



**PARLIAMENT OF TASMANIA**

**LEGISLATIVE COUNCIL**

**REPORT OF DEBATES**

**Wednesday 25 March 2020**

**REVISED EDITION**



**Wednesday 25 March 2020**

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

## **TABLED PAPERS**

### **Answers to Questions on Notice**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I seek leave to table and incorporate the answer to questions 22, 23 and 24 in *Hansard* -

**Ms Forrest** - Mr President, the Leader indicated she was tabling these answers. I am talking about the questions.

**Mrs HISCUTT** - I have not finished yet; please do not panic.

**Leave granted.**

## **22. IMPACT OF GAMBLING ON HOMELESSNESS**

**Ms WEBB** asked the Leader of the Government in the Legislative Council, Mrs Hiscutt -

Research indicates a connection in Australia between gambling harm and homelessness; a link that does not exist in other jurisdictions where poker machines are located only in destination gambling venues.

With the Government intending to keep poker machines in Tasmanian local communities for a further 20 years beyond 2023 -

- (1) Has the Government assessed and quantified the extent to which gambling harm has contributed to date to the level of homelessness and cost of homelessness services in Tasmania?
- (2) Has the Government modelled the likely contribution of gambling harm to our state's future level of homelessness and cost of homelessness services under the proposed new licensing model?
- (3) (a) Do government-funded homelessness services collect data about the presence of gambling harm for people seeking assistance for homelessness?  
(b) If not, why not?
- (4) Does the Government have other data sources that quantify or indicate the co-occurrence of homelessness and gambling harm in this state?

## **23. IMPACT OF GAMBLING ON FAMILY VIOLENCE**

**Ms WEBB** asked the Leader of the Government in the Legislative Council, Mrs Hiscutt -

Australian research has found a statistically significant correlation between poker machine density and police-recorded domestic violence rates among postcodes. Further, research in Victoria, South Australia and Tasmania has shown more than half the people receiving problem gambling treatment have recent experience of domestic violence, either as survivors or perpetrators.

With the Government intending to keep poker machines in Tasmanian local communities for a further 20 years beyond 2023 -

- (1) Has the Government assessed and quantified the extent to which gambling harm has contributed to date to the level of family violence and cost of family violence services in Tasmania?
- (2) Has the Government modelled the likely contribution of gambling harm to our state's future level of family violence and cost of family violence services under the proposed new licensing model?
- (3)
  - (a) Do government-funded family violence services collect data about the presence of gambling harm for people seeking assistance for family violence?
  - (b) If not, why not?
- (4) Does the Government have other data sources that quantify or indicate the co-occurrence of family violence and gambling harm in this state?

## **24. IMPACT OF GAMBLING ON CRIME**

**Ms WEBB** asked the Leader of the Government in the Legislative Council, Mrs Hiscutt -

Australian research has indicated that the rate of problem gamblers within prison populations appears to be substantially higher than prevalence rates observed among the general population. For example, in a Victorian study the rate of problem gambling among prisoners was one in three compared to a general population proportion of 0.7 per cent. Further, 37 per cent prisoners surveyed reported having committed a gambling-related offence at some point in their lifetime.

With the Government intending to keep poker machines in Tasmanian local communities for a further 20 years beyond 2023 -

- (1) Has the Government assessed and quantified the extent to which gambling harm has contributed to date to the level of crime and cost of incarceration in Tasmania?
- (2) Has the Government modelled the likely contribution of gambling harm to our state's future level of crime and cost of incarceration under the proposed new licensing model?
- (3)
  - (a) Does the Government collect data about the presence of gambling harm for people convicted of crime in Tasmania, especially fraud, stealing or other financial-related crimes?
  - (b) If not, why not?

- (4) Does the Government have other data sources that quantify or indicate the co-occurrence of crime and gambling harm in this state?

**The incorporated answer to questions on notice 22, 23 and 24 is as follows -**

Tasmania, like all other Australian jurisdictions, recognises homelessness, family violence and resorting to crime are complex social issues that stem from a range of contributing factors, and it would be misleading to isolate any one factor as the cause.

Homelessness and family violence services have screening tools to assess the needs of clients, which include some financial information. The screening processes ensure people engaged with these services are provided with appropriate and relevant support.

Analysis of the extent of crime leading to court-imposed sentences is challenging, due to an absence of specific data collection associated with gambling-related crime.

The Government is supporting people at risk of problem gambling through a range of harm minimisation measures targeted at industry, the community and the individual. These measures which are some of the strongest nationally and will remain under the proposed new licensing model, include -

- The Tasmanian Liquor and Gaming Commission's Responsible Gambling Mandatory Code of Practice for Tasmania and rules for gambling operators.
- Community education and support services, including counselling, funded under the Community Support Levy and administered by the Gambling Support Program.
- The Tasmanian Gambling Exclusion Scheme, which requires people wanting to self-exclude to speak with a counsellor in recognition of the co-morbidity factors generally present for problem gamblers.
- The National Consumer Protection Framework for Online Gambling.
- A three-yearly study on the economic and social impact of gambling in Tasmania.

[11.05 a.m.]

**Ms FORREST** (Murchison) - Mr President, in terms of my question, the Leader indicated she was going to table the answers to questions without notice at a later time. I was clarifying that because I was intending to put them on notice. It is okay if I do not need to do that.

## **TABLED PAPERS**

### **Answers to Questions Without Notice**

[11.05 a.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I seek leave to table answers to questions without notice for the members for Huon, McIntyre, Murchison and Rosevears, and also to have the questions and answers incorporated in *Hansard*.

We are doing this because I have the answers and, as we are not having question time, it is best to present these answers to members and incorporate them into *Hansard*.

**Leave granted.**

**The incorporated questions without notice and their answers are as follows -**

### **Ida Bay Railway**

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

- (1) What is the current situation in regard to the Ida Bay Railway and associated infrastructure?
- (2) Who is currently responsible for security and maintenance of the site?
- (3) What plans are in place to get this significant tourism, cultural, and heritage asset back onto a sustainable footing?

