PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 15 October 2020

REVISED EDITION

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

TABLED PAPER

Joint Parliamentary Standing Committee on Subordinate Legislation - Report 2019-20

Ms Rattray presented the report of the Joint Parliamentary Standing Committee on Subordinate Legislation for 2019-20.

Report received.

LEAVE OF ABSENCE

Member for Pembroke

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

> That the honourable member for Pembroke, Ms Siejka, be granted leave of absence from the service of the Council for today's sitting.

Motion agreed to.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL BILL 2020 (No. 25)

CAT MANAGEMENT AMENDMENT BILL 2019 (No. 55)

Third Reading

Bills read the third time.

EVIDENCE (CHILDREN AND SPECIAL WITNESSES) AMENDMENT BILL 2020 (No. 31)

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.

Throughout the Royal Commission into Institutional Responses to Child Sexual Abuse, we heard stories from survivors of their daunting experiences engaging in the criminal justice system.

We heard about the harrowing nature of child sexual abuse offences as being generally committed in private, with no eyewitnesses, and no medical or forensic evidence capable of confirming the abuse. We heard about the importance of a survivor's evidence in a criminal trial, with that evidence typically being the only direct evidence about what has occurred.

From the work of the royal commission, we learned that achieving justice in a criminal investigation and prosecution for child sexual abuse often hinges on the survivor's ability to give clear and credible evidence. We heard about the impact of trauma on memory, and the limits of traditional methods to accurately assess credibility in child sexual abuse cases.

I wish to take a moment at the outset to again acknowledge and thank those victims and survivors who have bravely and selflessly shared their experiences, so that we may identify where we need to improve the law and practices, and act to ensure that Tasmania's children and our most vulnerable are safe from those who would perpetrate sexual violence, and that they can be confident that our criminal justice system provides every opportunity for them to achieve justice.

We know that many survivors and victims of all types of sexual abuse find engaging in the criminal justice system prohibitively difficult, so much so that it can be a barrier for some people to report the abuse they have suffered to authorities, and where they do come forward, can affect the prosecution of the perpetrators of the abuse.

Participation in the criminal justice system is especially difficult for children, for adults who were children at the time of abuse, and for many other members of our community with particular vulnerabilities and needs. These victims and survivors have contributed to the extensive research undertaken by the royal commission, and we must listen, learn and act upon what they have told us of their experiences. It is incumbent on every government to support survivors and victims of sexual abuse to come forward, and bring those who would prey upon our most vulnerable members of the community to justice.

Our criminal justice system has changed significantly over time. It has demonstrated the ability to adapt to new technology, science, behavioural awareness and community expectations - especially in improving the way in which crimes are investigated and criminal trials are conducted.

Reforms such as the introduction of audiovisual recording of police interviews, the use of fingerprint and later DNA evidence, the introduction of restrictions on questioning about matters such as a victim's sexual history, and more recently the prerecording of the victim's evidence, are but a few examples of significant and important changes to the criminal justice system over the last few decades. Today, the utility of these reforms is unquestioned.

That is why I am pleased and very proud to introduce the Evidence (Children and Special Witnesses) Amendment Bill 2020, which will establish the legislative framework for the use of witness intermediaries or communication experts in Tasmanian courts.

This bill fulfils the Tasmanian Government's commitment to establish a pilot intermediary scheme in direct response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse in its Criminal justice report, and the work of the Tasmania Law Reform Institute in its 2018 report, Facilitating Equal Access to Justice: An Intermediary/Communication Assistant Scheme for Tasmania.

This bill will build on our previous reforms as a result of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, and further strengthen Tasmania's criminal justice system by introducing skilled communication experts who will work alongside lawyers and judges to ensure that vulnerable witnesses participating in the criminal justice process are able to communicate to the best of their ability.

Mr President, these communication experts are called 'witness intermediaries'.

Witness intermediaries are neutral officers of the court, and will support prosecution and defence lawyers to ensure that vulnerable witnesses are asked questions that they can understand. They will make sure the vulnerable witnesses have access to the materials they need to express themselves in answering questions, and they will make sure that vulnerable witnesses have the time and space they need to communicate their best evidence.

Witness intermediaries have been successfully utilised in the United Kingdom and New Zealand. Closer to home, in recent years witness intermediary schemes have been introduced in New South Wales, Victoria, South Australia and most recently in the Australian Capital Territory.

Tasmania's pilot intermediary scheme will commence in March 2021, alongside the commencement of the legal year, and operate for three years. It will undergo a thorough evaluation to ensure its effective operation and review its scope.

To manage the implementation of the scheme, the pilot will apply to children and adults with a communication need, who are victims or witnesses in proceedings relating to specified offences - that is, sexual offence matters and homicide matters. Under the pilot, witness intermediaries will be made available to Tasmania Police during investigation of crimes, and in proceedings in both the Magistrates Court and Supreme Court.

To support the use of intermediaries in court proceedings, the bill amends the Evidence (Children and Special Witnesses) Act 2001 by giving the Secretary of the Department of Justice the power to establish and maintain the intermediaries panel. A person may be included on the panel if the person has a tertiary qualification in psychology, social work, speech pathology or occupational therapy, or the person has qualifications, training, experience or skills suitable for the performance of the functions. This will ensure that people such as teachers with specialist knowledge and experience are eligible to act as intermediaries.

Under the bill, the functions of an intermediary include assessing an eligible witness's communication and other related needs, and to prepare and provide an assessment report. A witness intermediary will also provide recommendations to the court and any lawyer appearing in the proceeding as to the adjustments to be made in the proceeding.

A witness intermediary assesses the functional communication skills of a witness through observation, conversation of general topics, and activities appropriate to the age and skills of

the witness. The assessment includes a witness's vocabulary, ability to concentrate, ability to understand complex questions, ability to accurately agree or refute statements, their general understanding of timing and sequencing of events, and management of anxiety and arousal levels.

After assessment, the witness intermediary prepares an assessment report which will include recommendations to the judicial officer as to the type and style of questioning, the need for breaks, the preferred naming of body parts, as well as other adjustments such as the use of body maps, language charts and communication devices.

The assessment report is considered by the judicial officer in order to determine whether an order for the use of a witness intermediary in the proceedings should be made. The bill gives the judicial officer the power to order the use of a witness intermediary if, having considered an assessment report, the judicial officer is satisfied that the use of an intermediary will assist the proceedings. For example, a witness intermediary may assist proceedings if their assistance will facilitate the witness giving their best evidence and reduce re-traumatisation.

Once the use of a witness intermediary order has been made, a ground rules hearing must be held. The requirement for a ground rules hearing was specifically recommended by the royal commission, and enables the court to consider the communication and other related needs of the witness, and gives direction on how the proceeding must be conducted to meet those needs fairly and effectively.

Importantly, the bill provides that a witness intermediary must act impartially when performing the functions of the role, and requires a witness intermediary to take an oath or affirmation before acting as a witness intermediary in a court proceeding.

The bill also gives children and adults with a communication need the same rights as an 'affected child' and 'affected person' under the Evidence (Children and Special Witnesses) Act 2001. This ensures that children and adults with a communication need have the same rights as other vulnerable people participating in the criminal justice system, such as the use of a support person, the admission of a prior statement, the conduct of a special prerecorded hearing, and the taking of evidence via audiovisual link.

The bill extends the definition of 'affected person' to include 'prescribed witness' under section 331B of the Criminal Code Act 1924. Section 331B requires a preliminary proceeding order only be made if, in the case of an affected person, the court is satisfied that exceptional circumstances require the witness to give evidence on oath in a preliminary proceeding.

The bill also amends section 8A of the Evidence (Children and Special Witnesses) Act 2001 to prevent a defendant directly cross-examining a witness where a witness intermediary order has been made, and clarifies the role of a person appointed by the court to assist cross-examination.

The bill clarifies that the application of the Legal Aid Commission of Tasmania's income, assets and merits test does not apply to an order under section 8A(3), and provides the Director

of the Legal Aid Commission with notice to enable the management of potential conflicts and appropriate allocation of staff.

The bill also consequentially amends section 19 of the Legal Aid Commission Act 1990 to clarify when the commission is to provide legal aid to a person in accordance with a section 8A order.

Vulnerable people in our community are over-represented as victims in our criminal justice system. They have communication needs that impede their interactions with police, lawyers and the courts. They are children, people with disabilities, people dealing with mental health problems, and those managing the impact of trauma.

The ability for perpetrators of crimes against the community's most vulnerable people to escape justice because of those vulnerabilities is especially heinous. The Tasmanian Government is committed to making sure that every vulnerable Tasmanian can effectively participate in the criminal justice system. Every measure that can assist such perpetrators to be brought to justice should be implemented.

This bill is quality evidence-based reform, and yet another example of our Government's strong commitment to ensuring that the voice of every Tasmanian is heard, understood, and acted on.

Mr President, I commend the bill to the House.

[11.22 a.m.]

Ms FORREST (Murchison) - Mr President, I commend the Government for continuing to act in this really important space. A lot of work has been done, and I acknowledge the work of Amber Mignot in the advisers' box. She has worked tirelessly in this space, having had to read so much of the content of the Royal Commission into Institutional Responses to Child Sexual Abuse. I cannot imagine how difficult it would be to do that day after day after day. I thought we had finished this a while back. I remember the last bill we dealt with when I was happy it was the end of Amber having to continue to read and deal with this stuff, but here we are again. It is for a good reason.

I thank the Government for bringing this forward. We are talking about particularly vulnerable people who have suffered as children, predominately at the hands of the most vile of humans who seek to sexually abuse children, often repeatedly without apparent remorse, and often without being held to account for a very long time. I will not go back over that. I have done it a number of times. It sends shivers down my spine to think about how some people have lived and continue to live as a result of the abuse they suffered.

Having these sorts of protections for people who are now adults who do not fit under the children as special witnesses' approach is an appropriate step because the harm done to those adults when they were children lives with them forever. It never goes away and the impact lasts forever.

In terms of the overall content of the bill, the way it is drafted and the inclusion of the tests and assessments to be done throughout the process make sense to me. I apologise for missing the briefing the other day; I had another commitment and I could not be there.

Was it actually modelled on another jurisdiction or have we done this from a Tasmanian perspective? I assume a pretty consistent approach is needed for this. The royal commission looked at the impacts on children, people from all around Australia. Obviously, it happened well beyond the shores of Australia.

I raise a couple of points in relation to the scope of this. It is a three-year pilot to iron out any possible challenges there may be or any areas that may need tweaking. I hope the purpose of the review is also to look at other witnesses who may need to be included. There is a very glaring omission of a group of people who need to be part of this. I want to refer to some sections of the Leader's contribution, to talk about what this does and then relate that to another group that really needs to be included.

As the Leader said -

> To manage the implementation of the scheme, the pilot will apply to children and adults with a communication need, who are victims or witnesses in proceedings relating to specified offences - that is, sexual offence matters and homicide matters.

It is limited to those two areas -

> Under the pilot, witness intermediaries will be made available to Tasmania Police during investigation of crimes, and in proceedings in both the Magistrates Court and Supreme Court.

She then went on to say -

> A witness intermediary assesses the functional communication skills of a witness through observation, conversation of general topics, and activities appropriate to the age and skills of the witness.

This will help to get below some of those challenges we might not see in everyday interactions with some of these adults, who cover up this deep harm quite effectively at times. But putting them into a court setting, which is terribly confronting, and asking them to talk about the experience they had as a child, in a homicide situation it can be - well, it is - daunting at the best of times for most people, even those people who I assume find themselves on the lawyer's side. If they found themselves in the witness box, I am sure it is not easy. It is like being a patient when you are a medical professional. We often make the worst patients. Yes, I speak for myself there.

I want to talk about some of these points. It talks about the assessment, which includes -

> … a witness's vocabulary, ability to concentrate, ability to understand complex questions, ability to accurately agree or refute statements, their general understanding of timing and sequencing of events, and management of anxiety and arousal levels.

This is what they are being assessed against in terms of whether they need to have an intermediary, to assist them to give their best evidence and to avoid re-traumatisation.

The group I am thinking of that fits into this category - the Leader spoke about it as including the vulnerable people in our community, who are overrepresented as victims in our criminal justice system and can have communication needs that impede their interactions with police, lawyers and the courts - does not just comprise children and people with disabilities and people dealing with mental health problems, but those managing the impact of trauma. That is the area I want to focus on - the victims of coercive control and family violence fit into every step of this category. Women who have been gaslighted for years will have a poor ability to concentrate, a poor ability to understand complex questions, a poor ability to accurately agree with or refute statements often. Such is their self-esteem - destroyed by another person - they are unable to do that effectively. They doubt themselves, they second-guess themselves. They believe they are the problem because that is what they have been told time after time after time.

There will be women who - mostly women - who suffer strangulation, often have oxygen deprivation, particularly when it is to the point of unconsciousness, and that can result in other acquired brain injury that can further limit their abilities to deal with these challenges.

So, while I absolutely support the intent of this legislation, and applying it to these vulnerable members of our community, this is a glaring omission in not including victims of family violence in these sorts of circumstances.

I believe there is a very strong need to include strangulation as an offence in addition to the other measures. Tasmania has done well, and I commend the Government for its work legislating in these areas around coercive control, financial abuse, social abuse, emotional abuse. That has been positive.

This area of strangulation is very real, and it is an absolute marker and red flag for murder. For women who suffer strangulation, their likelihood of being subsequently murdered is really high. Sometimes that act is the first act of physical violence. There is no physical violence until that point, and then they are dead. We have to do more in this space. That is another matter, and I know aspects of that are being looked at by the Sentencing Advisory Council, but I think we need more than the sentencing provisions looked at in that. We need to make it part of our laws.

These people who are impacted by family violence - particularly coercive control where there has been strangulation, and the ongoing gaslighting that is part of coercive control - these victims are just as vulnerable in many respects as the children or adults we are talking about here.

I hope this will be considered during the three-year pilot. I assume the pilot will be put in place to make sure everything works effectively as intended, and it will not be, three years and we have finished with that now. It will be something we will see into the future. I hope the three-year review period -

Mr Valentine - The first step.

Ms FORREST - The first step is to include other vulnerable people such as victims of family violence in these sorts of circumstances. I think if you did the assessment, it would be clear pretty quickly that these victims need this sort of support, because they also have to relive their experience in a court. So many of them do not proceed - coercive control makes it very hard to proceed when you are a victim of coercive control. To even get to reporting it and

applying for a family violence order, or taking those steps, can be very difficult for women in those circumstances.

They are a very vulnerable category. They do need our support to help them to ideally move away from those relationships. This is not a criticism of those who stay. Absolutely it is not. The most risky time for a woman to leave a relationship is when she makes the decision to leave, and as she leaves. More women are killed at that time than any other time. I just hope they will be included.

In terms of the bill itself, I think it will really help those people to actually seek justice. I know there are people out there who have not come forward because it is too hard to relive it, and to stand in a court and express themselves, such is the trauma they have experienced.

I think this is a very positive step that will help them achieve justice, and hopefully will see more perpetrators held to account. After all, this is the outcome we should be achieving.

I support the bill.

[11.34 a.m.]

Ms ARMITAGE (Launceston) - Mr President, this important bill, which implements the pilot witness intermediary scheme - a recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse - is an extremely positive step towards ensuring that those who have special communication needs are appropriately catered for in our justice system.

At this stage, I understand that in order to manage implementation of the scheme, the pilot will apply to children and adults with communication needs who are victims or witnesses in proceedings relating to sexual offence matters and homicide matters.

This is an excellent start and ensures children victims and prescribed witnesses who have experienced crimes of this nature receive support as soon as possible. It is also important to remember that for many witnesses - victims - their ability to tell their story is, in many cases, a cathartic experience, a necessary step towards healing and coming to terms with the trauma and abuse they have experienced, particularly in the context of institutional responses to child sexual abuse.

Inherent in these cases is an imbalance of power between victim and perpetrator, with many institutional responses falling far short of what a victim should expect. Giving victims and witnesses a voice and the means to tell their own stories in their own ways puts some of that power back into their hands.

We must remember participating in the justice system, particularly as a victim, is an extraordinarily difficult process in and of itself. Children and people with communication needs are already placed on the back foot so, providing them with the means to safely give evidence is another extremely important issue which this bill addresses. Specifically, the bill provides a defined meaning for communication need which applies to adult victims and witnesses, other than the defendant, and it will be taken to have a communication need if the quality or clarity of evidence given by them may be significantly diminished by the witnesses' ability to understand, process or express information. It also provides that a witness has a communication need regardless of whether their communication need is temporary, permanent

or recurring, and whether the severity of the witness's communication need changes over time, or due to circumstances, or regardless of the cause of the communication need.

This broadened definition will appropriately apply to those in need of an intermediary, who themselves will be a trained professional with specialist skills in communication. It is important we are clear in saying an intermediary does not speak for a witness and does not replace the witness's own evidence. It is rather a conduit through which a witness with a communication need can properly express themselves. The bill provides that an intermediary is a neutral officer of the court who supports both the prosecution and the defence to -

- ensure vulnerable witnesses are asked questions they can understand, and

- make sure that witnesses have access to the materials they need to express themselves in answering questions and that witnesses have adequate time and space to communicate their best evidence.

The intermediary scheme will improve the quality of evidence provided to the court and give the witness an additional layer of safety to produce the best and most accurate evidence for the court to assess.

The appointment and functions of the intermediary are expressly set out by the bill. Intermediaries form a panel of persons suitable to be witness intermediaries for purpose of the act and can only be included if the person has tertiary qualifications in psychology, social work, speech pathology or occupational therapy, or has qualifications, training, experience or skills to meet the duties of the act. This is prescriptive yet broad enough to ensure that the most suitable people can be selected by the secretary for appointment to the panel.

The bill also provides, in no uncertain terms, that the intermediary assesses the witness's communication and other needs and provides a report on this; provides recommendations to the judge and any lawyer appearing as to adjustments; provides assistance to the judge and lawyers to communicate with the witness; and any other functions the judge considers to be necessary.

Moreover, the bill provides that the witness's intermediary must act impartially and, to this end, must make an oath or affirmation before participating in these proceedings. To my mind, these are entirely reasonable and adequate functions to assign to the intermediary to safeguard the defendant's rights throughout judicial proceedings and to support vulnerable witnesses.

The proposed amendment to section 8A of the act prevents a defendant from directly being able to cross-examine a witness for whom an intermediary order has been made unless the cross-examination is undertaken by counsel. This is a further positive step towards protecting especially vulnerable people going through the justice system. Examination and cross-examination are integral parts to the truth-finding process of adversarial judicial proceedings, but protection of witnesses and victims is also extremely important.

As I have already stated, this bill has the dual benefit of supporting vulnerable witnesses, which consequently produces evidence of a higher quality than what might be produced in other circumstances. In this sense, the bill strikes an excellent balance, I believe, between

supporting vulnerable witnesses and victims and ensuring that a thorough and robust judicial process is maintained.

I think it is also important to state that this bill does not infringe on the rights of the defendant. It still does not alter the onus or the burden of proof that, in criminal matters, the Crown must establish the defendant's guilt beyond a reasonable doubt. This is an extremely high threshold to meet, and providing intermediary assistance to prescribed witnesses and victims does not change that.

I will be interested to see how literally witness intermediary orders will be applied. I believe there should be a reasonably low threshold to qualify because, as I have already stated, experiencing the criminal justice system is intimidating enough on its own, and for people with any degree of communication needs, it is made all the harder. I reiterate how important it is for power to be restored to vulnerable victims and witnesses of serious crimes, that by providing a witness intermediary better evidence will be produced, ensuring that our justice system overall is improved.

Mr President, I support the bill.

[11.41 p.m.]

Mr WILLIE (Elwick) - Mr President, I will not go too much into the mechanics of the bill; that was covered quite nicely by the previous speaker. I rise to talk about why we are here today. There are a couple of catalysts for this very important change, one being former prime minister Julia Gillard announcing the Royal Commission into Institutional Responses to Child Sexual Abuse in 2012. I admire her very much for many things, but this is a great legacy of hers. These reforms have great support across parliaments all over Australia. It is important to note that Ms Gillard was one of the catalysts.

More importantly, the other very significant catalyst is the people who came forward during that process with the courage to share their stories. If members have looked at the website, a book was produced through the royal commission process called, *Message to Australia*. It had over 1000 contributors. It is very powerful stuff to read. I probably will not do it justice in trying to capture some of the messages. There was a strong theme that people came forward because, while their suffering will continue, they did not want the next generation to suffer. They thought by telling their story they would be able to contribute to change. They certainly have, and I thank them for that.

This change will certainly add to the support offered to survivors to tell their stories in court and to be able to provide credible evidence. The use of intermediaries is an important one. As a former teacher, I am pleased teachers have been included in this scheme.

I have a question there actually. The Leader talked about tertiary qualifications in her second reading speech, but I am interested in whether teachers need to have a current registration with the Teachers Registration Board to participate on the panel. I know psychologists, too, are eligible to be on the panel. They need to have current registration. I am interested in that question from personal experience. I call myself a former teacher now because my registration has lapsed. I think that is important because current practice is important.

When I was a teacher I worked with many specialist teachers who had skills that I think would be very useful on a panel in a scheme like this, whether it be trauma-informed practice, specialist skills in disability education and communication, or as literacy coaches. I know from working in schools that there are many fantastic speech pathologists who could work in this space and assess communication skills, which I think is particularly important. They could make recommendations for an order to be made. If the Leader could answer that question because I think it is important.

The member for Murchison spoke a little about this process potentially coming to an end and many recommendations being enacted in parliaments across Australia. I think that is important to note, but I also think the work does not stop. We need to remain increasingly vigilant. Just because there has been a royal commission and significant reforms does not mean there are not people in our community in trusted positions who are putting our children at risk.

Certainly, on that note, I have been supportive of the minister for Education launching an inquiry into these sorts of matters within the Education department and appointing Professor Smallbone and Professor Tim McCormack - two very good appointments - to conduct that work.

