makes avoidance of members of their community more difficult.

The impacts of the consorting law on a community with high incarceration rates are amplified. It is inevitable that Aboriginal people will be considered to be consorting at some point in time and

people with a conviction may be ostracised from their own community. Others explained that Aboriginal community craves interaction and views being ostracised as a punishment.

The defences listed in the Crimes Act were widely considered inadequate in several respects by Aboriginal people. The Women's Legal Service of New South Wales pointed out that the current list of defences is so narrow that, in effect, important cultural and social interactions between Aboriginal people were potentially criminalised. There was no defence, for example, for an Aboriginal person participating in 'sorry business', where it was important to be around community and fulfil cultural roles and responsibilities. They were told that young Aboriginal people were more likely to live with members of the community on an informal basis because of the high rates of out-of-home care and adult imprisonment.

All of these issues could be addressed by the amendments that we have listed. A broader definition of family to include kinship connections that do not necessarily follow linear blood lines that are the standard western definition of family would be useful. Exemptions for cultural and religious activities for funerals and for 'sorry business' would deal with a lot of the issues that are of significant risk to the Aboriginal community.

My other primary concern would be that there was not time to consult more broadly with the Aboriginal community with the final bill, so there would have been a lot more feedback. There has been a very limited pool of people being able provide input to this and into what I have had to say today. In future given that any changes to do with the criminal justice system will always impact more heavily on Aboriginal people, that consultation with Aboriginal Legal Services and with core groups within the community could be an essential part.

[4.18 p.m.]

Mr FERGUSON (Bass - Minister for Police, Fire and Emergency Management) - Madam Speaker, I thank each colleague who has spoken on this legislation. It has been a good debate and I know that there will be more to discuss during the committee stage. I will endeavour now to respond to the broader comments and the policy debate that we have had during the second reading stage.

There has been much criticism from members opposite around time frames to consult. That is rejected in terms of problems for members to consider this important legislation. It is a matter of record that the department consulted on the Organised Criminal Groups legislation by publishing its position paper. It was published in April. It was an extensively open public process. There was a lot of media around that. There was a lot of activism around it. There were a lot of organised responses to it and it was well known that the proposals were out there.

The position paper included the proposals relating not just to the prohibited insignia legislation, but also gave extensive detail of proposals that are reflected in this legislation around consorting. It is worth me putting on the record that the legal fraternity was involved in this and given extensive opportunity to provide verbal and written feedback. Organisations can speak for themselves, but if I am put in a corner I will indicate which organisations did not put in formal written submissions to that process even though they have had later advocacy where they have later claimed they were not consulted. The department has provided me with evidence of the letters that were sent to these organisations. It is a regrettable matter of fact that not everybody is being as open as they could be on their opportunities to provide feedback.

The legal fraternity, specifically the Law Society and the Bar Association, were given further opportunity to be consulted. They were provided with drafts of the bill. I am pleased to let members know that as a result of the provided feedback the bill was changed. That feedback was taken on board and has further added value to the process. It has been a real process of consulting the Tasmanian community.

We will not be apologising for making Tasmania safer. Members around the place, some more recently elected than others, have short memories. Standing Orders require, all things being equal, that there should be two days' notice for legislation to be debated. That has been met. I remember many times as a shadow minister debating legislation on a Thursday that had been tabled on a Tuesday. The best example of that was the complete re-write of Tasmania Tomorrow legislation around the Tasmanian Polytechnic, Academy and the Skills Institute. It was a late night on a Thursday. Part of the work of an opposition is to be prepared, to research and to know what your position and policy is. You should have it in order.

I accept there is a lot at play here. The Government and my office specifically made a special effort to ensure members in this Chamber had opportunity to spend time with our police personnel, as well as our visiting New South Wales colleagues who travelled to Tasmania; especially so that Dr Broad and his colleagues would have lots of opportunity to understand the interstate context but to also understand how this legislation will work in practice and how it will make Tasmania safer.

Dr Woodruff - It is a pity you wasted their time by not giving all of the Bar Association, Law Society, Civil Liberties Australia, an opportunity to have a look at this bill. Two days is not enough time. It is not the same as a consultation draft. You have it on your own head.

Mr FERGUSON - Thank you for the commentary.

Madam SPEAKER - Order.

Ms O'Byrne - Be careful, Rosalie, because if he is forced to, he will name them. That is what he threatened. 'If backed into a corner, I will name them'.

Mr FERGUSON - I do not know what is going on over here.

Madam SPEAKER - Order. I am not certain either. I would appreciate conversation through the Chair please.

Mr FERGUSON - Madam Speaker, we are thoroughly researched on this. I am aware of correspondence that has been floating around suggesting that the bill is not constitutional. That is utterly rejected. That is one of the principle reasons that the Liberal Government has chosen to base its legislation on the New South Wales test of legislation. That has been vindicated. It was challenged at the High Court. It has been upheld. I will summarise but the only way it varies from New South Wales is more or less around additional 'safeguards'. Others might use the word 'protections' which, from a world view of being worried about protecting criminals, the bill has more safeguards. Who knows what the other jurisdictions will do in time? I have no doubt that a number of them will start to look to Tasmania and contemplate what we are doing in having a judicial review.

I will specifically be addressing Ms Houston's comments, which I appreciated. That sustains a lot of the framework around the selection of exemptions which can be used as defences to a charge

of consorting, as to why the judicial review, in the first instance, actually mitigates some of those concerns you may have; for example, for the Tasmanian Aboriginal community.

Modern consorting legislation is an important crime-fighting tool to break down the networks and fabric of organised criminal syndicates and criminal gangs. Consorting laws do exist in every Australian state as well as the Northern Territory. Originally developed as part of anti-vagrancy laws, they have been variously updated in other jurisdictions as outlined earlier.

I remind members of this House, that our Tasmania Police have been very clear with me, the Government and with other members who have attended briefings that without specific legislation to target criminal groups, Tasmania is at risk of becoming a safe haven for them. No-one here today but there has been external commentary criticising the lack of the word 'motorcycle' in this legislation. That would completely miss the point. You do not have to own a motorcycle to have criminal associations and building criminal networks for your criminal purposes in Tasmania. There should be no generalising about people on bikes being bad people. That is something we would agree on.

One of the external stakeholders criticised the lack of the word 'motorcycle' in this bill and also in the previous bill that was to do with insignia. We had a discussion with Dr Broad a few weeks ago about a particular organised crime group that would be captured by our insignia legislation. That has nothing to do with it; they are not a bike gang. It is all about cracking down on organised crime. I appreciate what I sense is that while once again the Greens are siding with the civil libertarians and choosing to vote against the legislation -

Dr Woodruff - Siding with the Law Society, the civil libertarians, the Bar Association; a whole range of very important groups in the state.

Madam SPEAKER - Thank you, Dr Woodruff.

Mr FERGUSON - On this one, it seems that with some qualifications, the Labor Party is on board and I welcome that. I thank Dr Broad, you and your colleagues, if I have read you correctly. You will be able to take some credit for making Tasmania safer as a result.

There are some differences in this legislation from what other states have done. I want to reassure bike riders who are members of bike riding organisations that are not involved in criminal organised crime that it has no impact on you. This is not about you. Keep obeying the law and doing the right thing. Do not get involved in organised crime. Do not let your group go down the path of being involved in organised crime. But for the small number of groups that have already been named and, in the fullness of time, will be dealt with by the insignia legislation, the vast majority of law-abiding motorcyclists in Tasmania will not even know that this legislation has passed. It will not affect them. It will not deal with them. They will not be harassed. They will not be followed. They will not be pulled over. It is not about them. It is about breaking the organised crimes. It is also about telling the ones that are not here to not bother coming, you are not welcome. Do not set up here and do not expand here. Do not move here. Tasmania is no longer your safe haven.

'Official warnings' is a mechanism in this legislation. Official warnings can only be issued to those who have been convicted of a serious offence. The serious offence has been described in the legislation. It stops him or her from consorting with another person who is also a convicted offender.

I want to pick up Ms Houston's notice on this to help you be reassured. This is not about people who have just once, or in their early years, been guilty of a petty crime. While nobody condones that, we understand that people move on and get on with their lives. They get back on track. I doubt there is anyone in this House who has not been guilty of one offence; maybe a traffic offence. My mother is one of those people, but she is about the only person I know who has never ever lost a point.

Ms Haddad - I have never lost a point.

Mr FERGUSON - Just one other person - our shadow attorney-general. We could test that one day.

Ms Haddad - I do not want to jinx myself. No-one drives above 30 in Denison.

Mr FERGUSON - It is a high standard you have set yourself. I will ask you every four years and see how you are going. If that is true, hats off to you. You are the second person I know.

One person did ask me 'What is this all about? I did something wrong as a teenager. Am I not allowed to ever spend time with somebody else who is guilty of a drug crime?' I said, 'No. this is not what this is about when you committed that offence when you were 16.'

I am reassuring the vast majority of Tasmanians who are decent, good, law-abiding people who want to get on with their lives and do perhaps occasionally make mistakes and the law catches up with them, that this is not about them. The police have told me, the Government the Opposition and the Greens, who are voting against the legislation, that this is an important tool in toolkit for dealing with organised crime and getting rid of them, disrupting them and making it difficult for them to exist here and ruin other people's lives.

It is clear that the intention of the proposed legislation is to capture those engaging in criminal conduct, not the general public. The objective of the legislation, which we have had drafted at the top of the bill, is instructive and I am going to keep coming back to it because a commissioned police officer cannot take that step of placing an official warning notice unless they are satisfied it will advance the objective of the law. The objective of the law is what we are going to keep coming back to.

The legislation will not stop general members of the public from associating. It will not prohibit family members from maintaining relationships. It will not prevent Aboriginal community members who have kinship relationships from being able to maintain those. It will not prohibit people from working. It will not prevent any person charged with this offence from the principles of natural justice they would ordinarily expect. For example, if you are charged with the offence of consorting, even if you have been through the process and have ended up with a warning notice issued to you, which is held up at the administrative division of the Magistrate's Court, if after then you have still consorted more than once with the other person you were not meant to, you still have your day in court to argue your case and your innocence if you believe you are innocent. You have the right to a trial where police would have to prove all of the elements of the offence and then there are avenues of appeal to a higher court again.

We understand there are so many elements of this that will deal away the unfounded, noisy and frankly at times irrational concerns that have been raised by a number of individuals in Tasmania who are trying to stop this legislation from getting through. It is always reasonable to ask why you

are opposing it so vigorously. Usually it is nothing to do with civil liberties, by the way, because your first right as a person with liberty in this state is to be free from crime. Spare a thought for the victims of crime. The Attorney-General and Mr Brooks both gave a shout out to the victims of crime. Your first right as a Tasmanian is to live free from intimidation, free from fear of somebody standing on your doorstep demanding a drug debt be repaid under threat of the colours - 'We'll come and get you if you don't.' That is what has been happening. Tell those people why you are opposing it so vigorously. If you are a real civil libertarian you want to believe and demonstrate the liberty of a free citizen to be able to go about their daily business in peace and true freedom without harassment and fear.

The bill also offers extensive safeguards that are not available in other jurisdictions. It would make Tasmania's legislation as our first step into this area, noting that we have committed to a review to see if it may need to be extended at a later time. In other states it is 'person' to 'criminal'. In our legislation it is 'criminal' to 'criminal'. We want to keep an open mind on that but that is not the step we are taking now. There is no bill being drafted to do something more later but we just want to put it on the record that police want to, and I want them to, be able to examine that option as other states have done, in the future.

Our legislation is probably the most conservative in respect of civil liberties that you will see amongst any of the jurisdictions. We have defined the objective that has to be satisfied, there is the double review mechanism with police at commissioned level and above, including the judicial review, so there are two forms of review. There is an expiry limit on warning notices. For anybody who thinks five years is too long, remember that in other states there is no limit. Official warnings must be in writing, whereas in other states they can be verbal - turn on the body-worn camera, given the verbal and you have done it. This has the rigour around a written warning.

The official warning, as I have said, must be issued by a commissioned officer. In other states it can apply to children, but not in this. This is our first step in this area and there is no intention nor desire and nobody has even asked me if we should do it for children so that is not on the cards. It only applies to adults. I have dealt with the 'convicted offender' to 'convicted offender'.

Unfortunately serious and organised crime hits the lives of Australians and Tasmanians. Something like $1500 out of every Australian's pocket is the reflected average per capita cost of the impact of crime on our country just down to serious and organised crime alone. We want to make sure Tasmania Police has the tools it needs and has been asking for to combat organised crime in this state.

I want to thank a few people, in particular Commissioner Hine for his steadfast work in this area; Assistant Commissioner Glenn Frame, who has been driving this project within Tasmania Police; Inspector Keane and his colleagues in the legal area of Tasmania Police; and my own office that has worked very hard and often at short notice organising not just briefings for every member of the House and the Legislative Council but sometimes multiple briefings to reassure and go through further detail.

In respect of this legislation I would like to particularly thank our police colleagues from New South Wales and in particular Detective Superintendent David Adney of New South Wales Police who took time to be with the House of Assembly and Legislative Council members earlier today so that the experience from New South Wales could be understood and shared. They sat next to Tasmania Police outlining the differences with what we are proposing for any member or

Legislative Council member who had a worry or a concern and I think that would assist in setting those concerns aside.

I will conclude there. I know we will go into Committee. I will indicate that the Government has had a look at the amendments from Dr Broad and Dr Woodruff and we will debate them one at a time. We are not persuaded on the merits of them at this point in time. There are some other more positive comments I will make on some of them when we get to them one at a time, but I can indicate that the Government is willing to insert a formal statutory review clause into the legislation. I have that amendment drafted and we can get that and share it around. I will be voluntarily moving that on behalf of the Government at the appropriate clause but we will have that debate at a later time. I thank members for their contributions.

Bill read the second time.

POLICE OFFENCES AMENDMENT (CONSORTING) BILL 2018 (No. 37)

In Committee

Clause 1 -
Short Title

Dr BROAD - The title is Police Offences Amendment (Consorting) Bill. As the minister has highlighted, I am very disappointed we cannot have a very simple process here. We have put on the line the amendments we would be happy with and we will debate each of these amendments in turn. If our amendments were agreed to, we would support this. We want to be very proactive. We will get to it in a minute.

Mr Brooks - You have to talk about the title.

Dr BROAD - I am talking about the title.

Mr Brooks - No, you are not. It has to be relevant to the clause.

Mr CHAIRMAN - Order.

Dr BROAD - The second reading passed without division.

Mr CHAIRMAN - Dr Broad, the reality is with these first three, it is a very strict debate if you have issues with the title. Once we get into your amendments you have the opportunity. It is not a second reading option and I know you were reasonably short.

Dr BROAD - We think about consorting and the strengths and the weaknesses of the bill in terms of how it describes consorting, which is in the title, the way that needed to be strengthened, was along the lines of our amendments. Our position is, with those amendments passing, we would support the bill into the upper House.