### **ANSWER**

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

- (1) The Ida Bay Railway is located on the Ida Bay State Reserve under the management of the Parks and Wildlife Service. Following termination of the previous lease, the PWS recommenced full management of the site. Infrastructure at the site is currently not open to the public. Access is still available to the reserve for the public to walk along the rail corridor to Deep Hole.
- (2) The PWS is responsible for the security and maintenance of the site. The priority focus for the PWS is on ensuring it is secure and safe.
- (3) I am aware that there is considerable interest in the future use of the site and the Tasmanian Liberal Government is presently considering options that recognise both the site's historical value and also the potential to develop tourism opportunities in the region.

### **TasNetwork - Revenue Australian Energy Regulator**

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

- (1) With regard to TasNetwork's annual report for 2018-19 -

Page 70 shows a fall in revenue due to the fall in the provision of regulated services, predominantly transmission -

- (a) Was this a result of price falls or volume falls?

- (b) Were there any significant volume movements related to the major customers?
- (2) With regard to the Australian Energy Regulator -
  - (a) When did the AER do the last review?
  - (b) When is the next review due?
  - (c) How does the AER outcomes affect the carrying values of TN's assets
  - (d) What was the effect on asset value after the last review?

## **ANSWER**

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

- (1) (a) On year-on-year revenue figures, there was a reduction regarding the provision of regulated transmission services between 2017-18 and 2018-19. A majority of this difference was due to TasNetworks receiving an extra \$10.6 million in the form of intraregional settlement residue receipts from the Australian Energy Market Operator in 2017-18. Any over- or under-recovery by AEMO is returned to customers via adjustment to transmission charges.
  - (b) There were no significant movements related to major customers over this period.
- (2) (a) The AER's last decision was made in April 2019 with effect from 1 July 2019 to 30 June 2024.
  - (b) TasNetworks' next revenue (for transmission) and regulatory (for distribution) proposals must be lodged with the AER in January 2023 commencing the formal rules process that will end with the AER's next decision in April 2024 for the period 1 July 2024 to 30 June 2029
  - (c) This refers to TasNetworks' Revenue Asset Base, which is the value of TasNetworks' assets as determined by the AER. This is then used to calculate the allowed revenue. The quantum of the RAB shifts in response to the regulated depreciation of TasNetworks' assets (deducted from the RAB) and allowed capital expenditure (added to RAB).
  - (d) TasNetworks' transmission RAB at 1 July 2019 was \$1445.3 million. At the start of the previous regulatory control period, their transmission RAB was \$1410.3 million. TasNetworks' distribution RAB at 1 July 2019 was \$1771.1 million. At the start of the previous regulatory control period TasNetworks' distribution RAB was \$1615.2 million.

### **TasWater Services - Gladstone, Herrick and Pioneer**

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

Please see Appendix 1 on page 78 for incorporated question and answer.

## Hydro Tasmania's Basslink - Costs and Benefits

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

As the contract between Hydro Tasmania with Basslink is over halfway through the 25-year term -

- (1) Has Hydro Tasmania assessed the financial and other costs and benefits to Hydro Tasmania of Basslink since the commencement of Basslink's operation?
  - (a) If so, please provide details of the costs and benefits of Basslink to Hydro Tasmania and Tasmania.
  - (b) If not, does Hydro Tasmania believe there is a benefit of this work being done to assist in informing the costs and benefits of the proposed Marinus interconnector?
- (2) Has the Government assessed the financial and other costs and benefits to Tasmania of Basslink since the commencement of Basslink's operation?
  - (a) If so, please provide details of the costs and benefits of Basslink to Tasmania.
  - (b) If not, does the Government believe there is a benefit of this work being done to assist in informing the costs and benefits of the proposed Marinus interconnector?

### ANSWER

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

- (1) (a) Yes. The Electricity Supply Industry Expert Panel established by the Tasmanian Parliament in 2010 closely analysed the investment decision to proceed with Basslink. This also included a cost-benefit analysis of Basslink's initial period of operation. Hydro Tasmania also undertook analysis to inform the expert panel's deliberations.

The expert panel's final report (volume 1) found that -

Basslink has proven to be an effective and cost-efficient means of securing the State's energy supply during times of drought. It has enabled Tasmanian demand to be met at a materially lower cost to Hydro Tasmania than would have been the case under alternative scenarios.

(page xiii) [www.electricity.dpac.tas.gov.au/\\_\\_data/assets/pdf\\_file/0006/160584/Final\\_Report\\_Volume\\_I.pdf](http://www.electricity.dpac.tas.gov.au/__data/assets/pdf_file/0006/160584/Final_Report_Volume_I.pdf)

Further, the panel found -

With typical hydrological inflows, Hydro Tasmania has been able to more than meet its Basslink-related costs from opportunities that Basslink brings for trading electricity between Tasmania and Victoria ...

ibid (page 234).

- (b) Project Marinus is currently undergoing a comprehensive cost-benefit analysis under the regulatory investment test for transmission, a process overseen by the AER. Project Marinus published its project assessment draft containing detailed cost-benefit analysis in early December 2019.

### **Wild Fallow Deer Report - Government Response**

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

The Government says it is implementing in full its response to the 2017 Legislative Council Legislative Council Government Administration Committee A inquiry into wild fallow deer.

- (1) Why is that taking so long?
- (2) Does the Government realise that since the inquiry the wild deer population has greatly increased, and that the Tasmanian Farmers and Graziers Association now supports the ongoing culling of wild deer populations and the sale of wild deer meat for human consumption?
- (3) Is the expansion of wild deer into World Heritage Areas being monitored?

### **ANSWER**

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

As previously advised, the Government is implementing in full our comprehensive response to the 2017 Legislative Council inquiry on wild fallow deer. Our policy on wild deer is clear, balanced and has been publicly available since 2017.

The Government has delivered on a number of the significant reforms as outlined in our response, including -

- The formation of a new Tasmanian Game Council, chaired by former MLC Greg Hall.
- Establishing Game Services Tasmania within DPIPWE to support landholders, hunters and farmers in effectively managing deer and all issues relating to game and browsing animals.
- Developing a statement of quality deer management in collaboration with the Tasmanian Game Council and other stakeholders; the statement is available on the DPIPWE website.