While we might be coming to the end of the royal commission process and implementing some of the last recommendations, with the full support of the parliament, it is important to note this work will continue and further reforms will come, I imagine, outside the royal commission.

[11.46 a.m.]

Mr VALENTINE (Hobart) - Mr President, I certainly support this bill and I back the comments of all the other members who have spoken.

The experiences of survivors and obtaining accurate evidence are so important to a case in bringing to justice those perpetrators of violence or violation towards and on those who are some of our most vulnerable in society - our children - and those who might have levels of disability that increase their vulnerability as adults. I can only imagine the trauma experienced by those individuals, and the shame and degradation they must feel as survivors of abuse. It is so important their stories are able to be told. Where you are getting information to put toward a case, it has to be factual and accurate information.

Having those who are very much expert as intermediaries and being able to get that information out in an accurate way is so important. I congratulate the Government on bringing this forward.

Clearly, others have spoken about the royal commission. I too, acknowledge the difficulty that officers dealing in this area must have in being able to put their objectivity and their emotions aside to look at and drill down and find the best ways forward. It must be so hard to read stories about what people have gone through, which they have come forward with in an attempt to improve the lot of others in the future.

I support the legislation and hope the pilot is very useful in the three years it will take. I hope it leads to better collection of evidence that might be used to make sure those perpetrating this abuse are brought to justice and that the victim-survivors are able to find a degree of closure as a result of events that must stay with them for many years.

[11.49 a.m.]

Mr DEAN (Windermere) - Mr President, I support this bill and will make a brief contribution about it. This bill is about assisting children and other people who require assistance to talk about their issues to give evidence and to do so with greater ease than they normally experience when standing alone. That is really what it is about.

The court process is an extremely difficult one for any witness and/or any victim irrespective of their age or the crime against them - whether it be sexual or physical harm or any other crime, it is an horrendous experience.

Mr Valentine - You would have seen a lot of it.

Mr DEAN - I was going to touch on a couple of those issues as well. You cannot really understand the impact it has on children to have to relive sexual abuse activity - in many cases years of it - in front of court officials, lawyers, police, who are all adults and, in many instances, of a similar age and stature to their offender.

I was a police prosecutor for quite a long time. Things have changed and there is much difference in how this is now done, but it was common for children giving evidence to run from the witness box.

Ms Forrest - I am not surprised about that.

Mr DEAN - They would break down. Not only would children do it, so would the other victims and witnesses. I had many witnesses, as other prosecutors would even today, who collapsed in the witness box and required medical intervention. That is the impact - people breaking down, screaming in a witness box.

When you are being challenged and told you are lying, not accurate and not doing it right, it is a huge impact. I can go the other way from my experience on the other side of things. I have been in the witness box where I have experienced and felt that damage - one occasion I was in a witness box for two full days in the Supreme Court.

On that occasion there were three defense counsel because it was a triple rape -

Mrs Hiscutt - For clarity, you were in the witness box as a police officer?

Mr DEAN - As a police officer, as a detective, for two full days. One of the defense counsels on that occasion was a good friend of mine. It was Mr David Gunson, now deceased sadly. Chris Gunson, his son, is now walking in his father's footsteps and is a very capable lawyer. That went on for two full days and was a harrowing experience.

An intermediary being involved is a great thing in this bill. I do not think anybody could speak against this bill in any way. To have somebody there will be an incredible support to these people.

I asked how this would occur, and I thank the Leader for the briefing yesterday and for the manner in which it was given and the answers to the questions and so on.

How is it really going to occur? Many of these instances of abuse, sexual assaults and murders probably occur late at night or in early hours of the morning; when the police are there, the kids raise these issues.

From the answer given yesterday, the intermediaries will probably be requested to attend at that time. It was indicated arrangements would be made for these people to be interviewed between 3.00 p.m. and 6.00 p.m. where possible. I can say very clearly that is not often possible, because it is important for the police to get to a situation quickly and to commence the process at whatever time the matter is reported, whether it be 1 o'clock in the morning, 10 o'clock at night or 3 o'clock in the morning. That is what invariably happens, unfortunately, in many of these cases. Will intermediaries be there at that time?

If we look at the court situation, will the intermediary, for instance, stand next to a person giving the evidence in the witness box? Will the intermediary simply be able to say to a victim, 'Do you understand that question?' How will it all work? Will it be up to the victim to say to the intermediary, 'I don't understand what they are on about. Can you explain to me?'

I am wondering how much involvement the intermediary can have.

We have to look at the other side as well. They are entitled to put their cases. Defence lawyers have every right to put the position of their client. Lawyers do not normally go over and above and beyond what they are entitled to do and should be doing. Like anyone else, everybody extends the boundaries at times. They go across the boundaries as we all do at times, unfortunately.

How will the intermediary perform their function? I would appreciate being given some detailed information about this.

As the member for Elwick said, this process will go on for a long time. It will not end here. I can see that there will be further changes to this bill in the future. I will be surprised if there is not. I understand there will be a thorough review of it as we move down the path, and I would be surprised if there were not some further changes made to it because it is fairly complex legislation. When you read the bill, it is not easy to understand and to work out how it will really operate.

I can see how we protect the most vulnerable - children in particular - changing considerably as we move forward. It will not stop here - and it should not stop here either. We are all expecting further changes to be made.

Having said that, I commend the Government for bringing this bill forward. It is good step in the right direction.

It is not surprising that police have many witnesses, many victims, in some situations who unfortunately do not want to go through with the process. There are parents who do not want their children to go through these processes because of further harm and damage that will be done to them. It changes the kids' lives. I have experienced kids. I have worked with them as a detective from the beginning of a matter until the end of it. You can see the changes in them. Their attitude changes in many instances. Many of them just shut up. You cannot talk to them. It is an interesting phenomenon when you look at the changes that can occur when we are looking at these matters.

My other point is: could a parent, for instance, say, 'I want to be with my child in the witness box. I want to be able to be there.'.

Mrs Hiscutt - As an intermediary?

Mr DEAN - As an intermediary. Could a parent, or could a parent object in the circumstances to a certain person for whatever reasons?

Ms Forrest - They would have to be independent.

Mrs Hiscutt - I will seek clarification but I would say that a parent would not be independent. A parent would be biased in favour of the child.

Mr DEAN - I ask that question because parents, in many instances, want to be present with their child the whole time. You cannot blame them for that.

Ms Forrest - We are talking about adults now, adults who were child victims.

Mr DEAN - We are talking about child victims. I am talking about an adult intermediary and I can understand why on many occasions parents do not want their child to go through it.

Mr Valentine - Are you also referring to when a parent wants to be with the child while they are being interviewed?

Mr DEAN - That is accepted. Unless there is some very good reason - and there are reasons where that cannot happen - and the police need to have another person in support of the child. Police must have an adult present, as the member for Launceston is well aware, because she has been called in to support a child. For instance, a parent may well be obstructive, or the father may be the alleged offender and the mother is protective of him, or the other way around. There are times when the parent cannot be present in police interviews.

Mr Valentine - In respect of your question, all things being equal, when it is not one of the parents who is the perpetrator, are you asking whether the parent can be with the child while the intermediary is interrogating them?

Mr DEAN - Absolutely; I am certainly asking that question. While the intermediary is there, could a parent be present at that time?

Mr Valentine - Not the parent being the intermediary, but being present.

Mr DEAN - Having said that, I support this legislation and I am confident it will be supported in this place.

[12.01 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President I thank members for their contributions on this very difficult subject. I have quite a few answers here and one more answer on the way.

The member for Murchison asked whether it was modelled on another jurisdiction's or a Tasmanian perspective. The bill was drawn from legislative frameworks in other jurisdictions, particularly New South Wales, where it has operated for the longest period.

The bill incorporates the Tasmania criminal justice framework, and has been achieved through the advice of a steering committee with representation from the judiciary, the magistracy, the Director of Public Prosecutions, Tasmania Police, the Law Society of Tasmania, the Tasmanian Bar, the Tasmania Law Reform Institute, and the Legal Aid Commission.

The member for Murchison also spoke about family violence victims. The scope of the bill fulfils the Tasmanian Government's commitment to implement recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse to establish a pilot witness intermediary scheme in Tasmania. That was in the royal commission's final report at recommendations 59 and 60. The scope of the pilot is broader than the royal commission's recommendations. The commission recommended that all states and territories should -

> Establish intermediary schemes similar to the Registered Intermediary Scheme in England and Wales which are available to any prosecution witness with a communication difficulty in a child sexual abuse prosecution.

This bill broadens the scope of the pilot to also include any child or adult with a communication need who is a victim in or witness to in sexual offence matters or homicide matters. The extended scope targets the areas of most need and the most vulnerable victims and witnesses engaging in the criminal justice system. Family violence victims can be covered by the scheme in relation to sexual and homicide offences. Further consideration of the inclusion of family violence offences will occur during the evaluation stage.

The member for Elwick asked about registration. Teachers with qualifications, training, experience and other skills suitable to undertake the functions are eligible to be placed on the panel. This comes with training, so intermediaries will be employed on a sessional basis and selected through an expression of interest process. After successful interviews, all people wishing to be an intermediary will be required to undertake and pass a modular training program. Due to the COVID-19 pandemic, the training will be conducted by a combination of online learning modules, audiovisual conferencing and some face-to-face workshops.

Intermediaries who successfully complete the training program and assessment will be recommended for inclusion on the intermediaries' panel. The process includes police checks and eligibility for registration to work with vulnerable people. You do necessarily have to be registered at the time, but you certainly have to have the qualifications, and the training is what seals it off.

The member for Windermere asked a question about the responsibilities the police have at the investigation stage. The police will make contact at the investigation stage to request an intermediary for a child victim or witness, or an adult who may be suspected to have a communication need. We are working with Tasmania Police about their needs and providing the service to them. There will be occasions where police, for operational reasons, will not use an intermediary. These witnesses can be assisted regardless during any court process.

You also spoke about the intermediary standing next to the witnesses during proceedings, and how will interjections be dealt with. The use of the intermediary required to assist a particular case will be determined during the ground rules hearings, including where the intermediary stands in the proceedings. The intermediary does require qualifications and could not be impartial and a parent of the witness. What we are saying here is that you cannot be both - whether the witness intermediary may make recommendations that include the role of a parent or support person in the assessment report or in the ground rules hearing, no, you cannot be one and the same.

Could a parent be present with an intermediary? Yes, a parent can be present when a witness intermediary is undertaking an assessment, depending on the nature of the allegation and any involvement or potential involvement of the parent in the incident. Of course, if the parent was the one on trial, no, it would not be.

Bill read the second time.

EVIDENCE (CHILDREN AND SPECIAL WITNESSES) AMENDMENT BILL 2020 (No. 31)

In Committee

Clauses 1 to 11 agreed to.

Clause 12 -
Part 2A inserted

Mr DEAN - Madam Chair, I have two or three questions on clause 12, proposed new section 7G -

> (1) The Secretary is to establish and maintain a panel of persons …

I raised this issue in the briefing yesterday. I take it every effort will be made to select a panel of intermediaries from right around the state; they will be located in all areas. I am not sure how the numbers will be identified -

Mrs Hiscutt - Do you want an answer to that while you are on your feet?

Madam CHAIR - You could have just a simple yes or no.

Mr DEAN - Yes, I am happy to have the answer.

Mrs Hiscutt - Yes. The aim is for it to be established all around the state, in each region.

Mr DEAN - Right, that is very important. The other thing is, if you look at -

> (3) If a judge makes an order in respect of a witness under section 7I or 7J, the Secretary is to allocate a person from the intermediaries panel …

It then goes into some detail.

Who else can make the decision for an intermediary to be involved? If that is the case, how do they identify the intermediary that they need? How is that done? I specifically want to refer to the police, for instance, at, say, one or two o'clock in the morning or whenever they are investigating a crime. I take it that an intermediary needs to be here - a young person, child and so on meets all the requirements for an intermediary to be involved. Who does that? Is that the responsibility of the police? If it is, do they then go to a central person and say 'We need an intermediary here now, today, at one o'clock in the morning.'? Who makes that choice? That is the other question.

I think I have this right: Does the judge make the decision when the person is going through the court process or at the time the hearing commences? Or is there some other stage that would occur? Is it the judge who is determining the case, the one who is involved in the setting of the ground rules, or is it another judge?

Mrs HISCUTT - It is done at the court process. It has to get to the court process. Then usually it is the same judge who knows what is going on, but it does not have to be. It is done at the court process.

In answer to your second question, the secretary delegates the allocation by virtue of section 35 of the State Service Act and then that is undertaken by the Child Abuse Royal Commission Response Unit. So, yes, there is one contact point.

Mr Dean - The police have one contact point to make to get an intermediary?

Mrs HISCUTT - Yes, and that will be the Child Abuse Unit, through the Justice department.

Ms WEBB - My comment is potentially associated with 7G in relation to the intermediary panel, although it is a broad question. It is one we covered in briefings, but I would like to put on the record here and have some matters recorded against it.

The question relates to the fact that notwithstanding the excellent recruitment that will occur for this panel with people who are highly qualified across a range of areas who can be well matched with the needs of people who are being supported through the system, I would like to hear the Government explain how it will be monitored and assessed. If the match is not working for the child or the vulnerable adult, is there is opportunity for changes to be made? Are opportunities reliant on the child or the vulnerable adult having to prompt it themselves and come forward with a concern, so there will be a way for it to be picked up in the system?

Mrs HISCUTT - It is monitored by the Child Abuse Unit through an assistant support officer who will regularly check in with the witness to see if they are comfortable with the current witness intermediary. The drafting of proposed new section 7J provides flexibility for witness intermediary to be changed.

Mr DEAN - I take it that proposed new section 7H(b) also includes the prosecutor or the Director of Public Prosecutions office as well. It says 'any lawyer appearing in the proceeding' so that obviously covers the DPP's office.

The other area I wanted to raise was in proposed new section 7K relating to the ground rules hearing -

> (4) At a ground rules hearing for a prescribed witness, a judge may make any direction that the judge considers appropriate including any of the following:

This is where the judge is able to make any direction that they consider appropriate, including any of 'the following'. The judge is not bound by the rules and controls of evidence as I understand it. The judge can really do whatever they want in their directions and their requirements.

Is that contestable in any way? In other words, if a judge is seen by a defence counsel, for instance, as having set some rules and directions that they find difficult to accept and that are challenging their defence of their client in some way, is it defendable in any way? Can it be challenged in any way or by anybody?

Mrs HISCUTT - In answer to your first question, the DPP can be part of that, yes. With regard to your second question, there is the usual appeals process for that happening and that is applicable here. It is the same.

Clause 12 agreed to.

Clauses 13 to 22 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

JUSTICE MISCELLANEOUS (COURT BACKLOG AND RELATED MATTERS) BILL 2020 (No. 35)

Second Reading

[12.20 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.

Mr President, the Minister for Justice is committed to introducing reform to the state court system. The passage last year of the Magistrates Court (Criminal and General Division) Act and consequential amendments act, as well as the Restraint Orders Act, was the product of considerable hard work, consultation and collaboration by the minister's department, the courts and the legal profession, and I thank them all again for their extensive work in this regard over many years.

The significant task of implementing the reforms to the Magistrates Court is now underway, with the major legislation to commence when the project is complete.

At the time of the Magistrates Court legislative reform package, the minister acknowledged that delays in the court system continue to lead to a growing backlog of cases in the Supreme Court.

The minister is committed to, as a matter of priority, introducing legislation aimed at administrative and procedural change that would reduce the backlog. The Justice Miscellaneous (Court Backlog and Related Matters) Bill 2020 has been developed in close consultation with key legal stakeholders, including the Magistrates Court, Supreme Court and the Office of the Director of Public Prosecutions.

The bill includes a range of reforms already endorsed by this parliament through the Magistrates Court (Criminal and General Division) Act 2019, that have been identified as changes that could be introduced earlier than the commencement of that act.

The proposals have been developed with the assistance of the Steering Committee and Legislation Working Group of the Magistrates Court (Criminal and General Division) Reform Project, which includes representation from the courts, the Department of Justice, Department of Police, Fire and Emergency Management, Director of Public Prosecutions, the Law Society, the Tasmanian Bar and Legal Aid Tasmania.

In addition to the extensive assistance provided by the legal stakeholders through working and advisory groups, a consultation version of the bill was also released for public consultation via the Department of Justice website.

Preliminary proceedings

Mr President, the bill includes a range of amendments to the Justices Act 1959, the Criminal Code Act 1924 and related acts to implement preliminary proceedings reforms.

Under the current provisions, a preliminary proceedings order can be requested by either the defendant or the Crown. Such an order is requested to allow one of the parties to hear and test the evidence of one or more of the witnesses prior to the commencement of the trial.

Currently, once a defendant has entered a plea, the matter is committed to the Supreme Court from the Magistrates Court. An application for a preliminary proceedings order can be made in the Supreme Court and, if an order is made, the matter is returned to the Magistrates Court. At the conclusion of the preliminary proceedings hearing, the matter is returned back to the Supreme Court.

Under this bill, magistrates will deal with applications for preliminary proceedings orders prior to the committal of matters to the Supreme Court. These reforms will improve administrative efficiency in the courts by reducing the delay involved in matters moving back and forward between the Magistrates Court and the Supreme Court.

The bill also contains provisions to ensure it is consistent with the new witness intermediary program, as provided for in the Evidence (Children and Special Witnesses) Amendment Bill 2020 that was tabled in the lower House on 25 August 2020.

The witness intermediary program will establish a legislative framework for the use of intermediaries in Tasmanian courts.

This bill, which contains reforms to preliminary proceedings, has been drafted to ensure it is consistent with the terminology and policy intent behind the Evidence (Children and Special Witnesses) Amendment Bill 2020.

The bill includes amendments to -

- approve widening the cohort of witnesses in the 'affected witnesses' category for the purposes of preliminary proceedings; and

- introduce a rebuttable presumption to provide that in preliminary proceedings, an 'affected person' will give evidence by audiovisual link, and clarify that this should not prevent an affected person from giving evidence in the courtroom if they so choose to.

The bill has been developed to minimise unnecessary inefficiencies in the movement of matters between the Magistrates Court and the Supreme Court. There are however, valid reasons for some pre-trial matters to remain heard in the Supreme Court.

For example, in the event that a defendant's fitness to plead has been questioned, this will still be determined by the Supreme Court. However, the bill introduces the power for magistrates to order expert psychiatric and related reports at any time. This material can then be forwarded to the Supreme Court in preparation for consideration of the issue of the accused's fitness to plead.

The bill clarifies that the current requirements for preliminary proceedings applications, including the judicial power to circumscribe cross-examination, and the requirement for applications to be made in writing, will be retained.

The bill will not affect the status quo in relation to alibi notices and expert witness notices, including that an alibi notice will continue to be required at the first appearance in the Supreme Court.

Preliminary proceedings will be held in a closed court and will be subject to a prohibition on general publication. This is consistent with the provisions of the Magistrates Court (Criminal and General Division) Act 2019.

And finally, if an order is refused in the Magistrates Court under the reforms proposed above, defendants will still have the ability to apply for a preliminary proceedings order in the Supreme Court in a limited number of circumstances. Some of the circumstances outlined in the bill reintroduce the provisions of the now repealed section 69A of the Justices Act 1959.

Bail applications

The bill also includes amendments to bail provisions to improve efficiencies in the bail process and avoid unnecessary hearings for bail in the Supreme Court. These reforms will not affect an individual's right to bail, but rather will ensure bail applications are heard in the appropriate place and do not cause unnecessary delays in the Supreme Court.

Specifically, the bill makes amendments to the Bail Act 1994 to introduce a requirement for a formal bail application, with submissions, to have been made before a magistrate, before a bail appeal can be made to the Supreme Court. This brings forward the provisions already endorsed by parliament in the Magistrates Court (Criminal and General Division) Act 2019.

Division 6 (Appeals relating to bail) of Part XI from the Justices Act 1959 and section 305 (Bail Appeal from decision of Judge to Court of Criminal Appeal or Full Court) have been removed from the Criminal Code, and updated provisions have been inserted in the Bail Act 1994.

The bill also includes a modified version of section 304 of the Criminal Code in the Bail Act 1994. This imposes new limits on the ability of applicants to apply to the Supreme Court for bail.

Under this provision, an application to the Supreme Court is only permitted in circumstances where the accused has been committed for trial and has appeared in the Supreme Court on the charges in question; or is charged with murder or treason, and therefore is not eligible to apply in the Magistrates Court for bail.

These reforms are consistent with the broader bail reforms which are currently under development.

Crimes to be tried summarily in the Magistrates Court

It was recognised during the development of the Magistrates Court (Criminal and General Division) Act 2019 that the provisions in the Justices Act and the Sentencing Act for crimes to be tried summarily in the Magistrates Court were overly restrictive.

This bill brings forward matters from the Magistrates Court (Criminal and General Division) Act 2019. That is, the bill amends jurisdictional boundaries to allow the Magistrates Court to deal with a broader range of matters. It achieves this through amendments to both the Justices Act 1959 and the Sentencing Act 1997.

Specifically, the amendments to the Justices Act 1959 enable a broader range of offences to be dealt with summarily, and increase the property value threshold for minor offences from $5000 to $20 000, and for electable offences from $ 20 000 to $100 000. This is in line with the provisions of the Magistrates Court (Criminal and General Division) Act 2019 and recognises the change in monetary value over time.

The amendments to section 13 of the Sentencing Act 1997 increase the maximum term of imprisonment that can be imposed on an offender convicted of a crime that is triable summarily from 12 months to three years for a first offence, while retaining five years as the term of imprisonment that can be imposed on an offender for a second or subsequent offence.

New minor summary offences that mirror more serious crimes

In addition, the bill introduces a number of new minor summary offences that mirror more serious crimes. This enables the prosecution to exercise discretion and ensure the matter is dealt with in a way that is appropriate for the nature and scale of the specific offending.