Mr Ferguson - That is a little different.

Dr BROAD - To what, minister?

Mr Ferguson - You just passed the second reading vote.

Dr BROAD - No, I said no. I did not call a division.

Mr Ferguson - I am glad *Hansard* has picked it up now.

Dr BROAD - We do not support the unamended bill. We support these amendments. We want a bill with these amendments in it and that is what we said.

Mr Hidding - The second reading is for the principle of the bill. You just voted against it.

Dr BROAD - We do not support an unamended bill.

Mr Hidding - Why should we be interested in your amendments?

Dr BROAD - We do not support an unamended bill. We want to see the bill amended.

Mr Ferguson - You were going so well.

Dr BROAD - We were going so well. Throughout the debate you highlighted the positive discussions we had and we did have positive discussions. We want to see these amendments passed. That is our position.

Mr Ferguson - That is called wanting to improve the bill.

Dr BROAD - We want to improve the bill.

Mr Ferguson - But you are going to vote against it if it is not improved, are you?

Dr BROAD - That is exactly right.

Mr FERGUSON - That is almost intolerable behaviour. At least the Greens were big enough to say they are going vote against it. Seriously, we are now on the title of the bill. Mr Hidding has been here for 20 years. I do not know if we have ever seen where an opposition will make supportive statements during the second reading debate which would lead any listener to conclude the bill is being supported by the Labor Opposition.

Dr WOODRUFF - Point of order, Mr Chairman. Clarification: is the minister speaking to the title - that is the clause we are on - or is this a political statement?

Mr CHAIRMAN - I remind the minister, as I reminded Dr Broad, debates on the title should only reflect the title. I ask you to keep it short, minister.

Mr FERGUSON - That is one of the most misleading behaviours I have seen in this place in my eight years here. I will keep this short. Members opposite have set themselves up to again vote with criminal outlaw gangs under the cover that a few amendments would make the difference for you to completely swing over and vote for the legislation. That is now on the record. You are going to vote down the legislation. What you have just done, very sneakily, is allow it to go through on the second reading vote which means you have supported in principle and yet you now tell me during the Committee stage you whispered, no. You have been caught out.

I will now reflect very carefully on any amendments the Government might proactively bring forward. We wanted to work in a collaborative, more or less constructive way. I now sense a trap and I am not going to fall for it.

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Clause 5 -
Part II, Division III inserted

Dr WOODRUFF - The Greens have an amendment to proposed section 20A. Clause 5, Part II, Division III, 20A, Interpretation of Division III, around the definition of 'convicted offender'. I will now read in our amendment, which has been circulated. The amendment is:

> That clause 5 be amended by removing the definition of 'convicted offender' and inserting the following definition of convicted offender:
>
> Convicted offender means the person who has attained the age of 18 years and within the last five years has either:
>
> (a) been convicted of a serious offence; or
> (b) finished serving a prison sentence for a serious offence.

The concern that we have with the definition as it stands is that much can happen in a period of a person's life and this is related to the breadth of the serious offence as defined in the bill, which is a whole range of all indictable offences and those that are tried on indictment and summarily. In the context of a person's life as it stands at the moment, it is possible that a young person could have been charged and found guilty of some type of serious offence, which could mean stealing or a range of other things which may have no bearing on the reality of their life 50 years later.

The purpose of this act is about stopping organised criminal networks from expanding or establishing or being maintained and so within the frame of the object of the act, we think it is more appropriate that 'convicted offender' would be someone who is over the age of 18, who has been convicted of a serious offence or served a prison sentence for a serious offence within the last five years. In other words, it is the activities that they are undertaking around the period of time - which is a reasonable period of time - which are seeking to be constrained or stopped. It would be more appropriate to constrain this to a five-year period prior to when the consorting order is sought.

Mr FERGUSON - Thank you, Dr Woodruff, for your well thought out, well-intended amendment. It is not going to be supported today by the Government. That does not mean that you do not have some logical good reason for why you are doing this. What I am hearing from you is that you are saying that someone can commit an offence at an earlier time in their life and they can reform.

Dr Woodruff - Yes.

Mr FERGUSON - We agree with you. However the reason we would not support this is because there are other ways that the bill has safeguards to protect that exact point that you have made. The key one is the object of the Division, which is in clause 5 under the new section 20B,

which - if I can put it this way - more or less becomes the centre of the legislation. The object of the Division being established is central to what can happen and who would be captured. I will read it for the purposes of the debate:

> The object of the Division is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks.

We all understand that. That then becomes the critical piece for proposed new section 20D for the actual issuance of an official warning. I will read it for the sake of the argument and debate:

> (1) A commissioned police officer, if satisfied that it is desirable to do so in furtherance of the objects of this Division, may authorise a convicted offender to be given a notice in writing ...

The point I make is that it is very clear what the central object of the law is to be - to disrupt crime and deter convicted offenders from establishing, maintaining and expanding criminal networks. I put it to you that a person who has a criminal record, whether it be a small or a large offence from more than five or 10 years before, unless they are specifically identified as intending to establish, maintain and expand criminal networks and police have criminal intelligence to back that up through a judicial review exercise, they cannot be issued with a notice in any event.

Police have advised me of another reason not to support your amendment. It overlooks the major player in a criminal gang who offended 10 or even 20 years earlier and have now climbed through the ranks, but yet gets others more junior than them to carry out the crimes. That is often how these central leaders play. They cannot be prevented from consorting with their hierarchy if the amendment were to be carried and it would defeat the whole purpose of the legislation. The requirement to meet the bill's objectives and the review rights, both operationally within commissioned police ranks and also through the Magistrates Court, protects those people who you are concerned for who offended years ago but are now well-behaved, good people and good citizens. For those reasons the Government will not be supporting that amendment today.

Dr BROAD - I thank the member for Franklin, Dr Woodruff, for bringing this amendment. We had considered and had a discussion about this aspect; however, for us it was not a deal-breaker in the way the legislation was constructed.

I hear from the minister that the object of the bill will be the major defence for many of the amendments we will be bringing today. There is an issue here where if somebody is convicted of an offence in their early teens there is the potential for them to be hit with a consorting charge some time down the track after they are over 18. The minister has outlined the protection in the legislation to do with having the object in the legislation. However, we know that in other states this is a different issue because the consorting orders can be issued to underage people; I think in some states it was as young as 10 years old. In New South Wales they are going to raise that age to 14 and that was to bust up Fagin-like associations, I imagine. However, that is not the intent of this bill and having the age of the consorting notice being 18 is a good step.

There are pros and cons to this issue. We will support this amendment because for us this is not a deal-breaker on the legislation. It will no doubt be discussed in the upper House.

Mr Hidding - I thought you were voting against the legislation.

Dr BROAD - We are talking amendments now. We want an amended piece of legislation.

Mr Hidding - You can't be talking deal-breakers. What are you talking about? Are you going to change your mind and vote for it?

Dr BROAD - If you accept our amendments we will. I have already indicated that. The vast majority of my second reading contribution was talking about the amendments we were proposing and the benefits and reasons behind them. It was quite clear in my mind that we want to see an improved bill. We are comfortable in supporting an improved bill, not an unamended bill. The amendment from the Greens we did not consider to be something we would push the Government on. We are of the understanding that our opportunity to get amendments passed by the Government are likely to be very limited so we pared back our amendments to the ones that would allow us to support the bill.

This is something we considered but it would not lapse our support for an amended bill. The reasons are that potentially if someone was seventeen and a half when they were convicted of a serious offence, that would mean they would have to commit another serious offence in the next six months. It is only an arbitrary issue and we think this amendment is supportable but for us it would not make the difference between supporting an amended bill or not.

Dr WOODRUFF - I hear the minister's comments and I think they are reasonable. The issue of gangs and a person at the top of the gang abusing younger people by enticing, threatening or harassing them to be involved in criminal activities is a very good point. This was raised by a person who wrote to me about the bill and their view was that a person could be crime-free for 30 or 40 years and still fall under the bill. Their question was about having a time limit since conviction for lower severity offences, which is what happens in the old Convictions Act 2003. Although they are classified as serious offences, there is a wide degree of severity within that categorisation. We are grabbing a whole lot of people within the same bag here, some of whom may have been very young at the time, a long time ago. As the member for Braddon said, this is not our strongest concern with this bill but it was a point that was raised which we are reflecting here.

Amendment negatived.

Progress reported; committee to sit again.

SITTING TIMES

[5.00 p.m.]

Mr FERGUSON (Bass - Leader of Government Business) - Mr Deputy Speaker, I move -

That the House not adjourn at 6 p.m. and that the House continue to sit past 6 p.m.

Motion agreed.

POLICE OFFENCES AMENDMENT (CONSORTING) BILL 2018 (No. 37)

In Committee

Resumed from above.

[5.00 p.m.]

Dr BROAD - The next three amendments are in clause 5, but I want to speak on clause 5 as well.

Mr CHAIRMAN - You can talk on clause 5 and at the end of your contribution then move on to your amendments. When you move the first amendment then we will talk about that amendment.

Dr BROAD - I would rather talk on the clause at the end. That deals with the magistrates bit that needs a bit of fleshing out before I move the amendment. I would rather just move the first amendment straight up. Is that possible and then get to the clause at the end?

Mr Chairman, I move in proposed new section 20A in the definition of 'family member', paragraph (e) -

after 'defendant' add ', including a half-brother or half-sister of the defendant'.

The reason we are moving this, as I highlighted in my second reading contribution, was that the definition of a family member in the bill before us is very narrow compared to other jurisdictions. Other jurisdictions like Queensland, for example, go to some length to describe families rather than just as linear. We think that modern families are a little more complicated now than perhaps in the past. There are quite a lot of families where there are new associations and we have half-brothers and half-sisters who form significant family bonds. We think that there should be a consorting defence that could be put to an inspector or through a more senior police officer and a magistrate. The fact that you are a half-brother or half-sister of the defendant should be a reasonable defence for the consorting offence.

We see in other jurisdictions that the term 'family member' is more loosely defined as being a family member or a close family member. That gives the magistrate some flexibility in how to apply that particular defence. However, because the bill before us is very specific, it limits the scope of that defence at the inspector, the senior police officer and the magistrate level to being too narrow.

This is not a huge change; however, we think it would be significant reflecting on the realities of modern society. Modern societies have many more blended families. They have a lot more second relationships. Everybody would be able to talk about relationships developing through our lives. Divorces or establishing new relationships and having blended families and new siblings, et cetera, who are defined as half-brothers and half-sisters is a reality. That should be a defence. We see that in other jurisdictions they have taken that into account. The Tasmanian situation is too narrow. We think that this is an improvement on the bill.

In my second reading contribution I also discussed other family relationships, which we will get to in the following amendments. However, we think that because of the blending of families and the modern realities that this should stand part of the bill. This amendment is worthwhile. It

should not be something that the Government simply knocks off. It would be very easy to support this; it is a very simple amendment. I encourage the Government to support us on this amendment.

Mr FERGUSON - Dr Broad, I know you are already sick of me lecturing you. I am sick of lecturing. I am gutted at what you have done today: that you would actually threaten the whole bill because you did not get all of your amendments up. I understand why any one of your amendments might be important to you and your colleagues, just like we dealt with the one from Dr Woodruff. What are you asking the Government to do each time you ask us to support an amendment? Are you asking us to weaken our legislation?

Dr Broad interjecting.

Mr FERGUSON - Please hear me out. Are you asking us to weaken our own legislation and make concessions in order to attract your vote to ensure that it passes both Houses of our parliament? I do not know who I am dealing with at the moment because I feel that in respect of our second reading debate you tricked us.

Dr Broad - That was not my intention.

Mr FERGUSON - I will put that on the record. Dr Broad, looking at your amendment, with respect - this is not a criticism - this is the third different version of this amendment, isn't it? It has changed.

Dr Broad - By interjection, that was because of the short time that we have had to draft these amendments. When we presented it to the Clerk, he pointed out that there were some errors in the way that we had framed our amendment. It did not change the intention of our amendment. Unfortunately, the Clerk made an error in the way that it was drafted and presented to us again. That is why we have the additional copy. I am very sorry about that. It relates to the short time we had.

Mr FERGUSON - I am going to ask you a very basic question. If we were to agree with one or two of these amendments -

Dr Broad - We want these amendments.

Mr FERGUSON - I want your assurance. Listen to me please. I want your assurance that you will not hold it up at the third reading stage because we will have to suspend Standing Orders to have it considered today on the third reading forthwith. At the end of this stage of the debate and the House agrees to the bill, as I hope it will, we would then have to suspend Standing Orders to have it read a third time forthwith because it would be amended. I want your guarantee that you will support that motion at that time.

Dr Broad - If you give us these amendments we will support the bill through to the upper House.

Mr FERGUSON - I am asking you a different question. If the bill is amended today I want your assurance that you will not hold up the bill being taken to the Legislative Council.

Dr Broad - No, we will not. The only thing that we want is these amendments. That is the truth.

Dr WOODRUFF - Point of order, Chair. Can I get some clarification about what process we are having at the moment?

Dr Broad - We are considering our first amendment.

Mr FERGUSON - I am going to say to you, Dr Broad, the second question is -

A member - Why aren't you talking through the Chair?

Mr FERGUSON - Because we are in Committee. My second question - I am assessing if I can deal honestly here. There are some of your amendments that we are not opposed to but we are not in a position to agree to them today. In my later contributions I will explain to you that in some cases we are willing to take advice on them but not agree to them today. My point is that we are not going to give you everything you want today, but I need a commitment from you that you will deal honestly on the bill in respect of not blocking it just because you did not get everything you wanted.

Dr Broad - I suppose it depends on which ones.

Mr Bacon - You'll have to wait and see.

Mr FERGUSON - When I was in opposition we did not get many amendments up, Mr Bacon.

Mr Bacon - Is that right?

Mr FERGUSON - That is right. So that is there.

Mr Bacon - Why are you looking so smarmy?

Mr FERGUSON - Scott, just make a useful contribution or do not be here.

Mr Bacon - What are you doing that is useful? What's under your skin?

Mr CHAIRMAN - Order.

Ms HADDAD - I am speaking to the first amendment to add the words 'half-brother or half-sister' after the word 'defendant' in proposed new section 20A(e). As Dr Broad has covered, families are fairly complicated these days. My own children, for example, have a half-brother, although I do not like to refer to him as that. He is a delightful little boy and I refer to him as my children's brother. They also have step-siblings. My extended family is large and arguably unruly and there are several instances of step-brothers and step-sisters and half-brothers and half-sisters in my extended family. The reasons for including this amendment are fairly simple and they simply recognise modern families and the fact that family structures change.

I put on the record as well that subsection (f) is a catch-all in the proposed legislation where if a step-relative lives with the defendant they are considered a family member. I draw the House's attention to that simply because our amendment intends to make it very clear that the step-siblings need not be living with one another to not be considered family. I am sure all of us in this place would know people who have been brought up with half-siblings for their whole lives, go on to

become adults and no longer live in the same residence but are nonetheless definitely family and I believe should be considered as such.

