Thursday 30 August 2018

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

TABLED PAPERS
Public Accounts Committee - Reports

Mr Dean presented the following reports of the Joint Standing Committee of Public Accounts -

- Public Accounts Committee Annual Report 2016-17
- Public Accounts Committee Annual Report 2017-18
- Review of Selected Public Works Committee Reports.

Reports received and printed.

Select Committee into Firearms Law Reforms - Report

Mr Dean presented the report of the Select Committee into Firearms Law Reforms in Tasmania, together with evidence taken by the committee.

Report received and printed.

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

Third Reading

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 3R) - Mr President, I move -

That the bill be read the third time.

Bill read the third time.

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

Consideration of Amendments made in the Committee of the Whole Council

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

That the bill as amended in Committee be now taken into consideration.

Motion agreed to.

Suspension of Standing Orders

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

> That so much of standing order 284 be suspended in respect of this bill so as to allow the amended clause references only to be called without the need for the amendments to be read again in full.

Standing Orders suspended.

Amendments to clause 4 read and agreed to.

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

Third Reading

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 3R) - Mr President, I move -

> That the bill be now read the third time.

[11.09 a.m.]

Ms LOVELL (Rumney) - Mr President, I speak on the third reading of the bill because I want our position to be absolutely clear. This is not a position that we wanted to be in. The Labor Party does not support organised crime, violent crime or acts of intimidation or aggression. We do not want organisations that engage in this sort of behaviour to feel welcome in Tasmania and indeed they should not.

The Labor Party has enormous respect for the Commissioner of Police, Mr Hine, and his workforce. We want them to have the tools they need to do the job they need to do. From the outset we have signalled that we were prepared to work with the Government to deliver comprehensive organised crime legislation. We wanted to make absolutely sure that the bill targeted criminal gangs and that no other organisations could be unwittingly caught in the net.

I thank the members for Murchison, Launceston and Windermere for the amendments they proposed and the time and effort spent on trying to find a way forward. With those amendments that were supported last night the bill is strengthened.

It has been suggested that Labor should have moved its own amendments, either on the Floor in the other place or here. I want to be clear about why we did not do that. Our position all along has been that there should be a court process: a process that provides due process, a clear appeal process and a right to a defence. This would address the valid concerns we debated last night about the right of these organisations to be notified that they are an identified organisation. We have been told time and time again by the Government that this is not possible, that there is no precedent - every excuse under the sun. Then, only yesterday the Australian Lawyers Alliance demonstrated that it is possible but it would, as we said, require a fundamental rewrite.

As we saw last night, amending this bill to include these robust and fair processes is next to impossible. It would require almost a complete rewrite of the bill. It is the responsibility of the Government to bring to the parliament legislation that is well drafted, robust, evidence-based and just, and, importantly, will stand the test of time. Labor's shadow minister for police, fire and emergency management, Shane Broad, wrote to the Government offering to work with it to resolve these concerns before the bill went before the lower House and he was ignored - not even a 'thanks but no thanks', no reply. It is typical of this Government to rely on the diligence of the Legislative Council to fix flawed legislation.

I appreciate the commitments given to this Chamber last night by the Commissioner of Police, Mr Hine. Again, if this were about a one-off commitment that we could be sure would only arise during Mr Hine's term, we would accept that. But Mr Hine cannot possibly make commitments on behalf of a future police commissioner. While we may be satisfied that this process will be followed for the five organisations that have already been discussed, that is not the issue.

I have no doubt a media release is drafted and ready to go, full of misleading statements about Labor's position on this bill, which is why I wanted to speak now and make our position clear. We cannot, in good conscience, support legislation that is fundamentally flawed even when we support the intent of the bill. There are simply not enough protections in it, and for this reason we will be opposing this bill.

Mr Dean - Can you explain where it is flawed?

Ms LOVELL - We explained that through the debate several times.

Mr Dean - It has not been done very well.

Ms LOVELL - That is our position and I believe we have explained it well.

The Council divided -

AYES 8	NOES 6
Ms Armitage	Mr Farrell
Mr Armstrong	Mr Gaffney
Mr Finch	Ms Lovell
Ms Forrest	Ms Siejka
Mrs Hiscutt	Mr Valentine (Teller)
Ms Howlett (Teller)	Mr Willie
Ms Rattray	
Mr Dean	

Motion agreed to.

Bill read the third time.

STATEMENT
Leader of the Government in the Legislative Council - Threatened Species Protection Amendment Bill 2018 (No. 8)

[11.16 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, since our debate on this legislation, the advisors have checked that everything said was correct. I need to correct one particular thing. I am advised, member for Windermere, that the number of eagle deaths from wind farms is 29 since operation started in 2002. This figure only related to wedge-tailed eagles and excluded the four white-bellied sea eagles also recorded as wind farm mortalities. As such, including those, it was 33.

I cannot remember what the member's exact question was but the answer was directed only to the eagles.

Mr Dean - I will look at what the position is. I thank the Leader.

Paper tabled.

ANSWER TO QUESTION ON NOTICE
Consolidated Fund Appropriation Bill (No. 1) 2018 (No. 16)

[11.17 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President - During debate on the Consolidated Fund Appropriation Bill Output group 6.1 Biosecurity Tasmania, I undertook to provide an answer to a question asked by the member for Derwent. I now table the answer provided by the Minister for Primary Industries and Water.

Paper tabled.

TERRORISM (RESTRICTIONS ON BAIL AND PAROLE) BILL 2018 (No. 20)

Second Reading

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

That the bill be now read the second time

This bill is Tasmania's contribution to nationally consistent reforms to bail and parole laws designed to better protect the community from the threat of terrorism.

At the 9 June 2017 meeting of the Council of Australian Governments, First Ministers agreed to ensure there will be a presumption that neither bail nor parole will be granted to those persons who have demonstrated support for, or have links to, terrorist activity.

A special meeting of COAG to review laws and practices directed at protecting Australians from violent extremism was held on 5 October 2017. At that meeting, First Ministers agreed that

the 9 June 2017 decision should be underpinned by nationally consistent principles to ensure there is a presumption against bail and parole in agreed circumstances across Australia.

The Australia-New Zealand Counter-Terrorism Committee subsequently developed nationally consistent principles in consultation with each Australian jurisdiction. Those principles are:

- Principle 1 - The presumption against bail and parole should apply to categories of persons who have demonstrated support for, or links to, terrorist activity.

- Principle 2 - High legal thresholds should be required to overcome the presumption against bail and parole.

- Principle 3 - The implementation of the presumption against bail and parole should draw on and support the effectiveness of the Joint Counter Terrorism Team model.

- Principle 4 - Implementing a presumption against bail and parole should appropriately protect sensitive information.

Under the first principle, there was agreement that, at a minimum, the presumption against bail and parole should apply to those people who have been convicted of a terrorism offence, or who are the subject of a control order.

In addition, it was agreed a further minimum standard should apply to those seeking parole, with the presumption against parole applying to people who have made statements or carried out activities supporting, or advocating support for, terrorist acts.

Several jurisdictions have already legislated to give effect to the principles developed by the ANZCTC, and it is likely by the end of 2018 all jurisdictions will have introduced such legislation.

Tasmania's bill will affect existing bail laws by amending the Bail Act 1994.

Existing Commonwealth legislation restricts bail for people charged with, or convicted of, certain Commonwealth terrorism offences.

Those existing laws affect the operation of bail in Tasmania, meaning a person covered by those Commonwealth provisions cannot be granted bail unless exceptional circumstances exist to justify bail. That Commonwealth legislation does not cover the situation where bail is being determined for a person charged with an offence against a Tasmanian law.

This bill provides that, where a person has a prior conviction for a terrorism offence, or where the person is subject to a control order, the person is not to be granted bail unless there are exceptional circumstances. In addition, only a judge or a magistrate will be able to grant bail to a person with a prior conviction for a terrorism offence, or a person who is subject to a control order.

This bill also provides powers for police officers to arrest people with actual or suspected terrorist links who are on bail, and provides judges, magistrates and courts with procedural powers in relation to certain bail applications.

As well as the amendments to bail laws, the bill amends the Corrections Act 1997 in relation to parole.

The bill will limit parole for prisoners who have a conviction for a terrorism offence, who are subject to a control order, or who have promoted a terrorist act. The Parole Board must not release a prisoner who falls into one of those categories, unless satisfied there are exceptional circumstances.

There are also provisions in the bill designed to ensure relevant information in relation to a prisoner can be shared with the Parole Board. New subsection 72(1A) requires the Parole Board to notify the Commissioner of Police at least seven days before the board considers whether to release a prisoner on parole.

The bill also provides that the board can take into account certain relevant information provided by state, territory or Commonwealth agencies or bodies.

There are also powers in the bill for the board to revoke the parole of a prisoner, and for police to arrest prisoners who are on parole, in certain circumstances. The bill provides powers to restrict access to information and proceedings in relation to parole.

The Government is determined to do its part to protect the community from terrorism. This bill, as part of similar reforms across the country, will play an important part in ensuring Australians remain safe from terrorism.

I commend the bill to the House.

Debate adjourned.

[11.24 am]

SUSPENSION OF SITTING

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

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

This is for a briefing on the Terrorism (Restrictions on Bail and Parole) Bill 2018 (No. 20).

Motion agreed to.

Siting suspended from 11.24 a.m. to 12.31 p.m.