These new offences to be introduced are -

- a mirror minor summary offence for trafficking in a controlled substance in the Misuse of Drugs Act 2001, with a reverse onus presumption provision similar to the major indictable offence;

- a mirror minor summary offence for cultivating a controlled plant for sale in the Misuse of Drugs Act 2001, with a reverse onus presumption provision similar to the major indictable offence; and

- a summary offence for 'stealing with force' in the Police Offences Act 1935, similar to robbery under section 240(1) of the Criminal Code.

The inclusion of mirror offences will provide prosecutors with the discretion to assess whether the accused's behaviour warrants a charge resulting in a Supreme Court trial, or a charge resulting in a Magistrates Court trial.

At present, this discretion is not open to the prosecution in these cases, and therefore charges result in Supreme Court trials for offending that will likely result in sentencing options that could have been handed down in the Magistrates Court.

The bill makes a number of amendments to existing offences to allow for more flexibility in prosecution, namely -

- an amendment to section 72 of the Justices Act to enable section 192 of the Criminal Code (Stalking and Bullying) and section 113 (false statutory declarations) to be electable, if both the defence and prosecution consent to the matter being dealt with summarily. If both parties do not agree, the offence is not electable;

- an amendment to section 7B (Possession of implement or instrument) and 15C (Dangerous articles) of the Police Offences Act 1935 to increase the penalty to a fine not exceeding 50 penalty units, or imprisonment for a term not exceeding 2 years;

- an amendment to section 37AA (Unlawfully setting fire to property) in the Police Offences Act 1935 to remove the dollar value from section 37AA; and

- an amendment to the Police Offences Act 1935 to extend the time to lodge complaints from six months to two years for computer-related offences under sections 43A to 43D of the Police Offences Act 1935.

These amendments will enable the Magistrates Court to deal with cases where the behaviour resulting in the charges is at the minor end of the scale. The Office of the Director of Public Prosecutions will exercise its discretion in accordance with their prosecutorial guidelines to ensure matters are dealt with consistently and fairly.

These changes will ensure that the time of the Supreme Court is not unnecessarily used to deal with matters that could be more quickly and efficiently dealt with in the Magistrates Court.

As I mentioned earlier, many of the reforms in the bill are bringing forward provisions of the 2019 Magistrates Court amendments early, so as to maximise the benefit to the workflow of the courts.

When the Magistrates Court (Criminal and General Division) Act implementation process is complete, that suite of legislation will commence and these reforms will continue through the relevant provisions of the Magistrates Court (Criminal and General Division) Act and related acts. Some consequential amendments will be progressed to reflect the matters now being brought forward in this bill.

The minister would like to take this opportunity to again sincerely thank the hard work of the various internal legal stakeholders, including the Chief Justice, Chief Magistrate, Deputy Chief Magistrate, the Administrator of the Magistrates Court, the Registrar of the Supreme Court, the Director of Public Prosecutions, and representatives from the Department of Police, Fire and Emergency Management and the Department of Justice, who have developed a suite of reforms that will have a significant effect on the efficiency of the Tasmanian courts.

The minister would also like to thank those in the legal profession who worked as part of an advisory group on this bill, providing invaluable and extensive feedback on the proposed reforms over a period of time. This included the Law Society of Tasmania, the Tasmanian Bar and Legal Aid Tasmania.

Mr President, I commend this bill to the House.

[12.36 p.m.]

Ms RATTRAY (McIntyre) - Mr President, this is a relatively brief offering on this particular bill with a couple of questions attached. I note from the Leader's second reading speech that there has been a lot of consultation for this reform.

Ms Forrest - Twenty years of consultations.

Ms RATTRAY - Twenty years and lots of people. The Chief Justice, the Chief Magistrate, the Deputy Chief Magistrate, the Director of Public Prosecutions, representatives from Police, Fire and Emergency Management, Justice department - all, obviously, having concerns about the backlog. The member for Windermere is probably already sharpening his pencil now with the numbers, because the numbers of the backlog at each Estimates process -

Mrs Hiscutt - Just to warn the member for Windermere, if I beat him to the jump, I am not going to back down this time.

Ms RATTRAY - I am not sure where that came from. I think it is something to do with the member for Windermere not getting to his feet quick enough.

Getting back to my point on the backlog: a recent media article says the Tasmanian Supreme Court pending case load had grown to 701 cases in 2018-19 from 542 cases the year before. Then it goes on to say 'The court's pending caseload has grown each year since 2012-13 when it was 330 cases.'.

I am not at all surprised we need these reforms, because we are not making any inroads into those case load numbers. Everyone knows how stressful it is to be involved in pending

court cases, just the waiting. You want to be able to have access to the justice system in a timely manner and there is a saying -

Ms Forrest - Justice delayed is justice denied.

Ms RATTRAY - Thank you, member for Murchison.

Mr Dean - Michael Hodgman's saying.

Ms RATTRAY - When you look at those alarming figures, they keep on increasing and we will soon flesh out more of the detail on this through the Estimates process. I am pleased to see we have put some amendments in the various acts to address this issue.

I want to quote further from that article -

> This means the backlog of Supreme Court cases has more than doubled in seven years -

I read out those figures -

> Chief Justice, Alan Blow, last year criticised the government for failing to expand the types of cases the Magistrates Court could deal with in a justice-related bill.

It goes on to say that -

> Ms Archer [the Attorney-General, obviously] took little advantage of a chance to make meaningful changes to the operations of the Magistrates Court.

I am quoting a media article. With all those internal legal various stakeholders listed, and also the legal profession, who worked as part of the advisory group on this bill - it says 'providing invaluable and extensive feedback on the proposed reforms over a period of time'. We heard 20 years, and that included the Law Society of Tasmania, the Tasmanian Bar and Legal Aid Tasmania. Has the Government missed an opportunity here according to the reported media article? Could we have done more, or could more amendments have been put in place? What was left out that would have made this more effective and given the people who need it better access to the justice system?

Obviously, we all pick up whatever is put in the media. I am happy if somebody tells me this is a misquote. But then I am sure the person who wrote the article would need to rectify that. I want to support this, and I will be, no matter whether there is not anything else to go alongside it.

However, what has been left out that the Chief Justice felt he needed to criticise this process and that it has failed to expand the types of cases the Magistrates Court can deal with?

Mrs Hiscutt - Do you have the article? Am I able to pass it to my advisors to have a look at? Have you finished with it?

Ms RATTRAY - I have it.

Ms Forrest - What date was it?

Ms RATTRAY - That is a really good question; I do not have a date.

Ms Forrest - This was a criticism when we did the big bill last year. I wonder whether it relates to the bill last year that did not deal with it.

Ms RATTRAY - I doubt that very much; my executive assistant would have put this in. I apologise for not having the date. I was just sifting through my paperwork and found it.

Ms Forrest - It definitely was a criticism back then.

Mrs Hiscutt - When the member is finished with it -

Ms RATTRAY - We will have a look. I am absolutely more than comfortable in being corrected. I have an old media report here that has been put in with this current piece of legislation. I am happy to do so.

Mrs Hiscutt - Have you finished with it?

Ms RATTRAY - Yes, I believe I am finished with it. I will, from now on, make sure I have a date connected.

Mr Valentine - Hansard will need it.

Ms RATTRAY - Hansard will need it so I will need it back. It is always a problem, when you cut pieces out of the paper and do not put the date on, but it is also my responsibility to make sure there is a date. That is the case. I am interested in whether that is the case.

I certainly support the intent of what the Government is doing to enable access to our justice system for our Tasmanian community. I support the bill.

[12.44 p.m.]

Ms FORREST (Murchison) - Mr President, I support this bill. It is a really important follow-on from the Magistrates Court (Criminal and General Division) Act we did in 2019. I am quite convinced the member for McIntyre quoted from an older media release. Those were some of the criticisms made at the time. It was not really addressing the court backlog issues particularly with things like proceedings and bail applications, which this bill does. Could the Leader shed some light on that? This bill is absolutely needed; we have significant court backlogs that have been compounded enormously by COVID-19. What are the backlogs now? Government Estimates Committee B will be looking at this. I hear from people involved in the court system in my electorate of the real challenges, particularly where juries are needed. In the Burnie Court, you cannot have a jury as the jury room is probably no bigger than this space.

Mrs HISCUTT - Not fit for purpose.

Ms FORREST - It is not fit for purpose and a dreadful facility. It has been dreadful for a long time and I am pleased the Attorney-General is looking at finally addressing this really serious matter because it is basically unsafe. Partly because of some of the restrictions around

the Burnie Court facility, they have not been able to hold trials with juries, so the backlog for those adds up.

We need measure like this to get those things through that can be put through so we can get those cases to avoid that denial of justice. People are sitting on remand for months and months, with no clear indication of a court date, and that is not okay. Everyone is entitled to justice and if they are guilty, they will be dealt with appropriately by the court, but you cannot proceed if you are not in the court.

I certainly support the measures. When I consulted on the Magistrates Court (Criminal and General Division) Act 2019, members of the judiciary raised with me that these were areas that needed to be looked at. I am sure other measures may be needed. One of them is a new Burnie court. I will keep mentioning that because it is really important, and I am happy to work with the Government to make sure we get one.

It is a bit of a contentious issue in Burnie at the moment and in the heart of my electorate - both the old court and the proposed site for the new one. It is so important we have a suitable location because currently with a family violence case you cannot separate the victim from the perpetrator. It is just wrong they are in the same room. The magistrate has to walk through the same area they bring the defendant into - that is not good. I had a tour around the court to look at these things and I would not want to be in the jury room, not even for half a day. The court backlog is being compounded by the physical limitations of that building.

These measures will not necessarily affect that, but it will go some small way to moving some of these cases through the system much more quickly and that is appropriate, but there are other aspects as well. If the Leader has any information on the impact COVID-19 has had on the backlog, could she provide it? If you cannot provide it at the moment, that is fine, Leader - it just highlights the imperative of getting these sorts of measures moving.

I want to raise a couple of matters raised in the briefing yesterday on the amendment to the Police Offences Act, and the Leader might want to respond to these in her reply.

Clause 28 amends section 38B which is inserted after 38A in the Police Offences Act, which is stealing with force. It says -

> A person must not use, or threaten to use, force on any person in order to steal, or unlawfully obtain, property.

My concern is this is actually saying that where there is force used to perpetrate an offence, we are not having them dumbed down, if you like, to a lesser offence through this provision.

I understand through the use of the prosecutorial guidelines, that it is pretty clear that if there is violence against a person that would constitute an assault, and it would be dealt with rather than it being a pure stealing offence, or robbery. I would like it clarified that this is to provide options for how it is tried.

When I first read through this bill some time ago, I looked at the amendment to unlawfully setting fire to property, removing the $5000 value and setting no limit. Again, the same question: you could have examples of arson that cause lots of damage, but I assume the

prosecutorial guidelines deal with that too so they are dealt with appropriately. I agree that it does not take much to cause $5000-worth of fire damage to a property, or to a vehicle, or certainly to a house. I just want clarity about there being no dollar limit now, but that does not limit the capacity for a more serious offence to be dealt with appropriately.

I think the changes to the bail application process and the preliminary proceedings are much needed. They were matters raised with me by members of the judiciary during the previous debate in 2019. I am glad to see those being progressed through this legislation.

I support the bill.

Point of Clarification

Ms RATTRAY - Mr President, I thank the member for Hobart for googling the article for me. The actual date of the article is 16 September 2020 and it was in *The Examiner* newspaper.

[12.52 p.m.]

Mr DEAN (Windermere) - Mr President, I thank the Leader for the briefing yesterday, which satisfied a number of issues and raised a number of good points.

The backlogs at the Supreme Court and the Magistrates Court have continued to blow out. It really does not matter what we raised during the Estimates and the budget processes; none of that really has had any impact. We have been told over the last 17 years I have been here that changes are being made to get that backlog under control. We even saw several relief judges brought in to the system to decrease that backlog.

Mr Valentine - They are like hospital waiting lists - they have been forever present.

Mr DEAN - Yes, you are right. I asked some questions: What really did the relief judges do in relation to the backlog? Are those relief judges in place now?

Ms Rattray - There were some appointments as well.

Mr DEAN - Still one appointment?

Mr Valentine - I think there was an extra appointment.

Mr DEAN - I ask that question anyway to get clarity around it. What is the position with those relief judges? I think the member is right, the number was increased by one. If the Leader could address that for us, I would appreciate it.

With our increase in population and with changing laws and the introduction of new crimes - new crimes are being introduced from time to time, particularly in relation to drugs, and new drugs coming into the country - it is clear that crimes in the courts are going to increase. We have more police. The more police there are, the more arrests there are, the more crime is solved. Currently not all crime is being solved. A great deal of crime is not being solved. It is not as though all crime is solved. It is going to increase; there is no doubt about that. We have to find better ways of dealing with it.

My other point is - and this is probably one time when I agree with Mr Barns - that recidivism is high in this state. I think we are top of the list as far as repeat offending occurs, and people being released from jail going back into jail. The recidivism rate is something close to 50 per cent. Mr Barns commented on this in the paper the other day. It is one area we need to do much more work on. We must provide stronger, improved rehabilitation programs, more hands-on support from parole and probation officers, gaining and engaging employment for those being released from jail, and ensuring they have a home on release and so on.

We have to target that in a better way, and if we can target it in a better way, if we do not see a decrease in matters getting to the criminal court, the Supreme Court or the Magistrates Court, we should at least see it stabilising somewhat.

Ms Rattray - Not increasing.

Mr DEAN - Not increasing. That is the point I am trying to make. That should be our aim. While we have an aim to keep matters out of the criminal court, and to make changes in the Supreme Court, our ultimate aim ought to be to stop these people from getting in there in the first place. That should be the most important aim.

As the DPP often tells us, and will again I suspect tell us in the Estimates, that he only has to have some involved, complex cases that can tie a court up for a number of weeks, or months in fact. I am not quite sure how many of those cases we have on our books right now, but I suspect Mr Coates will be asked that question during Estimates to see how we are going in that regard.

Ms Rattray - He is probably doing the numbers as we speak.

Mr DEAN - He probably is. He often tells us that it only needs one involved, complex case -

Ms Rattray - Of five or six weeks.

Mr DEAN - That is right, and longer. They can go on for months in that court. We need to make sure we understand and know what is going on.

For that reason I strongly support the position we have - namely, that incentives are provided for people to plead quickly, and to plead guilty if they are guilty, rather than simply extending that process by pleading not guilty because they have nothing to lose by pleading not guilty. I support the position of providing incentives on sentence. As I understand it, that can be negotiated as well through the lawyers, as to an indication of what the penalty might well be in certain circumstances. I support that. It is a good strategy in my view.

As I said yesterday at the briefing, it is obvious this should see work going into the criminal court being removed and changes to it. That is what should occur - but what it does is place more work into the Magistrates Court.

I am wondering what is going to be the position there in the future. We were told of an extra magistrate being appointed. Is that going to be enough? I would be very surprised if it were, because those numbers are continuing to blow out as well. That has happened over a

long period, but in the Magistrates Court, it has blown out in all jurisdictions. It is in the civil court, the Coroners Court, the Children's Court. There was a slight decrease last year in the youth court side of it, but in all other sides it had grown.

What will it actually do there?

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

QUESTIONS

TasWater - Waratah Reservoir

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

With regard to the reservoir at Waratah previously used by TasWater, I understand from LIST PID information regarding the Waratah Reservoir and associated infrastructure, that all elements and infrastructure related to this reservoir are located on crown land and thus are not owned by TasWater.

(1) Can the Leader confirm that this is the case?

(2) If the land is entirely owned by the Crown, please advise under what authority or permission TasWater has -

(a) been permitted to make modifications to this asset, and associated infrastructure; and

(b) implemented plans to have the reservoir decommissioned.

(3) Does the minister have any concerns regarding proposed decommissioning of this reservoir, including -

(a) access to water for future firefighting;

(b) conservation values with a water body; and

(c) recreational use?

(4) What actions is the Government willing to take to protect the values of this asset on crown land listed in the above question?

ANSWER

Mr President, I thank the member for Murchison for her question. Yes, we have seen these emails come through an awful lot.

(1) The establishment of the three regional water and sewerage corporations in 2008 included the transfer of urban water and sewerage assets to the three regional corporations, and subsequently to TasWater.

At the time of the original transfers, the Waratah Reservoir was considered to be part of the water supply system for Waratah, and was transferred accordingly. I am advised that, while the dam wall and associated infrastructure was transferred, the land on which the reservoir is located did not transfer, and remains crown land.

(2) The Water Management Act 1999 requires that dam works are not undertaken unless they occur in accordance with an appropriate dam works permit. Dam works include the construction and modification of dams, as well as the decommissioning of dams.

- The act specifically provides that a person can undertake dam works on land owned by another person, as long as the owner of the land has given permission in writing.

- TasWater has consulted with the Department of Primary Industries, Parks, Water and Environment in relation to works it has undertaken on the Waratah Reservoir, and has undertaken works under appropriate permits.

- To date the department has not received a dam works application from TasWater for the decommissioning of the dam.

- The department met with Friends of the Waratah Reservoir to explain the dam works application process. The general public has the right to submit representations to the department on dam works applications, having two weeks to do so.

(3) I am advised the Tasmania Fire Service - TFS - water supply for firefighting within the township of Waratah is accessed (via firefighting hydrants) from the mains water supply.

- Both the Waratah Reservoir and the Bischoff Reservoir are in the Waratah catchment area. Provided there is capacity for one of these reservoirs to supply water for the mains water supply, there is no issue with the firefighting capability for the TFS.

- The TFS and TasWater are involved in a working group with the objective to discuss, resolve and share information regarding access to water sources at a statewide level.

- Waratah Reservoir was discussed at this working group, and the north-west regional chief and district officers engaged the Bushfire Risk Unit to complete an assessment of the water sources in the area -

- As a result of that assessment, it was determined that there is an abundant supply of water sources in the area and that the loss of the Waratah Reservoir would have no impact on TFS aerial firefighting capability.

- A dam works application must be submitted by the dam owner to decommission and/or undertake risk mitigation works.

- TasWater has indicated that it will submit an application to decommission the dam. When the application is submitted it must address environmental, cultural heritage and dam safety issues.

- While I am advised the Waratah Reservoir is not required to supply potable water to the Waratah township, I am very aware it is considered to be a community asset by many in the Waratah area.

- The remit of TasWater is to operate infrastructure for the supply of urban water, not for recreational activities.

- The Department will continue working closely with TasWater in meeting its dam safety obligations.

(4) Any issues, including cultural and environmental, that are identified during the dam works application process of the decommissioning of the dam will require appropriate mitigation strategies be put in place by the proponent.

WorkSafe - Magistrates Court - Burnie

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

[2.37 p.m.]

I was expecting answers to the questions on the biosolids issue I asked about three days ago.

Mrs Hiscutt - I apologise, we do not yet have the answer.

Mr DEAN - They are fairly important questions.

Mrs Hiscutt - Yes, we do chase hard, but we were unable to get that one, I am sorry.

Mr DEAN - My questions relate to the Magistrates Court and the improvement notice issued in February 2020 to the Secretary of the Department of Justice. Following a query from the Police Association of Tasmania, the notice was withdrawn because it was said to be erroneous.

Will the Leader please advise -

(1) What is the current status of the improvement notice cancelled by the regulator under section 207.

(2) What was the error in the improvement notice causing it to be cancelled?

(3) Is the improvement notice being reissued?

(4) If not, why not?

(5) If so, when?

(6) Is the court safety aspect currently being investigated by WorkSafe?

(7) If so -

(a) What workplaces have been inspected to date? If none, why not?

(b) How long do you anticipate these investigations are going to take?

(c) Who is the principal investigator from WorkSafe investigating this matter?

(8) A recent series of matters have occurred in the Launceston and Burnie Magistrates Courts that have been reported by the Police Association of Tasmania to WorkSafe. What is the status of the investigations concerning those reports?

ANSWER

Mr President, I thank the member for Windermere for his question.

(1) The improvement notice was cancelled on 6 July 2020.

(2) The improvement notice cited 11 sections of the Work Health and Safety Act 2012 and seven regulations that 'are being, or have been, contravened'. The act requires an improvement notice to be issued for each provision that is contravened. A single improvement notice is not valid if it addresses multiple contraventions.

Additionally, the act requires that for each provision being contravened, a description of how it is being contravened must be provided.

The improvement notice contained no information on how multiple contraventions were allegedly occurring. Further, it was unclear which description and which direction related to which section and/or regulation.

Mr Dean - I would have thought they would have been happy not to get eight or nine of them.

Mrs Hiscutt - This is the process.

The improvement notice contains no information on how multiple contraventions were allegedly occurring. Further, it was unclear which description and which direction related to which section or regulation.

(3) to (5)

A decision on whether an improvement notice is required will be made following workplace inspections as part of the current investigation. An inspector must form a reasonable belief that a section of the act 'is being, or has been, contravened' to lawfully issue a notice.

This decision is a matter for WorkSafe as the independent regulator.

(6) Yes.

(7) WorkSafe Tasmania is gathering documentation and evidence to inform the workplace inspections.

The inspections will be conducted during October and November, following which an investigation report will be finalised.

Multiple inspectors will be involved given the nature of the investigation and the number of workplaces involved.

(8) The Police Association of Tasmania wrote to WorkSafe Tasmania on Friday, 9 October 2020, requesting an inspector be appointed to assist in the resolution of a number of safety issues. The request is being assessed. Further information is likely to be sought from the association to clarify the safety issues raised and to enable a decision to be made on the regulatory action to be taken.

Mr Dean - I think further questions will be coming from those.

Fiscal Strategy Statement

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

[2.41 p.m.]

The Charter of Budget Responsibility Act 2007 provides for the preparation and updating of a fiscal strategy statement in parts 4 and 5(1) and 5(2), and states -

> 4. Purpose of fiscal strategy statement
>
> The purpose of a fiscal strategy statement is to -
>
> (a) establish a benchmark for evaluating the Government's fiscal performance; and'
>
> (b) increase public awareness of the fiscal policies of the Government and Opposition parties.
>
> 5. Public announcement and tabling of Government's fiscal strategy statement
>
> (1) The Treasurer is to publicly announce and table the first fiscal strategy statement for a particular Government at or before the time of the Government's first budget.
>
> (2) If the Government wants to change its fiscal strategy statement, it may do so at any time by the Treasurer publicly announcing and tabling a new fiscal strategy statement.