- Providing access to additional public reserves for regulated recreational deer hunting to help manage deer populations in reserves (including four additional areas for the 2020 season).
- Implementing five-year crop protection permits for antlerless deer and reducing red tape for holders of crop protection permits and game licences through removing quotas and tags for antlerless deer and extending the recreational hunting season for antlerless deer.
- Undertaking a comprehensive statewide census of wild fallow deer, with the data collection component of the aerial survey completed in October 2019. The aerial survey results, along with camera traps and citizen science to be undertaken in other areas of the state, including the TWWHA, will provide significant data enabling more informed decision-making for managing deer populations across the state.
- Working with deer farmers and other stakeholders to develop a deer industry development plan.
- Evaluating the feasibility of a trial for deer farmers and landholders to develop value-added commercial wild deer products. This work is being progressed in collaboration with the Tasmanian Game Council.

The Government is aware that there are diverse views in the community regarding the management and use of wild fallow deer, including within the farming sector.

Consequently, the Government's focus is on maintaining a sensible balance between managing the impact of deer on our important primary industries and natural environment and maintaining a deer herd as a traditional hunting resource.

### **Hydro Tasmania - Annual Report 2018-19**

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

I refer to the Hydro Tasmania annual report 2018-19.

- (1) When generation assets are valued, electricity prices used are either market prices (if available) or prices as forecast by an internal model -
  - (a) How does Hydro Tasmania account for the long-term contracts with major industries which include discounted prices?
  - (b) Do they affect the value of generation as or are they recorded elsewhere as a liability?
- (2) Referring to number 17 on page 53 covering Other financial liabilities, please explain in lay terms the difference between an economic hedge and a cashflow hedge as they relate to energy price derivatives.

- (3) Referring to the cashflow statement on page 23, there were net proceeds from financial derivatives of \$108.6 million received in 2018-19 whereas in 2017-18 there was an outflow of \$202.5 million with the same description.
- (a) Please explain the transactions behind these two figures in lay terms.
- (4) When hedges are closed, is there a cash settlement?
- (a) If so, is this the case in all instances?
- (5) When hedges are entered into, is there a cash payment?
- (a) If so, does this apply in all cases?

## **ANSWER**

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

- (1) (a) For the period the contracts with major industries applies, they are valued using an observable market price curve where available and then using an internal price curve. They are designated as a hedge under AASB 9 Financial Instruments. The effective portion of changes in the fair value of the derivative contract is recognised in Other Comprehensive Income. Any ineffective portion of changes in the fair value is recognised in the Income Statement.
- (b) The major industrial contracts are one of the inputs into the asset valuation model. The output of the model informs the asset values of the business.
- (2) Cashflow hedge - a cashflow hedge is a hedge of the exposure to variability in the cashflows of a specific asset or liability, or of a forecasted transaction, that is attributable to a particular risk. In relation to electricity generation, generally the variability comes from the volatility in the spot electricity price creating volatility in cashflows.

Economic hedge - an economic hedge is not a cashflow hedge.

- (3) (a) These figures are predominantly made up of the net cash payments/receipts of the futures margin account; refer to the 'Energy price derivatives movement reconciliation: Liability/(asset) at the beginning of the year', page 53 of the annual report.
- (4) (a) There is not always a cash settlement when a hedge is closed. The instrument used will dictate whether a cash transaction occurs on closing.
- (5) (a) When a hedge is entered into, a cash payment is not always required. The instrument used would dictate whether a cash transaction occurs.

## **Sustainable Timber Tasmania - Accrued Revenue and Expenses**

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

- (1) On page 46 of Sustainable Timber Tasmania's annual report, and also commented on by the Auditor-General on page 78, the 're-establishment provision' relates to the expected costs of forest re-establishment under provisions of the Forest Practices Act 1985 and the Forest Practices Code. A figure of \$8.3 million is noted as the re-establishment provision as at 30 June 2019, an increase of \$2.1 million over 12 months -
  - (a) How much was added to the provision in 2018-19?
  - (b) What were the reductions in the provision in 2018-19?
  - (c) How much of the reductions were spending amounts?
  - (d) Given that the additions to the forest estate were negligible, how was the spending recorded?
  
- (2) Regarding accrued expenses of \$10.5 million (page 51 of the annual report) -
  - (a) What does the accrued expenses relate to?
  - (b) Why was there such a large increase from 2018?
  
- (3) Regarding the accrued revenue of \$12.6 million (page 48 of the annual report) and assuming revenue is recognised then control of the asset passed to the buyer -
  - (a) What does this accrued revenue relate to?
  - (b) Why the large increase from 2018?

## ANSWER

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

- (1) (a) \$2.5 million
  - (b) (\$0.4 million)
  - (c) (\$0.4 million)
  - (d) Spending is recorded at the individual coupe level per activity type (e.g. tracking, burning, sowing and so on)
  
- (2) (a) The expenses relate to export costs and co-mingle woodchip sales from two vessels. The revenue for products sold 'Free on Board' is recognised when the vessel departs port; payment is received after the vessel departs port. Expenses are accrued.
 

Co-mingle woodchip sales occur where Sustainable Timber Tasmania acts as the sale counter party (with the customer) on behalf of all the owners of the woodchips sold (multiple parties contribute woodchips to the sale). Once payment is received, proceeds are dispersed proportionately.

  - (b) At 30 June 2019, two vessels had departed port with payment awaiting.
  
- (3) (a) The revenue relates to the total value of co-mingle woodchip from two vessels. The revenue for products sold 'Free on Board' is recognised when the vessel departs port; payment is received after the vessel departs port. Revenues are accrued.

Co-mingle woodchip sales occur where Sustainable Timber Tasmania acts as the sale counter party (with the customer) on behalf of all the owners of the woodchips sold (multiple parties contribute woodchips to the sale). Once payment is received, proceeds are dispersed proportionately.

(b) At 30 June 20 19, two vessels had departed port with payment awaiting.

### **Electoral Act Reforms**

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

With regard to the Government's commitment to introduce legislation to amend the Electoral Act in the area of political donations -

- (1) What is the expected time frame for the release of draft legislation?
- (2) Period of consultation?
- (3) Introduction of a bill to parliament?

### **ANSWER**

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

As previously advised, a commitment was made by the former premier that the Tasmanian Government would review the Electoral Act.