TERRORISM (RESTRICTIONS ON BAIL AND PAROLE) BILL 2018 (No. 20)

Second Reading

Resumed from above.

[12.32 p.m.]

Mr WILLIE (Elwick) - Mr President, we supported this bill in the other place and intend to do so here.

Unfortunately, we have to consider these sorts of measures because there is a dark side to humanity and we have seen it play out across my and younger generations. When I was a school teacher, I saw the anxiety among children seeing these things on television. Having it come to Australia makes me feel really sad for them having to grow up in a world where these threats are real and they are seeing fellow Australians suffer from extreme ideology.

It is of the utmost importance we need to protect the community, but we need to proceed with caution when passing laws like this. I acknowledge this is a reform led by the Council on Australian Governments, and I thank its staff for the briefing on how the process works. Four principles were agreed by COAG, and each state goes away and drafts legislation that will work within their existing frameworks.

One of the key principles is this bill reverses the presumption for bail and jail time before a finding of guilt. While that is a significant diversion from the premise our legal system is founded on, I am sure many in the community would agree when the risk is so great, the charges so serious in nature and the threat so real, it is warranted.

It also implements a presumption against parole. In this day and age it seems anti-terror laws are seemingly here to stay. Labor supports the bill, but we are also cognisant of the fact that these laws create new precedence, understanding, expectations and political conventions when it comes to the proper limits of government power and the role of the state in protecting human rights.

We need to remain vigilant when it comes to community safety, but we also need to remain vigilant when making laws. I look forward to other members' contributions.

[12.34 p.m.]

Mr VALENTINE (Hobart) - Mr President, this is a very different world compared to the one we were brought up in. There is a significant issue with people being radicalised and terrorism at the forefront of many people's minds. The Council of Australian Government's First Ministers have agreed to go down this path and I can understand the significance of that. I have some questions on parts of the bill that have been brought to my attention, proposed sections 4C(1) and (2). I will ask for clarification during the Committee stage on whether they potentially contravene the separation of powers.

In regard to the latter part of the bill, sections 83AB to 83AD, parole is an opportunity to see somebody being rehabilitated. Some might think that not providing that opportunity is enforcing further incarceration and actually reducing the opportunity for a person to be rehabilitated. That is a difference in ideology. It depends on all the processes and procedures around how one deals with people who have been radicalised and how they might be rehabilitated properly. If those mechanisms are not available, one might go down this track. I have some concerns about that end. However, it is important to be able to deal with what we have before us. I will listen to other members' contributions and I will listen to the information that comes forward during the Committee stage to decide how far I will support it.

[12.37 p.m.]

Mr DEAN - Mr President, this legislation is part of having nationally consistent legislation where terrorism or threats of terrorism are identified. It is about restricting access to bail and parole, as covered in the second reading speech. It is all about protecting Australia and its citizens from those who would wish to do us harm. We were told this morning that South Australia and New South Wales already have their legislation in place. Queensland and Western Australia are working

on theirs as we speak, and Victoria's legislation, I understand, is in parliament at this time. I understand the legislation is somewhat consistent and our legislation has simply mirrored some of the parts of the other legislation. It is important that with this legislation there be consistency around the country. Clearly, with potential attacks against our country, consistency across the nation is necessary.

My opinion is that exceptional circumstances should not apply. Nobody other than a judge or a magistrate is able to provide bail in certain circumstances and they can provide it when exceptional circumstances apply. 'Exceptional circumstances' has often been discussed and I recall a briefing, I think it was last year, from an ex-magistrate who gave me quite a good understanding of what exceptional circumstances means in a court. That is, it applies to the individual and not what might be exceptional circumstances for all of us. It was an interesting session with Mr Hill, from memory, and I appreciated it.

This is fairly complex when you look at it. I defy anybody to read through this bill once and understand and appreciate it. You have to look into it at some detail to get that understanding.

Yesterday we worked on legislation impacting on police that requires that they have a good understanding of outlaw motorcycle gangs and the work they have to do there. Here we have another bill, fairly complex, with the police once again being a focal point of this bill. They have to have a full appreciation and understanding of this legislation because it will provide them with some enormous powers. The power of arrest is considerable - we know that.

I have some issues about that, which I raised in the briefing this morning. No doubt the Leader may cover those issues in closing the debate on the second reading speech. Legislation normally clarifies when an arrest can be made and when it cannot, and it is normally covered with or without warrant. Normally it goes beyond that to also identify that with the power of arrest provided to police without warrant and/or with warrant, reasonable force can be used and that they can call on another person to assist them in that arrest as well.

Mr Valentine - It would be very difficult to train police; they need to know where their boundaries are and with something like this it might be difficult.

Mr DEAN - Absolutely. There has been discussion of a police act - which I need to take up with police - that would identify to police in one act all their powers of arrest, in what circumstances and the other conditions applying to it.

Currently, training police is very difficult. They will now have to understand this act when they go through the academy; then you turn to another act and say 'These are your powers of arrest here, then you have to go to another act and these are your powers of arrest here' - it is difficult, I can tell you.

Mr Valentine - It can set them up for a fall.

Mr DEAN - It can, absolutely. They are tested on it in every situation. Before the courts their powers are questioned: how did they do that, why did they do that, where did they get the power from? It is quite horrendous. I have been through it and I know what it is like. If you have not completed your action according to the law, as it specifically applies, you are in deep trouble. I will use 'trouble' rather than the other commonly used word.

In relation to the parole situation, I am satisfied with the answer provided there - the Parole Board. In exceptional circumstances, there are also times where they can provide parole where there is a previous offence and there is a connection to terrorism. They can still give parole in exceptional circumstances. My concern was regarding the expertise to make those decisions. I am satisfied it is there with the background of the chair and another person within the Parole Board. I am reasonably satisfied with that. Again, police officers are involved in that area as well in relation to the parole side of things. The police work under two acts - the Bail Act and the parole act. I think it needs to be clear and specific as to where they are and what they can do.

I understand that under the parole act the board is required - I suspect it is the board - to notify the commissioner of police seven days before parole is to be granted. I guess that is to enable the police to consider the issue to see whether they might have other information as well letting them know what is going on.

In all, this is nationally consistent legislation we are discussing and I certainly support it.

[12.44 p.m.]

Ms FORREST (Murchison) - Mr President, all of us are aware of the real concern about and risk of terrorism in this country. Thankfully, we have not been subject to some of the pretty abhorrent acts of terrorism seen in some other countries but when you travel to those places you are very well aware. Even in our major cities we see big bollards being put up and other measures being taken to try to prevent it. If you are trying to go to an AFL match these days in Melbourne you have to have your bag searched and you have to go through the metal detector.

While it may be inconvenient at times, it has changed over recent years and they do a really good job getting you through quickly. We all appreciate the attention given to our personal safety. You hand over your control when you walk into an airport and do what you are told. If the plane is late, then the plane is late, and if you are going to be swabbed again every time you go through for explosives, you line up and do it. I think I went through once recently without.

I do not think any of us really mind the level of action taken as the risk is real. Both Rob and I have had our children very close to terrorism attacks. One of my children was in New York where there was some major event just down the road; he texted me saying no, it is on the east side. He went outside and it actually was just down the road. I knew where it was from the media. He thought it was on the east side; they live on the west side, and it was downtown Manhattan.

It is very real. My daughter was coming out of Flinders Street Railway Station the day the car went through the people walking across the road. She probably would have gone in the other direction to where she was going, but she was actually coming out of Flinders Street station at that time. It brings home how real and how close acts of terrorism can be.

I accept these laws are to give effect to a COAG agreement. We understand that process. There is no nationally consistent legislation in terms of states' legislation, because each state does things differently, so we have our own bill.

I have a couple of questions the Leader might like to answer in her response. The second reading speech is clear there should be provisions for exceptional circumstances, both for the courts to give the courts discretion and also the Parole Board. It is only through this process of exceptional circumstances that injustices are prevented. It is used carefully to ensure people are not released on bail who really should not be, but we need to ensure we can prevent injustice.

Terrorism offences are defined in the bill as they are in Commonwealth legislation, but it also enables an offence to be prescribed. To me it was not clear if that related to this act. Can the Leader confirm this? It was confirmed in the briefing, but it should be on the record that when an offence is to be prescribed as a terrorism offence, it is prescribed under this act rather than under the Commonwealth acts also referred to in that section of the bill.

The member for Windermere talked about arresting without a warrant if the police are satisfied beyond reasonable doubt that a person is a terrorism-linked prisoner or has become a terrorism-linked prisoner. What bar do police have to meet that shows that is a reasonable belief or that they are satisfied on reasonable grounds that is the case? Obviously it cannot be a personal prejudice, but I am interested in how they reach that.

The last question was in terms of some savings and transitional provisions. I want some clarity on the retrospective nature of the legislation. We asked this in the briefing and it would help to have it on the record. How does this apply if a person has committed their offence some time ago and is now seeking parole? If this act is in force, this will apply, but it does not apply retrospectively to people who have been through the process and come out the other side.

I hope the Leader can provide some clarification on those questions. I support the bill and think it is important we have fairly nationally consistent legislation to ensure we all have the same sort of level of expectation and protection right around the country.

[12.50 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, we have quite a few questions and not quite enough time to gather the answers.

Ms Forrest - Did you want me to talk longer?