The minister made some criticisms of the fact that we have had three versions of the amendment and Dr Broad explained that we had some advice from the Clerk about drafting those amendments. I put on the record that if lower House opposition and cross-bench party members had access to the Office of Parliamentary Counsel in the way Legislative Councillors do, I believe that the time of this Chamber would be much better used. I am not an expert legislative drafter and do not pretend to be, but I have had a hand in drafting our attempts at these amendments. If we had the use of the OPC, the Chamber and the Clerk would be more likely to see adequately drafted amendments in the first instance. I give that explanation in response to the minister's criticism that we have provided more than one version of the amendment. In fact, all of those versions of the amendment attempted to achieve the same very simple thing, which is including the words 'half-brother or half-sister' into the definition section of the act.

I will wait for the minister because I wanted to also address his comments about these amendments and the feeling that he had that we were being tricky in our second reading contributions. I refute that. I had no intention of being tricky. We reached a caucus decision about the amendments that were of most importance to us. As I explained, we had very limited time to draft these amendments. I do not claim to be an expert legislative drafter. That is why we have proposed these particular amendments which we feel, if passed, would put us in a position to support this bill, and that is the decision that our caucus has reached.

There are other concerns we have in this bill, primarily the constitution of the Magistrates Court and some of the things that should be considered around evidence provided to the defence, if any. We have not attempted to draft amendments for those clauses because it was not feasible to do that in a way that we could stand here and say, 'Pass this now or we will not support the bill'.

These amendments are simple changes widening the definitions of 'family' and others that we will come to. They are straightforward and simple amendments. I say to the Government in no uncertain terms that passing these amendments today will garner our support. The reason we have not attempted to draft amendments to those more complex clauses of the bill is simply because we want those to be considered in the upper House and we thought that was a more prudent way -

[5.15 p.m.]

Ms Archer - You don't care if it goes through. Is that what you're saying?

Ms HADDAD - We want the bill to go through with these amendments and that is why we have brought these commonsense amendments to this House. We believe they are quite simple and supportable. If they are not supported, I would argue that it is the Government who is playing politics with this because these definitions that we are suggesting need change do not change the intent of the bill or the heart of the legislation.

Mr FERGUSON - I am asking that we get the temperature back to where it was before. The Government has carefully thought about your amendment. Please understand we have seen three versions of this. I accept what you are saying, Ms Haddad, about your intentions but I am very reluctant to accept amendments on the fly on the Floor of the House.

I have other comments to make about other of your amendments which are not all supported but there is one I would like to take some advice on. As a show of good faith, against my usual

instinct to hold off and make sure they are drafted by OPC and meet my Cabinet requirements as well, on this occasion the Government will accept the amendment which is on the Floor. To be clear, the definition 'family member' would read as:

> A sibling of the defendant, including a half-brother or half-sister of the defendant; or

I warn you, Dr Broad, the actions of your colleague, Mr Bacon, nearly cost you that, but we will agree to the amendment on this occasion.

Dr BROAD - I thank the minister for that indication of support on this first amendment. It is pretty much pulled straight from the Queensland definition of 'close family member', which includes a brother, sister, step-brother or step-sister of the person. The only thing we are trying to do here is learn from the legislation of other states. This was based on the New South Wales legislation. What we are doing here is giving the inspector, the more senior police officer or the magistrate who would review a consorting declaration the ability to take that into consideration. Because the way 'family member' is defined in this bill is narrow, we are expanding that, but only as far as other states have done. We are not speaking unreasonably. We are acting in good faith. On the Floor of the House we are trying to improve the bill. We would have had better drafted amendments if we had more time or access to OPC. We have neither. We are trying to do things on the fly. However, I take it on face value that what we are trying to do here is not to try to change the intent of the bill, but simply add and reflect what is in place in other jurisdictions. We are not trying to trip you up or trap you or anything like that.

Dr WOODRUFF - Taking a reality check, we all need to remind ourselves what the job of being a parliamentarian is about. The key job of being parliamentarians is to pass bills, amend bills, or not pass bills. That is the basic job. Upstairs, amendments are made on the fly all the time. I do not accept this on the fly business that is the work of parliamentarians. Every single day I sit in here and do the work of responding to the bill before me. I make a decision on the fly, so to speak. I do not have the staff that the minister has sitting there to advise me; I am forced to make decisions on the fly all the time.

Mr DEPUTY CHAIRMAN - Dr Woodruff, you need to be relevant to the amendment.

Dr WOODRUFF - I am talking to the amendment, which I am receiving on the fly. I am about to make a decision on the fly about this amendment.

Mr DEPUTY CHAIRMAN - You have not mentioned a word of it yet.

Dr WOODRUFF - Thank you very much. This amendment about 'family member', I have listened to the arguments and I am persuaded that they are reasonable. I am persuaded it would be a good addition to the bill and on the basis of that, and like previous ministers in other governments who have made decisions on the fly, I am prepared to make my mind up right here, right now, that that is a good thing and support it.

I also remind the minister that many ministers before you in other governments have also done things on the fly; it is normal practice. On the fly we have created amendments to this bill in two days, just in case the minister has forgotten there are two Green members in this House and we do a mighty job. We have a very small team and we take this very seriously.

Mr DEPUTY CHAIRMAN - On the amendment, Dr Woodruff.

Dr WOODRUFF - Here on this amendment, on the fly, I am happy to support it.

Dr BROAD - On the amendment, there is also an opportunity because come rain, hail or shine, the Government will be bringing this to the upper House. There is the opportunity to propose amendments to our amendments, or any amendment, before it is considered in the upper House. The Government chooses when to bring that legislation to the upper House. I am assuming that this is a priority for Government, but even so there will still be the opportunity to make any adjustments to take into account issues that the OPC might see.

The idea that we cannot do amendments on the fly is not my understanding of the way that parliaments function. As Dr Woodruff, the member for Franklin stated, this happens in the upper House all the time. With the insignia bill we saw a lot of amendments -

Mr DEPUTY CHAIRMAN - I remind you you are on the amendment, Dr Broad.

Dr BROAD - and a lot of stuff done on the fly and the bill was changed. There is that opportunity and no doubt that opportunity will be taken.

Amendment agreed to.

Mr FERGUSON - The Government is more than happy to support the Labor Party's request for a statutory review. We are not supportive of a periodic review. That is a question for a future parliament and a future House of Assembly. The Government has circulated an amendment. I would indicate that this is the appropriate way for a statutory review to be conducted. You might care to turn your attention, colleagues, to the Mental Health Act 2013 introduced by the former health minister; the words are almost identical. The key difference to a review of the act is that actually this consorting legislation is not a consorting act. It amends the Police Offences Act by creating a new Division III in part 2. The intent of course -

Dr BROAD - Point of order. Are you going to insert that in clause 5?

Mr FERGUSON - I am moving this amendment.

Dr BROAD - Sorry, to get some clarification we were of the understanding that there was a certain order that had to be taken in the way the amendments were proposed. Our amendments were sequential and basically are the same part of the bill.

Mr FERGUSON - If I can explain it might help.

Mr DEPUTY CHAIRMAN - Just for clarification we are on clause 5. If you wish to move amendments where you see fit then members can move amendments to clause 5 as they see fit.

Mr FERGUSON - If I can explain it will make more sense. We are in clause 5, where we are currently debating, deals with the new division. I suspect that if you felt that your amendment is appropriate - the consorting provisions to be reviewed if there is to be a statutory review, and I am minded to agree with that and I have discussed it with my colleagues. We are minded to agree with a statutory review. It is very similar to other reviews that are built into other legislation. The one I am more familiar with is the Mental Health Act. This is a review of the division of the Police

Offences Act, which is the consorting part of the legislation. In Part 2 Division III this would cause a review to be conducted within five years. It is not for a repeating review; we do not support that. It also provides that the report on the outcome of that review be tabled in each House of parliament within 10 sitting days of that House after the review is completed. This is consistent with past practice and it is consistent with previous governments. I move -

That clause 5 be amended by inserting the following new section -

20F Review of Division

(1) The Minister is to review the operation of this Division, and complete the review, within 5 years after the commencement of this Division.

(2) The Minister is to cause a report on the outcome of the review to be tabled in each House of Parliament within 10 sitting-days of that House after the review is completed.

I suspect where Dr Broad's interest lies is with your particular amendment. It was right at the end of the bill.

Dr Broad - A separate division, yes.

Mr FERGUSON - I think that the result of it would have been that you would be reviewing the whole Police Offences Act.

Mr DEPUTY CHAIRMAN - Just for clarification, Dr Broad. We are going to jump around a little bit on this clause, but that is okay.

Dr Woodruff - That was my question because our advice was that it is not okay.

Mr DEPUTY CHAIRMAN - I was advised originally that they were going to be moved as one lot, but now they are not -

Dr Broad - From the commencement.

Ms Haddad - As long as we can come back to the definition section it does not really matter.

Mr DEPUTY CHAIRMAN - Taking into account Dr Woodruff only gets two calls on the clause if we do move around on amendments it will allow you more opportunity to speak on the amendments. It allows you more speaking opportunities, Dr Woodruff.

Dr Woodruff - As long as I can put all my amendments and they can be debated I do not care what order they are in.

Mr DEPUTY CHAIRMAN - We will let you put all your amendments at once and we will make it work.

Ms O'Byrne - Chair, can I get you to put that on the record as I do not think she is realising that you are just having a conversation across the Chamber. If you sit down, Rosalie can ask the question and you can confirm it on the record and everybody will be happy.

Mr DEPUTY CHAIRMAN - No, no. Dr Woodruff is not getting the call. Dr Broad has the call in response to the amendment as moved by the minister to page 15, clause 5, 20F and insertion.

Dr BROAD - We do have some problems with this. The issue is there are two stages to it. The first is the time frame. This is after five years. In the New South Wales bill, which is where the vast majority of this bill was taken from or that is the template for this bill, it included that the Ombudsman would look at the Consorting Act.

[5.30 p.m.]

I accept that we perhaps have an issue with our amendment which we need to change and then recirculate; however, there is an issue here. The time frame in New South Wales was two years and that Ombudsman's report highlighted a number of issues with the bill. That bill was in place for three years, was reviewed, and it showed there were a number of issues with the way the consorting legislation operated, and we have talked about that at some length. In some instances it was being used appropriately but in the majority of instances it was being used against serious criminal offenders and that part of the review got a big tick. It also highlighted that the consorting legislation in New South Wales also resulted in some unintended outcomes and consequences such as being used against homeless people in train stations, and not through intent but through the operation of the legislation, it impacted Aboriginal people.

The whole point we are trying to make here is that the review was done only after a short period of time, after two years and not five. Also in that recommendation the Ombudsman, in his quite lengthy report, recommended that it be ongoing for two reasons. One reason that there be an ongoing review of the operation of the legislation is because the potential for unintended consequences down the road in the use of the bill would still be present. That review gives the Ombudsman the ability to see if it is operating in accordance with its design. The other important factor which the minister has not addressed is that the ability to review periodically gives legislators, whoever sits in these chairs, the ability to strengthen the bill. The key part of the Ombudsman's report talked about the ability for organised crime groups to adapt to the legislation and change the way they behave, change their operations, change their communications and change the way they are operating and working together for a criminal purpose. That review also has the ability to keep the legislation current with current policing methods.

Our argument was and remains that that is best done by the Ombudsman, just like the New South Wales example. It was not drafted in such a manner in New South Wales; it was very specific and we have basically lifted what was in the New South Wales legislation. We are proposing that there be a two-year review from the commencement of the act and then every four years thereafter. We have gone into some thought on this and have decided that we need a shorter review period initially, which is two years. We discussed this with the police in the briefing and the assistant commissioner and Inspector Keane were generally supportive of this approach of a review. Once the act is in operation I think there will be a lot of lessons learned in those early years and we can come back and the application of the law would be reviewed and thereafter it could be done on a more infrequent basis, every four years, with the intent of not only seeing if it is being used as intended but also seeing if there is the ability to strengthen the consorting provisions of the bill.

We are going to have to disagree with the minister that this is the best approach. We think the time line is too long and just like in New South Wales it is the Ombudsman who is well placed to deal with this. We have been quite specific in the things we will talk about in our final amendment on the evidence the Ombudsman should take into account and so on. There is none of that specificity in this amendment and we think our amendment would be far more functional because it comes from the source legislation. We are not making this up ourselves. We have seen the impact of that Ombudsman's report and the way it resulted in positive change in the legislation. It did not result in the repeal of the legislation. This is not a blocking tactic and that is not our intention. Our

intention is to ensure that the operation of consorting is operated to the intent and object of the bill, but the periodical review gives the minister or the parliament the option of strengthening the consorting legislation.

Mr DEPUTY CHAIRMAN - Dr Woodruff, for clarification, you can speak twice on each amendment but on the main clause you can only speak twice which is when you will have to move your amendment.

Dr Woodruff - That is the rule the Government has set for the Greens.

Mr DEPUTY CHAIRMAN - No, that is the Standing Orders. They were set by the House and will be applied to everyone.

Dr Woodruff - They were changed to keep us quiet. That's exactly the way it is.

Mr DEPUTY CHAIRMAN - No, Dr Woodruff - get on with it.

Mr Ferguson - Come on.

Dr WOODRUFF - Excuse me? I do not expect to have patronising side comments while I am speaking. 'Come on'? I have come on pretty fast in the last two days and we have come up with a lot of amendments to a bill that was sneakily dumped in quite late in the period when there was plenty of time.

Mr DEPUTY CHAIRMAN - Dr Woodruff, I need you to be relevant to the clause. The amendment as moved by the minister.

Dr WOODRUFF - The Greens have no faith in a ministerial review. We simply do not. The evidence of this Government and almost any government is that you do not give the minister the power and the responsibility to do reviews of this sort of thing. The Labor Party is correct. It has to be an independent review if it is to have any credibility. What we have in Tasmania at the moment is the Integrity Commission, the Ombudsman's Office, the Anti-Discrimination Commissioner and the EPA, all these bodies which ought to be able to provide very high-calibre and credible work and are under great threat by increasing funding stress.

Not only do we have no confidence in a review undertaken by a minister of this Government or indeed of other governments, we are also concerned at the constant erosion of our independent statutory bodies which are established to undertake reviews and provide the public with confidence that when they make a complaint or want an independent assessment they will get one. We do not support this amendment although we do support the recognition by the Government that a review ought to be undertaken. That is important. A review ought to be tabled in the House of Parliament but we do not support this amendment in the form it is in.

Ms HADDAD - I start by reiterating my comments on the last amendment about the benefits that would be felt not only by the Opposition but by this House were the Opposition to have the services of the Office of the Parliamentary Counsel available to them.

It was not my intention to suggest in our amendment a review of the entire Police Offences Act but I now see that is in fact what we did. That was not our intention so I make that clarification that

should we have access to the services of OPC, this Chamber's time would be used more efficiently because we would be presenting more correctly drafted amendments to this place.