As the member would be aware, last year the Government introduced Electoral Act amendments. These are now law.

The Government received the final report prior to the end of 2019 and is now considering it.

The next state election is not until 2022 and it is critical this be considered thoroughly.

### **Hydro Tasmania Annual Report 2018-19 - Onerous Contracts**

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

I refer to the Hydro Tasmania annual report 2018-19.

Note 16 on page 51 includes an amount of \$195.83 million which was recognised as an additional provision for onerous contracts.

What does this relate to?

## **ANSWER**

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

Hydro Tasmania follows accounting standards on how to recognise onerous contracts relating to the sale and purchase of certain products on its balance sheet. The contracts themselves are commercial-in-confidence.

### **Hydro Tasmania - COVID-19 - Impact on Operations**

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

With regard to the potential impact of COVID-19 on the operations and financial performance of Hydro Tasmania - HT -

- (1) What specific risks, including financial and operational, have been identified by HT related to COVID-19?
- (2) What risk management controls are in place to address and/or mitigate each of these risks?
- (3) What measures are being taken to educate and inform staff and customers of HT to reduce risk?

## **ANSWER**

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

Please see Appendix 2 on page 79 for the incorporated answer to this question.

### **EVIDENCE AMENDMENT BILL 2020 (No. 4)**

### **CRIMINAL CODE AMENDMENT (SEXUAL ABUSE TERMINOLOGY) BILL 2020 (No. 5)**

#### **Third reading**

**Bills read the third time.**

### **TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 13)**

#### **Second Reading**

[11.08 a.m.]

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

That the bill be now read the second time.

On 17 March 2020 - which, as an aside, was my thirty-sixth wedding anniversary - the Government announced a number of measures to mitigate the economic risk of the COVID-19 outbreak in Tasmania. The Government is committed to managing and mitigating the very real and significant economic impact of the virus on businesses, jobs, families and the Tasmanian community. Among those measures, the Government announced three important payroll tax relief initiatives, which will provide tangible support to affected businesses and employers in Tasmania, including businesses with youth employees, businesses in the hospitality, tourism and seafood industries and small to medium-sized businesses impacted by the virus.

This bill amends the Payroll Tax Rebate (Apprentices, Trainees and Youth Employees) Act 2017 to provide for the first of those initiatives. The amendment provides that businesses that newly employ persons aged 24 years and under between 1 April 2020 and 31 December 2020 will be eligible for a one-year rebate of payroll tax paid for those eligible employees. This initiative will encourage businesses to employ young people in Tasmania and is expected to cost around \$280 000.

This bill also amends the Payroll Tax Act 2008 to provide two other important payroll tax relief measures that will support Tasmanian jobs. The first of these two measures is a waiver from payroll tax for hospitality, tourism and seafood industry businesses in Tasmania for the final four months of the 2019-20 financial year. It is expected that this will save businesses around \$7 million over that period, enabling them to keep more Tasmanians employed. The second measure will provide a waiver from payroll tax for small to medium businesses with an annual payroll of up to \$5 million in Australian wages and whose operations have been impacted by the virus. This waiver will be for the three months to June 2020 and is expected to cost up to \$9 million. Both these measures will play an important role in mitigating the economic impact of COVID-19 on businesses and the Tasmanian community.

To achieve this, the bill provides that the minister may make a ministerial order to waive the payment of payroll tax under the act for a specified period on the taxable wages paid to an employee or class of employees by an employer. The minister may also make an order to waive the requirement to lodge a specified document or return or other administrative processes required under the act. The amendment will provide the necessary flexibility to deliver payroll tax relief to additional industries or businesses or to extend the length of the payroll tax relief as required.

The power to make a ministerial order under these provisions will be limited by the period of the COVID-19 public health emergency. That is, a ministerial order made under these provisions can only be made up until the first anniversary of the minister being notified by the Director of Public Health that there is no longer a public health emergency. Any order made during the public health emergency will also cease to have effect on that anniversary. This bill has been drafted to provide flexibility in the operation of each of these three payroll tax relief measures. This is necessary to allow the Government to appropriately respond to changing circumstances during this period of uncertainty. These are unprecedented times and it is vital that this parliament does what it can to provide assistance to our businesses to keep Tasmanians in jobs.

This bill also amends the First Home Owner Grant Act 2000 to extend the \$20 000 First Home Owner Grant for newly constructed homes by two years from 1 July 2020. This extension was first announced in the State of the State address on 3 March 2020. We have taken the opportunity, while legislating these important payroll tax relief measures, to implement the extension of the grant well before it is due to revert to the base level of \$10 000 on 1 July 2020. This will provide certainty to

both first homebuyers and Tasmania's building and construction industry during these difficult times.

Extending the grant will provide important support to eligible first home owners and assist in ensuring that the housing market remains accessible to those buyers. The extension of the grant will also support activity in Tasmania's building and construction sector. This will increase the stock of housing in Tasmania and will also help in keeping skilled tradespeople employed in Tasmania, which is particularly important during these challenging economic times. Mr President, I commend this bill to the House.

[11.13 a.m.]

**Ms FORREST** (Murchison) - Mr President, we do indeed live in unprecedented times at the moment. I commend the Government for acting promptly to seek to assist businesses in whatever way it can, when effectively, not only is COVID-19 causing chaos for our state and the world, but it is also forcing the Government to make decisions they would rather not make.

We are seeing the Government being forced to make decisions to close down businesses, to stop the operations of businesses, and it has been hard for the Premier to make a decision to effectively put hundreds of people out of work and have no job.

As a state we have an obligation to assist businesses to stay afloat where we can, to be able to continue to function as best they can and to remain in business long enough to be able to get through this period, however long it is - with 12 to 18 months the most likely scenario before we can get back to any semblance of what normal may look like, the new normal that it will be.

I commend the Government for bringing forward a number of these measures as a result of the actions the Government has had to take to close down certain businesses. It is important to remember, particularly with payroll tax, there are some businesses that are not being impacted, some that are doing very well at the moment - food businesses and toilet roll manufacturers, for example. This may change in the future. I do not know how much you can stockpile before you stop buying. There are businesses that have been positively impacted in a perverse way by this whole experience we are now undergoing with COVID-19.