With regard to the impact of COVID-19 on the state's fiscal position, which we will have to argue has changed -

(1) Is the Treasurer intending to update the current fiscal strategy statement in light of the significant impact COVID-19 has had on the state's fiscal sustainability and position?

(a) If so, when is this likely to be tabled?

(b) If not, why is this not deemed necessary?

ANSWER

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

- The impact of the COVID-19 pandemic on the Tasmanian community is unprecedented. The Government has worked with the Tasmanian community, Tasmanian businesses and other levels of government to minimise the impact of the pandemic on the health and wellbeing of the Tasmanian community and the Tasmanian economy, while also actively supporting its future recovery.

- During this difficult time, the Government has been open and transparent about the financial and economic impact of the pandemic on the state through the publication of the May and August economic and fiscal update reports. Detailed information on the Government's current assessment of the impact of the pandemic on the state's budget position will be provided in the 2020-21 Budget, to be tabled in parliament on 12 November 2020.

- The 2020-21 Budget will include information on the action already taken by the Government in response to the pandemic, and the further action being taken by the Government to support Tasmanians and the Tasmanian economy.

- It is important to recognise, however, that notwithstanding the significant work that has been undertaken to understand the impact of the pandemic on the state's economy and finances, the full economic and financial impact of the pandemic remains highly uncertain, and will not be known for some time.

- When first elected in 2014, the Government highlighted the importance of a fiscal strategy that was not subject to regular change, was focused on long-term principles and responsible financial management, and recognised that Tasmania's economic and fiscal circumstances could change quickly and significantly.

- The occurrence and impact of the COVID-19 pandemic certainly reflects these circumstances. The Government also noted that a principles-based approach recognised that a government could legitimately depart from objectives in the short term in response to changing circumstances, as long as the departure was necessary, transparent and justifiable.

- Reflecting this strong focus on long-term fiscal principles, the Government acted to amend and extend the principles of strong financial management included in the Charter of Budget Responsibility Act.

Members, because of my coughing fit, the Deputy Leader will take over.

Ms HOWLETT - Mr President, the answer continues -

- The focus of these amendments was on improving the wellbeing of Tasmanians, improving services to Tasmanians, and building a stronger economy and a robust financial position.

- Given the Government's well-established approach to its fiscal strategy and its principles focus, the Government does not consider it necessary to amend its fiscal strategy, strategic actions, at the present time.

- These strategic actions remain as important, if not more important, in the current environment as they were when they were first endorsed by the Government.

- These strategic actions provide a clear indication of the Government's fiscal intent and focus.

- That said, as noted above, the full impact of the COVID-19 pandemic from the social, economic and fiscal perspective remains very uncertain.

- The Government will continue to consider the long-term requirements of the Tasmanian community and budget position and, if considered necessary, will adapt strategic actions to ensure they reflect the Government's ongoing commitment to strong financial management.

Make Yourself at Home Travel Voucher Program

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

[2.46 p.m.]

In relation to each round of the Make Yourself at Home travel voucher program -

(1) How many vouchers were issued to people over the phone?

(2) How many phone lines were open during the registration period?

(3) How many staff were deployed to answer calls during the registration period?

(4) How many calls went unanswered?

(5) Are you able to provide a regional breakdown of voucher recipients for south, north, and north-west?

ANSWER

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

(1) Round 1, there were none because registrations were not available by phone; round 2, approximately 500.

(2) Round 1, 10 phone lines for inquiries only; round 2, 22 phone lines for registration.

(3) Round 1, 10 people; round 2, 22 people.

(4) Round 1, unknown; round 2, the hotline had over 370 000 attempted calls in the two hours it was operational.

(5) South - round 1, 11 729 and round 2, 11 219; north - round 1, 5354 and round 2, 4957; and north-west - round 1, 3039 and round 2, 3019. The total in round 1 was 20 122, and round 2, it was 19 195.

Built Heritage

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

[2.48 p.m.]

My questions relate to the most important assets in this state, our built heritage.

Ms Rattray - I thought it was our children.

Mr DEAN - No, this is the built things. Will the Leader please advise -

(1) How many items - buildings - were removed from the Heritage Register in the financial years 2017-18, 2018-19 and 2019-2020? If calendar years are easier, that would be acceptable.

(2) Has Heritage Tasmania provided financial support to local government for the completion of heritage studies reports?

(3) If so, what heritage studies have been financially supported since 1999, and the amount in each case?

(4) If applicable, what is the current situation with these reports? That is, have they been acted on?

(5) The Paul Davies study, Launceston, was completed in 2007. I understand some 13 years later the City of Launceston has now committed to repeating the report over

five years at a cost of $250 000. What involvement, if any, is Heritage Tasmania undertaking in this process?

ANSWER

(1) Since 1 July 2017, the Tasmanian Heritage Council has removed a total of 10 entries from the Tasmanian Heritage Register, all of which were found to no longer meet the registration criteria of having state historic cultural heritage significance, namely - 2017-18, 3; 2018-19, 6; and 2019-20, 1.

(2) In 2005 the former government provided three years of fixed-term funding to enable the Tasmanian Heritage Council to support local planning authorities to jointly fund and implement municipal heritage surveys.

(3) I cannot confirm how much each local planning authority spent on this process. Grant funding was allocated to six local planning authorities to enable them to engage heritage consultants to conduct municipal heritage heritage surveys. The amounts allocated were: Burnie, $30 000; Glenorchy, $9500; Kingborough, $30 000; Meander Valley, $25 000; Southern Midlands. $30 000; and Waratah-Wynyard, $25 000.

A portion of the funding available to the Tasmanian Heritage Council was also used to support the former Tasmanian Institute of Conservation and Convict Studies - TICCS - conduct a survey of the Tasman municipality, to draw upon a former National Estates Grants Program survey of the Sorell municipality to help populate the Heritage Register with places of state historical cultural heritage significance identified in heritage studies - for example, Recherche Bay was one.

(4) The implementation of these municipal heritage surveys at a local level by local planning authorities is a matter for them. Heritage Tasmania has drawn upon these surveys to populate the Heritage Register.

The surveys remain a useful resource that will be able to be drawn upon in the future to populate local historic heritage codes and the Heritage Register.

(5) Heritage Tasmania has held discussions with the Launceston City Council to explore how the LCC might implement the Paul Davies municipal heritage survey. This has included supporting the notion of developing heritage precincts in its local historic heritage code, but Heritage Tasmania has not otherwise been involved.

Heritage Tasmania - Municipal Heritage Surveys

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

Mr President, this is very frightening because I almost have some of the same questions as the member for Windermere. I have not talked to him about this.

I listened to his question and I thought 'Mmm.'. Anyway, I will read my question as it is prepared because I am sure the answer has been prepared along with the questions. There will be some repetition I imagine.

(1) With regard to Heritage Tasmania and the Heritage Register, which local government areas have undertaken municipal heritage surveys with Heritage Tasmania; for each LGA, what year were they completed?

(2) Which councils since 2000 have had funding provided by Heritage Tasmania to create and or manage their own local heritage schedules?

(3) What was the individual cost of each municipal heritage survey and/or assessment, and for each survey/assessment, which company provided the report?

(4) How much did Heritage Tasmania and each local government area provide for each assessment report?

(5) How many places were recommended by each municipal survey at state level for entry into the Tasmanian Heritage Register?

(6) How many state recommendations were permanently entered onto the register?

(7) How many local places or properties and/or assets noted were recommended in each report for entry into local heritage schedules?

(8) How many were added to local heritage schedules by local government listed by LGA?

ANSWER

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

(1) Six local planning authorities undertook jointly funded municipal heritage surveys with financial support from the Tasmanian Heritage Council - namely, Burnie, Glenorchy, Kingborough, Meander Valley, Southern Midlands and Waratah-Wynyard. Glenorchy completed its heritage survey in 2005; Kingborough and Meander Valley in 2006; Southern Midlands and Waratah-Wynyard in 2007; and Burnie in 2010.

(2) Burnie, Glenorchy, Kingborough, Meander Valley, Southern Midlands and Waratah-Wynyard Councils received funding under this fixed-term initiative.

(3) These heritage surveys were managed by the individual local planning authorities. I cannot confirm the amount of money they spent on this process and therefore cannot confirm the total cost of each survey project.

The surveys for the Southern Midlands, Waratah-Wynyard and Burnie were completed by GHD. Meander Valley's survey was completed by Paul Davies; Glenorchy's survey by Ian Terry, with assistance from Paul Davies; and

Kingborough's survey was completed by Anne McConnell, Mary Knaggs and Lindy Scripps.

(4) I cannot confirm how much each local planning authority spent on this process. Grant funding was allocated to six local planning authorities to enable them to engage heritage consultants to conduct municipal heritage surveys. The amounts allocated by Heritage Tasmania for these municipal heritage surveys were: Burnie, $30 000; Glenorchy, $9500; Kingborough, $30 000; Meander Valley, $25 000; Southern Midlands, $30 000; and Waratah-Wynyard, $25 000.

(5) and (6)

The final heritage survey reports note the following recommendations in terms of the number of places of local or state historical cultural heritage significance -

- Burnie - 285 places of local significance and 25 places of state significance.
- Glenorchy - approximately 90 local and five state
- Kingborough - 244 local and 49 state
- Meander Valley - 370 local and 223 state
- Southern Midlands - 296 local and 250 state
- Waratah-Wynyard - 201 local and 103 state places.

(7) and (8)

The implementation of these local municipal heritage surveys at a local level and the population of local historic heritage codes is a matter for the individual local planning authority involved and is not something on which the minister can comment.

The work is now absorbed within the Tasmanian Heritage Council's annual work plan.

These heritage surveys remain a useful resource that will enable the future and ongoing population of local historic heritage codes and the Heritage Register.

Tasmanian Carers

[2.58 p.m.]

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

Tasmanian carers perform an essential role in the community by providing immeasurable support and friendship to people who are unable to independently undertake routine daily activity. Providing care and support to loved ones poses unique challenges and we do not often hear about the work carers do and the personal and professional sacrifices they make. Without carers and the work they do, our health, aged care and disability sectors would be under far more pressure than they already are.

Tasmania is one of only two Australian states and territories not to have carers recognition legislation.

Given the essential service unpaid carers provide, it is important Tasmania develops this legislation that gives carers the recognition they deserve and ensures they are valued and well supported. This must include a carers charter that sets out principles that guide services for carers.

When will the state Government develop carer recognition legislation and give our carers the support they deserve?

ANSWER

Mr President, I thank the member for Rumney for asking this question on behalf of the member for Pembroke who is ill today.

- The Tasmanian Government values our carers who make a significant contribution to the health and wellbeing of Tasmanians in need of support and assistance.

- Our Tasmanian Carer Policy 2016 - the Carer Policy - raises awareness of the important and critical role of carers and the associated Carer Action Plan 2017-20 includes 22 actions to increase the recognition of carers, improve the level of support and services they receive and involve them in developing and evaluating policies, programs and services that affect them in their caring role.

- While we acknowledge the member for Rumney's suggestions of amendments to legislation, the Tasmanian Government is in the process of reviewing our action plan regarding what additional supports for carers are needed.

- Broad consultation with relevant stakeholders, including consultation through our Carer Issues Reference Group - CIRG - is underway and we are not going to pre-empt what comes out of that consultation process.

- The CIRG includes representation from Carers Tasmania, Mental Health Families and Friends Tasmania, the National Disability Insurance Agency and relevant Commonwealth and Tasmanian government departments.

JUSTICE MISCELLANEOUS (COURT BACKLOG AND RELATED MATTERS) BILL 2020 (No. 35)

Second Reading

Resumed from above.

[3.01 p.m.]

Mr DEAN (Windermere) - Mr President, earlier I was about to mention the court backlog we have in comparison across the other states and territories. As I understand it, our backlog is pretty high on the scale when we compare it with other states and territories.

I have some questions the Leader might not be in a position to answer at this stage so they might have to be taken on notice: Why is the mainland in a better position than we are in this area? Is it because they have more magistrates, more judges, more courts, fewer criminals?

I would not have thought their crime rates would be any less than ours. I would have thought that pro rata it might have been somewhat similar. What have we learned from what has happened on the mainland? Is it still the case of us almost being at the top of the ladder? Probably still there.

I imagine during the Estimates process this year - not long away, in fact - we will have the opportunity to look at the backlog numbers more closely. I imagine the answers we get this year in relation to the Supreme Court will be that we have passed legislation - hopefully, it will go through or at least will be about to - to try to correct some of that backlog. I suspect we will hear that. That is reasonable and fair.

Mrs Hiscutt - I have just conferred with my advisers - that is not something we can find out here and now. It sounds more like a question for the research department.

Mr DEAN - Sure. That is why I said you might need to take it on notice.

Mrs Hiscutt - Do you want to take it on notice, or did you want the research?

Mr DEAN - No. It can be taken on notice - whatever is the easiest and best way. If we can just get those details. I will be asking those questions at the Estimates as well, so if we can get answers now, it would be good.

That same answer will not be able to be given in relation to the Magistrates Court. That area as well will raise a lot of concern, I expect, during the Estimates.

Ms Rattray - Do not give them too many heads-up on the question.

Mrs Hiscutt - I thought you would want the answer sorted?

Mr DEAN - No, you are right. I was going to mention the security issue with the courts as raised by the member for Murchison. I thought it was a proper point because it relates to this bill. Security within our courts impacts on workloads, and it probably has some impact on the backlogs because of the way things have to happen, the way they have to do things, and so on.

My earlier questions relate to the impact on the security within the courts. I hope that the Police Association of Tasmania is successful in getting some action taken to increase and improve the security in the courts, which is fairly ordinary around the state, for Magistrates Courts in particular.

Having said that, Mr President, I support the bill.

[3.04 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have some good answers here and some lengthy answers.

The member for McIntyre was first, in response to her reference with the quote from the newspaper, the Chief Justice in the media article. It should be noted the Chief Justice was, we believe, being quoted from the Supreme Court annual report of 2018-19 before the introduction of the Magistrates Court (Criminal and General Division) Act 2019. We think that is where that has come from.

As mentioned, there was extensive collaboration between the key internal legal stakeholders about the redrawing of the jurisdiction of the Magistrates Court as part of the Magistrates Court reform. This bill brings forward this expansion of the jurisdiction of the Magistrates Court and also enables the court to sentence a person convicted on an indictable matter heard summarily to up to three years imprisonment. Previously, the maximum for a single offence was 12 months. The Government is confident these reforms will improve the efficiency of the court without compromising fairness or undermining the judicial process.

In response to the member for Murchison and her query about the current backlog and the effect of COVID-19 on the backlog. The department has provided the following information in relation to the current backlog in the two courts -

> The Magistrates Court pending case load started to decrease in 2017-18 and 2018-19 owing to fewer lodgements. In those two years the Government recognised the need to ensure the number of magistrates were maintained and appointed a temporary magistrate for several periods to ensure that gap between retirement and judicial officers and the appointment of new magistrates did not lead to an increase in pending caseloads.
>
> However, COVID-19 risk mitigation measures implemented in the final quarter of 2019-20 had a significant impact on the adult criminal pending caseload. The backload increased 26 per cent from 30 June 2019 to 30 June 2020, from 7952 to 9401. Most of this occurred in the period between April 2020 and June 2020. With the Supreme Court, the number of new criminal cases lodged with the court has decreased slightly, three per cent, in the past year, from 667 to 747. However, that figure is still 30 per cent higher than the five years previously of being 449. The backlog figure has remained relatively constant over the past two years, but it is significantly higher than five years ago. The Supreme Court's 2019-2020 data will be released as part of the Chief Justice's annual report.

Another response for the member for Murchison: the new offence of stealing with force will provide an option for prosecutors when considering the criminality of behaviour such as, but not limited to, a bag snatch. Currently, Part V of the Police Offences Act deals with crimes of dishonesty. There are also additional offences in relation to motor vehicle stealing. A gap was identified in relation to offenders who steal with enough force to make their behaviour more serious than the provisions under Part V of the Police Offences Act, yet not necessarily warranting prosecution on indictment for robbery under section 240 of the Criminal Code. This offence would not be considered appropriate for offenders involving significant violence.

In relation to the offence of unlawful setting fire to property, the removal of the dollar value threshold will enable prosecutors to consider whether a summary prosecution was more appropriate, considering all the circumstances surrounding the case. Currently, once the damage caused exceeds $5000, the Crown has no option to prosecute under the Police Offences

provisions. The removal of the $5000 cap will not affect the capacity of prosecutors to pursue a more serious charge under the code where the circumstances warrant it.

Now to the member for Windermere, who had a query about the temporary judges.

The Government through the Attorney-General meets with the Chief Justice at regular intervals to discuss case load and other issues, including the level of judicial resourcing required to conduct an efficient modern court system with a manageable case load.

The judges, both permanent and acting, deal with an annual case load of approximately 650 criminal trials and guilty pleas, 460 bail applications and 470 civil lodgements. The judges also publish approximately 80 written judgements, as well as 350 sentencing comments per year.

The Government initially appointed three acting judges for a period of two years from February 2017 and reappointed the judges to assist with the throughput of cases - criminal, civil and appeals - to achieve timely finalisation. The acting judges are available on a part-time sessional basis. The acting judges are all eminent jurists. There is the Honourable Brian Martin AO, QC, former Chief Justice of the Supreme Court of the Northern Territory; the Honourable Shane Marshall, a former judge of the Federal Court of Australia and the Supreme Court of the ACT; and the Honourable David Porter QC, a former judge of the Supreme Court of Tasmania.

The use of acting judges allows the court to conduct more trials and pleas and reduce the backlog of cases. Acting judges also enable the Supreme Court to continue to operate effectively when absences or conflicts of interest occur. Absences or conflicts of interest can lead to delays in cases being heard as well as when the long trials run through an appeal term and the number of judges available to hear appeals is depleted.

Acting judges can also sit in court to enable other judges to attend to important chamber works such as writing reserved judgements. The allocation of the acting judges to pending cases is a matter for the Chief Justice. It is important to note acting judges will only be used where there are sufficient places to be dealt with.

Under the separation of powers doctrine, the responsibility for organising the businesses of the Supreme Court, including allocation of acting judges and reduction of backlog rests with the Chief Justice. Work is already in progress in the court in that regards.

Acting judges have been sitting in a variety of jurisdictions for criminal and civil trials, pleas and sentencing, appeals and interlocutory - for example, directions hearings. The acting judges are renumerated from the Reserved by Law budget. Additional funding of $1.4 million has been provided for two years to support this further appointment of the acting judges.

In the 12-month period to 30 June 2020, the cost of the acting judges was $595 611 for salary, superannuation, travel and support staff.

The member also commented on incentives to plead guilty at an early point in proceedings, so I just want to touch on the reforms in the Magistrates Court (Criminal and General Division) Act 2019 to the process for disclosure.

The reforms to disclosure are significant and should ensure all accused are provided with a timely and more comprehensive indication of the case against them. This is an important reform as it enables an accused person to make an informed decision as to whether to contest a charge or to enter a plea early.

The member talked about the backlog being moved from the Supreme Court to the Magistrates Court. As was noted when the Magistrates Court (Criminal and General Division) reform package was debated in this place last year, significant implementation work is required by the courts and the Department of Police, Fire and Emergency Management before the package of legislation can commence.

The changes will affect the justice system as a whole, including the Magistrates Court, Supreme Court, Office of the Director of Public Prosecutions, Legal Aid Tasmania and the Department of Police, Fire and Emergency Management - DPFEM.

The ongoing resourcing of the Magistrates Court has been considered throughout the development of the Magistrates Court (Criminal and General Division) reform package. The Department of Justice continues to work closely with impacted agencies, including Tasmania Police, so that planning can occur between the agencies to ensure these important changes are implemented appropriately.

The Department of Justice has created a project manager position to undertake work on an implementation plan for the reform package that will assist both the Magistrates Court and DPFEM. The project consists of several streams of activity, including supporting legislation and regulation development, information technology requirements, business integration and stakeholder change management. The implementation work is also overseen by a steering committee chaired by the Department of Justice. The commencement of the Magistrates Court (Criminal and General Division) Act 2019 and related legislation will see the court operate in a more contemporary and efficient way, including through the use of new systems and technology.

The legislative changes will dovetail with the Justice Connect technology replacement program Astria, which will provide IT systems that support the legislative changes. It is expected that these changes will not only reduce the time between the date of charging to the completion of the matter, but also the average number of attendances per finalisation. With fewer delays and adjournments, defendants will have their matters finalised more quickly and efficiently and the Magistrates Court will need fewer resources to resolve them. Eventually it is expected this will lead to a reduction in the court backlog.

An additional magistrate has also been funded during this term of government, in addition to the conversion of a temporary magistrate to a permanent appointment in response to the increasing workload of the court. It should be noted that this backlog achieves efficiencies not only through moving workload from the Supreme Court to the Magistrates Court, but also through preventing delays and ensuring the appropriate court deals with certain matters such as bail.

I think this response will answer quite a few of the members' questions, and I commend the bill to the House.

Bill read the second time.

JUSTICE MISCELLANEOUS (COURT BACKLOG AND RELATED MATTERS) BILL 2020 (No. 35)

In Committee

Clauses 1 to 5 agreed to.

Clause 6 -
Section 7A inserted

Mr VALENTINE - Clause 6, proposed new section 7A(3) -

> A person who has applied for bail in accordance with subsection (2) must serve a copy of the application on the Director of Public Prosecutions.

'Serve' seems an odd word to use here. Generally, that is a very legal term - usually in relation to somebody else being served with a notice and tapped on the shoulder. It is not 'provide a copy' or anything like that. I am interested in that explanation.

Mrs HISCUTT - It is evidently a standard term, which means delivering by hand or post.

Mr DEAN - In asking this question, I will probably ask a question later on through the bill as well, unless one encompassing answer might be able to be given.