Mrs HISCUTT - No. I will wrap up in a minute. This seems to be a bill with a few minor concerns, but generally accepted. Not all members have spoken on it, so hopefully most members feel comfortable with this. I have one answer at hand for the member for Windermere. Is it necessary to put power to arrest without warrant where police have the power of arrest? You discussed this at length and it was your main concern.

During the break we sought further clarification. The answer is that we are entirely satisfied that the language in the bill provides police with the power to arrest without warrant. We have spoken to Tasmania Police. The inspector we spoke with is satisfied the wording in the bill allows police officers to arrest without warrant. He was completely satisfied that will be okay.

Police have arrested hundreds without warrant under the existing provisions of the Bail Act 1994 that do not use the phrase 'without a warrant'. For example, section 5 (5A) of the Bail Act 1994 is exactly the same.

Mr Dean - And the parole act?

Mrs HISCUTT - The arrest under the Corrections Act is by police officers with warrants from the Parole Board.

I have an answer here for the member for Hobart, who asked: does new section 4C interfere with the separation of powers between the judiciary and the executive branches of government? It is quite a lengthy answer, so I hope it will satisfy your concerns.

It is not the Government's intent that police officers can arrest someone the courts have determined are terrorism-linked, but have been released because of exceptional circumstances. That is not the intention. If they have exceptional circumstances, they have exceptional circumstances. The law will allow police officers to arrest a person who is admitted to bail by a judge or magistrate, but only in very limited circumstances. It does not allow police officers to second-guess the decision of a court. If new information becomes available, a police officer can arrest a person and bring them back before the court.

Section 4C(1) allows a police officer to arrest a person who is admitted to bail and subsequently becomes terrorism-linked - for example, if the person becomes convicted of a terrorism offence while they are on bail. New section 4C(2) limits the powers of police officers to arrest a person. This is also designed to cover circumstances where a person was not terrorism-linked at the time of getting bail, but subsequently became terrorism-linked - for example, when a court imposes a control order or something different has happened.

It will not allow a terrorism-linked person the courts released because of exceptional circumstances to be arrested by a police officer. This is not designed to permit police officers to arrest someone when they dislike a decision of a court in relation to bail, but must allow police a discretion to arrest someone where further information arises, meaning that a person on bail should be arrested and brought back before the magistrate or the judge.

Honourable members, while we are completing the last answer, I will go through what exceptional circumstances are. It seems to be something that is often talked about. The phrase 'exceptional circumstances' is not defined in the Bail Act 1994 or the Corrections Act 1997, but it has been interpreted many times in courts across Australia, so exceptional circumstances potentially encompass a broad range of circumstances.

The word 'exceptional' describes something that is out of the ordinary course of events - unusual, special or uncommon. It does not need to be unique, unprecedented or very rare, but it cannot be a circumstance that is routinely or normally encountered.

Factors that courts have considered in determining whether there are exceptional circumstances for bail applications include youth. The courts may decide the age of a person is an exceptional circumstance and they will take that into consideration. They also talk about the strength of the prosecution case, so the judge can decide that if the prosecution does not have a strong case, they will invoke exceptional circumstances. They can also look at the seriousness of the offence. The seriousness of the offence is up to the court to decide. It can also be the delay or custodial conditions.

Judges can take many of these things into account. They can also take into account the effects on the family and employment of the particular person, and intellectual disability. We have spoken about that many times before so these are just examples of exceptional circumstances.

Ms Forrest - It is about preventing injustice.

Mrs HISCUTT - Yes, and it is up to the judge or the magistrate; they will make the call on the exceptional circumstances. Mr President, I will seek some more information.

There are a few more answers for the member for Murchison.

Talking about retrospectivity, these provisions will apply to current prisoners once they commence and will be applicable to any future parole applications they may make. It will not require those who have already been through the parole system to reapply. Once they have been through the parole system, and it is done and dusted, those people will not be subject to this. It is only people in the system or new people coming in. There are no exceptions; you have to be in the system.

The member for Murchison also asked about terrorism offences. The definition is in 'prescribed'. In section 4A the terrorism offence can include offences in relation to terrorism in other jurisdictions that are prescribed. These offences must be prescribed under the Bail Act.

The answer to the member for Murchison's question on reasonable grounds to arrest is: reasonable grounds would require grounds a reasonable person would base a decision on. There must be a proper evidentiary basis for the arrest. In these circumstances a police officer would need to obtain -

Sitting suspended from 1.00 p.m. to 2.30 p.m.

QUESTIONS

Housing - Government Builds

[2.31 p.m.]

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

On the 13 June the Minister for Housing amended a notice of motion concerning short-stay accommodation. Among other commitments the motion contained -

> (e) Commit to the delivery of 900 new homes by the end of June 2019, with over half of that supply to be delivered in the Greater Hobart region.

Since that time the Minister for Housing has stated the Government would deliver 941 'lots' and homes by June 2019.

(1) Can the Government please provide a regional breakdown of where the 900 homes will be delivered by June 2019?

(2) Has the Minister for Minister misled parliament by counting 'lots' in the original figure?

(3) Does the Government think it is reasonable to count homes built by Tasmanians as government builds?

ANSWER

Mr President, I thank the member for Elwick for his question. Tasmania's Affordable Housing Strategy 2015-2025 provides a comprehensive approach to prevent, intervene and respond to housing affordability issues and help those most vulnerable to housing stress and homelessness. We have consistently said this strategy is supported by the Affordable Housing Action Plan 2015-19 that will provide $73.5 million in investment over four years, which will see almost 1600 Tasmanian households housed and which will be supported by the delivery of over 900 new homes.

The target includes crisis and transitional accommodation, supported accommodation, disability accommodation, community housing, public housing and home ownership options, including affordable lots.

The land release project includes subdivisions with serviced lots that were not previously available on the market. These lots have been sold at an affordable price and are an important contribution to new affordable housing supply. For some Tasmanians wishing to build their own home for their family, these initiatives will give them the ability and flexibility.

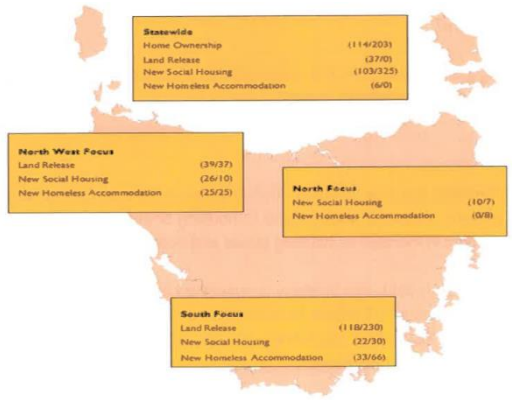
Further, new dwellings and house and land packages under the HomeShare program involve a significant funding contribution by Government, which was just been increased to up to $81 245.00 in July 2018.

The Tasmanian Government reports against its targets quarterly and the most recent report for the June quarter can be found on the DHHS website. This report confirmed we are on track to assist over 1600 households by June 2019, including new supply of 941 affordable lots and homes. In total, as at the end of June 2018 our initiatives have supplied 533 new lots of land and new affordable homes.

I also provide the relevant locations of new supply projects for assistance, which are available on page 2 of the report. I seek leave to table this page from the report and have it incorporated into *Hansard*.

Leave granted.

Document incorporated as follows -



Highway Safety - Potentially Dangerous Trees

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

[2.36 p.m.]

Due to the lack of response to my email of 17 August to the minister regarding highway safety, I have taken the question without notice approach, which includes providing a picture. There have been instances where large coupes have been harvested leaving the road verges and trees exposed. When combined with recent heavy rainfall and strong winds, this has caused trees to fall across roads, creating a significant safety issue.

(1) What is the Government's response to this significant issue?

(2) What future maintenance is being considered to address this issue? They are not small trees, they are large and need to be cut up with a chainsaw to get them off the road.

ANSWER

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

Ms Rattray - And the photo?

Mrs HISCUTT - Thank you for the photo. My answer does not include the question and photo so I will not seek approval to incorporate it in *Hansard*.

(1) The harvesting of trees on private or public land adjacent to state roads may impact on adjacent tree stands including those on the roadside verges. The Department of State Growth undertakes weekly inspections of all state roads and roadside verges to identify defects, including potentially dangerous trees. Trees identified as dangerous are programmed for urgent trimming or removal by the department's maintenance contractor. Trees that have fallen near or onto the road are reported to the department's maintenance contractor, are treated as emergency works and removed as soon as possible.

(2) The department is considering incorporating known coupe harvesting locations on land adjacent to the state roads into a risk-based decision-making process that identifies dangerous trees and limbs on state roads. The department has developed and implemented a risk-based tree management framework to guide the department's approach to managing risk associated with trees and limbs on state roads. Utilising this framework, the department aims to have completed the risk assessment of trees adjacent to all state roads by the end of the 2018-19 financial year. Dangerous trees identified will be prioritised and programmed for trimming or removal.

Bob Brown Foundation Event - Permit

[2.39 p.m.]

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

I include a quote at the beginning of this question -

> The Bob Brown Foundation have advertised an upcoming public event in the Tarkine, called 'The Big Canopy Campout'. At the time of writing, 110 people have registered to attend the event where they are invited to camp on the ground or in the tree top canopy in an area that is 'under threat from logging'.

I understand the land to be occupied in the Tarkine for this event is in the ownership of the state (Crown Land Services, Tasmania Parks and Wildlife Service and Sustainable Timber Tasmania). I am not sure who has control of it. Will the Leader please advise -

(1) Are any permits required to hold a public event of this scale on land managed by these state departments?