Dr Broad has covered very capably our feelings about why we want to insert a review clause into this legislation. I am encouraged that the minister is not averse to a review at all. There is a huge difference between a bureaucratic review of any administrative decision or any legislation and one that is done at arm's length by the Ombudsman or by any other statutory officer. That is one of the many reasons that Tasmania has statutory officers such as the Ombudsman, the Anti-Discrimination Commissioner, such as the Industrial Commissioner and the Integrity Commission.

It is my firm view that a review clause is necessary in this bill. I will reiterate that we brought amendments to this House that we thought were non-controversial and would be supported in this place and left issues of more complexity to be raised in the upper House.

As Dr Broad said, our amendment was based entirely on the New South Wales source legislation upon which the rest of the bill is based. Our amendment would have allowed for the Ombudsman to conduct the review, but also specified as the New South Wales law does a whole heap of evidence and information that the Ombudsman should be furnished with before he can complete the review. I stand by the value of having an arm's length review not just of this legislation, but of any legislation. As Dr Broad said, the review that was conducted by the ombudsman in New South Wales actually improved the law.

If the Government's true intention is that which is expressed in the objectives of the act, then I believe the Government should not be worried about an administrative review conducted at arm's length of the Government by the Ombudsman. In fact, they should welcome such an arm's length review by the Ombudsman because such a review would lead to an opportunity for parliament to improve legislation and laws in Tasmania.

The evidence that was required to be provided in New South Wales includes all material, including criminal intelligence reports and criminal information relevant to appeals to the magistrates from official warnings undertaken under the act. The Ombudsman may from time to time require the Commissioner of Police or any authority to provide any information, or further information, the Ombudsman requires for the purposes of preparing the report under this clause. The Ombudsman must furnish a copy of the report to the 'minister' and to the Commissioner of Police.

In New South Wales law, it refers to the Attorney General because the act is under the Attorney General's administration in New South Wales. We have changed that to 'minister' to make it relevant to our administrative arrangements. It goes on to say -

> The minister is to lay, or cause to be laid, a copy of the report before both Houses of parliament as soon or on the next sitting day that the minister receives the report.

In addition we have also consulted with colleagues at the Australian Lawyers Alliance, which has suggested strengthening it further to include the Ombudsman needing to be furnished with the following information -

(a) Official warnings given under the act;

(b) Internal reviews of official warnings taken under the act;

(c) Appeals to magistrates from official warnings undertaken under the act;

(d) Any prosecutions brought under the act for the offence of habitual consorting.

That would enable the Ombudsman to conduct a thorough and rigorous review of the operations of the division of the act that we are talking about today. I sincerely believe that any government should welcome that kind of scrutiny of its legislation. I like to believe that were I in government I would welcome such scrutiny of legislation that I would put forward to this House. The statutory officers in Tasmania are held in extremely high regard around Tasmania and around Australia. We have some of the best legislation administered by those statutory officers. For example, the Anti-Discrimination Act was nation-leading when introduced and I believe it is still nation-leading now. The Anti-Discrimination Commissioner has an extremely important role in the administration of justice in Tasmania. As the minister said, the Mental Health Act allows for a ministerial review. There is nothing inherently wrong with that, Mr Deputy Chair. Ministerial and bureaucratic Reviews are not uncommon and they are often contained in legislation. I accept that.

The difference between an administrative review by a minister or a bureaucracy as opposed to a review conducted by an independent statutory office is vastly different and should be welcomed by government. Arm's length reviews can and often do uncover unintended consequences. With all of the goodwill and the consultation in the world, it is not impossible that legislation can go through a parliament and contain unintended consequences. We have talked about the original provisions that we are amending here about not associating with reputed thieves: that is outdated legislation, outdated wording and could lead to some unintended consequences should the police attempt to use those provisions. I am told that they have not used them in decades and that is probably a relief to the people in this place.

Dr BROAD - As I discussed earlier, this proposed amendment from Mr Ferguson does not achieve what we are seeking to achieve. We are seeking to replicate what has been done in New South Wales. We think that it is a very good example of framing the review process. We appreciate the minister is accepting that a review is a good idea. However, we do not think this amendment achieves what we are after. As we discussed the amendment that we were proposing for later, was as an insertion after clause 5. However, we think we can amend the amendment and achieve the outcomes that we were after. Obviously, this is on the fly.

I move the following amendment to the amendment to the amendment in proposed new section 20F(1) -

Replace the word 'Minister' with 'Ombudsman'.

Replace '5 years' with '2 years'.

Add the words 'and each 4 years thereafter' after the words 'commencement of this Division'.

The amended amendment would read -

20F. Review of Division

(1) The Ombudsman is to review the operation of this Division and complete the review within 2 years of the commencement of the Division and each 4 years thereafter. The Minister is to cause a report on the outcome of the review to be tabled in each House of parliament within 10 sitting days of the House after the review is completed.

If the Government accepts those amendments that would negate the need for us to propose the amendment further on. We think that the Ombudsman is where it should be done. It needs to be independent of government. I will go back to the Ombudsman's report from New South Wales because during the review period concerns focused on the impact of the consorting law on the following disadvantaged and vulnerable groups - Aboriginal and Torres Strait Islander peoples, people experiencing homelessness. In this instance in New South Wales, children and young people, and I do not have to go into detail about children and young people because this bill is drafted appropriately and sets the consorting laws to only apply to people over 18.

The Ombudsman's report that was done in New South Wales was a very good process and it has resulted in improvements in New South Wales and improvements here in the way the bill is drafted. We are not seeking to smash the bill, to have the ombudsman throw the whole thing out. What we are after is that review. I am hopeful and quietly confident that in this instance the ombudsman's review would show the consorting laws would hopefully be working as intended in accordance with the object of the bill.

This is not an outrageous request. It is a gold-plate standard and the process that went on in New South Wales highlighted serious issues and those serious issues have improved this bill and down the track they could improve it again. We see strengthening is one thing. The minister may think I am not serious about that but I am. The criminal groups can adapt. This is a process but it is not one that is done by the minister or the minister's department; it is done by an independent ombudsman. That is the gold standard and that is why we are proposing this amendment.

I understand we did have an issue with the drafting of ours in that we were talking about the act. To reiterate Ms Haddad's point, if we had OPC support or if we had more time to consider these amendments in more detail, no doubt we would not have made that error. Our intent is not to review the whole act that this amends. That was not our intention. Our intention is to review this division but our intention is also for that review to be done within a relatively short time of two years and then within each four years thereafter. This is not an outrageous request and that is why I am proposing to amend the amendment.

Dr WOODRUFF - The Greens are happy to support this amendment to the amendment. It covers the concerns we had and it strikes a good balance between the Government's intention to undertake a review and our strong belief that needs to be at arm's length to the executive. It needs to be more regular than the five years and rolling reviews are very important with matters like this. We are happy to support this amendment.

Mr FERGUSON - Mr Deputy Chair, I am deeply uncomfortable with agreeing to any amendments - however courteously they have been done - handwritten on scraps of paper. I do not like this at all. If Dr Broad will resubmit his amendment with the word 'Ombudsman' and instead of '2' the number '4' and you will take out 'every 4 years thereafter', I would consider that. I can edit it for you if you like. What I am saying is I would offer that Dr Broad if he would wish -

Mr DEPUTY CHAIRMAN - Dr Broad, if would be easier if you were going to accept that if you withdraw your second amendment and resubmit a revised amendment. That is the easiest way to deal with it.

Dr BROAD - I appreciate the effort the minister has gone to here. This is an interesting way to do things, from all sides.

Mr Ferguson - We do not have to do this.

Dr BROAD - I am expressing my appreciation for your efforts. I just have a question. Understanding the issue that you have with the periodic review, could you outline why you think that four years is better than two years? Can you explain those two things? You have conceded that four years is better than five. However, why not two years and given my reasoning, why do you not like the idea of a periodic review?

Mr FERGUSON - This is a decision for you, Dr Broad, about how you would like to proceed. I am offering to you that if you move an amendment that I have just placed in your hand on behalf of the Government, I will agree to that. If you proceed with the amendment that is currently on the table we will not support that. There are issues with it. I am taking advice as you can see from our advisers from Tas Police. We have no difficulty with the use of the Ombudsman. It is as independent as it would have been by the minister, because I would have asked the police to do it. Second, two years is too short. The Ombudsman of New South Wales - he or she - made it clear that the two-year review that they were commissioned with when their act commenced was too short.

Dr Broad - That was three years.

Mr FERGUSON - No, my advice was that the initial period of time was too short. They needed more time for implementation for normal use of the consorting laws, because they had the High Court challenge, which interfered with its implementation. Together with the fact that the Ombudsman themselves, he or she, in their recommendation No. 11.4 and recommendation 19 did not call for ongoing periodic reviews either, and recommended three years from the end of the review period on which the report is based.

I am willing to accept four. Dr Broad, it is up to you from here, but that is what we are willing to accept. I also make it clear that the phrasing in the original motion I have placed on the Table is based on convention. The previous minister, Michelle O'Byrne, used this language in the Mental Health Act 2013. It is the appropriate form. I am seeking to ensure that the Labor Party does not have any excuses to vote this legislation down because it is too important to the Government and the people of Tasmania. It is now in your hands, Dr Broad. If you choose to continue with the current amendment we will vote against it. If you choose to withdraw it and submit a different form, we will support it.

[6.00 p.m.]

Ms O'BYRNE - I want to touch on a couple of things in case we have misunderstood information that we were provided. The minister was suggesting that the Ombudsman's report in New South Wales did not suggest a review. I may be mistaken but I was of the understanding that it did so we seek some advice from those who have a copy in their hands.

The other issue is around the nature of the length of the review. We clarified during our briefing that it was after a three-year period that the review took place. I specifically remember asking that question but the minister has just said that it is two years. Perhaps he could seek some advice and clarify that for me. I remember asking the question and clarifying that it was three years and not two years so if I have made an error or misunderstood that, it would be useful to know.

Going back to the time of the review, this is legislation is happening concurrently with other legislation in this space. We are cognisant of the work that was done in New South Wales and that this bill is better than some of the other legislation that has appeared before the House on the subject in recent times. We are cognisant that changes have been made in New South Wales to deal with some of their issues but what was very clear there was that they had a challenge to the High Court which was ongoing and impacted in the way they responded to any concerns.

Given some of the issues that have been raised by members around the House today, there are concerns, although not about the intent. In all good faith we believe the intent is not to inadvertently capture other people by this legislation. However we all know that legislation has to be written in a way to ensure that people are not inadvertently picked up. You have to assume, unfortunately, that the good people we have here will not always be making the decisions. We cannot anticipate who is going to be making decisions or anticipate the circumstances. Given that we are talking potentially about impacting on communities in a whole range of areas we need a shorter period of review to ensure that we have not inadvertently picked up the wrong people.

I appreciate the briefing we had and the transparency and honesty with which that briefing was given and the wealth of information that was provided. Nobody wants to see an inadvertent collection of people within this because the process is cumbersome. It is difficult for police because they have to go through a process that ends up with an inspector having to make a decision on whether to have to issue a notice. It can then potentially take up the time of the commissioner or whoever the commissioner assigns to review any appeal of that motion, and that ties up our Magistrates Court if people are still unhappy with the outcome. We do not want to be doing that with cases that we know should not be there and the earlier we can resolve that, should it be the case, the better.

Two years is a reasonable amount of time for us to determine whether or not there is an inadvertent, unexpected, unanticipated impact to the legislation. It is not too much to ask. We need to remember that given the intent of who we are targeting, there is a lot of legislation coming through this parliament. A lot has come through and there is more to come. There are implications that other legislation may also have fallout that comes into this space and we need to make sure that we have a rigorous process for ensuring, given the effect that is anticipated and is required, that we are not inadvertently reducing anyone's individual freedoms.

I thought Ms Houston made a very powerful case in her contribution around the nature of extended families in some of our communities and the risk they might find themselves picked up. None of us really believes we are going to have police officers hanging out at funerals trying to catch people together. None of us believes that our police have time to hang around doing that, but we need to make sure that that is not an outcome. The review allows you to do that. If, during the review the Ombudsman conducts, we then find there is no need to make any changes and it has captured exactly who we have asked it to capture and it is not inadvertently picking up anyone else, this amendment seeks that we move it to each four years thereafter. That is reasonable, given the fact that we are dealing with something that we know is around the way that people engage in and conduct their relationships.

Whilst it would be wonderful if everyone we knew had a crime-free background and no-one ever had an indictable offence, whether they were charged under an indictable offence or charged summarily, the reality is that in our community there are people who have committed a crime who have, however, been censured. They have received their sentence, served their time and they come back out and conduct their lives in the community in a good way but they may still have associations with people whose intent is not as good. We do not want those people to inadvertently be caught up in the legislation. That is what the intent of this legislation really is.

Minister, I know you have talked about the Mental Health Act and the period of review. It is not that I discount that argument at all. It is always nice and it is very rare that you ever say you agree with anything that I did. I am feeling quite conflicted now. It is the first time the minister said I did something he agreed with and we are arguing against it, so it is an awkward situation. Given the circumstances of what we are dealing with and the complexity of the other legislation in this space at the same time, we genuinely need to look at a period of review that allows us to not get into any kind of mess.

I appreciate that taking amendments on the Floor of the House is a difficult thing for a minister at any time. I recall former attorney-general, Brian Wightman, pausing legislation and taking a break so that a drafter could work on it. I appreciate the goodwill that you wish to find a way to accept the amendment; however I think that time has been had now for us to review appropriately around the timing and the nature of the ongoing review. I cannot rule out that you will not find these sorts of questions appearing in the other place but I want to state on the record the reasons that we find the review process so important.

Dr BROAD - I thank the member for Bass for her spirited defence of the intent of what we are trying to do. We are also trying to get a good outcome. We have a desire for a periodic review; however we are willing to accept the minister's compromise. I seek leave to withdraw the amendment.

Amendment withdrawn.

Dr BROAD - Mr Deputy Chairman, I move -

> That the amendment be amended in proposed new section 20F(1) by replacing the word 'Minister' with the word 'Ombudsman' and by replacing '5 years' with '4 years'.

This is as directed by advice from the minister. Thank you for that compromise. That puts the review past the next electoral cycle. We are seeing an amendment that, hopefully, can be supported. Having a review in this legislation so four years down the track and the operation of this division gets reviewed by the Ombudsman, if the Ombudsman sees fit - to be honest, I hope we are in government and it is us making the decision - to make a recommendation that an ongoing review is something that is desirable.

I appreciate the minister has made this compromise. I appreciate the effort he has gone to in finding a way forward here. We do want an approach that is acceptable from both sides of the House. The amendment has not given us everything we want and it is not the amendment the minister has put. We have amended the amendment. I believe we have found the middle way and seek the minister's advice.