What is the likely relief that one would see in the Supreme Court as a result of the bail changes occurring here? I would think, in putting this together, there would be some indication of just what that might be on the current workload in the Supreme Court relative to bail applications, and therefore these changes would see more work going back to or continuing to be done from the Magistrates Court. What is the likely impact on the Supreme Court?

Mrs HISCUTT - We are unable to actually quantify it, but what it will do is prevent the Supreme Court from considering bail applications that could have been done in the Magistrates Court, so it is hard to quantify. Is that the answer the member was looking for?

Mr DEAN - It is not, because we are being told these changes are to try to improve the backlog in the Supreme Court. We have been told that is what this bill is about. If changes are being made to the people appearing in the Supreme Court, who would no longer have to go there and would go to the Magistrates Court or some other area, surely there must be some indication as to what impact it might have on the Supreme Court?

I will be asking that question in relation to the cultivation of drugs and the changes to all these other areas as well. If you have no idea of what the relief might be to the Supreme Court, why are we dealing with this bill? What is the use of it? I think the department would have some idea on what sort of relief it will provide to the Supreme Court. If it needs to be taken on notice, so be it.

Mrs HISCUTT - Once again, it is very hard to verify because some bail applications are made verbally, not on written paper. We can provide some statistics at a later date, but not here and now, if the member wants us to take that on notice.

Mr Dean - I would like you to do that. It is once again a forewarning of Estimates, as to what relief this will provide. That will relate to all the other areas as well, so to save me asking questions later on, I would appreciate it if you could take that on board.

Mrs HISCUTT - At the moment I can verify that the reforms to bail and also changes to enable the misuse of drugs were identified by the Chief Justice as matters that diverted the resources of the Supreme Court. It may take a little while to get those figures. It will not be today.

Mr Dean - That is all right. I will not hold the bill up.

Clause 6 agreed to.

Clauses 7 to 22 agreed to.

Clause 23 -
Section 27AA inserted

Mr VALENTINE - Clause 23, proposed new section 27AA(2) -

> If it is proved in proceedings for an offence under subsection (1) that the accused -
>
> (a) prepared a trafficable quantity of a controlled substance for supply; or
>
> (b) transported a trafficable quantity of a controlled substance;

I assume this refers to 'knowingly' transported. If somebody unknowingly transported a quantity of drugs, they may be found to have done that. I wonder whether it could lean towards being guilty until proven innocent, if a person has unknowingly transported it. I am asking for some clarification.

Mrs HISCUTT - If the accused is arguing they did not know they were in possession, the accused is required to prove on the balance of probabilities that they did not know this. It is a reversal of presumption. It is the same for both the existing indictable offence and the new summary one.

Clause 23 agreed to.

Clause 24 agreed to.

Clause 25 -
Section 7B amended (Possession of implement or instrument)

Ms RATTRAY - This is probably something the member for Windemere will know off the top of his head, but it relates to amending the possession of implement or instrument. It has significantly increased the penalties - it has doubled. The six months prison term has gone to two years. Again, that is more than double.

I am interested in possession of implement or instrument. I could not find it when I quickly looked, but I would be interested to know what sort of possession of those items could possibly gain that sort of penalty.

Mrs HISCUTT - The offence of possessing an implement or instrument at section 7B of the Police Offences Act 1935 deals with the circumstances where a person has possession of an item with intent to commit a crime. This could include, for example, where a person has housebreaking items in their possession with intent to commit a burglary. Many burglary offences are already dealt with in the Magistrates Court, and it is inconsistent that a person charged with a preparatory offence should have to have the matter dealt with in the Supreme Court. This would be the case if they were charged with being prepared for the commission of a crime contrary to section 248 of the Criminal Code.

The increase in the penalty for the mirror summary offence will allow these matters to be adequately dealt with in the lower court.

Mr Dean - You can add they are very seldomly used now.

Mrs Hiscutt - And very seldom used.

Ms Rattray - I knew the member for Windemere would already know the answer.

Clause 25 agreed to.

Clauses 26 and 27 agreed to.

Clause 28 -
Section 38B inserted

Mr DEAN - This area has been discussed in the briefing and in some of the second reading contributions. I am asking a similar but probably slightly different question, which the Leader might need to take on notice. What number of cases would have gone into the Criminal Court of robbery with violence in these circumstances? How much will it take out of there and put back into the Magistrates Court? This will become a judgment thing for police, depending on the seriousness of the violence used and so on. That occurs with a lot of crime, where it is a judgment matter for police to determine where it will go; they do that all the time. At the end the Director of Public Prosecutions makes the determination. What will that do? Very clearly there also should be a lot of relief within the DPP's office with these changes because not so much work should be going to that area. I am happy for the Leader to take it on notice and come back with the other answers.

Mrs HISCUTT - Yes, I am advised it will have to be on notice. The department has two questions on notice from the member for Windermere.

Clause 28 agreed to.

Clause 29 -
Section 43F inserted

Mr DEAN - This clause reads -

> A complaint, made for the purposes of the *Justices Act 1959*, in relation to an offence against a section within this Part, is to be made within 2 years after the date of the offence.

With some of these issues, it has been at the time of the offence becoming known. There is a significant difference. An offence could be committed today and relate to the matters referred to here in this bill, the changes in this matter. Drugs, for instance, can happen one day but the matter may not be known until six months later.

Why is there two years after the date of the offence rather than two years after the identification of the crime having been committed?

Mrs HISCUTT - This clause refers specifically to computer-related crimes under Part VA of the Police Offences Act. This is to reflect the difficulty in identifying and gathering evidence in such computer-related offences. Other offences also have extended limitations on prosecutions. These include but are not limited to Part 3, Minor offences under the Misuse of Drug Act 2001 which can be prosecuted within two years of commission of the offence. Also, offences relating to property and unlawfully setting fire to property under the Police Offences Act allows for prosecution within 12 months of commission of the offence.

Clause 29 agreed to.

Clauses 30 and 31 agreed to.

Clause 32 -
Section 13 amended (Maximum prison terms imposable by court of petty sessions for crime triable summarily)

Ms RATTRAY - Madam Chair, in the last clause I referred to I asked about the increase in the penalty units and the years of sentence. When I go to 32, that was six months up to two years; under clause 32, section 13 is amended by deleting '12 months and substituting 3 years'. I am just interested in the lack of consistency. Where do we pluck these new figures from? Was this through the consultation process? I am just interested - an 18-month increase for one and two years for another.

Mrs HISCUTT - I thank the member for the question. The difference is that these crimes are against the Criminal Code, so they are different codes.

Ms Rattray - I understand that. I am just interested in it.

Mrs HISCUTT - Clause 32 will amend the sentence that can be handed down by magistrate when sentencing a person for an indictable crime triable summarily. These are the crimes listed in schedules 2 and 3 of the Justices Act. This increase will enable more matters that would have needed to be heard in the Supreme Court to be heard in the Magistrates Court.

Ms Rattray - That is the rationale behind the increase?

Mrs HISCUTT - Yes.

Clause 32 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

ON-DEMAND PASSENGER TRANSPORT SERVICES INDUSTRY (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 34)

Second Reading

[3.46 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.

The On-Demand Passenger Transport Services Industry (Miscellaneous Amendments) Bill 2020 has been developed to provide for the safe, competitive and accessible operation of the on-demand passenger transport industry.

It provides a modern and equitable framework that provides consumers with choice, and operators with a level playing field.

On 30 October 2015, then Tasmanian premier, the Honourable Will Hodgman MP, committed to modernising the regulatory framework for taxi and hire vehicles via a two-stage process that included introducing legislation to enable the lawful operation of ride-sourcing services in Tasmania; and undertaking a comprehensive review of the current legislative framework for taxi and hire vehicle services in Tasmania.

The framework has been extensively consulted on, with three rounds of consultation spanning 2016 to 2020.

This consultation has informed the development of the On-Line Passenger Transport Services Industry (Miscellaneous Amendments) Bill brought before the house today.

The new framework provides for in this bill has been drafted to -

- protect the safety of passengers and drivers
- promote greater competition, consumer choice and improve equity
- provide a framework that is able to respond to emerging technology and service models
- support access to wheelchair accessible taxis
- implement a ‘chain of accountability’ model for compliance and enforcement

- streamline regulatory arrangements, and

- see the administrative costs, that have historically only been associated with the taxi and hire vehicle industry, shared across all operators.

The bill amends three acts that set out the regulatory framework for the sector -

- Economic Regulator Act 2009 - to provide further clarity of the matters that must be considered when the Tasmanian Economic Regulator conducts taxi fare methodology inquiries. These inquiries inform the setting of taxi fares.

- Passenger Transport Services Act 2011 - which is the principal act under which operators must be accredited. The amendments provided for in this bill:

    - move some of the regulation of the industry from licences (under the Taxi and Hire Vehicle Industries Act 2008) to accreditation, providing a level playing field for taxis and other operators

    - create an operator-neutral booking service provider function, which is consistent for both taxi and ride-sourcing operators

    - will charge annual fees against accreditation instead of taxi licences, providing a more level playing field and sharing costs across all operators in the industry

    - introduces a new 'chain of responsibility' model for safety, with licensees, booking service providers and drivers all able to be held responsible for those aspects of the service in which they have a role or shared role.

- Taxi and Hire Vehicle Industries Act 2008 - will be amended to -

    - Reflect that some of the regulation, such as annual fees, will now be captured under the Passenger Transport Services Act 2011 as part of providing a level playing field for all operators.

    - Extend the moratorium on automatic annual releases of new owner-operator taxi licences by tender for a further four years. However, the commission would be able to issue licences in the specific situation where there is unmet demand

    - Require the economic regulator to make independent determinations on reserve prices for new taxi licences. This will establish the minimum price to purchase an owner-operator taxi licence from the Transport Commission. No reserve price can be reduced by more than 10 per cent per annum for the first five years.

    - Allow multiple hirers in taxis, providing consistency with the ride-sourcing industry.

If passed, the Government will continue to work with industry to support the implementation of this bill.

The implementation will be -

- staged to allow for preparations and transition;
- undertaken over a time frame to be finalised in consultation with industry; and
- supported by an industry uplift package.

The industry support package will include -

- the appointment of an implementation support officer at the Department of State Growth; and
- $50 000 in funding provided to the Tasmanian Taxi Council to support the development of a voluntary industry code of conduct and service quality, and to support the bill's implementation.

The implementation support officer will work with the Tasmanian Taxi Council to support its development of a code of conduct and service quality.

This bill complements the support the Government has provided to the taxi and hire vehicle industries as part of our Social and Economic Support Package developed in response to the COVID-19 pandemic.

Through the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 and the COVID-19 Disease Emergency (Miscellaneous Provisions) Act (No. 2) 2020, the Government has -

- waived the annual administration fees on taxi and luxury hire car licences for 2020, and refunded those that had already been paid;
- provided operators with the ability to freeze their vehicle registration if not in use, enabling reactivation after the emergency period for the term they were frozen, or for a refund to be provided;
- put in place a mechanism to prevent the legislated annual release of new taxi licences in 2020; and
- allowed vehicles approaching their end of working age to remain in service during the emergency period to support accessibility and to avoid further financial hardship for owners and operators.

In addition, we provided free vehicle registration for the industry, in certain circumstances.

For vehicle registrations falling due between 1 March and 30 September 2020, taxi operators can choose to either continue operating a vehicle, and apply for have their vehicle registration extended for a 12-month period, at no charge; or pause the registration of their taxi and later reinstate the registration at no cost.

I will now provide an overview of the key elements of the framework captured in this bill.

Booking service providers and accreditation

This bill introduces the concept of 'booking service providers' to the regulatory scheme.

This will put in place consistent requirements for accreditation for both taxi and ride-sourcing operators.

As part of this change, the annual administration fees for taxi and luxury hire car licences will be replaced with a broader annual fee that will be paid by accredited operators on a per vehicle basis.

This levels the playing field and will see companies such as Uber accredited for the first time. They will also be required to pay the new annual fee on a per vehicle basis, spreading the costs across the industry.

The setting of the annual fee will be based on the following principles -

- the approach will be consistent across all booking service provider operators; and

- the fee amount will be no more than the lowest rate of the annual administration fees paid by the taxi industry, indexed at 2020 levels.

This levels the playing field by providing consistency and will reduce the financial burden for taxi operators.

Chain of responsibility

The bill adopts a 'chain of responsibility' model of safety for the on-demand passenger transport industry. This provides that safety is the shared responsibility of -

- the accredited operator;

- the responsible person for the accredited operator;

- an operator who is affiliated to a booking service provider;

- the driver; and

- the registered operator of the vehicle.

The level of responsibility is informed by that person's function or role, the nature of the safety risk and the person's capacity to control, minimise or eliminate the risks. The bill introduces new offences for breaches of safety duties, with fines and terms of imprisonment based on the seriousness of the offence.

Suspension of annual tender for new licences

This bill suspends the mandatory annual release of new taxi licences by tender in 2021 through to 2024. This is has been included in response to industry concern raised through consultation around oversupply.

It extends the 2020 suspension, which was part of the Government's Social and Economic Support Package and the previous suspension from 2016 to 2018.

To ensure the framework is able to adapt to emerging situations, the bill provides the Transport Commission with the authority to issue new licences during this period, where there is unmet demand.

Reserve price determinations

This bill will provide for the independent Tasmanian Economic Regulator to review and set reserve prices for new taxi licences. Reserve prices are the minimum value at which a licence can be sold by tender and vary according to taxi areas.

This new arms-length model replaces the existing static reserve prices. The regulator would only be permitted to reduce reserve prices for any given taxi area by a maximum of 10 per cent per year, for the first five years.

Other amendments

The bill makes several other changes to the on-demand passenger transport industry-

- The bill gradually reduces the licence fee for a luxury hire car licence from $5000 to $0 over five years.

- It allows taxis to take multiple hirers, providing an economic benefit to consumers and parity between taxis and ride-sourcing providers.

- Taxi areas will be captured in a detailed electronic map, to be available online, which must correspond with regulations. This replaces the current descriptive text and provides a more accessible, transparent, easy to interpret source of information that can be updated to include new service areas as required - for example, to include new subdivisions and developments as they come to market that are not currently within the boundaries of existing taxi areas.

- New maximum age requirements for wheelchair-accessible taxis, and safety benefits for the rest of the fleet.

Implementation plan

This new framework represents a significant change to the way on-demand passenger transport operates in Tasmania. It supports the taxi industry to adapt and survive. The change is needed to ensure services remain competitive, contemporary and meet passenger expectations and can offer a safe and reliable service to Tasmanians.

It provides a new focus on professionalism across the whole industry, and quality of service, with the aim of increasing pride and industry reputation and thereby greater consumer confidence in the taxi industry.

Given the nature of the changes, the framework will be implemented in stages over a time frame agreed with industry. This will ensure that operators and the Government can prepare for the changes in a collaborative and consultative way.

Early implementation will include, where possible, proclaiming those changes that are expected to provide a financial or administrative benefit to the industry.

Conclusion

This legislation will provide an equitable and level playing field for the on-demand transport industry. The legislation has been collaboratively drafted and is reflective of the extensive consultation undertaken with industry representatives.

These changes are designed to promote safety, increase consumer choice, improve equity and provide for the delivery of accessible services, accommodate new technologies and where appropriate, reduce the regulatory burden on industry.

I would like to say a special thanks to all industry participants for their support and engagement to develop the bill to this stage today.

Mr President, I commend this bill to the House.

[4.01 p.m.]

Ms FORREST (Murchison) - Mr President, the taxi and hire car industry has been asking for some of these changes for quite some time.

It is an area that has really been very challenged during the COVID-19 period too, even just to stay afloat. I commend the Government on taking some action to relieve some of that burden for it. I have had some taxidrivers come to see me about the challenges they face, the lack of fares. They might sit waiting almost all night for a fare, and get one $5 fare. It is pretty tough in some of our rural areas. People want a taxi as soon as they want it - they do not want to have to wait - but they are so few in number because pubs have been shut and there just was not the demand. It has been a pretty tough time for a lot of them.

Obviously, this legislation is not about a COVID-19 response, it is about the way forward generally. It is also trying to level the playing field with the ridesharing platforms legally operating in Tasmania. I think a number of the measures in this legislation will assist in that, particularly sharing the fares and that sort of process. The staged implementation is appropriate, and working with the industry to make sure that goes smoothly is a really important step in all of this.

The immediate suspension of the annual tender for new licences was again obviously sensible at the time in the COVID-19 response. Those taxis in the market now are really struggling even to make ends meet. I do not know whether the Leader can address this; it is really a policy question. This may go back to the historical circumstances, but I am wondering why it has been automatically. I remember in the vague recesses of my memory, when we

dealt with this legislation some years ago, I think we put in place that it was an annual licence up for tender. Why would we continue to do that, even after the four-year moratorium, and not just revert to basically the process that will now be adopted for that period, whereby where there is unmet demand, an application can be made? Then the regulator determines the price of that licence.

I think sometimes there are things that have become apparent during the COVID-19 period, where we have had to put in emergency measures - and we will see another that is being debated down in the other place right now, but it will come up to us - where we saw something that should be actually happening all the time; it should not be a special provision. That is a debate for a later time, obviously.

I am just wondering why we would not now default to this position. I do not think for any time in the foreseeable future we are going to have a population explosion. If we did, well, then the demand will be there, and licences can be issued on an as-needs basis. There may be a very good reason for that. It is probably to do with competition. I do not know, but it seems to me it is something that needs to be looked at more in perpetuity, rather than a four-year moratorium.

You see the impact on some of our taxi operators who are finding it particularly tough at the moment. Extending that period where wheelchair-accessible taxis can remain in operation, in terms of the age of the vehicle, is important at this stage, too. I still think we have an absolute dearth of wheelchair-accessible taxis in the north-west. It is a difficult thing. People generally rely on their own private transport to get around if they are reliant on a wheelchair for their mobility.

Mr President, the other changes are sensible. I know there has been extensive consultation over many years trying to deal with this. I did raise in the briefing the issue of des-ing for dollars. Some of you may not know what des-ing for dollars is?

Mr Willie - Something to do with designated driver?

Ms FORREST - It has been particularly a problem in the north-west - not so much around Ulverstone, but certainly in Burnie, it has been a major problem where, mostly, young people wait around outside places like Greens Hotel, and other places where multiple people leave the venues at one time. They all then want a taxi at once, so they hang around and they 'des for dollars'. They become designated drivers for money, cash in hand, and it directly competes, somewhat unfairly, with the taxis because it is completely unregulated.

There was a really unfortunate time a few years ago, and I have raised it in this place before, when there were some men des-ing for sex - so rather than getting money, they would have sex. It was terrible. I have not heard complaints about that recently, but it was a real thing. Some person wanted to get home. They had to wait potentially an hour or half an hour for a taxi. Someone comes along and offers them a lift and there you go. It was pretty disturbing. It is bad enough des-ing for dollars.

I know this bill does not go anywhere to address that, because it is illegal. It is a problem that is very difficult to regulate, except to put in place regulations to make that continue to be a prohibited activity, if you like. There were some comments in the briefing we had about measures that will assist in that. It is difficult for police to catch these people at it, but we do

need to have an awareness of this. Even just very recently a couple of taxi drivers contacted me to talk about this ongoing frustration that they experience. They are working really hard, often sitting for hours at a time waiting for a job, and then to see people being picked up by someone des-ing for dollars, it is unfortunate.

This bill does go some way to help the taxis compete more directly with the ridesharing platforms, but it certainly does not address that. It is appropriate, too, to have the economic regulator involved in the fare setting, because we heard in the briefing it has been six years since the last fare increase - and that was another matter that has been raised with me recently. It is pretty tough out there, particularly when you are not getting a lot of jobs.

When you fly into Wynyard airport, the taxis are not lined up waiting. Not that you come on a plane anymore from Melbourne, but the steward or stewardess in the plane would come around and ask, 'Taxis, anyone want a taxi?', and the taxis would be booked during the flight, so that only the taxis that were needed for people when they landed were there. That is how tough it is. They cannot afford to be sitting out there waiting, and so they are actually booked.

In the cities, Hobart and Launceston as well, taxis can have a more viable lifestyle in terms of more reliability of jobs. It would still have been tough during the lockdown period we had, but certainly in our more rural areas, it is a really tough area, and we do need to support our taxi industry, because there are always times when we might want one.

I think we need to support out taxi industry because there are always times when we might want one. I support the legislation. I just wanted to raise those few issues. It goes pretty close, if not all the way, to a lot of the things I have heard taxi operators asking for. There will always perhaps need to be further measures.

I would like the Leader to respond to the question about the annual release of licences and the moratorium may be four years, and what the policy decision around that is - if she knows the history to that and whether that will be considered as being a more permanent measure being demanded by a different mechanism.

[4.10 p.m.]

Mr DEAN (Windermere) - Mr President, the taxi industry was hard hit by the introduction of the ridesharing legislation three years ago. In fact, it was blown apart. I cannot understand why many remain in the business. This bill will right to some degree what should have been included in the original ridesharing legislation - of which I was extremely critical - brought into this place by the minister at the time, Mr Rene Hidding. I stood up and supported the taxi industry, as did I think one other member in this place. I do not want to mention people.

In my view, it was appalling that the taxi industry was thrown to the wolves with no regard at all to its existence and what it had been doing in this state. I just could not believe the legislation at the time. If you look at *Hansard,* it has some of the similar statements I made back then.

Other states at the time this legislation was coming through were giving support to the industry by providing some compensation to it. I think that happened in almost all other areas except in this state.

I have been working with the industry since that time, as well as at that time, to try to get the ship righted for them. I have had some good support from the member for Launceston as well. We have had in our office on a fairly regular basis taxi operators and drivers absolutely on the out, as it were, trying to earn a living from this industry.