(2) If not, what other approvals, if any, are necessary in these circumstances?

(3) Have the departments responsible for managing the land been approached in relation to the event? It looks like you have it all.

(4) If so, what approvals, if any, have been granted to the Bob Brown Foundation to hold the event on 15 and 16 September 2018?

(5) If permits and approvals are necessary and have not been requested, what action, if any, will be taken by the department in this case?

(6) The question I did not ask should have been: what responsibility does the department have if the event takes place?

ANSWER

Mr President, I thank the member for Windermere for his question. I seem to have different numbers for his questions but I believe we have the answers here. I will not say which numbers the answers are, but just roll through them.

(1) to (4)

A permit is required if the event is to be held on land managed by the Department of Primary Industries, Parks, Water and Environment, Sustainable Timber Tasmania or another government entity. The Bob Brown Foundation has not approached the department. The department has contacted the Bob Brown Foundation to determine the location of the proposed event. To date, a location for the proposed event has not been provided. An event application form has been provided to the foundation to submit should the event be on PWS land.

Bob Brown Foundation Event - Permit

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

[2.41 p.m.]

As a supplementary question, what responsibility will lie with the department if it is on crown land or lands controlled by the state? What responsibility will rest on their shoulders to ensure this event is safe and conducted in an orderly way?

ANSWER

Mr President, I thank the member for Windermere for his question. I am sure this will be unfolding news.

Bus Contract Renewals

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

[2.42 p.m.]

This morning I asked the Leader about bus contract renewals, but a written answer would be good to have. The minister made a statement previously to the effect that it is important that operators receive information necessary to plan their business operations and their future. It is now the end of August and bus contracts are due to expire in December 2018. This situation is causing angst and concern to operators because they are in no position to plan their working future beyond December, which, at this time is about 14 or 16 working weeks away for some operators. Will the Leader please advise -

(1) What is the hold-up in the reissue of these bus contracts?
(2) When will the contracts due to expire in December be finalised?

ANSWER

Mr President, I thank the member for Windermere for his question. The Minister for Infrastructure has provided the following answers.

(1) He is very aware of the concerns of school bus operators who have contracts expiring on or before 31 December 2018 and is closely monitoring the department's progress with the new contract negotiations and the related arrangements. This includes a range of complexities and details that still need to be worked through to deliver Project 2018, including the 'service-matching' process.

    The minister is very aware that operators are focused right now on Project 2018 and the future of their own contracts, and indeed their businesses. At a practical level, it took longer than planned to get initial copies of the draft contract and funding model for future services to the operators, and together with the extended negotiations this has led to the delays.

(2) The Department of State Growth has been in negotiations with the Tasmanian Bus Association for over a year on a new contract. The latest draft of the contract was provided to the TBA on 20 July 2018 and negotiations are still continuing.

    The minister sees it as critical that the new contract terms be resolved as soon as possible over the coming weeks to ensure certainty to operators, and he is confident that the recontracting process will then be progressed and completed by the department in a timely fashion.

The minister said it is important that when these contracts are ultimately signed off by the Secretary of the Department of State Growth, we know that we can have confidence that they can take us through the next decade.

I hope the briefings we had this morning were helpful on this particular situation. The minister gave a few tips on how you can progress replies to your particular bus operators.

Mr Dean - Absolutely it was.

Frankford and Holwell Roads - Intersection - Safety

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

[2.45 p.m.]

On 9 January, an officer from the Department of State Growth inspected the intersection of the Frankford and Holwell roads because of safety concerns by local residents. Has any decision been made on action to be taken?

ANSWER

Mr President, I thank the member for Rosevears for his question. As an aside, I know exactly where the member means. I took one of my sons out for his learner's permit one late night and there was no-one on either road except one car that met this learner-driver on that corner, but it was okay.

With respect to the Frankford Road and Holwell Road junction, the Department of State Growth advised there has only been one reported crash in the last five years. That involved two motorcyclists losing control when turning into the junction at low speed and resulted in only minor injuries.

As the minister's office advised the member, the department will arrange further investigation of the site in relation to any specific concerns provided in consultation with his good self.

Teen Challenge Program - Funding - Meander Primary School Site

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

[2.46 p.m.]

My understanding is the Teen Challenge program proponents have requested funding from the state Government in the order of $900 000 over three years to deliver rehabilitation services on the site of the former Meander Primary School facility where a five-year-plus option lease has been secured.

(1) Has the funding been allocated?

(2) If yes, will the centre be available to young Tasmanians in crisis?

(3) If yes, will the Government consider employment opportunities for local area residents in its decision to allocate funding?

(4) If funding is allocated, what evaluation has been made of the program to be delivered and the outcomes post-delivery?

ANSWER

I thank the member for McIntyre for her question. Unfortunately, the Department of Health and Human Services has not allocated funding to Teen Challenge for rehabilitation services to be provided from the former Meander Primary School facility.

TERRORISM (RESTRICTIONS ON BAIL AND PAROLE) BILL 2018 (No. 20)

Second Reading

Resumed from above.

[2.48 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I will add to the response to the member for Windermere's issues about reasonable force for an arrest not being covered.

The general provision that covers reasonable force for an arrest is in the Criminal Code Act 1924, section 26(1), which the member will be aware of. This section provides that any person, including a police officer, who is justified or protected in making an arrest can use such force as is reasonably necessary to overcome any force used in resisting the arrest. The Criminal Code also contains provisions that permit the use of force by a police officer if an arrest is to prevent an arrested person's escape. This is also a general provision that applies to all arrests.

Mr Dean - It relates to Criminal Code offences, so we need to make sure we have it that right.

Mrs HISCUTT - There is also provision in the Criminal Code.

Mr Dean - Yes, that relates to Criminal Code offences.

Mrs HISCUTT - I am getting the nod from the advisors and, no, it does not.

For the member for Murchison, some more on reasonable grounds for arrest. A police officer will have reasonable grounds for their belief where, from an objective point of view, the police officer's belief is just and appropriate in all the circumstances.

In relation to bail, powers to arrest on reasonable grounds would only be likely to come up where a police officer is satisfied, based on a police record check or information received from a court or another police agency, that a person is either subject to a control order or has been convicted of a terrorism offence.

The member for Hobart was talking about the separation of powers in section 4C. This bill does not affect the power to appeal a bail decision; it does not affect that power. The appropriate

course for a police officer to take if they are dissatisfied with a court's decision to bail a person is to appeal the decision. The powers in this act are not in any way designed to undermine a court's decision to bail.

Mr President, in light of the time and our scheduled briefing at 3.00 p.m. I would like to adjourn the debate.

Bill read the second time.

SUSPENSION OF SITTING

[2.52 p.m.]

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

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

This is for the purpose of a briefing on the Battery of the Nation and Project Marinus by Hydro Tasmania and TasNetworks.

[2.53 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I understand we have a briefing organised for 3.00 p.m., but I am getting the feeling over the last couple of weeks that we are trying to stretch out the days with briefings that may not be necessary. We could have done 10 minutes of work with the bill before the briefing at 3.00 p.m.

This morning we had a half-hour break in between having a briefing. Often we are here very late at night, which none of us minds, but there are times when we tend to waste time just so that we look as though we are filling in the day. Those are my thoughts and my feelings. I think we should make things a bit more succinct if possible.

I understand and appreciate that the Leader is trying to acquiesce to some of our requests for briefings, but I think we are wasting time in some areas for little reason.

Mr DEAN (Windermere) - Mr President, I see it differently. This session was identified some long time ago. It is an issue many of us are concerned about and want an update and a briefing on. Let me also say this: if we go back to the time of Michael Aird and Doug Parkinson -

Mr Finch - The good old days.

Mr DEAN - That is right - the good old days. We used to have breaks consistently throughout the sitting days for quite long periods at certain times. There is nothing unusual about this at all. It is something that has happened in this place for the 15 years I have been here, and I see this as absolutely no different. I see this briefing is for a good cause whereas I could not see that with some of the previous adjournments we have had from time to time. I am not criticising those two gentlemen, but that was fact.

I support the reasons for this adjournment and I look forward to the briefing.

[2.55 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, as alluded to before, the Minister for Energy had flagged this briefing weeks ago. He has gone to the trouble of arranging for the acting CEO of TasNetworks to be here at this time. It has been flagged for a couple of weeks.

Motion agreed to.

Sitting suspended from 2.52 p.m. to 4.16 p.m.

TERRORISM (RESTRICTIONS ON BAIL AND PAROLE) BILL 2018 (No. 20)

In Committee

[4.18 p.m.]

Clauses 1 to 3 agreed to.

Clause 4 -
Part 1A inserted

Mr DEAN - Madam Chair, I raised this issue in the briefing this morning but I want to put it on the record. Where a person is admitted to bail by a judge, or more specifically a magistrate, where the offence is for a minor offence, section 4C(2)(b) applies. There is a power of arrest in that situation if the person is later suspected of terrorism links or involvement in some way. Why is that the case? Why do we have to wait and rely on a person having been bailed on an offence? What else applies? What is the reason for that?

Mrs HISCUTT - It is to allow for when information comes to light. This is just a trigger to be able to use that information. Once another bail is given, this will bring this information back in and then it can start the ball rolling again.