The question I was keen to have some clarity on - I sought and received that - was eligibility, how a business demonstrates it has been impacted by COVID-19 and why it should get assistance. I appreciate the briefing yesterday and further discussions with the Treasury secretary regarding this.

You may want to confirm that when a request is made for relief from payroll tax, the minister will consider it, and in the order the minister will issue criteria for the business to be eligible for this exemption or rebate, however it is going to be applied. The Leader can come back to this in a minute.

I was concerned the ministerial orders were not going to be subject to scrutiny by the Subordinate Legislation Committee. The bill we will be dealing with sometime today or tomorrow and the notices in that all go through the Subordinate Legislation Committee under an emergency power provision that already exists in the Subordinate Legislation Act, but is particularly facilitated in that bill.

The ministerial orders do not normally come through the Subordinate Legislative Committee, which is a matter I have often raised. People think I go on and on about this - I do because it is important to have adequate scrutiny when we are using emergency powers, when we are taking extraordinary measures, even though these measures are to keep Tasmanian businesses in business, so they are able to continue to keep young people in employment with the youth rebate or the youth payroll tax rebate.

It is important there is proper scrutiny of these measures. If these orders do not go through Subordinate Legislation Committee but are limited by the time frame the power exists, which is during the power of the state of emergency we are currently in, they will continue to - I assume - be renewed until the Director of Public Health declares otherwise. It says that the onus falls to the Director of Public Health to notify the Treasurer or the minister, but I assume in this case it is the Treasurer when the public health emergency has ended, before any of these provisions to stop these orders actually takes effect and then there is a transition period to allow business to adjust to those sorts of measures.

Again, I commend the Office of Parliamentary Counsel and Treasury officials who have been working in a way we cannot imagine. Imagine the pressure they have been under to try to get these measures in place to support and protect our businesses as best we can. In spite of this, there will be businesses that just do not survive and that is a really sad thing to contemplate. We know these people; they are in our communities - some of them are small businesses, some not so small, and they will not survive.

I heard on Radio National this morning that the unemployment rate is predicted to be upwards of 11 to 12 per cent. Thankfully, we have not seen these sort of circumstances in my lifetime, but we could well see ourselves back there. These measures go some way to try to avoid as much of that as we can, to try to support businesses to continue, but we need also to face reality and be prepared to step up and look at other ways we can support the unemployed, of whom there will be many right now and in future.

With the First Home Owner Grant, get on the front foot, extend that, that is fine. That is for building of new properties. I will not speak about the intent of all of that. It is important to try to help keep our skilled tradespersons employed in Tasmania, because we will come out of this. We will be living in the new normal, but we need these people to be able to pick up and keep going once we get out of it. I hope we are all here to see that. Some of us may not be, some of those we love may not be. It will be interesting to observe over the next 12 months to two years how many people have the confidence to build a house, particularly first home owners.

**Mrs Hiscutt** - Providing they can get the goods to do it with -

**Ms FORREST** - Yes. It is okay to give them 20 grand to help towards the cost of that, but confidence is shattered at the moment. Good on the Government for making it possible to assist them to do that. I will be interested to see whether the numbers drop off. I have seen the number of people who have accessed that First Home Owner Grant to build a new property in recent years and it has been pretty good. It has been pretty significant and it certainly has helped a lot of first home owners into the market. Confidence is going to take such a hit and it will be very difficult, but at least it will help those it can.

I support the legislation. I would like the Leader to clarify those couple of matters and the process of the orders, acknowledging they are limited to the duration for which the state of

emergency continues and that the Director of Public Health has not indicated that it has ceased. It is time-limited around that.

[11.22 a.m.]

**Ms RATTRAY** (McIntyre) - Mr President, the member for Murchison has certainly covered the detail of the legislation we have in front of us. I take this opportunity to add my support for the payroll tax waiver the Premier announced when the COVID-19 stimulus support package was put out. We need, as was indicated yesterday and today, and will continue to be indicated throughout our communities, to support business, whether small, medium or even large ones. I heard on the radio news this morning, and it is all related to the times we are living in right now, that it is not only the mum-and-dad operation at home. They may have a home business - is there an opportunity for them to be provided with some support? As well, I heard of the other scale, the large businesses. Everyone says that because you are a large business, you should be able to wear it. Well, it is going to be difficult for everybody. The predicted unemployment rates the member for Murchison indicated as being bandied around -

**Ms Forrest** - I would not say 'bandied around', I would say that is what is being predicted. It is not a rumour; credible experts are saying that.

**Ms RATTRAY** - Okay, that has been predicted by credible experts. I would not be surprised if it is more than that because we are all receiving messages and emails from people who have already lost their positions. With the hospitality industry, now the health and beauty industry, everything shut down except for some retail and our food stores, it is going to be difficult. One thing I keep reminding myself through this is 'Thank God for our farmers, thank God for agriculture.'. At least they are still required. We still need to milk to cows. We still need to harvest the potatoes and vegetables and the like, and grow the cattle and process the meat.

**Mrs Hiscutt** - Food production is an essential business.

**Ms RATTRAY** - It is. As the member for Murchison also indicated, we have not lived in these times. We do not know what it is like to have food rationing and that type of thing.

**Ms Forrest** - Our grandparents remember it, though.

**Ms RATTRAY** - Yes. You cannot get any flour at the moment, plain or self-raising. If you could not find self-raising flour in the past, you could always add baking powder to the plain flour, but you cannot buy even plain flour at the moment. There is no flour around. Bread flour is even more difficult to source, I believe. Everyone will have their breadmakers or they will be looking for them on Gumtree. They used to sell for about \$5 because everyone was over making bread. They will be back baking bread if they can find the flour.

**Mrs Hiscutt** - I feel like getting mine out of the cupboard.

**Ms RATTRAY** - They are extraordinary times and we have to do whatever we can to help support our communities through this. The extension of the First Home Owner Grant - I agree with being on the front foot with that. I am not sure who will have the confidence to put their hand up to build. It is not an inexpensive exercise, but we still need those properties. The housing priority list will not get any smaller through this; even though people will be holding onto their premises at this time, it still will not get any easier for people to be housed. I noticed on my Facebook feed - technology is a wonderful thing - that they have shut down caravan parks in my electorate.