Taxis, unfortunately, and I have said this to them, are their own worst enemy in many instances. I can give a good example. I spoke to Mr Tony Dilger, whose name I raised this morning and who is well known to the department in this area, about an incident in Melbourne my wife and I were involved in. It happened in about February this year, just before the COVID stuff happened. We went to a taxi outside Flinders Street. We needed to go to the showgrounds. I tapped on the window, the driver did not even open the damn door. I opened the door and I said, 'What will it roughly cost us to get to the showgrounds? How much time will it take?' He did not even look up. He was playing on his mobile phone and he muttered to himself, 'It will be on the meter'. That was it. Therefore I said, 'Stuff it'. I have never used Uber before, or Ola or whoever it might be. I think the member for Launceston had put that on my mobile phone, so I am thankful for that.

Ms Rattray - She is always there to help you. She had your credit card to do that.

Mr DEAN - Yes, I was becoming really technology-savvy.

Ms Rattray - If you recall, honourable member, when it was put on your phone, we used your credit card to book the taxi and I went with you.

Mr DEAN - You did, you are right.

Members interjecting.

Mr DEAN - I went to that icon, got onto the ridesharing resource - it was Uber, I think - and they were there within a matter of three minutes. They said, 'We will be here, ready for you, the driver will be there in this car, number and all the rest of that.'. I jumped in the car, the driver was absolutely pleasant. He said, 'It will take me *x* minutes to get there and it will cost you *x* dollars.'. Just like that. It was pleasant, extremely pleasant. That was my first experience using Uber.

I said at the time of the bill I referred to that it would devastate the taxi industry and would see the services of the taxi industry spiralling downwards. That was the only way it could go; it could not go any other way. It was easy to see what was going to happen, and it did. Unlike other states and places, as I said, we did not provide support or compensation. To be quite frank, it was cruel and grossly unfair.

I am told there are something like 1406 ridesharing operators in the state as of about the middle of this year. There are probably heaps more now. How many do we know of who are involved in the ridesharing side of things? I am told that around the middle of this year, there were about 220 operating in Launceston. I am further advised there are now many ridesharing businesses competing with and against Uber and some of the others. This morning, in the briefing we were told there might be only four here.

Mrs Hiscutt - I just wondered where you had your figures from, member for Windermere.

Mr DEAN - I had my figures from Mr Dilger. I do not think Mr Dilger would mind me saying that. I get the up-to-date one from him, which he sent through a short time ago, because I went back to him. These are the ones he says are operating - Uber, Rydo, Go-Catch, Ola, Sheba, Bluey, V-Tom, DiDi. That is a few more than we were told this morning. I am not sure what the position is, whether they have to register, what the circumstances are. It would be interesting to know if in fact these others are really operating or what the situation is.

This is what the taxi operators are competing against at this present time. We have all these groups competing against taxis and picking the eyes out of the business. The advice I am getting from the industry is taxis are required to accept all fares, including the very short fares - that is, fares of $6, $7, $8, $9. I understand that the ridesharing people are not interested in these because they are not profitable. They show little interest, as I said. The taxi industry people I have spoken to - and I have spoken to some, not all - are of the position the law should be that no fare be less than $10. In other words, if there is a passenger wanting to do a trip which comes to $8, then the fare should be $10, which would at least make it a profitable thing for them. They would not be running at cost, at a loss to themselves. I do not know whether that has been discussed with the department or whether it has ever been considered. Maybe the Leader might be able to address that.

There are a number of issues in the bill and when it gets to the Committee stage I will look as some of those. I mentioned the safety issue this morning in the briefing. The penalty is extremely high, $3 million for a corporate business company and $300 000, or $500 000 for an individual person. The degree of safety has to be serious, there has to be a serious breach there. In other words, it has to be reckless, dangerous, and a number of other things to fit within that category. It is reasonable to have a big price on a failure to comply with safety. We are about protecting people who ride in these vehicles, these ridesharing or taxis or whatever. They are entitled to feel safe in all circumstances. I do not have a problem with that.

I want to quote a letter from Mr Dilger. He is well known to everybody and Tony Dilger is the Deputy Chair, TCS Launceston, Secretary of Tasmanian Taxi Council -

> I thank you for taking the time to ensure the industry in Launceston was informed of the changes in the proposal paper on the regulatory framework for taxi hire vehicles and ride-sourcing services currently in circulation. The Tasmanian Taxi Council met on 6 August, 1 week after we spoke, and we have proposed to seek the Minister's support to expedite the implementation of the proposed changes.
>
> Basically, we are supportive of the proposed changes, particularly the increased accountability proposed for the ride-sourcing sector.

Why wouldn't they be? We talked in the second reading about it being a level playing field. It was the most unlevel playing field I have ever seen. I do not think I have seen one so unlevel -

> We will also seek action ASAP to provide change in the legislation to reduce the Merchant Fee charged by A2B Australia on EFTPOS transactions in

> Taxis from 10% to 5%, and then finalise the granting of our proposed 10% fare increase. This will be the first increase in Fares for over six years.
>
> Also, the paper proposes to cease for 5 years the annual tender process of issuing new Taxi Licences each year in all taxi Zones. The industry accepted this as we believed that there were too many taxis in Tasmania already.

That is something I have been saying for a long time and something I have been on to the department about - issuing licences year in, year out that were not being taken up and were causing more problems and congestion. Back to quoting again -

> The industry accepted this as we believed that there were too many taxis in Tasmania already. With OOTLS being made available without any recognition of market need or financial viability, we were afraid that a situation like the Perth Taxi Zone could be created by government somewhere else in the state. 13 taxis are allocated to the Perth Zone, only servicing the Launceston Airport in conjunction with Launceston Taxis, shared section of the zone, with Perth Taxis being uncontactable to the general public through a booking service.

I spoke to one taxi operator this morning who asked me to give a little of his background on the position with taxis at the present time, and I will do that in a moment -

> The industry sought inclusion by the Government of an option to address any shortage of taxi licences during the 5 years. The Government agreed by including a clause to accept any submission justifying the issue of additional taxi plates to meet an increase in service demand. Ride-sourcing (Uber, DiDi, Ola, Rydo, Go-Catch, V-Tom, My Taxi, Bluey, Sheba, Ingogo) have no restriction on how many cars they can operate. We believed this to be unfair.

Grossly so -

> But like we now find that any unissued Taxi Plates (OOTLS) since this tender process started remain available. By not cancelling a licence made available through the tender process over the years I believe there are now 43 plates available for various Taxi Zones across the state. When accepting the inclusion of an option in the present review proposals to address any need for additional Taxi Plates over the suspension period of 5 years, why did the Government not explain that the unissued licences would remain available?

I raised this by way of questions in this place not that long ago -

> We need to clarify. It is not clear in the proposal which scenario is correct. We now await a response from the Minister's office on our request to meet and promote our desired outcome. Again, I thank you for your interest and actions on behalf of our industry, particularly in Launceston.

It is signed by Mr Tony Dilger.

I am very pleased the department has in fact withdrawn those 43 outstanding licenses which were never taken up - a clear indication I would have thought to anybody with a grain of common sense and intelligence that they were not needed. It was destroying the market to have them there.

Ms Forrest - You support my approach then of increasing them on demand.

Mr DEAN - Absolutely, that is what will now happen in some of these areas. It should have always been the case. I am not sure why you would saturate a market by saying there has to be a certain amount released every year. I am a bit wound up and will settle down.

Mr PRESIDENT - You are fine.

Mr DEAN - I am a supporter of our taxi industry; they have been around for ever. Ridesharing is a good change within this bill and the industry would certainly welcome that with open hands. It would see that as a bonus and boost to its business. The issue I have is with the fare increases that are going to or have occurred or will be provided for. I am not sure that will benefit the taxi industry. One industry person has said they do not want to see a fare increase.

It will be publicised and when the people hear that taxi fares have increased, what will that do? It will drive them even further to the rideshare resources. They will not be advertising in any way, but they will be not increasing their charges in any way. I would be surprised if they did; I would not think they would be. I cannot see a fare increase at this stage. One industry person is saying there should be a reduction for taxi operators in other areas. That would in fact mean an increase to them in another way.

Ms Armitage - You recall we were asked to have a minimum fare?

Mr DEAN - Yes, we were, and I referred to the minimum fare.

In conclusion, I want to make a couple of comments. One taxi operator has taken the very unusual course of trying to prove just how difficult it is for taxi operators by providing me with his tax return for the year. This is a gentleman who shares with his wife the operations of a taxi in Launceston, and he is well known to the member for Launceston.

If you were to look at his background and his statements, the pair of them are working extremely long hours. For the year 2019, both operating a taxi for the full year with one in, one out, their gross profit was $36 264. Their gross profit for 2020 has dropped because of COVID-19 to $34 354. He said I could provide his name, but I will not. That is an indication of the tough period these drivers are going through. I am told that some of these drivers, and I think it was in the media, are working 14 and 15 hours a day trying to get a dollar.

Some of them were sleeping in their taxis. That is what this has driven them to and we should never put legislation into place that could cause this to happen. These people love their job and want to work. I said to the guy with this tax return, 'Why are you working in the industry?', and he said, 'I have a cab I cannot sell. I cannot sell my licence for a start, nobody wants it. I have to keep operating.'. He said, 'We love the job. We love mixing with people. We love meeting people.'. That is the position; that is why they do it.

I spoke to a Perth taxi operator this morning. He made a few comments to me that I will raise here. He said that rather than increase taxi fares, which he said helps the ridesharing sources, there should be a drop in registrations. He gave me these figures. They are his figures. He said that the registration of his vehicle for a taxi is about $1300. He said the insurance because it is a taxi is about $3000. He said that the ride-sourcing businesses simply have the normal registration and the normal insurance costs; there are no big increases for them at all.

Accreditation every year, he said, costs him $80 to $100. I think that might change with this bill and with the ridesharing sources coming on board. He said one of the things people do not understand about the ridesharing sources is that Uber and these businesses charge higher prices depending on what is happening at the time and whether it is busy. For instance, if it happened to be a race meeting, a cup day or something, their prices then are higher than what they are on a normal day.

Ms Forrest - When you book, you know how much you are going to be charged.

Mr DEAN - You do know that.

Ms Forrest - So you can choose to wait if you like.

Mr Dean - Whereas a taxi is the same price all of the time. It does not matter what the business requirement is.

He went on to say he only works two nights a week - eight to nine hours each night. He said he is getting about $200 all up. That is what he is getting for working two days and working about 16 to 18 hours. It fluctuates a bit. With costs out of that, I am not too sure how much he would take home. I have to be fair here. I do not know whether that was his take-home profit, or whether some expenses had to come out of that as well, but he said $200.

He said he had asked the Government to buy his licence back. He bought it for $10 000 about four years ago. Before the ridesharing sources came on board, he was offered $27 500 to sell it. He said he foolishly knocked it back and now he says it is really worth nothing. He cannot sell it.

That is the position we have now. This bill levels the playing field, and so on. It certainly levels it to some degree. I confess I have not looked at it closely enough to see whether it totally levels that playing field.

Ms Rattray - Not according to the industry.

Mr DEAN - No, and I have been talking closely with the industry, as has the member for Launceston on many occasions. We have spoken to - I am not sure whether the member was there with Tony Dilger or not. Tony Dilger is a very nice person, a learned man and a sensitive type of person who wants to see the industry do well, and he is very much motivated by what is happening and so on.

I can thank the department now for at least having a look at and for making changes that will benefit the taxi industry. I think we need to go further. As I said, for a person driving a ridesharing source, they have other jobs. They do other things. They are just going to hang around whenever they want to.

For instance, this Perth gentleman said he went to the casino on Saturday night at Launceston. He said there were nine Uber ridesharing vehicles lined up at the casino to grab the fares and so on. That is what is happening. I am not too sure whether the taxi industry will survive.

This bill will help it survive, one hopes.

[4.35 p.m.]

Ms ARMITAGE (Launceston) - Mr President, it was interesting to hear from the member for Windermere. We have had many meetings with members of the taxi industry. They have been quite distressed on many of those occasions. I recall the gentleman who shares the taxi with his wife. He wore a uniform, he was very smart, he had a very nice car. The other taxi driver who came shared with his daughter, I think it was. It was a very similar situation - he found it very difficult to make ends meet, could not do Uber because their cabs were too old, outside the regulated age. They had tried it, they thought it might have been an angle that they could do Uber as well. It certainly is hard.

I believe this bill is a start for the taxi industry. It may not be a cure-all for them. I am sure there are many things they are not happy about. But it is an important bill to consider. As I said, along with the member for Windermere, I have spoken to a number of constituents and stakeholders about the existing arrangements between established taxi and hire vehicles and the so-called ridesharing services like Uber, Ola, Sheba and Oscar that in briefings this morning we were told are currently operating in Tasmania. I am not sure about the other ones the member for Windermere mentioned, but if they are operating as well I am not surprised that it is difficult for the taxi industry.

While I have not caught an Uber or similar in Tasmania, on the mainland, drivers have told me that it is very common for them to drive for more than one service, switching between platforms. They were saying that Uber, I think it was, gave them certain concessions and rewards, and once they had reached that level, they then switched over and started using the other service that was giving other rewards. It was certainly a win-win for them.

In Victoria I was speaking to one of the Uber drivers who, as the member for Windermere said, had other jobs during the day. They would go to the nightclubs, but would not actually drink alcohol; they would simply go there and have some soft drink, whatever it might be, and they would know that at a certain time, once it was getting near closing, their services would be required and they would be on the spot, ready to go. It is certainly something that particularly young people with their phone apps can access very easily.

Ms Rattray - Savvy.

Ms ARMITAGE - Very savvy. I am sure the member for McIntyre recalls when we were at the airport with the member for Windermere, we used his credit card -

Mr Dean - I was conned.

Ms ARMITAGE - It was very handy because when we needed a rideshare, the member for Windermere, being the gentleman that he is -

Mr Dean - Ripped off.

Ms Rattray - Through you, Mr President, he is a much more travelled member than I will ever be, that is why I thought he needed it on his phone and I did not need it on mine.

Ms ARMITAGE - I was thinking, that being a gentleman, he was looking after the female companions with him and he organised, once we had set him up, a rideshare.

Mr Valentine - I would have thought a wily detective would not have been sucked in like that, but there you go.

Mr Dean - You lose it after a while.

Ms ARMITAGE - I am sure he has found it very useful to have that app on his phone.

It should also be known that while some taxidrivers may wish to also drive for Uber or similar, it is often not possible, as I mentioned earlier. Many taxis fail because of the age restrictions for Uber. The member for Windermere might recall the gentleman with his wife, they had a very nice car - I think it was a special edition - but it was outside that age range. Even though it was a luxury vehicle with leather seats, it just did not meet the Uber requirements.

It is always difficult for legislation to keep up with the rapidly changing technological advances that we have today. Services like Uber, Ola, or even Airbnb, for example, are not called disruptive technologies without reason. They literally disrupt the current market - in some cases completely changing the existing dynamics.

Disruptive technologies are all well and good, but to assume that it has a net benefit for the economy and for consumers presupposes that everyone has equal access to them. My husband certainly could not use them, because he does not have a smart phone. There are many people who do not have smart phones and do not have apps. They cannot use those, so they will always need taxis and their cabs.

Ms Rattray - I am smiling, Mr President, because I am thinking the member for Launceston might send her husband with the member for Windermere, because he has an app.

Ms ARMITAGE - Many people who currently rely upon taxis and hire vehicles, particularly our older cohorts, have neither the ability nor the means to access services like Uber or Ola, and this is made even more complicated for people who have vouchers for services like taxis only.

I recall my mother was DVA, which did not use Uber, they used taxis. If there were no taxis available - that was another issue the member for Windermere mentioned - they might call a taxi to pick them up to go from their home to the doctor, which might be a $5 fare, and they might miss a longer fare because they are doing that. They were concerned that for fares like that, perhaps there should have been a minimum charge to make it more equitable for them.

As the on-demand passenger market pushes the cost of taxis up, so their ever-increasing operating costs and profit margins can be recouped, people who rely on these services are the ones who become penalised. This is clearly a perverse outcome, and one where regulation is called for.

Integral to a properly functioning on-demand transport economy is a level playing field, and I am pleased to see that measures are being taken to this end. Lower regulatory compliance costs for existing taxi and luxury hire car licence holders, is a step in the right direction. Introducing a scheme for sharing the cost of regulation between taxi and ride-sourcing operators will go a long way towards levelling that playing field.

It has not been fair that taxi operators have been hamstrung by the quite stringent conditions under which they must operate. The rideshare services can simply come in and operate under different rules and put taxidrivers, who do play by the rules, out of business.

I also recall airports. The member for Windermere may have had the briefings I had, where I was told that while Uber drivers are not allowed, I believe, at the Launceston airport - and they were not in Victoria either - they place themselves just a short way from the actual airport building itself, so you might have to walk outside to access them, but they are not very far away. They are not actually located there on the apron. They are not nearby, but they are close enough that if you want one, you leave the actual building and you will access them on your phone and they will be there within two minutes.

It comes to playing by the rules. The taxidrivers have to play by the rules, but for the Uber drivers the rules are clearly more flexible, if there are any at all. To this end, the more flexible regulatory framework this bill introduces - including provisions for operating out of area in busy periods, and bringing consistency between wheelchair and standard fares - is a good start towards a well-functioning competitive market for taxis, hire cars and ridesharing services.

The out of service area is another one that I am sure the member for Windermere - you might not realise, we have had lots of briefings. One of our drivers had a rural area. As he said, you pick up a fare that might want you to bring them into Launceston, into the city, so they are going outside their area to come in, even though they pick them up in their own area. They cannot just drop them off at the boundary, but being in the city, they were not allowed to pick up a fare to go back, and one of them had picked up a fare and was charged and fined for doing that, which is quite ludicrous. I am pleased to see that at least in busy times they can operate out of area, but that should be a lot more flexible. If you are coming in with a fare, you should at least be able to pick up a fare to take back. If you can find one.

It is difficult enough for them. A good initiative is where travellers going in the same direction, for example at an airport, can share costs without a driver being disadvantaged by having one fare rather than two. An example this morning at briefings - and I thank the Leader and the department for those - was that the passenger getting out at the first stop would pay up to 75 per cent of the fare at that time, and the next passenger also up to 75 per cent of the final fare. Obviously a driver can offer a lower percentage, with the maximum being 75 per cent, and we were told that this could also apply to more than two passengers, up to a taxi's capacity. At least, with a shortage of taxis, if people are getting a taxi together, it would bring it in a more equitable amount of money, but the taxi is not losing totally. They are getting a reasonable amount of money. Almost one-and-a-half or two-and-a-half fares depending on how many people are in the taxi is certainly an improvement.

It is also pleasing to see 43 outstanding licenses were removed, with the bill suspending the mandatory annual release in response to industry concern. Of course, these will be ongoing measures and it is incumbent upon us as lawmakers to keep an eye on this industry and keep

in touch with our constituents and stakeholders. I am sure we will hear from our constituents again.

A good market is one which has low barriers to entry and a balance of power between the participants. We want to generate competition and have a reasonable scheme for sharing the cost of regulation between the companies operating within it, not penalising or forcing certain segments of those markets to subsidise the cost of others to participate.

We do not want to penalise certain client bases of these markets either, especially those who are vulnerable and rely on services such as taxis. Many mentioned earlier would be elderly who do not have smartphones, who do not know how to use them. The member for Windermere is very savvy with his.

Mr Dean - I am

Ms ARMITAGE - My mother had a little phone and would never have handled a smart phone. She would not have understood where to get apps, and a lot of our older people do not. We cannot cut them out by excluding taxis when they cannot access Uber or any other rideshare vehicles. They rely on services such as taxis; I wonder if the federal government with its vouchers will look at some stage at not having vouchers for taxis. At the moment they are for taxis, they are simply DVA. I am not sure with other types of vouchers for disadvantaged people whether they would be taxis. Whether in the future with a lack of taxis, they might actually look at rideshare, which will be a further impost on our taxi services.

I understand this has been a very difficult bill to develop and the Government has taken on board a lot of the feedback during the consultation rounds. It is important the people who are affected by these policies are the ones who are listened to. The taxi industry support package, including the appointment of an implementation support office at the Department of State Growth and the provision of $50 000 to the Tasmanian Taxi Council to support the development of a voluntary industry code of conduct and service quality, puts power back into the hands of the operators. It allows them to manager their industry in the most effective and efficient way possible. I am pleased to note the Government has committed to continue to work with the industry to support the implementation of this bill.

I commend the Government for taking ownership of this issue and listening to the people who work in this industry. The last thing we want is market failure and the earlier we take steps to correct issues, the better it will be for the industry and ultimately consumers. We all appreciate there is a place for rideshare but there is also a place for taxis. I support the principles of this bill and look forward to seeing its implementation by the Government and the industry.

[4.48 p.m.]

Ms RATTRAY (McIntyre) - Mr President, there is not a lot left to say with the comprehensive contribution by the previous members, but just a couple of points. It is always surprising when you see how long ago a piece of legislation was passed in this place. I remember clearly the debate at the time in 2016 and what eventuated with the legislation put in place to support the ridesharing industry at the time. The difficulty the taxi industry knew it would face once that was put in place has certainly come to fruition for the industry and it has certainly been a difficult journey. I recall at the time we were told it was here. We had to at

least do something about acknowledging that it was here. That was the basis for having to get on board, excuse the pun, in regard to that.

I am almost too nervous to quote from any more articles from the media, but I will because this one has a date on it. It is just that the taxi industry still believes that it is disadvantaged. I think the member for Launceston also said that the level playing field is not completely level. I think there are still some undulating aspects to it. There might possibly be for some time. At least this goes some way to put in some fairness and equitable aspects back into it for the industry. Obviously, there are not a lot of taxis in the areas I represent. There is a lot of 'designated' driving, but I do not know that they pay any dollars for it. Plenty of people just pick people up and give them lifts and take them around. It is friends, family, acquaintances, that type of thing.

Ms Forrest - They are not competing in that sense.

Ms RATTRAY - No. In a lot of the places I represent there are no taxis available. If there are only one or two taxis in a community, without somebody being a 'Des' and being available to take people home from possibly a hotel or an event or something, we might have some more issues with the justice system. I am pleased that people do that. I expect they do not do it for money; it is just the fact that they know people and are happy to give them a lift home.