Mr DEAN - I would have thought the person, after their release on bail by the judge or magistrate, has become a terrorism-linked person. The point is the evidence to link them with terrorism should have been sufficient to have proceeded against those people, without them having to have been on bail. Why does it have to relate to a person on bail? What if the person is not on bail and there is evidence of them having some terrorism link? Is there not an action that can be taken immediately?

Mrs HISCUTT - Yes, that is under Commonwealth legislation. But, here in this state, to make them a terrorism-linked person, it is proposed section 4A(a) -

> … has been convicted of a terrorism offence; or
>
> (b) is subject to a control order;

That is the trigger for Tasmania.

Clause 4 agreed to.

Clauses 5 to 9 agreed to and bill taken through the remainder of the Committee stage.

JUSTICES OF THE PEACE BILL 2018 (No. 12)

Second Reading

[4.22 p.m.]

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

That the bill be now read the second time.

This bill provides a new, and more comprehensive, framework for the appointment and regulation of the conduct of justices of the peace in Tasmania.

Justices of the peace, apart from those few appointed as bench justices, perform the following major functions -

(1) Administer oaths in certain circumstances, particularly taking affidavits for use in court;
(2) Witness certain documents;
(3) Take statutory declarations; and
(4) Certify a true copy of an original document.

Justices of the peace can also issue a search warrant. In this role the justice of the peace must ensure all relevant information is included in the warrant.

The role is one of community service, with justices of the peace occupying a position of trust and responsibility.

Over time it has become apparent that, to meet current expectations of governance, the legislation governing justices of the peace should be more comprehensive than the limited provisions currently contained in the Justices Act 1959 and that it should deal with more than appointment.

All other states and territories have updated their legislation relating to justices of the peace since 2000, with Victoria updating most recently in 2014.

Many of the new requirements in the bill reflect what has been the general practice regarding justices of the peace, but the bill makes those practices clearer and more transparent, and provides more certainty for appointed justices and prospective appointees.

The three Tasmanian justice of the peace associations, and their individual members, have been consulted regarding the content of the bill and have provided very valuable feedback taken into account during its development.

The bill contains provisions dealing with who is eligible for appointment as a justice of the peace.

The criteria include an understanding of the role and duties of a justice, undertaking appropriate training, being likely to be reasonably available to exercise the powers of a justice, and being a fit and proper person to hold the office.

These criteria provide a clearer understanding of the basis upon which appointments are made and increase the transparency of the appointment process. They will also assist persons applying for appointment to appreciate what the role of a justice of the peace requires.

The bill includes specific provisions for the investigation of complaints against justices of the peace and the failure to undertake the duties of a justice of the peace as required.

The bill also sets out specific suspension and removal criteria, and the process that is to be followed in taking such action against an appointed justice. Currently, suspension or removal of justices of the peace, for example as a result of a justice of the peace being charged or convicted of a serious offence, is done in reliance on section 21 of the Acts Interpretation Act 1931, which simply provides that the power to appoint includes the power to suspend or remove a person appointed under that power.

The bill imposes some additional duties on appointed justices, including the requirement to undertake prescribed training, to be reasonably available and active and to comply with any code of conduct prescribed by the regulations.

The new duties, and the provisions of the act dealing with suspension and removal from office, apply only to justices appointed under the appointment provisions of the bill - known as 'appointed justices' - and do not apply to magistrates who hold the office of justice of the peace by virtue of their appointments as magistrates.

Matters regarding the conduct of magistrates when acting as justices is to be governed by the legislation ordinarily applying to the office of magistrate.

The bill retains the appointment of justices of the peace on a permanent basis, but it includes a statutory retirement age of 75 years.

To reflect that there are many retirees who are active justices and who have considerable knowledge and experience, but who in many cases are over the age of 75, the bill also provides that justices who reach the age of 75 may apply to be reappointed for further two-year periods up to the age of 85. Such applicants must be able to demonstrate that they continue to actively serve the community in the role and continue to be a fit and proper person for the role.

The bill contains an obligation upon the Secretary of the Department of Justice to maintain a register of justices of the peace. The bill also provides the secretary with certain powers to require appointed justices to provide information for the purposes of keeping the register up to date and obliges appointed justices to notify of relevant changes in circumstance. The bill creates three offences relating to justices of the peace.

The bill makes it an offence to impersonate a justice of the peace. It also makes it an offence to provide misleading information to the minister, secretary or an investigator appointed under the legislation.

The bill also creates an offence in relation to the acceptance of a fee by a justice of the peace for carrying out the duties of a justice of the peace.

The transitional provisions of the bill allow justices appointed prior to commencement to notify the secretary that they wish to continue in the office of justice of the peace. A person who notifies the secretary will, if eligible for appointment under the provisions of the bill, be taken to have been appointed under the new legislation.

Any justices of the peace who do not notify the secretary of their wish to continue in office will have their appointment terminated on the commencement of the bill.

All existing justices of the peace will be notified of the new legislation in writing by my department and sent a form to return if they are eligible and wish to continue in the role.

This procedure has been adopted in order to ensure that all eligible justices of the peace who wish to continue are automatically taken to be appointed under the new legislation.

This is preferable to the administratively burdensome task of formally reappointing all existing justices of the peace under the new act. Such a process could also result in a situation where there is a period of time when there are insufficient justices of the peace to service all areas of the state.

Finally, the bill repeals parts II and III of the Justices Act 1959, which are the parts of that act that currently deal with justices of the peace.

Mr President, I commend the bill to the House.

[4.31 p.m.]

Ms ARMITAGE (Launceston) - Mr President, before I start I should say I am a justice of the peace. I do not believe there is much of a conflict of interest because there is no pecuniary interest in being a justice of the peace. This is only to be noted.

Mr President, justices of the peace in Tasmania provide an invaluable service within the community. Within my electorate there are five, including myself.

The bill looks at the process of appointing justices of the peace and also at their resignation, retirement, suspension and removal from office. I refer to a letter addressed to Mr Simon Overland, at that time secretary of the Department of Justice. The letter is dated 15 March and was written by the then president of the Honorary Justices Association of Tasmania, Mr Geoff Cardogan-Cowper; and he was very happy for me to read parts of it in. In his letter, referenced as 'Comments - draft Justices of the Peace Bill 2017', he writes -

> We welcome the draft. Its provisions address many concerns of this Association such as the need for professional development, for removing Justices of the Peace from the Register where they cannot or do not perform their duties properly and penalties for anyone acting as a Justice of the Peace without appointment or for direct or indirect personal gain.
>
> … first [we] should remark upon what we see as a serious practical issue arising from the drafting. I refer to those provisions relating to blanket termination of officers at 75 years of age. As an Association we understand and welcome the

> apparent intent; that it is to apply a straightforward rule to remove those who may no longer be capable. The difficulty is one that is common to attempts to apply one rule to all: intellectual and physical capacity at any age is widely variable.

He goes on to say -

> Should this Bill become law in its present terms …

That was 'present' in the letter sent at that time, before the changes were made -

> … the office in Henty House [in Launceston] which we voluntarily staff as a community service could not continue. The work it does - in the last year now in excess of 30,000 documents - would fall immediately onto the Courts and Service Tasmania.

It is good to see that the comments made by the Honorary Justices Association were taken on board and there are now changes to the proposed bill that at 75 years of age, as it says -

> To reflect that there are many retirees who are active justices and who have considerable knowledge and experience but who, in many cases, are over the age of 75, the bill also provides that justices who reach the age of 75 may apply to be reappointed for further two-year periods up to the age of 85.

That is pretty well in line with the request from the honorary justices. It really is good to see those comments were taken on board and they were consulted - that they made their submission and their concerns were taken on board.

I am sure other justices - you, Mr President, and the member for Apsley - like me get many calls to witness documents, to certify documents and affidavits. Last week I had a call from a gentleman from Western Australia who was coming home for the weekend to sign divorce papers with his wife who lived in Launceston. It is not uncommon for people to say, 'I will be there on Saturday, can I catch up with you at 2 o'clock in the afternoon or 11 o'clock?'

Mrs Hiscutt - Lunchtime Sundays, no problem.

Ms ARMITAGE - We are called upon many times of an evening or a night. They perform a very good service at Henty House but, of course, it is from 10 a.m. until 3 p.m. and many people cannot actually get in between 10 a.m. and 3 p.m. so we are called upon quite a lot. As with the police, when the police need something urgently witnessed, I guess being in the city it is very convenient for them. It is a worthwhile service that I would recommend to members here. If you are not a justice of peace, it is certainly worth considering. Many of our constituents often look for a JP to witness documents or affidavits.

I am pleased to see the compulsory professional development. It is something we all need more of. It is easy to let it slide; knowing you should go along and do a refresher course. It is good it is becoming mandatory so it will make us step up to the mark when we fall a little behind. When someone brings something I have not seen before, I get my booklet out and make sure I cross all the t's and dot all the i's, ensuring that every page is initialled and everything I have to do is done.

It is very important we know what we are doing. I do not know about other members, but I have been a justice now for a good long time. I was on the local council when I became a justice.

I recall going to a justice of the peace to witness a document and I do not think they even asked me for my driver's licence to verify who I was at that stage. It was just sign and witness. Once you have done the course and you become a JP, you appreciate it is essential to verify who the person is, that they are the person and they understand what they are signing. There is a lot more to it than just witnessing a signature.