**Mrs Hiscutt** - For clarification, that is unless it is a permanent residence.

**Ms RATTRAY** - There is no camping. A lot of the people who work on the back of spud harvesters, who are what we call backpackers in our area, live in caravan parks while they are here doing the work.

**Mrs Hiscutt** - They are not holidaying. They are working.

**Ms RATTRAY** - If the parks shut down and they are not permanent residents but are only here for a short stay, what happens to those people? I have put that to the Leader.

**Mrs Hiscutt** - I cannot answer that today.

**Ms Forrest** - The Premier addressed a lot of these questions in his address at 9.15 a.m. I did not hear all of it because we had to go to our briefings. It is on Facebook. You can watch it later and you can share it with your constituents. He goes through a lot of information. He explains it clearly and well.

**Mrs Hiscutt** - I have urged members to beam into that 9.15 a.m. Facebook address. I urge all members to do that. It is a wealth of information.

**Ms RATTRAY** - Thank you for the advice, but it is important to have this information on the public record as well. This is my opportunity to make my contribution and I am informing the House about what is happening in my electorate.

As I indicated, we need to have the agriculture industry still functioning at its optimum at the moment. Whatever potatoes we can get out of the ground before the winter sets in - because those big harvesters do not like it when it gets really wet and the potatoes rot as well; it is not a good outcome - and while the weather is dry, the better we are and the more product we have to put into our communities and into the marketplace. The backpackers who come are necessary. I hazard a guess a lot more local people will be looking for some of those jobs that they have not necessarily been willing to take up in the past.

**Ms Forrest** - The roosters will be back in the farms.

**Ms RATTRAY** - They may well be. In the past, it has been difficult for people on the land, particularly when harvesting a product, to get local people to do the work.

If there are no other opportunities, this might well be a wake-up call for some people who thought working on the back of a harvester was not for them. Guess what? It might well be for you in these times.

**Mr Dean** - They will be on the Centrelink lines.

**Ms Forrest** - No, they will be out there looking for work.

**Ms RATTRAY** - They will need to work. I am very hopeful that out of this terrible heartache and pain people are going through some positive messages might come through.

**Mr Dean** - I listened to the lady on radio a couple of nights ago who said she is working at a supermarket and is at risk. She said those with the extra money to be offered through Centrelink will be getting more money than she is earning working at the supermarket. She finished by saying, 'Why am I going to work?'

**Ms RATTRAY** - To add to that story: I have two daughters who work in the grocery industry. My daughter said she has never been spoken to in the way she has been spoken to last week in her workplace. She said, 'Believe it or not, I looked at one of the ladies and it looked like my grandmother' - it certainly was not her grandmother - and she said she got the biggest dressing-down she has ever had while working. She had been working in the industry for about 20 years. That is not good enough. I do not know if it was a member of the community I represent; I certainly hope not, but it might well have been. I can only hope it might have been from one of the bus people. They have been coming out on buses into Scottsdale from other areas to buy up groceries.

You cannot buy a freezer in the north-east. There are no freezers left in the north-east. People have been stockpiling all this food and now they are wondering what they are going to do with it, so there are no freezers.

**Mr PRESIDENT** - Member, that is something many regional communities are suffering at the moment; certainly the small ones I have visited are going through hard times. I was talking to the chemist shop people - you would be very familiar with that profession - and they have been copping a lot of abuse because they will not sell Ventolin to people who do not need it. It is a pretty tough time all around.

**Ms RATTRAY** - The message we have been given about being kind to people really needs to happen because it is certainly not my daughters' or the stores' fault - they are working exceptionally hard to put stock on the shelves and get what they can. That is the way it is, but to be spoken to in those terms and to be made to feel the way she was is not acceptable. It is not the fact that it was my daughter - it is anyone who works in those industries. Nobody should be treated like that. Obviously, it was not a local because my daughter would have known her name. and I probably would have been around there knocking on the door as you would expect a parent to do.

In these difficult times I certainly want to show as much kindness as I can to everybody. I asked a question in the briefing about stamp duty relief for people purchasing homes. This has been the only avenue of support they have been able to get because there is not a homebuyers' rebate or grant. They have been able to access 50 per cent of the stamp duty relief for first home owners and it has been very welcome. While they are not first homebuyers, there is the relief for pensioners who downsize from a larger home down to a smaller home. They may have a three-bedroom and need to go to a unit or perhaps buy into an aged care village situation. I asked about that because it is not covered in the legislation we are dealing with. I was told that it is covered in another area and that is still operational, so we do not have to deal with that today. I wanted to make sure that people understand that those avenues are still available if there are people who are still in a position to buy a home. It is not a build, it is a buy, a first home, or for the pensioners who are potentially downsizing and taking on a smaller home.

I support the measures and what the Government is doing. I congratulate everyone. Our diaries, Mr President, have been somewhat emptied of events over the past couple of weeks, but I would say the OPC and government officers and the like are working harder than they have worked in a very long time. We must all thank them for their dedication to the job of bringing this legislation to us as quickly as they have. That package 1 announcement the Premier made was only last week.

In that short time, these measures have been put in place and into legislation so we can make sure that, as a state, we can deliver and support our communities as best we can. I hope everyone stays safe and well, and that we look out for each other and show some kindness.

[11.37 a.m.]

**Mr DEAN** (Windermere) - Mr President, I support the bill. It is a good bill, an important bill. It provides relief and support. We have a number of bills coming through like this at this time and they are needed. I recognise the efforts of all in putting all this work together to bring these matters forward at such short notice. The officers of OPC must be working right through the night at the present time to keep up with what is going on. This is where we have to be very careful. A lot of these people would be extremely stressed with what is currently happening and would be under a lot of pressure to get this work done and get this to us. We need to be looking at how they are, as well. We are currently confronting all these issues.

The Premier's address has been referred to, and I had the time to listen to every word he said, stuck in a line of traffic this morning. There was an accident at Mornington and I had plenty of time to listen to it. It was a good address and he covered a lot of very significant points. It has certainly been worth tuning in and listening to that address each morning.