Mr FERGUSON - The Government supports the amendment to the amendment before the Chair. It is a reasonable compromise. This is not the Government's preferred mode of considering legislation. I will pick up a couple of points and thank Ms O'Byrne for the moment of unity we enjoyed a moment ago. It is on the record.

Ms O'Byrne - It will never happen again, don't panic.

Mr FERGUSON - It has been good. You never know. I did vote for that legislation and I remember Jeremy Rockliff doing a fine job of scrutinising it.

The Mental Health Act has massive ramifications for the personal freedoms of Tasmanians. The time period chosen for that was not two, three, four or five, but six years. Yet that has massive ramifications for people who have committed no offence and whose freedoms are limited. I make that point very gently. This is sensible.

I do not think a review is needed at all. The Government does not believe a future review is required. Acts are reviewed anyway. If issues are identified on legal advice, departmental advice, governments often bring amending legislation into fix issues that are identified. Sometimes it is because oppositions identify those problems. A review is not necessary; otherwise, the Government would have included it in the first place. The Labor Party believes a review is valuable. We have compromised to bring the amendment forward in good faith to demonstrate we have nothing to hide. We want the legislation to work. I feel it will.

To answer Ms O'Byrne's question, the original period, I am advised, from New South Wales, was a two-year period. That is my understanding. I could be wrong but that is my advice.

Dr Broad - Yes.

Mr FERGUSON - The other point is a four-year period, I am advised, is a good period if there is to be a statutory review. It stands to reason that in a state a fraction the size of New South Wales we would anticipate a fraction of the number of warning notices to be issued compared to New South Wales. Our caseload for the Ombudsman's review to review would need some time to be able to build up in order to have a review that is valuable.

I ask that we move on and if we are agreed, that we agree on the amendment.

Amendment agreed to.

[6.15 p.m.]

Dr BROAD - It is of no concern now, but in the actual Crimes Amendment (Consorting and Organised Crimes) Act 2012 of the New South Wales legislation, it specifies a period of three years. However, if that happened earlier then that is what it is, but we are almost there.

The second amendment goes back to the original point of expanding the idea of family member. I move -

> That in proposed new section 20A, in the definition of 'family member', after paragraph (f) -
>
> insert the following new paragraphs:

'(g) a grandparent of the defendant;

(h) an aunt, uncle, first cousin, nephew or niece of the defendant.

(i) for an Aboriginal defendant, a person who, under Aboriginal tradition, is regarded as a family member of the defendant.'

This is taken from legislation in other states, which defines family members more generally than it is the case in Tasmania. People know their family a lot more in Tasmania than in other states. My mother was born in Bundaberg and moved to Tasmania with my father. She could not believe that my father not only knew his second and third cousins but that he used to visit them socially and stay with them on numerous occasions. My mother did not even know who most of her first cousins were, let alone her second and third cousins. That is the way of Tasmania. I am not saying to extend this legislation to second and third cousins. I am highlighting the point that in Tasmania, the idea of family, especially in regional areas where people still have been in those areas for generations - the member for Lyons' family has probably been in Bracknell forever. He is probably related to half the people there and has a good understanding of his family, no doubt.

Along the lines of what they have decided in Queensland, it is desirable that it should be extended more generally. The member for Bass, Ms Houston, gave a spirited and a well-put explanation of the importance of the Aboriginal understanding of family, which is not captured in this bill. I sincerely appreciate having a member of the Aboriginal community, the member for Bass, Ms Houston, being in the House to put forward the context of the Aboriginal understanding of family. That is a significant contribution to the parliament that there is a member of the Aboriginal community in the House to put forward the context of Aboriginal meaning of family and Aboriginal tradition. That makes a significant improvement to the bill. If it is reflected in this bill that would be accepted with open arms by the Aboriginal community and be seen as a significant step forward in the way that legislation is put.

Mr FERGUSON - Thank you, Dr Broad. I appreciate the intention of the amendment. The Government is not going to support this amendment. I will explain why and I will also say something further about what its prospects could be. First of all, I am not offended or opposed to the notion of Aboriginal kinship, which is described in (i) of the amendment. What the mover is seeking to do is to equate Aboriginal kinship of an extended family with what you or I might call our uncle, our aunt and our cousins - maybe even second cousins. Am I getting this right?

Dr Broad - Yes.

Mr FERGUSON - Okay. The legislation does not go beyond immediate family at all. It really is intended that the defences for a charge of consorting include the definition for family member which is quite as it has been drafted and with the policy that sits behind this. It is intended to be tight family, close family, the people that you would call your immediate family.

Ms Standen - You do not get it at all, do you?

Mr FERGUSON - I would not be like that because the amendment you are putting forward would include grandparents, uncles, aunties, first cousins, nephews and nieces regardless of whether they are in the Aboriginal community or not. It is extended family that is the point we have agreed on. It is an attempt to make this about extended family. We are not prepared to support a broadening of the immediate family to extended family for Aboriginal or non-Aboriginal people. I am able to

say that while we do not support this I do not know if it has strong drafting and I have asked and nobody has been able to show me - you may be able to but nobody else has been able to show me - another piece of Tasmanian legislation which deals with extended family and Aboriginal kinship.

For those reasons we are not ready to support this. It may be something that could be supported in the future but I do believe there would need to be some significant consultation around this, not the least of which would be some strong legal advice.

In rejecting the amendment I am not rejecting the notion of Aboriginal kinship. We are rejecting a broadening of the definition of family member for this bill to go beyond your immediate family, your domestic immediate family, your spouse, your parent, your child, your sibling and as we have agreed your step sibling.

I am happy to put on the record, to take advice and to consider further the amendment proposed. I want to come back to a more relevant rationale. This Tasmanian bill has been drafted with many additional safeguards to prevent population, ethnic or racial or even vulnerable groups from being caught up in this at all. Specifically, shall we deal with the Aboriginal community which was raised in the second reading debate around the national evidence around increased incarceration, increased disproportionate rates of Aboriginal and Torres Strait Islander people who are caught up in the criminal justice system? Those points are accepted and not challenged.

What we are doing here is building a consorting offence which is about a convicted criminal having a relationship with another convicted criminal with an intent to expand criminal networks. I will harp on about this but the central object of this bill on page 7 is very clear: police cannot issue a warning to a person unless the relationship deals with this object of establishing, maintaining and expanding criminal networks.

I do not believe, and the advice that I have just been given, is there is not a problem perceived or otherwise with the Aboriginal community in Tasmania in relation to organised crime; not at all. They would not be a target. What you are moving is very new, untested and it has not been done in other legislation. On behalf of Government, I can only go as far as to say that we will take advice and consider further that amendment or the notion in the policy area in Tasmanian law of equating extended family that is beyond your immediate family with Aboriginal kinship. As I believe New South Wales has not gone in this direction either, this will be something that I am not empowered to agree to tonight.

Ms O'BYRNE - The minister makes a reasonable point in that there is not a definition like this that exists in the norm. However, I am not assured that we have another piece of legislation that restricts people from being near each other either. This is the first time that I am aware of - unless there is other significant legislation - that says that people cannot be near each other. That requires us to look at what those definitions mean in a different way.

I do not come from an Aboriginal family but I married into an Indian family. I can assure you that Indian families struggle to tell which cousin is an immediate cousin or a second cousin or an uncle or an aunt because everyone is uncle or aunt if they are a certain age. They struggle to make that distinction. My husband would struggle to stand here now and give you a family breakdown of where all of his cousins sit. They regularly cohabit. It is not unusual to live with your grandparents. It is not unusual in other cultures to have the obligation and expectation that your grandparents will remain with you for the rest of your life.

Regardless of whether or not there may be a consorting thing, as we know some of the people that this bill seeks to target are members of particular families, clearly. It is not unreasonable to assume that it is possible that inadvertently we might have a concern where people are no longer able to live with grandma or granddad anymore, because they would be in breach.

This is not an attempt to say that we do not want people to be genuinely captured, but it is the first time we have thought of legislation that says that certain people cannot be with certain people when they are related. That requires us to have a significant difference.

Can I clarify, you did say that you were happy to have a look at how this might work?

Mr Ferguson - Yes.

Ms O'BYRNE - Was that in terms of its totality or were you suggesting just in terms of the definition around Aboriginal defendants? Or are you looking at a broader definition of family holistically? What I am trying to work out is sometimes you are able to say I actually agree with your intent I do not know how we would say it right now, but we will go and draft and something and bring it back to the upper House. Personally, I would like to send the best and finished legislation to the upper House, but given the circumstances you are in, are you saying that that is your intent? Or are you saying, happy to have a look at it, but I am really not sure that I am going to do it?

That clarification would make a significant difference, because it is a most unusual circumstance when we are saying that people cannot be near each other. That is why the definition of family becomes so much more complex. We would all love it if every one of our relatives was a perfectly law-abiding citizen. However, in extended families who cohabit in the same homes and in many cultural groups, that is the norm. All of my husband's family do an awful lot of that. You will not go a week without mass family gatherings, which are really important to the family and to the culture.

That is the same as the member for Bass, Ms Houston, was saying in terms of the intensity of those things, particularly for a dispossessed people, people who have lost so very much and who are working so hard to maintain and build their culture. Anything that we do that inadvertently breaks those families up any further is incredibly dangerous. I know that is not the intent of the bill. I know that is not the intent of the work that the police have done in bringing the bill here, but that is why the definition is important. If you could clarify whether what you could be seeking to do that might allow us to move through this a little faster?

Mr FERGUSON - I am not sure if I read exactly what was in front of me, so I will now read exactly what is in front of me. I will take advice and consider further the amendment proposed to section 28 of the act that would widen the definition of 'family member'. I am looking to take advice on the specifics of this. It is not within my place right now to go any broader than that and I would not. What I see is a well-intentioned attempt to ensure that there is a defence for Aboriginal kinship groups. This is more or less reflected in the New South Wales Ombudsman's report. We know that. We have found other ways to protect people from being caught up in consorting offences that they should not have to be.

I think of it like this: if we think of it as a net to prevent people falling through there is a net around the object, that the object is quite central. I am not sure if Tassie is the only state that would have - yes, they are nodding - it would be the only state with the key object being a criteria that a

police commissioned officer has to meet in order to issue a warning. That is a big net. You could say it is a fine mesh net. Then there is the commissioner's review of commissioned officers decisions, so there is a second net by which people are protected from falling through the system. The third is the judicial review net, which the Labor Party so famously argued for it in another debate.

My point is that we have constructed legislation intended to prevent the very concern that the member for Bass, Ms Houston, outlined in her comments. To answer Ms O'Byrne's question, I am happy to look at it, but I cannot commit to go further than that. It would seem to me on the advice that this is quite a different expression in legislation as regards extended family. I want to bring back the point that the bill does not support a defence for extended family for Aboriginal or non-Aboriginal people, or ethnically diverse people, for example, the Indian community. It is restricted to immediate family for any and all.

[6.30 p.m.]

The question that arises is that if legislation were to reflect extended family, should it also be careful to include Aboriginal kinship relationships or others? Maybe there is an argument there for other ethnic groups as well. I am not equipped to be able to address that tonight. We accept the reasonable arguments that have been made but we cannot support this amendment. I commit to getting further advice on it and if my colleague is asked those questions in the upper House, we will be prepared with answers to that. There may well be an exercise there for legislators to look at this further but that is not within my remit tonight and it is not in my portfolio to do that.

Ms HADDAD - I take the minister at his word that he will look to address these things further and investigate them and be on notice to take those questions through his colleagues in the upper House.

I will keep my comments brief. I recognise this is the only proposed consorting legislation in Australia that contains an objective that gives a certain level of protection to the community that is not available in other states, as do the other safeguards built into the legislation. Generally, once you start defining any group that could potentially be a broad group, you can tie yourself up in knots. An alternative might have been to leave it in the hands of the court to determine who is a family member.

Mr Hidding - Exactly. That is what legislation should be.

Ms HADDAD - I am not suggesting that or a new amendment but that could have been an alternative method of legislative drafting and then it would be up to a magistrate to decide whether the alleged consorter was a family member or not. I say that because of the comments we raised in the first amendment around the complexity of family. In Tasmania we have lots of incidents of grandparents raising grandchildren. I have about 45 first cousins spread across the country and the globe. Many of them are being raised by grandparents or aunts or uncles or are living in kinship groups that are outside the traditional nuclear family of mum, dad and the kids.

Mr Ferguson - Are they all as law-abiding as you?

Ms HADDAD - I hope so, but with so many I am not sure I can confidently say that none of them has ever been charged with an offence. I am fairly confident none of them has ever been convicted of an offence because I am sure I would have heard that on the family grapevine. My nanna would have told me; she is 93. I simply make the point that our attempt at widening the

definition of 'family' was not an attempt to be unconstructive but an attempt to recognise family units are fairly complex these days.

Dr BROAD - To clarify our intent and the reason why we have put this together especially to subsection (i), an Aboriginal defendant is a person who under Aboriginal tradition is regarded as a family member of the defendant. In the New South Wales Ombudsman's report there is a whole section about the unintended consequences and the impact on Aboriginal families. It goes into a bit of detail about issues of how, if the consorting laws are restricted to the strict European version of families it can have perverse outcomes, because in traditional Aboriginal communities there is quite often a lot of peace-broking and it goes into a bit of detail about how the Aboriginal elders can be peacemakers. They can bring together two individuals who may be subject to a consorting order to try to solve the problem and put them on the straight and narrow using traditional methods of persuasion. I have no idea what they are and maybe the member for Bass, Ms Houston, can outline that.

The Ombudsman identified a problem and gave a number of examples of it in New South Wales, especially the targeting of Aboriginal people. It was not necessarily the way it was intended; it was just the way the bill operated. In New South Wales, 2.5 per cent of people are of Aboriginal descent, yet 46 per cent of consorting orders were issued to Aboriginal people. The Ombudsman's report identified a significant issue that no doubt could be relevant in Tasmania, so we sought to look for a solution to that issue so we would not get perverse outcomes. We do not want to stop traditional Aboriginal methods of settling down wayward younger members of the community. We went to the definitions in the Queensland legislation, which states:

> (i) for an Aboriginal person - a person who, under Aboriginal tradition, is regarded as a person mentioned in paragraph (a);

That is the effect we desire. We have redrafted that in a slightly different manner to the best of our ability to make it fit in with this bill. That was our intention.

The Queensland act also says:

> (ii) for a Torres Strait Islander - a person who, under Island custom, is regarded as a person maintained in paragraph (a).

Paragraph (a) in the Queensland legislation defines a close family very extensively as a spouse of a person, someone with whom a person shares parental responsibility of a child, or a parent or a step-parent of the person, a child of the person, a grandparent or step-grandparent of the person, a grandchild or step-grandchild or the person, a brother, sister, step-brother, step-sister of the person, or an aunt or uncle of the person, a niece or a nephew of the person, a first cousin of the person, a brother-in-law, sister-in-law, parent-in-law, son-in-law or daughter-in-law of the person.