Quite a lot is involved, and there are many different forms and areas we do need to be involved in. One of the areas I have discussed with a couple of the voluntary justices in Henty House is bench work. That is becoming quite difficult. I am not sure whether the Leader is aware of that. I know that in Launceston fewer justices are able to do bench work. I am not sure it is something many people want to do. I hear it is quite difficult, as we have heard in the past. People in court obviously are not very happy. I have heard some the justices say you might come across someone in the street who was not particularly happy with what you told them in court on the bench.

Mrs Hiscutt - The north-west group actively searches for bench justices and supports those who are going through that process.

Ms ARMITAGE - It is quite something to try to find someone. I think at the time we had one person going overseas, and there was going to be a shortage of bench justices. It is a particular course people do and it certainly is worthwhile.

I support the bill. I am very pleased to see the amendments, and the legislation addresses many of the concerns of the Honorary Justices Association of Tasmania which sent this letter in. I am pleased to see you are now encouraging us to do our CPD, which we probably should have done on our own. It helps us along the way when we know it is mandatory.

[4.38 p.m.]

Mr VALENTINE (Hobart) - Mr President, I used to be a justice of the peace; I am no longer -

Ms Forrest - You are a lapsed justice.

Mr VALENTINE - First, I do not see any problem with this bill. I have read it from cover to cover; it was almost bedtime reading. I became a justice of the peace the moment I was elected lord mayor of Hobart. I find it interesting because I became a justice of the peace by dint of my position. I have to say nothing came to me to advise me that I had to do this formal course. I had some educational material, but there was a gap in the system. I do not think every mayor in Tasmania becomes a justice of the peace but a lord mayor does.

I do not see that anywhere in the legislation. I do not know if it is still the case that the lord mayor or mayors of cities become justices of the peace. I read through this and thought, 'Well, I do not see it in there in any way, shape or form'. Could I be advised on how that happens and what the process is? I do think it was a deficient process at the time I was appointed simply by being elected. I certainly performed it and performed it to the letter, as far as I am aware. I would hate to think I did not carry out the job properly. I believe I did. Ensuring that people appointed in such a way actually have the proper training is of interest to me when it comes to the bill now before us.

[4.41 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I have no issue with the bill. I think it is good and needs to be updated.

My question is: who keeps the website up to date? As an example, a colleague in New Zealand contacted me because they wanted to do some locum work here. He had to come over and find a JP; fortunately my colleague was helped by some nice people around this place. I did what anybody does when they have to find something or somebody - I went onto Google and searched for justices of the peace in Hobart. It was quite interesting, - I was not even sure that I was on the right site. It said the 'Tasmanian Society of Justices of the Peace Inc. - How to find a JP'. I thought that would be a good place to start. The website has a membership form, diary dates, merchandise, constitution links, contacts, history and then it has southern Tasmania, north-west and north. It has all the different 29 councils. I selected Hobart; I went there and thought I was doing pretty well. I got on and had eight calls - three answered out, two of the numbers were not found. Of the three I contacted, one had not worked there. Another person said, 'You are looking for so-and-so. He has not worked for three years' at the bank of whatever.'

I am not here to moan. I mentioned this to the Attorney-General and she said, 'It is great, Mike, because we have a bill coming forward about this'. That was one of the practical issues. Who keeps it up to date? The person who answered was from a bank and he must have received those phone calls quite frequently. He said, 'You are looking for so-and-so. You want a JP, don't you?' The JP had not worked here for three years. Keeping this information up to date is important. When we put something that makes sense into legislation, it must be implemented at the other end. It must be workable for all those people who are deregistered or are no longer JPs.

There should be something, either in the second reading speech or the regulations, saying that it will be updated on a six-monthly or a yearly basis. Otherwise people will think that this is not a very good system if they are looking for a JP. Sometimes it is people from overseas or the mainland who may need to find a JP for something when they come here and they find it inefficient. That needs to be sorted. My question is: who is responsible within the Justice department for keeping the website up to date?

[4.44 p.m.]

Ms RATTRAY (McIntyre) - Mr President, about three years ago the Leader and I attended a course in Hobart, and after making some inquiries, I found my number is 5288. We did the course, and were successful and received our certificate from the former Attorney-General. I have my framed certificate in my office.

Interestingly, after I had passed the course and was appointed as a JP by the Attorney-General, I received two requests for membership to belong to the association. That might be where there is confusion about who is on the list and who is not. I received a membership request from the Hobart-based association and from the northern association.

I was in a bit of a quandary: the Hobart people were good enough to have me at their course but I felt I was based in the north. I am not trying to answer the member for Mersey's question for the Leader, but I think that might be a bit of a problem. We have three associations, and it appears communications between the associations are less than ideal.

Mr Gaffney - The website lists the 29 local councils; I suppose people want to find you in the place where they live.

Ms RATTRAY - I found that interesting. I have been part of the northern association but I felt some obligation to support the southern one as well. I paid on the night for the course. I wonder if there could be, through the Attorney-General's office, some way to get a more cohesive

arrangement among the associations so that they at least share their listings. I did the course in Hobart, but I am rarely available in Hobart - I was not around the day the member for Mersey was looking for someone.

Mr Gaffney - Can I ask what it cost you to do? Can you remember?

Ms RATTRAY - That is a very good question. I have no idea; I cannot remember offhand.

Mr Gaffney - Why would we charge people in Tasmania to be a justice of the peace and to give service to constituents when it is not a paid position?

Ms RATTRAY - They had people delivering the course; you could buy a pin on the night, and that was extra.

Mrs Hiscutt - I do not remember if we paid money to government to do it; it might have been to the service provider who delivered the course, but not as a fee.

Mr Gaffney - If we are asking people to provide a service by becoming a JP, to help people, I would have thought that expense, whether for the hire of the room or for a cup of tea, should go to the Department of Justice, saying 'Come along.'

Ms Armitage - We pay to be a member of the organisation as well; there is an annual membership fee.

Ms RATTRAY - Some costs are involved. I am not telling the associations how to run their associations. As the member for Launceston said, they are all very good people; they volunteer and we are so lucky to have them. Often retired people run the associations and particularly take office positions in them. I am not in a position to take over any of those office positions at this time, so I am not going to tell them what to do. I just thought it would probably be useful, and might help to have an up-to-date website if there was that approach.

In regard to the code of conduct prescribed by the regulations - I always get a tad nervous when it comes to regulations - what are the code of conduct requirements likely to be? There must be some idea of what they might look like. I certainly agree with the extension of the age limit for the over-75s - probably before I know it, I will be there. That is useful; we all want to continue to play a useful part in our communities when we are perhaps not working full-time.

Another matter I wanted to raise is: when you do your compulsory professional development - CPD - do you get a letter saying, 'It is time for you to have your CPD', and you send off your form after you have completed it? How will this work for people who carry out these really beneficial tasks in the community?

I felt a commissioner for declarations was a role where we could be quite useful, until I went to sign somebody's divorce papers and I could not. It said, 'Not allowed for Commissioner for Declarations'.

Mrs Hiscutt - For search warrants.

Ms RATTRAY - I have not been asked to do any. They leave it for the member for Launceston. That triggered my interest because I felt bad these two people had come together,

which is not always a happy time, to undertake this and I had to turn them down. I felt disappointed I had not thoroughly researched this. I certainly support it. Other states and territories have not had theirs updated since 2000. Victoria is lagging - 2014 - like we are, but if this passes, which I am sure it will, at least we will be more contemporary.

Ms Armitage - While you are on your feet, member for McIntyre, we might ask the Leader, considering we have to do CPD and there is obviously a cost, whether the Government might consider funding?

Ms RATTRAY - That will be a question from the member for Launceston in the Committee stage.

Mr PRESIDENT - It is getting into an area of conflict.

Ms Rattray - Exactly. I support the bill.

[4.52 p.m.]

Ms FORREST (Murchison) - Mr President, I support the bill. It is important and timely to look at the actual framework that governs justices of the peace. The member of Mersey talked about the issue of updating the website and I would be interested to hear what the Leader has to say.

I wanted to focus a bit on the second reading speech, which says -

> The bill contains provisions dealing with who is eligible for appointment as a justice of the peace.
>
> The criteria include an understanding of the role and duties of a justice, undertaking appropriate training -

which has been talked about -

> being likely to be reasonably available to exercise the powers of a justice, and being a fit and proper person to hold the office.

I will come to what a fit a proper person is in a moment. It goes on to talk about -

> The bill imposes some additional duties on appointed justices, including the requirement to undertake prescribed training, to be reasonably available and active and to comply with any code of conduct prescribed by the regulations.

I want the Leader to assure me it will be prescribed. There is provision to enable compliance with the code of conduct. I want to know it will be done. This is really important. I say this because a few years ago I received a letter addressed to me marked 'Private and confidential'. It came to my office. When I opened the letter, it was from a person raising their personal views on their letterhead; above their details it said 'Justice of the Peace' and it was signed at the bottom noting this person was a justice of the peace.

The language used in the letter and the way they referred to what they believed was my decision-making regarding marriage equality was disgraceful. I have not seen anything more

revolting from anybody. I have received a few bits and pieces, as you do, when people disagree with me. That is okay. If it had been provided on just a blank piece of paper without that, I would have thought, 'Fair enough, your opinion'. But this person had done it to all intents and purposes as a JP, which was noted at the top and bottom of the letter. Now is this a fit and proper person to be doing this? If that person did that sort of thing to other people whose opinions or actions he did not agree with, to my mind that is really not upholding the values and the expectations we have when justices are appointed. It is really important there is a strictly upheld code of conduct.