People are suffering. I raise the issue of a supermarket in Launceston. The other day my wife and I wanted to buy some meat from the delicatessen. A middle-aged lady asked for a packet of chicken kebabs and she said, 'No, she wanted two packets.'. The shop assistant, who was also a middle-aged lady said, 'No, you cannot have two packets. We cannot do that.'. This lady became very upset and said, 'I am demanding two packets. It is not going to hurt you. It doesn't matter if I get two or whatever.'. She got so upset, the lady behind the counter - and you could see anger, too and she was distressed - butted in and said to this lady, 'Do not be so selfish; other people want this product as well. Please respect what you are required to do', and so on. The customer muttered a few swear words under her breath and grabbed her one packet and went off. This points out the impact this is having on shop assistants, in particular, at supermarkets. Police are having to police it, for goodness sake. It is a World War II, World War I situation. It is just crazy.

**Mrs Hiscutt** - It is just the beginning.

**Mr DEAN** - I support the bill and thank those who put it together, and thank members also for the briefing last evening.

[11.40 a.m.]

**Mr ARMSTRONG** (Huon) - Mr President, the three members who have already spoken have covered this bill really well. I support the bill and I support the taxation relief they are talking about for small business and payroll tax et cetera. Businesses are struggling; the supermarkets, in particular, are very busy, as other members have already touched on. They need to be congratulated for not price hiking. The supermarkets I have been to are keeping their prices low at this time and a lot of people in the community are saying, 'Oh, things are going to go up, prices are going to hike', but I have not seen that. The staff in the shops are under pressure; they are really under pressure and they are doing such a great job. I have not witnessed abuse myself, but I have heard of it.

I am not sure whether the Government is already looking at the price of petrol. In my electorate at the moment, you can buy petrol for \$1.19 per litre, yet the major service stations, that are going to get tax relief through this legislation, were yesterday still charging up to \$1.53 per litre. Something needs to be looked at regarding that, because that is a 20-to-30 cent per litre difference

in the price of petrol. We are virtually controlled in Tasmania by two or three big companies, not like on the mainland where there is competition.

**Mr Dean** - The Lewisham service station has been selling fuel for \$1.32 per litre for several months.

**Mr ARMSTRONG** - I believe it was \$1.19, but I will not confirm that.

The major operators that are going to get payroll relief through this legislation were still, as of yesterday, up at \$1.53 per litre and that needs to be looked at. I know it is not the role of governments to buy service stations but if they could buy service stations and still make a profit -

**Mr Dean** - Price gouging is what it is.

**Ms Forrest** - I understand the Commonwealth Government is looking at this. They are aware of it and looking at taking measures.

**Mr Dean** - Did the ACCC say that it had no jurisdiction?

**Ms Forrest** - I think the Commonwealth Government is looking at it.

**Mr Dean** - The problem is they have been looking at it for years and years and years, and it is time they did something.

**Mr ARMSTRONG** - At this time, when a lot of people are struggling, at an extra 30 cents per litre, the price of a tank of petrol could be -

**Ms Forrest** - If you have to stay home, you'll use less petrol. That's handy.

**Mr ARMSTRONG** - Yes, but there are still people out there -

**Ms Forrest** - Yes, I know - workers.

**Mr ARMSTRONG** - It is something I wanted to put on record.

[11.43 a.m.]

**Mr VALENTINE** (Hobart) - Mr President, I support the bill. I have no issues with it. It is good to see the Government taking action. We need, and we have heard various members talking about reactions in stores and all of those sorts of things, kindness and understanding. We have to understand the pressure almost every person in the street is feeling with regard to this. The banks are doing the right thing in terms of mortgages and that is important.

I hope individual businesses - that is, a person who does not employ somebody but they are in service industries - get some relief in some way through this. Maybe through the banks, but it is important for us to support individual businesses. Shopping locally will help. It is important we make sure that whenever we need to buy something, we support a local business. We are in it together. These measures will certainly assist, but let us think twice; when we go to spend our dollar, do not spend it on the net, spend it locally. If we can do that, we will be helping each other.

It is going to be here for a while. This is not a two-minute fix.

**Mr Willie** - The rest of our lifetimes probably.

**Mr VALENTINE** - I have some more to say about that in the State of the State address but will not deal with this here. I support the bill and the measures in it.

[11.46 a.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, some very good advice from the member for Hobart.

I have an answer for the member for Murchison's question on how the amendments will work in practice. I am informed the member for Murchison is almost right. The amendments will allow the minister to make a ministerial order that waives the payroll tax liability of businesses that meet criteria prescribed in the ministerial orders. The ministerial order will provide for the conditions announced under the Government's state economic stimulus plan, including industry and business eligibility for the payroll tax waiver, administrative processes to be waived and the period of the waiver.

The legislation also prescribes a ministerial order can only be made if it is made before the one-year anniversary of the minister being notified by the Director of Public Health that the COVID-19 health emergency has concluded. I know you know that.

This provides the minister with the capacity to provide further payroll tax relief post the health emergency in response to economic challenges created by COVID-19. The legislation allows the Commissioner of State Revenue to do anything necessary to give effect to the ministerial order. The advantage of a ministerial order is that it allows the Government to adapt quickly to the rapidly changing events created by COVID-19. The minister will be able to adjust the payroll tax waiver in a timely manner without the need to amend the Payroll Tax Act 2008. The member for Murchison was fairly right, but it will not be as prescriptive as to be able to cover these points.

Mr President, I would like to apologise to our Deputy Clerk. I know you and I eyeball each other a lot. I must look at that.

**Mr PRESIDENT** - And it is her substantive birthday today. She was not allowed a party and this was the closest thing.

**Mrs HISCUTT** - I wish our Deputy Clerk a happy birthday.

**Bill read the second time.**

## **TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 13)**

### **In Committee**

**Clauses 1 to 4 agreed.**

**Clause 5 -**

Section 18 amended (Amount of grant)

**Mr DEAN** - The Leader might have covered this; I am not sure if I missed it or not. How are we tracking people applying for the First Home Owner Grant? Are we seeing it increasing or dropping off? What stage is it at? Is it attracting more people each year?

**Mrs HISCUTT** - I can ask my advisers but this is not within the scope of this bill, so they may not have this. It had been climbing and it had been good. What happens from this day forward is anybody's guess, member for Windermere, but I will check.