After the New South Wales Ombudsman identified a problem, we have sought a solution. We are genuinely seeking to improve the bill which is why we added especially paragraph (i), which reads:

> For an Aboriginal defendant, a person under Aboriginal tradition is regarded as a family member of the defendant.

What we are proposing is an improvement to the bill to hopefully solve a problem that was identified by the New South Wales Ombudsman.

Ms HOUSTON - I want to elaborate on some of the things I said earlier and go back over them. The definition of a family member is quite narrow and what you consider extended family could be a household that we grew up in. Our household consisted of grandparents, great-uncles, cousins, aunties. That consisted of a household and all of those people are immediate family in our context.

Dr Broad referred to the impact of elders and other members of family can have on negotiation when there are issues or crimes committed with a 'weigh in and issue out' discipline and consequences and one of those can be isolation. This bill effectively could punish people who the community are seeking to reintegrate into the community who have been part of criminal gangs or have been in prison and been isolated. Leaving them isolated makes them a greater threat to the community than their capacity to reintegrate. That is why we have moved this. We are looking at how we can make the community safer too.

I draw your attention to the United Nations Declaration on the Right of Indigenous People and its recognition of the particular right to indigenous families and communities to retain shared responsibility for upbringing, training and educational wellbeing of children consistent with the rights of the child. This is a significant document that is about keeping communities together when so much of Aboriginal community has been decimated by the separation of families. I ask what the minister would say to Aboriginal community members who are genuinely concerned about the impact this legislation could have on their family structures and on the cohesion of their communities, given how much damage has been done in the past by separating families.

The Committee divided -

AYES 11	NOES 11
Ms Archer	Mr Bacon
Mr Barnett	Dr Broad
Ms Courtney	Ms Butler (Teller)
Mr Ferguson	Ms Haddad
Mr Gutwein	Ms Houston
Ms Hickey	Mr O'Byrne
Mr Hidding	Ms O'Byrne
Mr Jaensch	Ms O'Connor
Mrs Petrusma	Ms Standen
Mr Rockliff	Ms White
Mr Shelton (Teller)	Dr Woodruff

PAIR

Mr Hodgman	Ms Dow

Mr DEPUTY CHAIRMAN - The result of the division is 11 Ayes and 11 Noes. I therefore have to use a casting vote. In accordance with standing order 257 I cast my vote with the Noes.

Amendment negatived.

Dr WOODRUFF - Mr Deputy Chairman, I move in proposed new sections 20A, in the definition of 'serious offence', paragraph (c) -

> After 'Misuse of Drugs Act 2001' insert ', except for an offence under Division III of Part 3'.

Mr DEPUTY CHAIRMAN - Sorry, Dr Woodruff, could you repeat it again so we have clarity on what you are amending?

Dr WOODRUFF -

> Clause 5 be amended by inserting after 'Misuse of Drugs Act 2001' in the definition of 'serious offence' the words 'except for an offence under Division III of Part 3.

Mr DEPUTY CHAIRMAN - Under part (c), under 'serious offence' under clause 5?

Dr WOODRUFF - That is right clause 5, serious offence, part (c).

This relates to concerns that have been raised by most of the stakeholders we received submissions from, but particularly I refer now to the words from Chris Gunson SC from the Tasmanian Bar who had serious concerns at the scope of the bill and in particular the definition of serious offence in that the proposed section 20A does capture quite minor offences, such as minor drug possession charges. That is precisely why we have brought forward this amendment.

It goes to the heart of the speed at which this bill was brought on that there has not been an opportunity for serious consideration of the range and severity of summary offences, in particular. Part 2 of the Misuse of Drugs Act 2001 relates to major offences and the offences in that part of the act are indictable offences. We are amending part 3, and part 3 of the Misuse of Drugs Act is in relation to minor offences. Minor offences as described in division 1 are summary offences. There is a range of summary offences, but we are particularly concerned about the impacts on people for possessing, using, administering controlled drugs that are of personal quantity levels. That is precisely the point of separating the major and minor offences in the Misuse of Drugs Act.

To look at some of the things that are included, section 23 of that act talks about possessing things used for administration of a controlled drug and a person can be charged if they possess a utensil, appliance or other thing that is designed to be used in connection with preparation of smoking, inhalation, administration or taking of a controlled drug or a controlled plant, or is even intending, after some adjustment, application or other modification to be used in connection with preparation of smoking, inhalation. Are we really talking about a person who has a joint in their pocket? Are we really talking about somebody who has a bong? Are we really talking about somebody who has a smoking pipe? These are the sorts of utensils and appliances that a person could be charged with under this act.

We know that under this Liberal Government all of the moves that have been called for by respected ex-magistrates, ex-judges, ex-premiers, ex-police commissioners at the state and federal level, all of the calls to change the failed war on drugs approach and to look at making possession of personal quantities of now illicit drugs, removing the criminal penalties for that, have fallen on

deaf ears. We know that people are being charged and some people are being convicted in Tasmania still for very, very minor drug-related crimes such as are included under part 3.

The other part of that section 24 relates to possessing, using or administering a controlled drug and a person can be charged for either possessing, using or administering a controlled drug to another person. Again, these are very small quantities. These are the sorts of things that a person might share with their friends. We are not talking about a major serious crime here. We are talking about an old-fashioned law that the Greens have risked following the lead of respected magistrates, judges, premiers, police commissioners around the country. We are following their lead and the evidence for what works overseas and understand that this is an outdated law, particularly in the context of consorting. A person who might have been caught at an event 20 years ago with a joint in their pocket ought not to be included in this list of people. There is no basis for considering them to have committed a serious offence particularly in relation to the purpose of this act and the object of this act.

We strongly encourage the minister to constrain the matters that are considered serious offence for the purposes of this act because ostensibly that is the purpose that we are trying to achieve here; people who have committed serious crimes and not very minor crimes to be caught up in the bill.

Dr BROAD - We understand why the Greens have proposed this. I thank Dr Woodruff for bringing forward this amendment. When we reviewed this bill the first definition, (a) an indictable offence whether the offence is tried by indictment or summarily. From that we have the understanding that that brings into play most crimes, including relatively minor crimes.

Before we had our briefing with members of the police force - and again I would like to thank them for their efforts - and having delved into this, we draw comfort from the object of the bill which the minister has already discussed. Indeed, I discussed at some length in my second reading contribution that inserting that object into the bill is a key protection in this bill. We were satisfied after the briefing with police that the idea of including that particular definition was justified.

Before we got to that point there was the option of going through all the legislation listed here in the definition of serious offence and picking off the bits which we did not think were appropriate. Maybe we could have gone through the Firearms Act, the Misuse of Drugs Act; the Sex Industry Offences Act was something that we may have also considered to look at. I am not sure about section (e). However, we did not really see that having merit because of the protections that we have been seeking to put into the bill but the main thing is there is an object here. If you are a couple of young guys who smoked a joint 10 years ago and the police approach you and you are issued with a consorting order then the inspector must be satisfied that the reason that these two previously convicted drug offenders are meeting with each other is to establish, maintain or expand a criminal network. Two guys who have parties and use drugs in a recreational sense, unless they can be shown to be establishing maintaining and expanding a criminal network, then this will not apply to them. Even though we are aware that the definition of a serious offence is very general and can bring into play the majority of offences, that protection means we were satisfied we did not need to go through all the various acts that are listed here and strike out the bits we did not like.

We are satisfied in the way the bill is drafted. We will not be supporting the Greens amendment.

Mr FERGUSON - Dr Broad has correctly predicted what I would say. The objective covers the key ingredient of this bill. For anybody who is not so worried about organised crime but they

are more worried about safeguards for people on the edge of crime, come back to the objective. It is a key criterion to be considered before the official warning can be issued. It could be said that offences are less important because of that. They are there for a reason but because of the object, the defences are less important; because of the strength of that it is less important.

It could be said that because the objective of the bill is so central that concerns around that list can be set aside more easily. To make a point, division 3 of the Misuse of Drugs Act relates to possession, which is a summary offence. It is not under the criminal code. It could be said that it is not as serious an offence as many others. It is listed here as a serious offence for a reason because there can be very serious cases of these. If a person has racked up quite a large number of these offences under division 3 or any other part of the Misuse of Drugs Act - I quickly deviate to let you know that division 2, which was in your original drafting that I accept you have taken out, deals with manufacturing a controlled precursor or a controlled drug and plant.

The act is there for a reason. It was passed in 2001. It was a previous Labor government. They obviously saw fit and no doubt the Liberals at the time would have supported that. I remind members that each crime is not looked at in isolation; instead, they are looked at in totality - not just the actual offences committed but also the number of times they are committed.

I come back to the objective. It is going to be singularly important for Tasmania's reputation in having dealt with consorting. It is our innovation. It is going to ensure that how the laws operate is held in very good regard.

Dr WOODRUFF - I do not quite understand where the minister and the Labor Party are going with this. Why do we have a list of other acts if within all those acts there is a range of summary and indictable offences? Why are they specified at all, given that we have, as paragraph (a) says, an indictable offence whether the offence is tried on indictment or summarily? What is the need for specifying those other acts in the first place?

Mr Ferguson - They are often summary offences.

Dr WOODRUFF - There are indictable offences in the Misuse of Drugs Act, indictable and summary, but this captures all summary and indictable offences in the first heading. The point is it is that it is way too broad. It is ridiculously broad if it captures a person who has had a bong on them when they were a kid. That is rubbish. Frankly, I am surprised by the Labor Party, given what I know was on their agenda at their state conference, that they are not being a little more alert about this as an issue. It strikes me as madness that we would be including those matters in a serious offence list.

I do not understand your position, minister. It seems contradictory. I do not see why that act is specified at all given it has both summary and indictable offences in the act. There are many other acts that do the same thing. The Firearms Act is another one. There is a reason for that. Perhaps you could explain it. I go back to my original point: we could have come up with a much longer list of things. This is one really obvious thing that we have been able to identify that is totally crazy to have it in this bill.

Mr Ferguson - It is not crazy.

Dr WOODRUFF - It is. Capturing a person who has had a smoking implement and putting them in the same category -

Mr Ferguson - If they are a person who wants to establish, maintain and expand a criminal network, yes, it needs to be there.

Dr WOODRUFF - You are trying to pick up anybody. This is a catch-all to pick up anybody.

Mr Ferguson - The bottleneck is the object.

Dr WOODRUFF - It is not a good enough bottleneck; no way. It does not stack up with the Bar Association or the Australian Lawyers Alliance. It does not stack up, minister.

There are many problems and this demonstrates it perfectly. It is about continuing to attack people for using a small level of personal drugs of the own volition in their own life. It should not be held against them and should not be connected to something like this.

Dr BROAD - To clarify the situation and it is something maybe the minister may have suggested. There are instances where, potentially, a consorting notice could be of benefit to a minor offender. I will give you an example: using drugs. We have a drug dealer, a very heavy dude with a rap sheet as long as your arm. The police receive intelligence that an offender who has had one or two relatively minor drug offences in their past, is beginning to consort with the heavy dude. If the police can be satisfied that the reason the minor drug offender is engaging with the serious criminal's network is to become a participant in establishing, maintaining and expanding a criminal network, that would be a situation where it may be of benefit to the minor drug offender to be issued with a consorting notice. Then they would not take that next step.

Amendment negatived.

Dr WOODRUFF - Mr Deputy Chairman, I have two amendments to proposed new section 20C.

I move my first amendment - That in proposed new section 20C, subsection (1) -

Leave out '5 years' and insert instead '3 years'

I move my second amendment - That in proposed new section 20C, subsection (2) -

Leave out '5-year period' and insert instead '3-year period'.

Given the scope of this bill and the review which needs to be undertaken for a bill like this it is important to look at the situations in a shorter time period than five years. In our briefing the police told us they do not expect there will be many of these consorting orders and it does not seem to be a large bureaucratic process to follow these up on a three-yearly rather than a five-yearly basis. This change will mean that a convicted offender must not habitually consort with another convicted offender within three years after having been given under proposed new section 20D(2) an official warning in relation to the other convicted offender.

The second change means that for the purposes of this section, a convicted offender does not habitually consort with another convicted offender unless the convicted offender consorts with the other convicted offender on at least two occasions within the three-year period after having been given under proposed new section 20D(2) an official warning in relation to the other convicted offender.

It is our view that the powers in this bill are very substantial and it is about constraining association and removing a freedom which people in the community have a right to expect. It is a removal of a freedom on the basis of a past action a person has undertaken and for which they have been charged and sentenced. We are talking about a person who has presumably, by implication, served their sentence and is presumed then to be innocent. There is no evidence of lack of guilt. There is a suspicion that we are trying to prevent people associating with other people. That is reasonable and nonetheless restrains a freedom that we think should be managed. Three years seems a much more reasonable period of time for a person to have that freedom restrained than five years.

Mr FERGUSON - The Government does not support the amendment. Clearly what police are looking for is a legislative regime that works. Unlike other states that have uncapped time frames, we have chosen in almost all cases to put parameters around the various elements of this legislation, and you are seeing it happening here. Three years is too short. Some might say five years is too short and there would be a need, under our legislation, for an entirely fresh process at the end of the five-year period if police were still in need of that tool in respect of two individual people.

We consider that a five-year period that a convicted offender must not habitually consort with another convicted offender after having been given an official warning is already very fair. Other states do not have a defined period of time for the notice. Instead it is for life, which part of me prefers, I have to tell you, but our Government is seeking to get a balanced package. It is not more in favour of the criminal or otherwise in this case, it is about making sure we have legislation that is fit for purpose, has the right controls, the right accountability and the right review mechanisms.

Dr Woodruff, one thing we ought to agree on tonight is that if two people find themselves subject of an official warning it is their opportunity to clean up their life, get away from the negative people in their life and stop being part of criminal networks. That is the amendment I want to see. I want to see people amending the way they live their lives. This is just one way that police can help keep the community safe and if Tasmania is going to be the only state that has a defined period of time - there is one other? Which is that?

Dr Broad - Northern Territory.

Mr FERGUSON - Northern Territory. Then Tasmania would be the only state along with the Northern Territory. We are already have the most conservative approach on this and we would not be reducing it.

Dr BROAD - I also indicate that we will not be supporting this amendment. I did not hear from Dr Woodruff a lot of reasoning as to why three years is better than five. Whatever year we put on it, it is going to be arbitrary. We could debate five, six or 10 years; however what we have managed to do tonight in getting a concession from the Government to review the operation of this legislation after four years would be the opportunity for something like the term of consorting orders to also be considered at that point. If it was three years you would have a renewal of consorting orders having to be in place before that review happened. We would not have the learnings in place, so I think that sticking with the current five years is satisfactory and we would be looking forward to that review in four years time to get the learnings from that to determine whether or not five years was appropriate.

Amendments negatived.