I went to the provisions in the bill with the grounds for removal from office of a justice of the peace. This person's name had been removed because they had died; I will not mention their name. I notice JPs can be removed for repeated breaches of the code - I do not know if this was a repeated breach or not. I communicated with this person and told them how appalled I was that they had used that letterhead and that, in my view, it was entirely inappropriate. Not that there was anything I could really do about it, but I took some further action.

Another thing being -

> (c) the justice has failed, without reasonable excuse, to comply with another requirement made or given by the Secretary under this Act; or
>
> (d) on at least 3 occasions, the justice has failed, without reasonable excuse, to carry out his or her duties; or
>
> (e) … to comply with any provision of this Act; or
>
> (f) … no longer has the physical or mental capacity to carry out the duties of the office of Justice of the Peace; or
>
> (g) the justice has brought the office of Justice of the Peace into disrepute.

I argue that this letter brought this justice and the office of it into disrepute; it was most disgraceful.

Mr President, I want to hear from the Leader that the code of conduct will be made and that it will be robust. I guess the clause that deals with that is clause 20 because it says 'Requirement to comply with code of conduct' and a justice must comply with it. But there does not appear to be any penalty for not doing so, except that it can lead to their dismissal. I would like some clarification of that. If people do not comply with the code and they do not meet those expectations criteria, could that then trigger grounds for removal from the office of the justice of the peace? I assume some of the reasons I mentioned would fit into clause 29(g), which deals with bringing the office of justice of the peace into disrepute.

In clause 30, there is also 'Recommendation that appointed justice be removed from office of Justice of the Peace'. It says -

> (1) The Minister may recommend to the Governor that an appointed justice be removed from the office of Justice of the Peace if the report of an investigator in relation to the conduct of the justice includes the finding that there are grounds for the removal.
>
> (2) If, despite a report of an investigator finding that there are grounds for the removal of an appointed justice from the office of Justice of the Peace, the

Minister determines not to recommend to the Governor that the justice be removed from the office of Justice of the Peace -

(a) the Minister is to notify the Secretary of that determination as soon as reasonably practicable; and

(b) the Minister may inform the Secretary that he or she is to require the justice to take one or more actions which may include, but are not limited to -

(i) apologising; and
(ii) undertaking training or professional development; and

(c) if the justice is suspended from the office of Justice of the Peace, the Secretary is to revoke the suspension.

My concern is the minister could decide, for whatever reason, they do not agree with the investigator's report that this person should be removed from office and decides not to abide by that recommendation. The minister then notifies the secretary and says that maybe they need to apologise or do some training. Again, that is a matter of judgment. What if there is a conflict here? What if this is a good mate of the minister? They went to uni together; they play footy together; they are best mates. The minister is making the decision here, and I do not see any other circuit-breaker here. How do you avoid conflicts of interest? Justices are often known in political circles. Some of the justices in this Chamber are literally in political circles.

How do we avoid that conflict? I think there is a serious risk there, and I am concerned about that. Clause 30 has no requirement for justification of the minister's decision. It just says the minister can determine not to recommend the removal, and all they have to do is notify the secretary and suggest what sanctions there may be - and the secretary has to do what they are told. That is effectively what it is. I am concerned that the minister does not need to explain why they have taken that decision and not removed them. If there is a potential conflict, how does a minister deal with that? There is no capacity for the minister to defer the decision-making. This is a really serious matter, and I hope the Leader can address it. This may need amending, by putting in a provision for the minister to have a circuit-breaker here. If the minister declares an interest, where do they then go because there is no provision?

Mr Valentine - Are you talking about clause 30?

Ms FORREST - I am talking about the whole of clause 30, which you have to read in context with the other parts. Once a justice of the peace is removed, the Governor makes a decision to remove them on the recommendation of the minister, and then we are going to name and shame them. In clause 31(3) the notice provided to a justice under subsection 2(a) is to include the reason for this. A notice published in the *Gazette* includes the name of the justice and the reason for their removal. We are naming and shaming. If the person has lost their physical or mental capacity to carry out their duties, it is not mentioned. The next subclause deals with that. If they have written inappropriate letters, that would be listed.

Mr Valentine - They have a right to tell them they are no longer a justice, a bit like motorcycle groups.

Ms FORREST - I support the bill in principle, but this is a really important matter that may need further consideration.

[5.02 p.m.]

Mr DEAN (Windermere) - Mr President, this legislation is about contemporising the 1959 act. It is about fixing many of the issues that have come up over the years. I refer to the much older Police Offences Act. The justices' office in Launceston has operated in Henty House for a long period of time. They operate on a roster basis and perform a wonderful service. I take my hat off to those people, and mention Nigel Forteath, who is a leader there and has done an excellent job. There is no doubt the service justices provide to the public is really appreciated.

I have often been concerned that justices occupy an important position in this state but are given no recompense. I have often raised that they ought to be recompensed for costs they incur as justices of the peace. They will tell you there is a cost to them. Justices of the peace and others are available all hours. In my previous profession I used to call on justices of the peace all through the night, into the morning, at any time. I had to do it - with police work you cannot wait to take out a warrant at a later time when everything might go missing.

Mrs Hiscutt - You were the go-to man.

Mr DEAN - It was necessary. They were always there and willing to provide the services necessary to the public and people. I take my hat off to them. They can and will be able to serve until age 85 but have to apply every two-year period after 75. They must demonstrate they are a fit and proper person able to perform the function.

I asked a question: what would be necessary in that circumstance? Is it simply that they sign some document when the two-year extension is provided to them, that they are capable, fit and healthy, understand everything still and are able to get around quite easily? Or have they got to provide some form of medical certificate? I raise this because these people are in very important positions. They sign legal documents, search warrants and many other legal documents, including the setting up of surveillance.

Mr Finch - They do bench duty as well.

Mr DEAN - Not all, but some do. I am not sure whether a person who is 84 or 85 is able to carry out those bench duties. I would be interested to know whether that is the situation because these people will be required, and are required at intervals, to go court to give evidence when documents are contested and where issues arise about the legalities of documents.

To me they need to demonstrate their capacity to be able fully undertake the functions and duties of a justice of the peace. In my view this is very important, which is why I have raised this question.

Mr Finch - Somebody who is coming up to that grand old age of 85, a justice of the peace in Henty House, is Bill Morris. The member for Launceston might help me here, but Bill would be 83. So he would be coming up to that situation where he would need to choose whether to retire or go for that two-year extension. He is pretty fit, pretty sharp.

Mr DEAN - It is interesting a lot of people still come and go to members of the parliament to ask for either a justice of the peace or for a commissioner for declarations. We all are

commissioners for declarations. Many people who come in want a JP and when you look at the document you find that a commissioner for declarations is able to witness the document. That happens with many documents people now have; there is always a line between a JP and a commissioner for declarations, and in many cases either can sign them.

I have gone through the bill and I am happy with it. It gives some fairly clear directions when you look closely at it, so I will support the legislation.

[5.07 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President I will start working my way through some of these answers and there are still some to follow. I also would like to declare that I am a JP. I went through the course with the member for McIntyre three years ago. I am also a marriage celebrant so I might just have a little bit of input from the code of conduct from that to this as to what they do and what the expectations would be for this.

The member for Hobart first spoke about being a JP as a lord mayor. I do not know that you lapse; I think you have to resign.

Mr Valentine - No, lapse.

Mrs HISCUTT - This bill does not confer ex-officio status as a justice of the peace upon mayors. The conferral of ex-officio status on mayors under the Justices Act is a legacy of a time when justices exercised more significant judicial powers. Now there is little benefit in mayors automatically being justices of the peace. There is nothing precluding mayors from seeking appointment in the ordinary way.

Who keeps the website up to date? This was a general question, but mainly from the member for Mersey and the member for McIntyre. Both spoke about the website. The official register is not currently available online so the one the member talked about was from the three associations' websites.

The official register is not currently available online. The register is maintained by Legal Aid and details are provided by Legal Aid via its advice line. A project is underway within the Department of Justice to put the register online. One of the questions I put to the department was that it needs to be updated, online and official from the Justice department. That message is loud and clear.

The list kept on the website of the Tasmanian Society of Justices of the Peace Incorporated is a private website, unaffiliated with the Department of Justice.

The bill contains provisions regarding the responsibility for appointed justices to provide current details for the register. I am glad the member raised it -

Mr Gaffney - The register is through Justice and there is an association that keeps its own website?

Mrs HISCUTT - That is correct.

Mr Gaffney - There has to be a concerted effort by the Government, as the lead agency, to try to come up with a better way of doing it.

Mrs HISCUTT - I totally agree. It is noted and has been mentioned three or four times by myself to the department. They are certainly aware of it. The register is maintained by Legal Aid. There is a project underway within the Department of Justice to put the register online.

Mr Gaffney - Will you keep us up to date with that? The association would be more than happy if that responsibility was passed to the Department of Justice.

Mrs HISCUTT - They certainly are, member for Mersey. My association has struggled with it for a long time and it is being pursued by all avenues. It needs to be up there.

The Attorney-General's office is aware, with the passage of this bill, that the association is at pains to discuss how to better to coordinate their activities.

The member for Mersey talked about membership fees. I can clarify that the fees in question charged by independent associations are membership fees; I liken them to a professional organisation.

The Department of Justice is exploring how they may better be able to assist with or compensate the association when it comes to training costs.