I asked in the briefing process about how the economic regulator will do the changes in the setting of the fares and the scrutiny of that process. The Leader was going to provide something into her second reading response around that. You said that I will ask the question and you provide the answer in response to our contributions. So, I would like that on the public record because I think that is important.

Previously it came through the parliament, through regulations and so there was a scrutiny role. In this I just need to have that understanding of how it will work because we still need it. I also acknowledge that it has been six years since there has been a fare increase for the taxi industry. I certainly support the fact that they will get a fare increase so that they can at least attempt to make their businesses more viable. I am pleased about the approach that has been taken with the removing of those taxi licences from out of the community because I think it would have to distort the market.

I support that approach as well. I do not believe there is a lot more that I need to add - just my support for the bill.

[4.53 p.m.]

Mr. VALENTINE (Hobart) - Mr President, I thank the Leader for providing us with the briefings and the officers. Thanks from the member for McIntyre as well.

It is important we hear from the officers with regard to bills that are like this. We all remember the angst in the industry when rideshare platforms were introduced and the lobbying we had from both sides, from the community and from those in the industry. It was largely driven by the fact that a lot of people had investments in taxis. To them that was their retirement platform. They were getting an income from selling the licence. Licences were really quite

expensive. Now you look at the licences today, and anecdotally, they have significantly reduced on the open market. It certainly has hit some people hard.

But that said, unfairness was high in people's minds, who were in the industry. The good old Aussie principle of a fair go was something people were saying, 'We are not getting a fair go the way this is heading.'. The Government obviously has turned its attention to trying to level the playing field. That is good to see. But it is not going to go away. With our ever-increasing digital capacity as a community, disruption has become a very much familiar word to us. It is happening in all sorts of ways. Obviously, short stay accommodation is one example the member for Launceston was talking about.

We have to move with the times, but that does not mean we should not be trying to make sure there is fairness. This bill achieves a fair bit in helping to level that field.

I support the bill.

[4.57 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, multiple questions have been asked, and I thank all members for their contributions.

The member for Murchison is first cab off the rank - sorry. She spoke about the suspension of annual tender and why would we continue to do this after the moratorium. Despite the annual release, this does not mean the market will take up the option. The moratorium provides certainty that no new taxi licence will be issued.

Then we moved onto the member for Windermere -

Ms Forrest - You did not answer the question about why it will not be continued beyond the moratorium; you explained what it was. Anyway, that is something the Government should think about.

Mrs HISCUTT - The bill rights what should have been included in the original amendments. Changes to the legislation in 2016 were only ever intended to be interim arrangements to allow the lawful operation of ride-sourcing while the Government took the time to undertake a comprehensive review of the taxi and hire vehicle industries, which is what we are looking at now.

Mr Dean - They must have visualised the destruction it would cause in the meantime; that is what we are talking about.

Mrs HISCUTT - How many ride-sourcing drivers? There are still approximately 1450. You talk about the number of ride-sourcing companies. Drivers must complete an application to drive with each ride-source platform prior to being able to perform a service. The department has drivers recorded against only four operators - Uber, Ola, Sheba and Oscar.

Ms Rattray - A bit of homework there for the department to follow up on those ones.

Mrs HISCUTT - One of your biggest concerns was the lack of compensation provided to our taxidrivers. It is true some jurisdictions have compensation schemes; however, the

Government has chosen instead to take measures which provide for the ongoing viability of the industry. These measures include the moratorium on new owner-operator taxi licences, a limit of 10 per cent per year reduction of the reserve price per taxi area for the first five years and funding for the development of a voluntary code of conduct and service quality.

Why does the moratorium not cover ride-sourcing? The moratorium on new operator owner-operator taxi licences is designed to reflect and protect investment of taxi licence holders. Ride-sourcing operators are not covered by the moratorium as they are fundamentally different to taxis and their business model. They are not licenced. They are not limited to a specific area and are not able to operate in taxi ranks or take in hailing passengers. Because they are not limited to a specific area, the moratorium would not have been feasible without preventing the growth of the industry in emerging regional markets, which would result in a possible loss of competition for those regional areas. The available data also suggests that ride-sourcing drivers drive on average fewer hours than taxi operators. Because of all of these differences, a moratorium for ride-sourcing drivers will be difficult to implement and unlikely to be of significant benefit to either industry.

The member also spoke about the fare increase pushing customers into ride-source providers. The 5 per cent fare increase will be largely offset by the 5 per cent reduction in the maximum credit card surcharge down from 10 per cent to 5 per cent so we must note there that the regulated taxi fares are the maximum which can be charged. The issue of minimum taxi fares can be considered by the economic regulator in its fare methodology inquiry.

The member for Murchison also spoke about wheelchair accessibility on the north-west and generally. It is true that there is a shortage of wheelchair-accessible taxis in parts of Tasmania, particularly the north-west. This is despite wheelchair-accessible taxi licences being available for only the cost of an application fee of $162 and the Government subsidising them through the Transport Access Scheme. The bill further reduces the cost of operating a WAT by extending the maximum age of initial and overall operation. This reduction of capital cost will hopefully encourage further investment in WATs.

The member for Windermere mentioned the taxi registration is $1300 and insurance is about $3000 where ride-sourcing has normal car costs. MAIB introduced a specific ride-sourcing class in around 2017 to build an evidence base with a risk profile of those drivers. The regulator is reviewing MAIB premiums as part of its next order, which may see an increase in ride-sourcing premiums.

The member for Windermere also spoke at length about the income and profit for taxidrivers. The bill seeks to improve the viability of taxis by increasing the life span of taxis, and that will help to reduce the capital costs; a moratorium on new owner-operator taxi licences, more equally spreading the cost of compliance by requiring ride-sourcing operators to be accredited; and levying annual fees against accreditation.

The Government is providing support to the on-demand passenger transport industry to help it through the disruption caused by COVID-19. That is being done in number of ways: by waiving the annual administration fee for licence holders for the 2020 calendar year under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020; by passing the COVID-19 Disease Emergency (Miscellaneous Provisions) Bill (No. 2) 2020, which allows for preventing the release of additional owner-operator taxi licences by tender in 2020; and an

optional pausing or refunding of registration fees for vehicles not being used during the emergency period.

In addition to that, with vehicle registrations falling between 1 March and 30 September 2020, taxi operators could choose to either continue operating the vehicle and apply to have their vehicle registration extended for a 12-month period at no charge or pause the registration of their taxi and later reinstate the registration at no cost.

The member for Launceston said that you should be able to pick up a back load, a fare to travel back to their own taxi area when the original fare took them out of their area. Taxi drivers are permitted to take fares to, from and within their taxi area; they just cannot take a little bit at a time so they have to work in and out of their taxi area.

The member for Launceston also talked about taxi vouchers and the vulnerable elderly not being able to use ride-sourcing apps. Taxis retain exclusive access to the taxi subsidy program as part of the Government's commitment to support the taxi industry to remain viable.

The member for McIntyre spoke about the economic regulator, fare setting and public scrutiny. The regulator's report and recommendations will be available on its website. As part of its review, the regulator will determine the level of public consultation to ensure views of the industry and other stakeholders are considered.

In making a fare order the Transport Commission is to have regard to the recommendations of the regulator and will make the order available on its website.

Hopefully, I have answered all those questions. I commend the bill to the House.

Bill read the second time.

ON-DEMAND PASSENGER TRANSPORT SERVICES INDUSTRY (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 34)

In Committee

Clauses 1 to 5 agreed to.

Clause 6 -
Section 3 amended (Interpretation)

Mr VALENTINE - This is a bit of a light matter but for some it might be significant and Clause 6 states -

> (e) ***on-demand passenger transport service*** means a passenger transport service in relation to which a fare-paying passenger is transported, in a manned small passenger vehicle, to a destination

> nominated by the passenger, but does not include a regular passenger service;

I wonder whether other words may have been considered - like 'staffed', 'crewed', 'commanded', 'guided' or 'driven' seeing that we may have driverless platforms.

Ms Rattray - I will not be getting into a vehicle without somebody driving it.

Mrs HISCUTT - When that happens, and I should imagine that it will do one day, that will have to be reassessed and re-looked at without a doubt.

Mr VALENTINE - Mind you, 'staffed' could be used.

Clause 5 agreed to.

Clauses 7 to 14 agreed to.

Clause 15 -
Part 2, Division 5 inserted

Mr DEAN - This clause deals with the duty of booking service providers in relation to ride-sourcing drivers. What signage is required to be displayed in a ride-sourcing vehicle to ensure it shows a passenger that they are properly accredited and so on. What is the position there?

Mrs HISCUTT - There is nothing displayed in the physical car, because it is all online. When you accessed your app, you could see the face of the driver, the vehicle, the number and which platform it was on. It is all there. If you do not like the look of the person whose car you are getting into, and his face is there, you can see it is not correct.

Clause 15 agreed to.

Clauses 16 to 19 agreed to.

Clause 20 -
Section 60AA inserted.

Mr DEAN - This was in relation to 60AA the administration fund -

> The fund is to be established consisting of the annual fees payable under this Act ... The fund is to be applied for the general administration of this Act ... The fund is to be established as an account in the Public Account.

What sort of funds are we expecting to get into this account and where is it all going to go? I know it is to be applied. What is the amount we expect to get in there and the things it is likely to be used for?

Mrs HISCUTT - It is to be confirmed, with consultation with the industry for the appropriate fee, that it will be no more than the lowest taxi fee. The funds will go to covering two transport inspectors and to cover for a complaints department, however that may be set up.

Clause 20 agreed to.

Clause 21 agreed to.

Clause 22 -
Sections 61A, 61B, 61C, 61D and 61E inserted.

Mr DEAN - Clause 22, proposed new section 61B)(3) reads -

> An infringement notice may not be served on an individual who has not attained the age of 16 years.

Is that what applies to the service of other infringement notices? It probably does. It is probably so the service can occur on a child for the purposes of them, because they will not be driving in any of these vehicles, to pass on to another person. I simply raise in the circumstances whether or not that is a reasonable position. I am not sure why we have gone to 16 years

Mrs HISCUTT - Yes, it can be, but it could apply to things like taxi fare evasion.

Mr VALENTINE - I ask this question here or indeed on clause 27, I suppose. Talking about infringements-

> *infringement offence* means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

With respect to rideshare, do they have, or will they have, areas they are confined to, as taxis are? I am interested in an explanation about why that might not have been put in place, when we were talking about a level playing field.

Mrs HISCUTT - It is covered in booked services, where with a luxury car hire service, you ring up and actually book. That is why there is a difference there.

Clause 22 agreed to.

Clauses 23 to 43 agreed to.

Clause 44 -
Section 54 substituted

Mr DEAN - Clause 44(3) deal with where the holder of a wheelchair-accessible taxi licence has been suspended. As I understand it, they cannot then drive a taxi either. The suspension relates to a normal taxi, I take it? It is not meant to cover another ride-sourcing vehicle - they can continue to operate those in a public way, to convey the public. Is that the way it is supposed to be? Is that how it should be interpreted?

Mrs HISCUTT - It is for the fleet of licences. It is for the individual licence within the fleet. You may have one vehicle that is not on the road.

Clause 44 agreed to.

Clauses 45 to 59 agreed to.

Clause 60 -
Section 91E amended (General small passenger vehicle offences)

Mr DEAN - This clause deals with vehicles, types of vehicles and so on. It says, in subclause (1) -

> (1) A person must not use a small passenger vehicle on a public street to carry a passenger for financial consideration unless -
>
> (a) the person is using the vehicle in the course of operating a taxi service under the authority of a taxi licence; or
>
> (b) the person is using the vehicle in the course of operating a luxury hire care service …

What is meant by a 'small vehicle'? Small vehicle here is meant to pick up what?

Madam CHAIR - It is not a bus.

Mr DEAN - I am just wondering, because we have medium-size vehicles - sedans, SUVs and so on - does it mean one of these small sewing machine-type vehicles? Vacuum cleaner-type vehicles? Is that what it means?

Mrs HISCUTT - There is a definition for that. A small passenger vehicle - the existing definition is amended to include all vehicles which are approved as wheelchair-accessible taxis.

The current definition only includes vehicles with fewer than 10 seats, however wheelchair-accessible vehicles can have up to 12 seats - so what we are trying to do here is exclude buses.

Clause 60 agreed to.

Clauses 61 to 69 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

NEIGHBOURHOOD DISPUTES ABOUT PLANTS AMENDMENT BILL 2019 (No. 35)

Second Reading

[5.30 p.m.]

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

That the bill be now read a second time.

On 1 December 2017, the Neighbourhood Disputes about Plants Act 2017 commenced operation. This important initiative of our former Attorney-General, Dr Vanessa Goodwin, addressed a gap in legislation that existed at the time, specifically the lack of redress available for disputes about plants that relate to sunlight and views.

It also provided for other neighbourhood disputes relating to plants to be dealt with under the same cost-effective, efficient and accessible statutory scheme.

Since the act commenced operation on 7 August 2019, 18 applications had been filed with the tribunal as at 1 August 2019. Of those, a significant proportion, 11 applications, have been withdrawn prior to hearing and no formal orders have been sought from the tribunal. In many cases parties have engaged in negotiations between themselves or as a result of formal mediation processes, with action having been taken to resolve the matters in dispute.

I am pleased to say this suggests the mechanism in the act which encourages neighbours to attempt informal dispute resolution and mediation, before going down the path of formal dispute resolution, is working as intended.

Since the act commenced operation, it has become apparent the act would be improved by making some minor technical and operational amendments to the act. The bill makes these minor amendments.

While the act contains provisions which enable the Resource Management and Planning Appeal Tribunal to make orders in respect of disputes and it is also an offence under the contempt provisions of section 33 of the Resource Management and Planning Appeal Tribunal Act 1993 for a person to fail to comply with an order of the tribunal, the act does not have specific enforcement provisions for orders made under that act.

To address this deficiency, the bill inserts specific provisions to allow the tribunal to make an order, if it is satisfied the original order has not been complied with within the time specified in the order. This fresh order will allow the affected landholder, or their employee, agent or contractor to carry out the work and to recover as a debt from the defaulting party the reasonable expenses incurred in carrying out the work and the costs of the application.

The bill also makes provision for the affected landholder to make the relevant application, and for the tribunal chairperson to waive, reduce or refund all or part of the application fee, if the chairperson is satisfied that paying it may cause financial hardship to that person.

In order to ensure there is no incentive for defaulting parties to disregard an order made by the tribunal, the bill also inserts a specific offence and penalty provision for failing to comply with an order of the tribunal.

These new enforcement provisions are similar to the enforcement provisions recommended in the Queensland Law Reform Commission's review of the Queensland Neighbourhood Disputes (Dividing Fences and Trees) Act 2011. The Tasmanian act is largely modelled on those laws.

The bill also clarifies that the current requirement to provide at least seven days notice of the intention to enter land to perform work under the act, does not apply to a notice given under the branch removal notice provisions or where an interim order is made by the tribunal.

This change is necessary because the branch removal notice provisions already require the person who intends to perform work on another person's property to provide at least 24 hours notice to another person, and it is unclear whether the person is required to provide seven days notice or 24 hours' notice to the other person.

The bill also clarifies that the requirement to provide at least seven days' notice of the intention to enter land to perform work, does not apply in circumstances where the tribunal makes an interim order. This exception is necessary as interim orders can only be made in situations where there is immediate risk of injury to persons or property.

The bill also provides the tribunal may take into account any other matter that the tribunal considers relevant, when it is determining whether parties have made reasonable attempts to resolve disputes.

It should be noted currently under the act, the tribunal is required to be satisfied reasonable attempts to resolve the matter have been made by the parties before it may hear a matter, but in deciding this the tribunal may only take into account certain matters. This amendment is desirable, because it will give the tribunal more flexibility in deciding what matters are relevant when determining whether parties have made reasonable attempts to resolve a dispute.

The act requires an independent review of the operation of the act to be carried out as soon as practicable after 1 December 2021. The independent review will ensure all relevant issues, including the threshold test for redress, are more fully considered following consultation with a broad range of stakeholders.

This bill simply makes discrete amendments to improve the operation of the act which can be addressed quickly and prior to this fourth anniversary review being undertaken.

Mr President, I commend the bill to the House.

[5.30 p.m.]

Ms RATTRAY (McIntyre) - Mr President, obviously anybody who was here when Dr Goodwin was attorney-general and the former leader for the government will recall her passion for this legislation and now we are amending it just a few years on. The member for Hobart just mentioned that he said at the time he felt it would make for some very poor neighbourly relations. With the number of matters put to the tribunal, there was a need for it. I mean, 30 since the inception is no small number. It may well have saved 30 other major disputes.

I do not have a lot of comment. Some of the provisions are similar to the ones recommended in the Queensland Law Reform Commission review. Thank you for doing that, Queensland. What is the point in reinventing the wheel? None whatsoever.

I thank the Leader very much for the briefing. I remembered to say that this time at the lectern. It is always useful to have that briefing process. When I arrived here some years ago, we did not always have a briefing on every bill, but now we pretty much have a briefing on

every bill and it is very useful. We can thank the Leader for facilitating those briefings, not only today but also the ones you put together on a regular basis. Thank you - we always have to take what we get from the briefings and put it into this process, as we know.

There is certainly a deterrent with the penalty for a person failing to comply with an order made by the appeal tribunal. Up to, not exceeding, 100 penalty units - about $18 000 - is no small change.

Mr Valentine - It is $17 200.

Ms RATTRAY - It is $17 200, under $18 000. That's a significant deterrent. It has some teeth. If people do not take that on board and work out what is a reasonable outcome for both sides of the fence, this penalty is going to be a significant deterrent.

I have no hesitation in supporting the amendment to Dr Goodwin's cause that she was absolutely focused on right from the time she was elected to this place. This was one of the issues she found during her campaign - she gave an undertaking and she delivered.

[5.34 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I am pleased to speak on this bill. As the member for McIntyre said, it is something a great number of our constituents, and I dare say the constituents of other members here, deal with on a regular basis. Any legislation that clarifies the expectations, rights, responsibilities and dispute resolution mechanisms about plants in our neighbourhood is most welcome.

Indeed we have the much missed late honourable member for Pembroke, Dr Vanessa Goodwin, to thank for her steps taken towards addressing gaps in pre-existing legislation relating to disputes about plants and the effect of some on views. I actually have one at moment in the member for Windermere's electorate, my Launceston City Council electorate also, and it is a little confusing when someone has trees of a certain height blocking out a certain amount of sunlight; of course, planning says you only need so many hours of sunlight a day so there are many issues. I am pleased to see this bill coming in.

Ms Rattray - I have a pittosporum right next door to me I would like to see lopped.

Ms ARMITAGE - Historically, it has been difficult for property owners to properly navigate dispute processes regarding boundary plants which disrupt views and sunlight. Until the primary act was passed and implemented, we had very few options to pursue adequate resolution processes. Clearly, this was not conducive to supporting harmonious neighbourhoods. It is easy for someone to dismiss someone's concerns about the plants encroaching on their property views, sunlight and other amenities. However, these are real and serious concerns, especially for people who have invested their time and money into their homes, and having a meaningful way to resolve disputes about this is essential.

Many in this place know I have had personal experience of a neighbour's trees considered dangerous by myself and my other neighbour, but unfortunately no end of emails and requests over a long period prevented the tree in wind and rain falling across our properties and causing considerable costly damage - over $60 000 between the two of us. This could have been avoided had there been an opportunity for an informed dispute resolution with some powers.

Amendments being made by the bill we are currently considering make further minor but essential improvements to the scheme as it currently stands. To this end, I note the bill amends section 26 of the principal act which states the -

> Appeal Tribunal … must consider whether reasonable attempts to resolve the matter to which the application relates have been made by the parties.

If not, the tribunal can direct the parties to attempt to resolve the matter using alternative dispute resolution methods, such as mediation.

Clause 5 of the bill expands consideration a full tribunal can make, allowing it to take into account any other matters the tribunal considers relevant, when it is determining whether parties have made reasonable attempt to resolve disputes. This might not seem like a terribly large difference but it will have the effect of allowing the tribunal to take into account efforts that have been made by the parties that have not necessarily been formal in nature.

The provision of alternative dispute resolution methods by this bill and the principal act is to be commended as it has a threefold benefit. The first is that is eases the heavy workload which already exists for our tribunals. The second is it encourages people to work through their disputes and come to a resolution together. The third is it also a far more cost-effective approach to resolving disputes of this nature. That having been said, however, the bill also introduces new enforcement provisions, which I note will be a rarely used tool.

As the second reading speech notes, since the act commenced operation 30 people have applied for orders of some kind, with 17 withdrawn, some not meeting the threshold with the tribunal, and some withdrawn because of mediation. I believe there was one published decision where a person went to a full hearing. As mentioned in some cases, it was noted that parties had engaged in negotiation between themselves or as a result of mediation processes with subsequent action having been taken to resolve the matters in dispute.

However, it would be a bit pointless not to build formal, robust and clear mechanisms should they be required at some time in the future. The bill inserts new enforcement provisions to allow the Resource Management and Planning Appeal Tribunal to make an order if it is satisfied the original order has not been complied within the time specified of that original order. This will allow the affected landowner or landholder to carry out the work and recover debt from the defaulting party, the reasonable expenses incurred in carrying out the work and the cost of the application. This is clearly quite a severe and significant enforcement provision, but as I say it is necessary.

The bill and the principal act both provide enough guidance and discretion to the tribunal to make an appropriate order relating to this. Moreover, the bill clarifies notice requirements relating to these enforcement provisions to give at least seven days notice of the intention to enter the land and carry out the work.

As we were told this morning in the briefing, this gives the tiger some teeth, so to speak, as the current penalty for failing to comply with an order of the tribunal is limited to contempt of the tribunal. Hopefully, the issue of these enforcement orders will be rare, but it is important it exists as an option nonetheless.