Dr BROAD - I can indicate to the Government that we will not be putting our final amendment on the second page, which was basically the ombudsman clause, because we have already dealt with that. I will now move our third amendment. I move -

> That proposed new section 20C(3) be amended after paragraph (g) by adding the following new paragraphs -
>
> '(h) consorting that occurred for the purposes of attending a cultural or religious gathering;
>
> (i) consorting that occurred for the purposes of an Aboriginal cultural event.'

I will indicate to the Government that if we can get some agreement on this clause we will have enough comfort to support the bill. We would really like to see this one. We think it is a defence that individuals could be in the same place to attend a cultural or religious gathering or an Aboriginal cultural event. As a defence, not to the defence of using that to establish a criminal organisation, but I would be assuming that you have two individuals who already had a consorting order the fact that they could not, for example, attend the same church, or the same cultural gathering depending on your various cultures, Chinese New Year, for example, that would be limiting. We are seeking to add these minor additional protections in order to give us enough comfort. We think that this is a good addition to the bill. We understand that there are protections already in place, which are around access to services, hospitals, education, et cetera, which are very valuable and important. However, adding these two extra defences would not weaken the bill, but would put in place the ability for people to take part in cultural events and religious gatherings. That is why we are proposing this amendment and we would really like to see the Government consider this favourably.

Mr FERGUSON - Mr Chairman, we will not be supporting this amendment. No way. This is not a minor amendment, Dr Broad. This amendment, if agreed, is a very major amendment that I am advised by my advisers provides almost every person with a defence. It is a 'drive a truck through it' sized amendment. It is not a minor amendment. Dr Broad, we have been conversing now for about seven hours. I think I have your temperature and I understand where you are coming from. I understand that most of this debate you are trying to do what you feel is fair in your mind. This is a show stopper. We will not agree to this amendment. If it is a show stopper for the Labor Party then you are soft on crime and I will say why.

Your amendment would extend the defence to cover any religious event, any cultural event. This is dangerous and I am advised could render the intent of the bill obsolete in many practices. Religious practices are wide and too easily claimed and you should be assured that the Government very carefully considered any religious content in this. It is a well-known fact that organised crime gather at some church services to plan their crimes. While they are not operating in Tasmania, Mafia groups are very familiar in this area. Such a defence can be utilised by other groups if so desired. Adding it to the legislation is going to be like bees to the honey pot. That is where they are going to plan their crimes.

In your mind you may think 'this is fair we should cut some slack to people from a cultural/religious point of view'. What you are actually going to do is to create a major loophole in the legislation. I am not being flippant. Cultural practices are a very variable concept. It could cover any claimed cultural practice from genuine historic practices through to regular drinks on a Friday night. Attempting to go anywhere near cultural practice is problematic.

Church services where crimes can be planned under the cover of a church worship service is a loophole. Funerals, again, well known as a place to attempt to get some cover from the police to plan your crime. Mosques, Prayer Rooms, Carols by Candlelight, Easter Festival, any number of music festivals where it is not tens of people but hundreds or thousands; cultural festivals like Diwali or the Chinese New Year. We could not possibly accept this even if I did completely agree that it was coming from a good place. This is a major problem to even move this amendment and the Government will not be supporting it.

Dr WOODRUFF - The Greens support the intent of what the Labor Party is trying to do with this amendment but we also would not support it. It is too wide a term. Cultural is enormous. Religious might possibly be argued to be narrow but it is very large and I can see that this bill is about trying to achieve an aim and as the minister has pointed out, this would provide cover for possibly the dumbest of criminals to work out some way of getting around the letter of the law. We do have to have mind to that which is why we have drafted the amendments we have drafted to make this bill more precise. I support the intent, it is a good intent, but we cannot support the form of the words.

Ms HADDAD - I am really disappointed. As I said in my previous contribution, if our attempted style of drafting was not acceptable I would have preferred to see an amendment to the amendment from the minister. I am disappointed because I believe this is crucial to the bill. There are a whole lot of defences available in the bill which, while it might be a little more difficult for them to be covertly used for the planning of criminal activity, could still be used for the planning of criminal activity. I will go through them briefly for the House.

If the defence to a charge of consorting if you are genuinely engaged in lawful employment, if you are attending premises for the purpose of receiving education or training that is recognised or provided under a law relating to training or education, hang out at a TAFE campus, hang out at a university campus, hang out at a school to plan your criminal activities. Attending a premises with a dependent of the defendant who is receiving education or training that is recognised. Same thing.

Crucially if the defence against a charge of consorting is to be attending a hospital, health clinic or dental surgery or medical practice operated by a medical practitioner, a clinic, offices at or from which services of a health care worker are provided or the professional suite of a person who is registered under the health practitioner regulations. And it goes on.

Those might be more difficult to abuse but they could certainly still be abused, attending a place of education, attending a place of health care. I would have preferred to see our draft amendment changed, perhaps to be more specific, to overtly say a wedding, a funeral, perhaps.

Mr Ferguson - We would not have supported that either because you are introducing the same problem.

Ms HADDAD - I respectfully disagree especially in Tasmania where there are large families, small communities. A whole town turns up to a funeral in a small town and they could be alleged to be consorting if there is more than one person there with a previous conviction, albeit that they would have to meet the objectives of the act. It is a risk and I have acknowledged the objective of the act.

A whole town turns up to a wedding, a whole town turns up to a recognised cultural event. Perhaps it needs a more specific definition to overtly exclude music festivals and the like. I agree but I still think that there is a risk and there is argument for a defence for people attending what is broadly recognised as a religious or cultural event, particularly attending church gatherings, daily or weekly mass. If there is a number of people attending the same church parish who have been previously convicted of a criminal offence, they had better find themselves a new parish.

Mr Ferguson - I don't think they will under your amendment. They will like it. They will go to church a bit more often and plan their crimes.

Ms HADDAD - Perhaps they will receive absolution of the Lord, minister if they attended church more often. Perhaps that would be a good thing. I feel there could have been some productive discussion had around the intent of this clause that could have allowed for people to attend religious and cultural gatherings and not be subject to an order.

[7.30 p.m.]

Dr BROAD - I thank the minister for his description and understand his point of view in this regard. I am seeking to understand whether the minister would consider, between now and the upper House, if there is any way we can overcome the issues you have raised through definition, et cetera. You have not directly addressed the issue in the amendment of paragraph (i) being consorting that occurred for the purposes of an Aboriginal cultural event. Can you firstly address that issue rather than cultural or religious gatherings and give an indication of whether, with regard to this amendment, you would consider getting some advice together to present to the upper House for debate?

Mr FERGUSON - I am not prepared to do that. You are asking for something that is ridiculous. You are seeking to render the intent of the bill obsolete and this has nothing at all to do with Aboriginals, Christians, Muslims, secular or atheist. Nothing to do with that. Opening up this door is giving every person a defence. That is not what this is about. It should not be and I am surprised that you would seek that. We oppose it.

Amendment negatived.

Dr WOODRUFF - This is the Greens final amendment. I move -

> That clause 5 be amended by deleting paragraph (c) from proposed new section 20E(2).

This goes to the heart of concerns raised by the Tasmanian Law Society, the Australian Lawyers' Alliance and the Bar Association, as well as a number of individuals who wrote to me yesterday and this morning. What it does is deeply concerning and the Bar contends that it is possibly unconstitutional. It seeks to remove the sections of the Administrative Appeals Division Act that relate to subdivision 3, powers on review. Section 26 of subdivision 3 is in relation to the determination of a review by the court. Subsection (1) says that a review of a decision by the court is to be by way hearing de novo. Subsection (2) says that in determining an application for a review of a reviewable decision, the court may exercise all of the functions that are conferred or imposed by any relevant enactment on the decision-maker who made the decision.

Subsection (3) says that in determining an application for a review of a reviewable decision, the court may decide to affirm the reviewable decision, vary the reviewable decision, set aside the

reviewable decision and make a decision in substitution for the reviewable decision it set aside, or set aside the reviewable decision and remit the matter for consideration by the decision-maker in accordance with any directions or recommendations of the court.

There are many other sections of division 2, subdivisions 2 and 3 of Part 4 of the Magistrates Court (Administrative Appeals Division) Act which this amendment bill we have in front of us seeks to remove. Those are sections 23 to 29.

The Magistrates Court Administrative Appeals Division is a division of the Magistrates Court. It is invested with federal jurisdictions, so the Tasmanian Bar contend, under subsections 39, 39A and 68 of the Commonwealth Judiciary Act 1903. The Magistrates Court therefore exercises federal judicial power under section 71 of Commonwealth Constitution. A state court that exercises federal jurisdiction is constitutionally required to maintain institutional integrity consistent with a Chapter III Court versus the state of New South Wales.

According to the Bar Association, proposed section 20E is potentially in breach of the Constitution in that respect because it provides unacceptable external controls on the Magistrates Court and undermines its independence. We are concerned it removes the capacity of the magistrate to undertake a de novo assessment of the decision and they become essentially box-tickers for the executive, so that a decision by the executive which has been administered on its behalf by the Commissioner of Police and other inspectors and above by making a consorting order, can only be challenged on errors that have occurred in that process.

We have a situation where the applicant for review and the person representing the applicant for review have no capacity to look at the evidence and mount a defence for the decision that has been made to present a consorting order. That is not a de novo assessment by the magistrate and they do not have an ability to consider the case afresh. This is a fundamental problem because it is removing the role of the court as a court. It is replacing the external role of the court with a rubber-stamping on the narrowest of terms. It would be impossible because of the way the rest of this bill has been constructed. Because of the breadth of the terms 'criminal intelligence' and 'criminal activity', it is impossible for the applicant for review to mount a defence. On the basis of that, we are persuaded that the Bar Association, the Australian Lawyers Alliance and the Tasmanian Law Society have good grounds for being concerned, which is why we have prepared this amendment.

Mr FERGUSON - The Government will not be supporting this amendment. This amendment, if given effect, revokes the part that states certain parts of the Magistrates Court (Administrative Appeals Division) Act do not apply. Specifically that:

> Police must give written reasons for their decision. Police must give the person all the documents used to make the decision. Allows stays or variations of the decision.

I hope it is self-evident as I am speaking and as you look at the bill before us that you will come to realise that to do that conflicts with the bill itself. The new section, 20E(5), prescribes what can occur, whether the decision is confirmed or revoked.

It is important that I put your mind at rest about constitutionality here. As the Attorney-General discussed earlier, and as I have said, the Government has taken advice on this. We know our position. We are very firm in our conviction that it is constitutionally sound. If I were to be persuaded by your argument, Dr Woodruff, you would be asking me to set aside the provisions that allow for judicial review.

Importantly, I bring the House's attention to the Firearms Act 1996, the Registration to Work with Vulnerable People Act 2013 - I am testing my memory about whether that was Ms O'Connor's bill at the time, I cannot remember - the Security and Investigations Agents Act 2002 and the Sex Industry Offences Act 2005. In each case, while not word for word, they are mirror provisions, which allow for a defined way for judicial review to occur while protecting police intelligence. For example, the Registration to Work with Vulnerable People Act 2013 sets out that:

> … in giving its reasons for that decision, the Magistrates Court (Administrative Appeals Division) in order to prevent the disclosure of any information referred to in subsection (7), is to receive evidence and hear argument in the absence of the public, the applicant for the review, and the applicant's representative.

The Firearms Act 1996 section 141(4) states:

> In determining an application for review under subsection (1) the Magistrates Court (Administrative Appeals Division) -
>
> (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other criminal information referred to in section 29(3)(e)…

And it goes on. So that the court can make a fully informed decision we would want the criminal intelligence to be able to be provided in support of the police's case. In order for police to bring forward criminal intelligence information it would be entirely unreasonable to not have these mirror provisions in place so that it can be done robustly while not compromising what the criminal intelligence contains or whether it exists and to allow the court to make a full-blooded decision, fully informed but to not allow the applicant to then become aware of what police do or do not have in regards to their criminal history or their intelligence on their criminal behaviours which can compromise all manner of criminal investigations.

To sum up, what we are doing here in this section of the bill is setting out that there is going to be judicial review and oversight which is somewhat unique in consorting legislation in Australia. Tasmania is leading the way in this regard. We need to ensure that it is done in a way that protects the interests of police criminal intelligence which is there also to keep the rest of us safe. We will not be supporting the amendment.

[7.46 p.m.]

Dr WOODRUFF - With respect, minister, either it is late and I have not expressed myself very well or you did not understand the point I was making. This is becoming a circular argument. There are a whole lot of internal processes. Yes, the bill does allow for an internal review by the Tasmanian police and then subsequently for a review by the Magistrates Court. The point is that the review provided by the Magistrates Court (Administrative Appeals Division) is virtually worthless because it does not constitute a proper review.

Mr Ferguson - Of course it does.

Dr WOODRUFF - That is not what the Bar Association and the lawyers say.

Mr Ferguson - Would you rather us take it out?

Dr WOODRUFF - That is what the amendment seeks to do; to take out that part where the Magistrates Court, the AAD, is able to make a de novo decision - which they do.

Mr Ferguson - It is in conflict with the provisions of the bill.

Dr WOODRUFF - The provisions of the bill should be changed to make sure that we do not.

Mr CHAIRMAN - Order, through the Chair, please.

Dr WOODRUFF - I am speaking. Maybe you are directing that comment to the minister, are you? I am making the point that other people are seriously concerned about the fact that this makes the Administrative Appeals Division essentially a rubber-stamping exercise.

Mr Ferguson - No, it does not.

Dr WOODRUFF - It removes the obligation of the decision-maker to lodge material documents. What we have in other acts around the state is the possibility for courts to make a decision about what material is confidential or not. In proposed new section 20E (5) in dealing with an application for a review under subsection (1), the Magistrates Court (Administrative Appeals Division), it states -

> (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other criminal information; and
>
> (b) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument, in relation to such reports or other criminal information, in the absence of the public, the applicant for the review and the applicant's representative.

The point is the terms 'criminal intelligence report' and 'criminal information' are not defined. They are incredibly broad. It is a bit like agreeing to the term 'cultural'. We have concerns that they are not defined. We have concerns that police will be making the assessment about what criminal information is and police will be making assessments about criminal intelligence reports.

The police may well be right and I am sure they are.

Mr Ferguson - Surely, that is the basis of the review is to assess whether the intelligence is adequate to justify the order.

Dr WOODRUFF - Yes, but there is only one party to that review. It is not a review when there is only one party.

Mr Ferguson - There is not one party at all.

Dr WOODRUFF - There is, because the applicant for review, the person on whom the consorting order is being served, that person does not get to represent their point of view.

Mr Ferguson - They can argue their case.

Dr WOODRUFF - They cannot, minister, because they may not have access to any information to answer it on.

Mr Ferguson - I am not aware of any other act where the accused gets access -

Mr CHAIRMAN - Order. Dr Woodruff has the call and is limited to time.

Dr WOODRUFF - I make the very good point and the minister is rightly concerned that information that might be a threat to national security or state security, that might cause damage to a person, that might be a risk to a person, that might be a risk to the surveillance techniques that are used by the police or the mechanisms and operations of the police - obviously none of those things should be released. That is a wide field and much more broadly than that there are a whole lot of other things which can be captured under criminal intelligence. That is such a wideranging thing.