The code of conduct has been talked about with the member for McIntyre. A current code of conduct is in the Justice of the Peace Handbook. The new code of conduct will be similar and initial drafting has commenced. It will likely cover things such as prohibiting justices from providing legal advice; when a justice can refuse to provide advice; prohibition on advertising JP status in connection with operating a business; and how and when a justice can use the title of JP. This answer may be relevant to the member for Murchison.

With a marriage celebrant, there is a strict code of conduct. It talks about professionalism, discretion and being a fit and proper person. We also have a form we give our marrying couples about what to do and how to complain. I will pursue this with the Justice department. People need an avenue for complaint.

The member for Murchison talked about a fit and proper person. A fit and proper person is a person who is suitable, appropriate and legally eligible to undertake the office of justice of the peace. Fit and proper, standing alone, has no precise meaning because it takes its meaning from context.

In this bill, it gives the minister a wide discretion to determine who is suitable for appointment. Currently, candidates for appointment are subject to a criminal history check, which costs money, and are required to provide character references. Tasmania Police is also requested to provide a confidential report on the suitability of appointees. Similar considerations will be relevant to the question of whether a person is fit and proper for appointment as a justice of the peace, under this bill.

The member for McIntyre talked about how professional development is likely to occur. The justice of the peace will be notified in writing by the secretary to undertake the training or the professional development specified in the notice.

Under clause 18(3) of the bill the secretary can also 'require all members of a class of appointed justices specified in a notice published on the Department's website or in such other manner as the Secretary determines to undertake the training or professional development specified in the notice'. Every year, marriage celebrants must pay and complete a professional development with accredited trainers.

There is more to come. With regard to the member for Windermere's question on how to prove the appointment should continue after the age of 75, the justice will need to satisfy the secretary that they are, and will be active, and that they remain a fit and proper person. If they do not have the capacity, they remain subject to the requirements of the act and can be removed from office in that way.

We discussed this earlier. If the secretary asks, or is looking for a reason, it may simply be writing a letter saying, 'I am active by doing this, this and this.'

Mr Dean - That is all that is necessary?

Mrs HISCUTT - At the moment. They are still working their way through how to do that, but they will need to satisfy the secretary they are and will be active. If you can prove you are still going about your business and are active, I should imagine this would be quite sufficient. Although, on the other hand, I do know a lot of older people who are quite happy to be deregistered, and that would be a way for them.

The member for Murchison asked: what if there is a conflict of interest with the minister's decision under clause 30? If there is a conflict, the minister could recuse themself in line with the ministerial code of conduct and the decision could be made by an acting minister, as would currently be generally the case.

This would be the same as any other situation in which a minister has a conflict of interest. The decision could be then taken at a point when the minister - in this case, the Attorney-General for example - is absent on leave and there is an acting attorney-general. If required, an acting minister could be appointed for a short period. This reflects the status quo and reflects current procedures.

Bill read the second time.

JUSTICES OF THE PEACE BILL 2018 (No. 12)

In Committee

Clauses 1 to 23 agreed to.

Clause 24 -
Revocation of suspension

Mr VALENTINE - Madam Chair, I am interested in how the investigator is chosen. What qualifications does an investigator have? If we turn to clause 24(3), it talks about -

(a) an appointed justice is suspended from the office of Justice of the Peace under section 21(1)(a); and

(b) a report from an investigator under section 28 includes the finding that there are grounds for the removal from the office of Justice of the Peace of the justice …

Does the person investigating have to have certain qualifications or is it just 'Joe Blow in department *x*'? Do they have to have legal training? Would you clarify that for me?

Mrs HISCUTT - Clause 26(1) of the bill talks about the authorisation of an investigator. It says -

> The Secretary is to authorise a State Service officer or State Service employee employed in the Department to undertake an investigation into the justice's conduct

Mr Valentine - With respect to clause 24(3).

Mrs HISCUTT - Are you talking about the one in this bill?

Mr VALENTINE - Yes. It says in clause 24(3)(c) -

> The Minister -
>
> (i) under section 30(2) notifies the Secretary that he or she has determined not to recommend to the Governor that the justice be removed from the office of Justice of the Peace -

That is a bit like the member for Murchison was talking about earlier -

> the Secretary is to revoke the suspension as soon as practicable after receipt of the notice from the Minister.

That is even though they have received a report saying that there are grounds for removal. Yet they are not giving any reasons why they are not progressing with that removal. That is a little bit of a concern to me. Why is it written that way?

Is it so the minister does not have to take action on the advice received? Is that to give more power to the minister to do whatever the minister may want to do? If somebody is being kept in office after having so damning a report written that says they should not be there, there would have to be some reason given by the minister not to progress with that. It gets down to what the relationship might be between the minister and the person.

Mrs HISCUTT - What is here is equivalent to what is in the State Service Act already. The minister is provided with advice but ultimately it is their responsibility, as the case may be.

Mr VALENTINE - That is what it is at the moment. A report that says that this person should be removed is a significant thing. If the minister goes against that, but is not forced to table, read or record reasons why, it is not discoverable, is it? That concerns me. Is that the right term? If it came to our attention in this Chamber, how would we drill down to find out what the circumstances

were and why that person was not removed - had we decided to do that - if no reason was stated by the minister?

Mrs HISCUTT - Basically the minister is responsible to this parliament, the secretary is responsible to the minister and the reports are potentially subject to RTI. The information legislation -

Mr Valentine - It is subject to RTI?

Mrs HISCUTT - Yes, reports are potentially subject to RTI. Information legislation is subject to exemptions. There could be some reasons why there would be privacy.

Mr Valentine - A mental health issue?

Mrs HISCUTT - It could be any of that kind of thing - sensitive information that you would not want exposed all around the place. There is a process for it and there has to be a mechanism for the minister to make that decision.

Clause 24 agreed to.

Clauses 25 to 30 agreed to.

Clause 31 -
Removal from office of Justice of the Peace.

Mr DEAN - What is the position here? If we go to 31(4), it says -

> Subsection (2) does not apply to the removal of an appointed justice from the office of Justice of the Peace on the ground that the justice no longer has the physical or mental capacity to carry out the duties of that office.

This fits under 31, removal from office of Justice of the Peace. This is where a justice has considered they have the mental capacity and all the rest to serve as a justice. Here, an investigation has revealed the person should be removed because of their mental status and capacity and so on to carry out the functions. Yet there is no requirement, if you look at subsection (2) -

> If the Governor removes an appointed justice from the office of Justice of the Peace, notice of that removal is to be … provided to the justice ...

It would seem, in this case, (4), where it is through incapacity or mental situation and so on, they do not have to be notified. What is the position there?

Mrs HISCUTT - Yes, they could. Take, for example, mental incapacity. It would be okay if there is a family member the department could write to. With writing to the person, they might not have the capacity to understand the meaning of the letter. But there is a connection there with maybe identifying it to a trustee or a family member. What is the point to send a letter to someone who does not understand what it is about? So they would not put it to the person, but they may put it to family members or a trustee or like.

Mr Dean - While I can understand that, I cannot understand it is just left open. In such cases why does it not include a report provided to the next of kin? To somebody with a power of attorney or to a member of the family. There has got to be something provided to these people. Surely they are entitled to that.

Mrs HISCUTT - This information on a particular JP could come in various ways. A concerned community member has noticed something, and then after an investigation, there may be no-one to notify if this person is suffering physical or mental incapacity and cannot carry out their duties. But, if there is, they would be. But if a community member has made a complaint, or expressed some concern, I do not know that they would appreciate getting a letter to say, 'Joe Blow has had this happen to him', because it is not their business. They have made a complaint or a concern about a particular physical or mental capacity about a JP and it is no one else's concern to get a letter to say, yes, he has been deregistered.

In these sensitive situations, if there is a family member or a power of attorney, yes, they would be contacted.

Mr DEAN - I am a bit reluctant to push this too much further, because I do not want a repeat of last night. The member for Huon is looking at me very closely.

Mr Willie - He is not the only one.

Mr DEAN - I am just uncomfortable. We have a person still serving as a justice of the peace. Something has happened and an investigation has revealed they are now not capable of fulfilling the functions of the office, because of their physical or mental capacity. It does not necessarily mean they cannot understand what is written in a letter that simply says they are being investigated and may be removed from their position of justice of the peace.

So I cannot understand why there would not have to be some provision of a notification to that person, to be provided for the justice - and I am not sure about published in the *Gazette* - but I would think they would need to be notified. How are they notified? Do they just sit around? What happens?

Mrs HISCUTT - Such notifications have not been legislated for to allow for it to be flexible and dealt with on a case-by-case basis. There is an administrative process to ensure where a JP is removed on grounds of capacity or physical incapacity, that the appropriate person is notified.

Clause 31 agreed to.

Clauses 32 to 44 agreed to and bill taken through the remainder of the Committee stage.

SUSPENSION OF SITTING

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

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

This is for the purpose of waiting for a bill from the other place.

Motion agreed to.

Sitting suspended from 5.39 p.m. to 5.46 p.m.

SURVEILLANCE LEGISLATION AMENDMENTS (PERSONAL POLICE CAMERAS) BILL 2018 (No. 29)

First Reading

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

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

Message from House of Assembly

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

ADJOURNMENT

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

> That at its rising the Council adjourn until 11 a.m. on Tuesday 18 September 2018.

Motion agreed to.

The Council adjourned at 5.48 p.m.