I will just reflect for a moment on the right to review, as this is something that came up reasonably often in planning matters when I was on council. I note in the briefing this morning it was mentioned that if a large tree, for example, blocks the view, the tribunal would generally consider the relevant council's planning requirements. If a house could be built on that spot, there would be little done about the tree. I accept we currently have interim planning schemes and I ask the Leader: do you have any knowledge of whether this is a change in the statewide planning scheme we have all been waiting for and asking for for some time, or whether it has not changed from current practice?

As mentioned, I think, by the member for Hobart, in the briefing this morning in regard to review, I wonder, with the statewide planning scheme, obviously that is a statewide planning scheme. It is be hoped 29 councils do not have 29 different versions. The interim planning scheme has been on foot, if you could call it that, for many years. Every year, when constituents raise concerns with me about what they can do, I am told it will be this year that it gets through. I am afraid that has probably been going on now for a number of years. I am quite sure many members have had the same discussion. It would be really good to know if it is fixed in the statewide planning scheme.

Ms Rattray - It has been around a while.

Ms ARMITAGE - It has been around a long while. The statewide planning scheme is going to need changing before it comes into place because it will be outdated.

We want our neighbourhoods to be harmonious places where people raise families and live their lives. Of course, we want people to be allowed to maintain the plants on their property, but when the amenity of other people's property is adversely affected, having good dispute resolution processes clarified is extremely important. This bill provides a good level of guidance for dispute resolution processes for applicants and the tribunal. It also promotes alternative dispute resolution methods before any significant enforcement measures can be treated.

I support the bill.

[5.42 p.m.]

Mr VALENTINE (Hobart) - Mr President, I thank the Leader again for arranging the briefings and for the officers providing those briefings. As mentioned by the member for McIntyre, when this first came in, having been in local government for 20 years and sitting on the other side of the table listening to complaints, as the member for Launceston was talking about, you cannot buy a view. Heaps of concerns were brought forward about people's views being taken, but, no, you cannot buy a view.

I thought as soon as this bill was put before us that it might cause some real angst between neighbours. I am delighted to see there have only been 30 cases. Either the neighbours who are affected by trees have decided not to go down this path because they do not want to become a bad neighbour, or it is an indication that really there are not that many problems out there that need addressing. Either way it is good to see that it is going to get a full public review late next year, I think it is.

This is obviously trying to strengthen the processes around the capacity of somebody who is affected by a neighbour's tree to be able to take some action; not just have a neighbour

who might be refusing to comply with an order that has been given. They can take action - have an arborist or somebody accredited rather than being able to do it themselves. I think that is the case. You might be able to clarify, honourable Leader, whether you can do it yourself if your neighbour is not taking action, or whether it needs an accredited tree-lopping service or whatever. I would like to have that clarified.

Then you can bill the offending party or the property owner who has the offending tree or shrubs or whatever they happen to be. Honourable Leader, you might put on the record whether the neighbour can then refuse to pay. What mechanism is there to force that neighbour to pay for the work undertaken by the aggrieved party next door? You might clarify that for us.

I support the bill. I look forward to its full review. I am sure the honourable late Vanessa Goodwin - she did keep it before us, and it took some time to get to us - would be happy to see that it has been effective.

[5.45 p.m.]

Mr DEAN (Windermere) - Mr President, there is certainly quite a short contribution here. The legislation that has been in place has certainly been helpful. There is no doubt about that. If the previous member for Rosevears were here today, he would be speaking on this bill at some length, I suggest, because he and I had worked on a dispute in Launceston over a 12-month period.

Mr Willie - Between each other?

Mr DEAN - We have been trying to assist a member of the Launceston area with a dispute with the neighbour where the trees have grown right up and blocked her view out, and they had a beautiful view. Mr Seabourne - I do not think he would mind me mentioning his name here - tangled with his neighbour and it just fell apart. It was a terrible situation. It was frustrating, upsetting and annoying, and the previous member for Rosevears and I both cited this act. We learned about the act very well, and all the clauses and sections in it, and we cited them to both people and it did certainly help. There is no doubt about that. Dialogue was kept open, and we were able to negotiate and so on, but the sad situation was that -

Ms Armitage - I guess we need clarity. Is it in my Launceston area, or in Rosevears or Windermere, because you are saying yourself and the member for Rosevears were working in the Launceston area? You might clarify if it was in my electorate or yours.

Mr DEAN - This was in the Prospect area, up that way.

Ms Armitage - So, it could have been Rosevears.

Mr DEAN - It was in his area.

Ms Armitage - I am just saying that you keep saying Launceston, but the members for Rosevears and Windermere were working on it. I just wanted clarity.

Mr DEAN - Sorry. Sure, it was in there. The sad situation was that the part-owner of that property was later charged with murder and convicted of murder, and that did not help the situation at all. That was the waterboarding episode in Launceston, and his partner or wife

became very upset about the tree removals and all the rest of that. Solicitors and lawyers became involved, and a lot of costs were being incurred. It was just horrible. It really was.

I will not go into any more detail. The end of this was that the property was put up for sale, and it was sold with the new owners knowing of the dispute that was in hand. We were already talking about using this act to its full extent and so on, but the new owner was agreeable for the trees to be cut back, and the view once again being opened up. It was a magic view, if you get up into the area where the previous member for Rosevears lived. It is a beautiful area and had a beautiful view. That has been resolved.

I have a couple of issues I want to raise here. I am pleased that some actions have been taken under this act. Having this legislation in place has worked, because a number of matters have been withdrawn. We were told that this morning as well. Withdrawn because of the knowledge of this act being in place.

The question I raised this morning was on the right, now, of a person to be able to go onto another property once the process has been followed right through, for the purposes of removing the trees and the bushes that are offending and blocking the view, and meet all of the criteria necessary under this act to be removed.

I raised the issue that force cannot be used, but maybe they would need to seek the assistance of police to come there to ensure that the peace was kept. I am not sure how the police would react to that. What time do they become involved? If the person is entering and the other person is walking up, do the police stand in front and hold the other person back? I am not quite sure how it would work. Easier said than done.

I also ask the question, where that happens now, and the foliage is removed, or the tree is cut back, or lopped, or whatever, do they then have to remove that foliage? Or can the foliage that is lopped off remain on the property, for the person whose property it is on to remove? Or does it have to be removed by the person who is lopping it? If that is the case, it raises a number of other issues as well. I think these things need to be known, because very clearly they will come up.

I support this legislation. Having been in local government myself, I know how frequently it does come up. It is really a nightmare at times to manage. I will certainly be supporting the legislation.

[5.52 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have a couple of answers and will still have to seek some more information.

The member for Launceston spoke about the statewide planning scheme. That is not relevant to this bill, which means I do not have the information available. Can I suggest to the member that she put it into a question without notice, or on the Notice Paper in the usual fashion? Thank you.

The member for Hobart talked about tree-lopping. The do-it-yourself is what you were talking about?

Mr Valentine - Yes.

Mrs HISCUTT - I suppose it would depend on the negotiations between the neighbours. There would be no reason why you could not do it yourself. It depends on whether you have a chainsaw licence. It depends on whether it was done by handsaw, or whether you have a chainsaw without a licence - but we do not recommend that. Having said that, yes, it can be done by yourself.

The member for Hobart had another question for which I have an answer - what if the neighbour does not pay? The act authorises a person to seek reasonable costs if a neighbour does not comply. A debt owed can be lodged with the Magistrates Civil Court, like all debts. This can encourage settlement. The court can order mediation or make a judgment. The claimant can then take out an enforcement, typically a warrant for the court bailiff to sell property, or a garnishee order such as deduction from salary or a bank account. It is recovery of debt in the usual process.

Then we went to the member for Windermere - people going onto private property. The right to enter property. The act authorises entry onto land in some circumstances. If a person refuses entry, it could be contempt of the tribunal or a breach of order, and police may also keep the peace if they are called upon.

Then there was removal of the debris. There is no requirement under the act that debris be removed. However, I imagine that it would be part of the negotiations. I was involved in one very similar myself recently and that was agreed upon.

Bill read the second time.

NEIGHBOURHOOD DISPUTES ABOUT PLANTS AMENDMENT BILL 2019 (No. 35)

In Committee

Clause 1 to 5 agreed to.

Clause 6 -
Section 33A inserted

Mr DEAN - Madam Chair, one of the issues that arose on the property at Launceston, Prospect, wherever it is, was when the decision was being made. I ask the question under this area, where there is the right to enter the property and so on and to remove, what is the position when there is a conflict between this act, legislation and local government positions? What happened there was the council became involved and said this was a part of a scenic management overlay, and council then had to become involved. What is the position, does this act override that, or does the scenic management overlay control it and they call the shots?

Mrs HISCUTT - The act requires the tribunal to consider the provisions of the planning scheme within the meaning of the Land Use Planning and Approvals Act. They have to consider it.

Mr Dean - The tribunal could override that.

Mrs HISCUTT - Well, they could, but they have to consider it.

Mr Valentine - It might be a significant tree

Clause 6 agreed to.

Clauses 7 and 8 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

ARCHITECTS AMENDMENT BILL 2020 (No. 6)

Second Reading

[6.00 p.m.]

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

That the bill now be read a second time.

The Architects Amendment Bill 2020 amends the Architects Act 1929 to modernise legislation that has been in operation for 90 years, to increase consumer protection and to reform disciplinary and complaints processes regarding registered architects.

It fulfils community expectations of consumer safeguards that are essential in modern licensing legislation.

Stakeholder consultation

Mr President, the Government values the time and effort that the Australian Institute of Architects (Tasmania) and the Board of Architects have contributed to the development of this bill. These organisations are the peak body and registration body, respectively, for architects in Tasmania.

The amendments proposed in this bill have the full support of those bodies and are a long time coming. This sensible, measured reform is the first amendment to the Architects Act since 1984 that is not a consequence of changes to another piece of legislation.

First, I would like to say a few words about the important contribution of our architectural profession. Architects provide professional services in connection with the planning and design, construction, conservation, restoration or alteration of buildings.

In Australia today, an architect is a trained and registered professional. While other licensed design practitioners can provide building design services, only architects can be

registered with the architects registration board in the state or territory in which they want to practise. In Tasmania the Board of Architects Tasmania, established under the Architects Act 1929, performs this essential registration function.

A graduate is not legally permitted to practise unless registered as an architect. After completing a degree in architecture, they are also required to undertake a period of practical professional experience, prior to being able to apply for registration. The high standards of Tasmanian architects have consistently been recognised at national awards.

The Bae TAS by Tasmanian architectural firm workbylizandalex took out an Award for Interior Architecture at the prestigious Australian Institute of Architects Awards, held on 7 November 2019 at a gala ceremony in Brisbane. Their micro-apartment, measuring just 26.5sqm, features built-in plywood cabinetry that opens to reveal living spaces, providing a delightful and spatially diverse interior within a micro-living environment. In view of concerns with affordable housing and urban sprawl, it is pleasing to see that Tasmanian designers have risen to meet these challenges with innovative solutions.

Mr President, I will now turn to the provisions of this amendment bill, and how it will enhance the role and professionalism of architects and public confidence in their services.

Building Confidence Report

The Building Confidence Report 2018 by Peter Shergold and Bronwyn Weir made major recommendations for improving the national building regulation framework, including suggesting reforms to architects' registration. This bill will assist the Tasmanian Government in implementing the report's recommendations relating to architects' registration, in these areas. First, all architects' registration boards are to implement a fit-and-proper person test for all persons who want to be registered as an architect, with appropriate powers to monitor the performance of architects and to investigate complaints. Second, all registered architects must undertake a mandatory program of continuing professional development activities and are to be covered by professional indemnity insurance.

Consumer protection reforms - complaints and disciplinary matters

A significant reform in this bill is the introduction of modern provisions for the Board of Architects Tasmania to receive, investigate and make decisions regarding consumer complaints about an architect's work or their conduct. The bill provides that the board itself may now initiate complaints and inquire into disciplinary matters. It also extends the circumstances when the board may exercise disciplinary powers. New examples include when a registered architect has breached a code of practice, or committed an offence under the Occupational Licensing Act 2005.

Applicants for registration must prove that they are a fit and proper person to practise and they are to maintain that status to remain registered. Complainants will have their concerns investigated and dealt with appropriately. Architects subject to a complaint will receive procedural fairness during that process.

Currently, the act only provides for the board to fine a guilty architect with a $200 fine, a relatively small sum, or else give the ultimate penalty of removal of registration. Only having those two options available as punishment, hampers an effective complaints and disciplinary system.

The bill instead provides that the penalties the board may impose on an architect are widened to include specific conditions on an architect's registration, and fines increased to a maximum of $21 000.

Matters heard by the Magistrates Court

The bill provides that disciplinary actions instituted by the Board of Architects, to remove an architect on grounds of professional misconduct, will be decided by the Magistrates Court rather than by the Supreme Court of Tasmania. This will be a faster and simpler process.

The current act gives a right of appeal on disciplinary decisions of the board to the Supreme Court. The bill instead proposes that all disciplinary appeals will be heard by the Administrative Appeals Division of the Magistrates Court. This is consistent with appeals under the Occupational Licensing Act for licensed builders, building designers or building surveyors.

Mandatory Continuing Professional Development

A weakness of the current Tasmanian architect registration system in addressing consumer protection is the absence of a link between gaining initial qualifications and experience, and maintaining those high standards during later practice. In other jurisdictions, once registered, every architect is required by law to undertake continuing professional development in order to maintain their registration. CPD ensures architects keep up with changing trends, developments and legal requirements for their occupation.

However, in Tasmania only architects practising as a building services provider, licensed under the Occupational Licensing Act 2005, are required to undertake CPD. To fill this gap, the bill will level the playing field and require mandatory CPD as a registration condition for all architects.

The Australian Institute of Architects operates a model CPD scheme for architects, approved by the Administrator of Occupational Licensing. The professional development they must undertake is a minimum of 30 hours each year, comprising formal study, technical training, business skills or personal development. Most architects would already be achieving these development activities through normal work activities or their membership of the Australian Institute of Architects.

Mandatory Professional Indemnity Insurance

All architects who independently give advice or provide consultancy services need to be covered by a policy of professional indemnity insurance. That is to protect consumers who may suffer loss arising from the architect's negligence.

If an architect is an employee of an architectural practice, they are covered by their employer's insurance and do not have to buy their own policy.

Changes affecting the Board of Architects Tasmania

The bill updates provisions allowing the board to establish what are the necessary formal qualifications, or required examinations, to be registered as an architect in Tasmania. This will also allow for consistency of registration requirements with other Australian jurisdictions.

It also provides a simplification of procedures for election of two members of the Australian Institute of Architects, who are then eligible to be appointed to the board. The institute will manage its own elections, rather than following unnecessarily prescriptive requirements currently in the Architects Regulations.

The minister may also recommend to the Governor that persons be appointed to the board to represent the interests of consumers or the public. This establishes in law an informal arrangement that has been operated by the board for a number of years.

Updating of language and gender references

The bill will be updating the language used in a number of provisions in the act, such as substituting: 'professional misconduct', instead of: 'infamous or improper conduct'; and 'fit and proper person', instead of 'good fame and character'. It will also change all gender-specific references in the act to be gender-neutral, consistent with current legislative drafting conventions and government policy on gender diverseness and inclusiveness.

Mr President, collectively these changes will deliver a more efficient consumer complaints management system regarding the work of architects. It will increase public confidence in the effective registration and oversight of Tasmanian architects.

I commend the bill to the House.

[6.11 p.m.]

Ms RATTRAY (McIntyre) - Mr President, about 30 minutes ago I complimented the Leader on the fact we had briefings on bills and said how much I appreciated it. I certainly will continue to appreciate that, I hope. I certainly was not prepared for this bill today. As I said, it was indicated we would be finishing around 6 o'clock tonight. I think someone else might have mentioned we were waiting for a bill from the other place, which I believe has arrived.

I also make the point we did not work late last night. I respectfully request and seek support from the House that the debate stand adjourned and we attend to this when we come back in a week and a bit.

[6.12 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I certainly have no objection to that at this stage.

Ms ARMITAGE (Launceston) - Mr President, I suggest that at least those who are ready with their contributions could perhaps do them. I accept the member for McIntyre's concerns. We have department people here. I accept the Leader's concern but at least those who are ready with their contributions could do them. If there are any questions, obviously they could be prepared when we come back in the next sitting. I cannot support the member for McIntyre. I

have my speech ready. I think some other people may be prepared; they may not. If they are not, obviously it is the will of the House as to whether we adjourn or not, but I will not be supporting it.

Debate adjourned.

BUILDING AND CONSTRUCTION (REGULATORY REFORM AMENDMENTS) BILL (No. 2) 2020 (No. 39)

First Reading

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

ADJOURNMENT

[6.15 p.m.]

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

> That the Council at its rising adjourns until 9 a.m. on Tuesday 27 October 2020.

Motion agreed to.

Australian Women's Cricket

Ms HOWLETT (Prosser) - Mr President, I rise this evening to congratulate our very own Australian women's cricket team on making history in the recent twenty-first consecutive 50 over victory with a thumping 232 run win over New Zealand in Brisbane.

At the same time, the team equalled the world record for consecutive wins set by Ricky Ponting's men's side when they were World Cup kings in 2003. Despite the team missing their injured stars, Captain Meg Lanning and Ellyse Perry, they still managed to cement their reputation as one of the finest national sides across any sport. 2020 marked a history-making year for women's cricket in Australia, where we witnessed the Australian women's team winning the ICC Women's T 20 World Cup in front of over 86 000 at the MCG on International Women's Day.

Representation of women on Australian cricket boards is reaching 32 per cent. This is the first time the crucial 30 per cent barrier has been reached. More than 1600 all girls cricket teams have created in the past three years with women and girls representing 32 per cent of all cricket participation for the first time. The first standalone season the Rebel Women's Big Bash League is hitting its objectives as it carves its own window in the Australian sporting calendar. With record awareness of women's elite cricket there are currently over 290 000 female participants across Australia.

While we are making some positive steps forward, we can acknowledge more work needs to be done in creating better opportunities for women and girls in not just cricket, but in all sport in general.

Introduced in the summer of 2009-10 the female premier league competition has gone through significant growth and evolution. I acknowledge Cricket Tasmania's recent report into the female premier league competition and its recommendation to enhance a program into the future in line with its long-term goals to be Tasmania's leading sport for women and girls.

One of the key recommendations was to reduce the number of first-grade women's cricket Tasmanian premier league teams to four from 10 to ensure a higher standard for the state's best players. The four teams included are the Great Northern Raiders, Clarence District Cricket Club, North Hobart Cricket Club and New Town Cricket Club: they kicked off their 2020-21 season earlier this month. I wish all of the competing teams all the best for a successful season. I am sure all members of this Chamber will join me in congratulating our Australian women's team on their latest success and wish them all the very best for the remainder of the season.

North Eastern Soldiers Memorial Hospital - Antenatal Clinic Services

[6.18 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I advise members of an issue that has happened in the north-east over the past couple of weeks. I was made aware - I put a question into the Leader's office on Monday and it is Thursday evening and I do not have a response. I feel it is my obligation to ask the Government, with the disappointing announcement the Dorset community will no longer have access to weekly antenatal clinic services at the North Eastern Soldiers Memorial Hospital. I would like the Leader, if she could, to ask the minister to explain to expectant parents in the north-east, some who travel from as far as Gladstone in the Tomahawk area, why the north-east has been singled out to lose this important weekly service at the most important time for a woman and her family - the pending birth of a baby.

I want the minister to guarantee access to midwifery services will not be cut entirely from this community or any other community that already has those midwifery services in place. An important question - disappointed, no answer in a week.

Mrs Hiscutt - I can certainly let the minister know but I cannot guarantee what the answer will be.

G2G PASS System - Issues

Dr SEIDEL (Huon) - Mr President, I bring to members' attention an issue with the G2G PASS system. This may have affected some members' constituents as well. As reported in the *Mercury* just four days ago, a technical issue has caused distress and uncertainty for Tasmanians returning from regional Victoria. Essentially what happened was some Tasmanians were advised after they applied through the G2G process that they qualified for home quarantine, yet when they arrived at Hobart Airport they were told they would be required to quarantine in government-managed accommodation for 14 days.

One of the Tasmanians quoted in the article is my constituent Manuella Shields, from Margate. She travelled from Ocean Grove in Victoria in order to look after her dying mother.

Her mother passed so she had to arrange her mother's funeral. When she was planning to return to Tasmania she applied through the G2G system. She was advised at this time, and through the Government's own system, that she could actually quarantine at her own home. So one must imagine, needing to travel, still grieving from the loss of your parent, expecting to go home to your partner, only to be told to quarantine in a government-managed facility. What an unpleasant surprise after the information you had been provided, information you were relying on, was invalid because of a technical glitch.

Leader, I am not questioning the necessity for quarantine. My constituent has had two negative COVID-19 tests and she is going home this week after the mandated two weeks, but to her shock she is now also asked to pay up to $2800 for being in quarantine. I am asking the Government, through you, Leader, to commit to waiving the cost for people like my constituent. I am asking for compassion in order to avoid further unnecessary anxiety and distress. It was a computer glitch that gave out conflicting advice and it should not be ordinary Tasmanians like my constituent who are now being asked to pay for it.

Mrs Hiscutt - Have you written to the minister yet?

Dr SEIDEL - I have, yes.

Police Offences Amendment (Repeal of Begging) Bill - Progress

[6.22 p.m.]

Ms FORREST (Murchison) - Mr President, I have a quick question for the Leader about the Government's intention for item number 19 on the Notice Paper, the Police Offences Amendment (Repeal of Begging) Bill, which has been put right down to the bottom of the list, behind every other piece of legislation. It is now for consideration as amended in the Committee of the Whole. I find it disrespectful that a bill that has been agreed to in principle here - yes, it was amended in this place, but it is not even anywhere near being progressed when one would expect after it has gone through that process it would be progressed. It is pretty poor form that the Government has no intention of progressing it, judging by its position on the Notice Paper. I would like to understand the Government's intention with that legislation.

Ms Webb - Hear, hear.

The Council adjourned at 6.23 p.m.