What we are trying to do is have an external arm make an assessment about whether a reasonable order has been made. In order for that to be done what usually happens under the law is the magistrate makes a de novo decision, which means that that the magistrate looks at it and the magistrate makes a decision about what material must be kept confidential.

The police would make their case for which material should or should not be released, but the magistrate makes the final decision. This is what courts do. They make those decisions and that is their role to treat matters sensitively. If it is not doing that then the effect is that the person seeking review will need to establish an error on the part of the decision-maker to succeed in a review and it is difficult to establish an error if they do not have that information in front of them.

The point was made to me by a member of the Bar Association in relation to this that errors do happen and some of them are difficult to track down. He referred to a particular error where there are two people in Tasmania who have exactly the same name. Two people who obviously have some criminal history, I would expect, because one person was charged with the crime of another person, a crime that another person actually did commit. Apparently this is a real case within the last three years. I do not have the evidence and I am presenting it as hearsay today, but that was reported to me by a senior member of the Bar Association. These mistakes happen and so there has to be an opportunity for the applicant for review to be able to be given access to enough information. Surely that stuff is not criminal intelligence information and it should not be withheld from the applicant for review. We are simply asking to enable the normal processes of the administrative appeals division of the Magistrates Court to be able to proceed and to make sure that the justice system is able to do its job unimpeded.

Ms Archer - At the risk of national security.

Dr WOODRUFF - No, you did not listen to me. You might have walked in late, Ms Archer, but you clearly did not listen to me. You must have missed something in your interpretation.

Amendment negatived.

Mr CHAIRMAN - You wish to speak on clause 5 as amended, Ms Haddad?

Ms HADDAD - Just general comments about the clause.

Mr Chairman, I welcome the opportunity to speak more broadly on clause 5, the most substantial clause of the bill. Tonight has been an extremely constructive and at times robust but also quite a constructive session in parliament.

Mr Ferguson - We are a government that listens. I am not going to let you put this bill at risk because you are standing on principle.

Ms HADDAD - We will stand on principle, minister.

Mr Ferguson - No, because you will threaten the safety of our public.

Mr CHAIRMAN - Order. You started out well.

Ms HADDAD - I will not threaten the safety of our public. It did start out well. How many hours have we been debating this bill and there has been genuine goodwill across the Chamber? Minister, I am disappointed that you have interjected in that way and played politics with this again. I will stand on principle. I am not moving these amendments and my colleague, Dr Broad, is not moving these amendments to play funny games here.

If you were not playing funny games here, you would have consulted on a draft bill. You would have released a draft bill to the community, to the legal fraternity or alternatively you would have given those stakeholders more than two days to comment on the bill.

It was not my intention to get up here and have a rant right now. I have some general comments I want to make on the clause. You have pushed me to it by saying that you are a government that listens. You have shown me your true colours in that comment. By saying you are listening but only because Labor is standing on principle that would otherwise put the public at risk. That is not true. We are standing on principle, for the rule of law. We are standing for the fact that when a government starts to consider legislation that curtails the individual freedoms of individual community members and groups, it can only do so with caution. It can only do so -

Ms Archer - How many years practice do you have in court?

Ms HADDAD - I have not practised in court, Attorney-General, and I have never pretended that I have.

Ms Archer - No, you have never actually experienced this.

Mr CHAIRMAN - Order.

Ms HADDAD - I resent that. This was going well but now you, Attorney-General, have reduced it to petty -

Ms Archer - No, you have.

Ms HADDAD - How have I reduced it to petty -

Ms Archer - Just then. Attacking the Police minister.

Ms HADDAD - I am not attacking the Police minister. I am disappointed with this interjection as I am disappointed with yours, Attorney-General. I am not pretending I have had practice

experience but I do have experience with legislation. I have experience in politics and I have experience working for three Attorneys-General for this state. I do know what I am doing here and it is offensive for you to pull this debate, which has been extremely constructive, into the gutter. I resent that.

Ms Archer - Constructive?

Ms HADDAD - It has been constructive. We have improved this legislation tonight.

Mr CHAIRMAN - Order. Interjections should cease.

Ms HADDAD - We have done so after consulting with stakeholders and have done so after we have been listened to by the minister in good faith. He now tells me he has listened to us only to stop us playing politics and to stop us from putting the Tasmanian community at risk. That is not what we are doing.

Mr CHAIRMAN - Order, Ms Haddad. I remind you that it is not a second reading speech. We are dealing with clause 5.

Ms HADDAD - Thank you, Mr Chairman. As I said at the outset it was not my intention to get up here and have my temper elevated in this way but I will, by responding to those interjections because they are unfair, unwarranted and they diminish the value of the debate we have had tonight.

We do not intend to put the community at risk. We respect the police and we respect the tools they need to do their job. We respect the fact that this bill is intended to disrupt organised crime. That is what we have constructively added to through our amendments tonight and those that have been accepted by the Government. That is what our intention was and that is what we have achieved. We have not put the Tasmanian community at risk and that was not our intention.

If you want to go back down your line, I can already anticipate your media release for tomorrow morning -

Mr CHAIRMAN - Order, Ms Haddad. I will remind you again.

Ms HADDAD - that Labor is soft on crime. Labor is not soft on crime. Labor is strong on process; strong on protecting the individual rights of Tasmanians who are doing the right thing.

I was so enjoying my job today. I am new to this job and I thought this was a very productive session in parliament. I am disappointed that it has now been dragged into the gutter in that way by the way of the interjections from the minister and interjections from the Attorney-General.

I will return to my general comments on clause 5.

Mr CHAIRMAN - Order, thank you Ms Haddad.

Ms HADDAD - I appreciate your indulgence in letting me respond to those interjections in that way.

Ms Archer - You've put words in my mouth. I haven't said a word.

Mr CHAIRMAN - Order.

Ms HADDAD - Here are my comments on clause 5. As I said in my second reading contribution -

Members interjecting.

Mr CHAIRMAN - Order. Conversations within the Chamber should cease.

Ms HADDAD - who seek to remove the rights of individual citizens should only be considered under extreme circumstances and with extreme caution.

The operations of the Magistrates Court have been significantly changed. I respect what the minister said in response to the member for Franklin's amendment. What I want to get some clarity from the minister on is this: it has to be acknowledged that the operations of the Magistrates Court in its Administrative Appeals Division are altered in this bill. Nobody would dispute that. There is an alteration to the way that the Magistrates Court is going to be able to do that job. I understand the reasons for the alteration to the way the Magistrates Court in the Administrative Appeals Division is going to do its job.

In many circumstances it will not be appropriate to divulge sensitive police information to the defence. I understand that. There is legislation that does that. Commonwealth legislation does that. Commonwealth legislation deals with national security and other similar kinds of crimes where it is not suitable that all information would be divulged to a defendant in a way that other administrative review information is divulged to an applicant for administrative review. For example, in the Anti-Discrimination Tribunal, the Industrial Commission, the Migration Review Tribunal, the Administrative Appeals Tribunal, and the Social Security Administrative Appeals Tribunal.

In those circumstances, the applicant will be given all of the reasons for the decisions. In this instance the applicant will not be given the reasons for the decision. I acknowledge that; there is a reason for that.

The questions I have for the minister, which I intended to put much more politely, but I am quite angry now, are these: what evidence will the magistrate be able to consider? In the absence of a statement of reasons or an abridged statement of reasons, will the reason for the official warning ever be known to the applicant? Was consideration given in drafting to retaining stay orders and if not, why not? Clarification is needed on what type of appeal is being heard. In other words, what type of evidence or reasons for decision will be at the disposal of the magistrate in making his or her decision?

I will go back to interjections or perhaps in her second reading contribution the Attorney-General told me that it is not possible for a court to provide an abridged statement of reasons. That is not how things work. I refute that claim. I have spent the last -

Ms Archer - Is that a direct quote?

Ms HADDAD - You said something along those lines. I will check *Hansard* for clarity when we have the proofs. I remember you said something along the lines that my suggestion that an abridged statement of reasons -

Ms Archer - I didn't say 'abridged'.

Ms HADDAD - I said 'abridged' statement of reasons would not be workable because that is now how a court -

Ms Archer - I said you cannot give half reasons.

Ms HADDAD - Half reasons, that is right. I have spent the last few hours trying to find a decision that I cannot find online, but I will before this bill is considered by the upper House. I will share it with my colleagues there. There has been a decision in the Administrative Appeals Tribunal Security Division which allowed for abridged statements of reasons and it has been widely recognised.

Ms Archer - It is not a criminal case, though; it is a completely different jurisdiction.

Ms HADDAD - No, it is not a criminal case, but there is some precedent. It has been well acknowledged that an abridged statement of reasons was suitable.

Ms Archer - Tribunals are not courts; it is a High Court decision. A tribunal is not a court.

Mr CHAIRMAN - Order.

Ms HADDAD - That is why we did not draft amendments around that part of the bill. With respect, Attorney-General, we did not draft those amendments because as I said to the minister earlier, we drafted the amendments that we felt were prudent and cogent that we could productively bring to this place.

Ms Archer - There is a recent High Court decision that a Tribunal's decision is not a court decision.

Mr CHAIRMAN - Order.

Ms HADDAD - The other amendments that we are likely to want to raise or issues debated will be done in the upper House.

Time expired.

Mr FERGUSON - I would like to confirm the range of questions - what evidence can be considered by the magistrate, what reasons can be given to the applicant, and there was a third question I missed.

Ms HADDAD - The questions were: what evidence will the magistrate be able to consider? In the absence of a statement of reasons, will the reason for the official warning ever be known by the applicant? Was consideration given in drafting to retaining stay orders? If not, why not? Clarification is also needed on what type of appeal is being heard. In other words, is it an appeal de novo and what evidence will be available to the magistrate?

Mr FERGUSON - I have listened carefully to Ms Haddad's questions and have taken advice. I can answer all of them.

In regard to what evidence can be considered by the magistrate, the magistrate is unfettered, so any and all evidence can be considered. I have just been advised that consistent with the other

legislation I have highlighted, the custom would be that police would provide voluminous information.

In regard to what reasons can be given, reasons can be given by the magistrate in making his or her decision. The only qualifier on that, and this is fettered, is that obviously any outcome of that, whether it is statement of reasons or a decision with a rationale to it, must not include the elements listed, specifically the existence or content of any criminal intelligence report or other criminal information. It is worth noting that the magistrate will determine what that consists of and draw the line where it needs to be drawn comparing criminal intelligence reports or other criminal information with information that more or less is on the public record.

In regard to stay orders, the legislation does not support that as an outcome. The police advise and the Government agrees that it is not desirable to have things like this held up in court for years. It is desirable that the judicial review does one of two things - confirm the decision to authorise the official warning or revoke it. If it is revoked you are back to where you started and if police still felt strongly about it they would have to start the process afresh.

In terms of what type of appeal is being heard, I am advised that is up to the magistrate. They would obviously take submissions, take evidence, hear a case and decide how it would be conducted and it would be a fresh case in each instance.

Dr BROAD - I thank the minister for answering those questions and the tone was appreciated as well. We probably needed to come down in tone after some interjections and those answers are particularly helpful. We do not have any further questions in relation to the operation of the magistrate. We will consider what we may discuss in the upper House in terms of issues and so on. I would like to say for the record that we will be pursuing some of our amendments in the upper House, but these answers have been helpful. Thank you very much, minister.

Clause 5, as amended, agreed to.

Clause 6 agreed to and bill taken through the remaining stages.

Mr FERGUSON - I would like to briefly wrap up the debate and thank my colleagues around the Chamber. We have had a few hot moments but generally it has been very constructive debate. I particularly thank our hardworking Tasmania Police members, in particular Assistant Commissioner Glenn Frame, who has been a servant of the people for many years and has been the leading light in driving policy reform around dealing with organised criminal gangs in Tasmania. I thank him particularly for his leadership and the wonderful work he has done with media and Tasmanian MPs, and also Inspector Keane and his team in legal in Tasmania Police, together with Emma Fitzpatrick from my office, who have all worked tirelessly with the Government and members across both Chambers to allow this important legislation to be considered.

POLICE OFFENCES AMENDMENT (CONSORTING) BILL 2018 (No. 37)

Third Reading

[8.14 p.m.]

Mr FERGUSON (Bass - Minister for Police, Fire and Emergency Management) - Madam Speaker, I move -

That the bill now be read the third time.

Bill read the third time.

The House adjourned at 8.14 p.m.

QUESTIONS UPON NOTICE

The following answers were given to questions upon notice:

3. ASSISTANCE FOR HOMELESS TASMANIANS

Ms WHITE asked the Minister for Housing -

With respect to the $500 000 funding package to assist homeless Tasmanians into cabins, hotel and motel rooms announced by the Government on 24 March 2018 -

(1) To date, how many Tasmanians facing homelessness have been helped into accommodation by this funding?

(2) What length of time are people able to remain in the accommodation before they are evicted?

Mr JAENSCH replied -

The Government's $500 000 Winter Package was added to existing programs that provide assistance to people through Housing Connect. It is not possible to determine which part of the whole fund was utilised to assist households in need.

Additionally, while assistance provided at Tier One of Housing Connect is available in a to date figure (as at 17 May 2018), the Tier Two of Housing Connect Tier assistance reporting cycle is quarterly, so figures will contain an estimate of support provided at that level. Also note the figure is provided in households as not all applicants seeking assistance are individuals.

Finally, because the program to which the Winter Package was added aims to provide a short term option until a longer term option can be secured, households can move through the secured accommodation quickly.

(1) Over 100 households.
(2) Those assisted transition through this package to other forms of housing assistance.

4. PUBLIC HOUSING - VACANCIES

Ms WHITE asked the Minister for Housing -

How many public housing homes are currently empty or boarded up at the same time hundreds of Tasmanians are experiencing homelessness?

Mr JAENSCH replied -

As at 31 May 2018 the public housing occupancy rate was 98.9 per cent and there were 89 properties vacant with 76 of these undergoing maintenance between tenancies with 13 due to be redeveloped.

5. PUBLIC HOUSING - WARRANE

Ms WHITE asked the Minister for Housing -

With respect to the properties in Warrane that the Minister for Housing handed over to Housing Tasmania on 13 April 2018 -

(1) For how long have the properties been occupied?
(2) On what date was each property first occupied?

Mr JAENSCH replied -

One tenant was allocated their property on 19 April 2018 and signed their lease on 8 May 2018. The other tenant was allocated their property on 2 May 2018 and signed their lease on 14 May 2018.

As part of the normal allocation process each applicant viewed the property and was provided with time to consider whether or not they would accept.

Each applicant's circumstances were different and therefore the lead-in time to take up residency varies.

Once an applicant enters into a lease the department has no control over the length of time it takes for the tenant to move in due to their individual circumstances.