**Mr Dean** - Do you have numbers?

**Mrs HISCUTT** - The Treasury officers have done some modelling. Based on that modelling, the Government expects total demand for the First Home Owner Grant for newly constructed homes to cost approximately \$12 million in the 2020-21 financial year. This equates to around 600 grants paid. Some of these payments will reflect applications for eligible transactions undertaken in the 2019 financial year. Likewise some of the payments for the eligible transactions undertaken in 2020-21 will occur in 2021-22. Treasury modelling does not account for the expected impacts of the coronavirus on demand for newly constructed homes. Basically, it has been going gangbusters, but no-one knows what is going to happen.

**Clause 5 agreed.**

**Clauses 6 to 13 agreed to and bill taken through the remainder of the Committee stage.**

## **TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 13)**

### **Third Reading**

**Bill read the third time.**

## **JUSTICE LEGISLATION AMENDMENTS (CRIMINAL RESPONSIBILITY) BILL 2020 (No. 3)**

### **Second Reading**

[11.54 a.m.]

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

That the bill be now read the second time.

The Tasmanian Government has clearly established its law and order credentials, and putting victims and community safety first is a core priority of the Attorney-General and Minister for Justice. The law and order reform we took to the last state election held this value front and centre, and our policies were strongly supported by Tasmanians. 'One-punch' or 'coward's-punch' incidents have been the focus of national attention as a result of a number of highly publicised incidents, campaigns in relation to alcohol-fuelled violence and the introduction of reforms to reduce violence,

including new offences across Australia. These senseless and sometimes fatal attacks are often unprovoked and indiscriminate but can leave lasting and devastating effects on the victim, their families and our community.

While there are a number of existing offences in Tasmanian legislation that can capture one-punch incidents, such as assault and grievous bodily harm, the minister considers reform necessary to close a loophole that currently exists for offenders to avoid convictions for manslaughter if they successfully argue that the death was an accident. The experiences of other Australian jurisdictions, coupled with consideration of the Tasmanian legal context and experience, has informed the drafting of the amendments contained in this bill.

The minister makes apology for taking the time necessary to thoroughly consider reforms that have occurred in other states to avoid unforeseen or unintended outcomes. Any changes to our criminal law must be carefully considered, analysed and tested with legal stakeholders to ensure they do not have unintended consequences or negative impacts on criminal proceedings. Our reforms will send a strong message that senseless and cowardly acts of violence will not be tolerated and will ensure that police and the courts have adequate powers to hold offenders accountable.

Last year, the Department of Justice released a draft bill for public consideration. We asked for feedback on proposed legislative changes that will make the defence of accident much clearer and ensure that self-induced intoxication cannot be used as an excuse for random acts of violence. The public consultation ran for six weeks and concluded in November 2019. Ten submissions were made and were, in general, supportive of the bill. In terms of some stakeholders seeking clarification or raising questions, the Department of Justice undertook further consultation with the Director of Public Prosecutions in order to settle the final version of the bill.

I will now turn to the specifics of the proposed amendments. The bill consists of two amendments to section 13 in the Criminal Code and an amendment to the Sentencing Act 1997. The bill amends section 13(1) of the Criminal Code. This section sets down the general intent requirements for offences under the code. Under section 13(1) of the code, a person is not criminally responsible 'for an event which occurs by chance'. This provision is comparable to the defence of accident in the Queensland and Western Australian criminal codes. Common law provides that 'an event occurs by accident within the meaning of the rule if it was a consequence which was not in fact intended or foreseen by the accused and would not reasonably have been foreseen by an ordinary person'. In 2011, Queensland chose to amend its Code to remove the word 'accident' and instead articulate the common law. The Queensland amendment was made as it was suggested that the term 'accident' did not 'reflect the essence of the excuse and may create misunderstanding within the community'.

For similar reasons, this bill amends section 13(1) of the code to remove the reference to 'chance event' and clearly state the principle set down by the High Court in the decision in *Kaporonovski*. This states that for a person to be criminally responsible for an event, it must have been intended or foreseen as a possible consequence, or an ordinary person would have reasonably foreseen it as a possible consequence. The first arm is a subjective requirement that the accused intended or foresaw the event as a possible consequence. The second arm sets down an objective test, asking whether an 'ordinary person' would have foreseen the consequence as possible. Therefore, even if an accused did not intend for death or grievous bodily harm to occur and they did not foresee the death or grievous bodily harm, the law will still find them criminally responsible for this event if an ordinary person similarly situated would have foreseen the event as a possible consequence.

Second, the bill enshrines the 'eggshell skull' principle within section 13. Both Queensland and Western Australia have amended their respective codes to ensure that an accused is not excused from criminal responsibility for death or grievous bodily harm that results to a victim because of a 'defect, weakness or abnormality'. This was in response to ambiguity in several cases in these jurisdictions about the appropriate use of the defence of 'accident' when the victim's death was a result or may have been a result of a pre-existing 'defect, weakness or abnormality'. This bill similarly provides that 'a person is not excused from criminal responsibility for death, or grievous bodily harm, that results to a victim because of a defect, weakness, or abnormality, of the victim'.

The third amendment is an addition to the Sentencing Act 1997. The Government committed to ensuring that intoxication could not be used as an excuse for a one-punch attack. This bill therefore specifically prohibits self-induced intoxication from being considered a mitigating factor in sentencing. The Government is committed to providing a clear message that self-induced intoxication by alcohol or drugs is not an excuse for violence in our community and we will always stand up for the safety of the community.

Finally, in order to fulfil the additional commitment to 'review the existing provisions in the Sentencing Act 1997, which give the courts the power to ban offenders from certain areas', the minister proposes to refer this aspect to the Sentencing Advisory Council for their consideration and review. The Department of Justice is currently working on the terms of reference.

Our Government also committed \$200 000 toward the Stop the Coward's Punch campaign to increase awareness and educate people. Developed in line with champion boxer Danny Green's national program, it aims to give young people advice on how to avoid and de-escalate violent situations. After all, prevention through education is far more preferable than dealing with the consequences of these horrific incidents. This work has commenced and will continue in parallel to the proposed legislative changes. Mr President, I commend the bill to the House.

[12.03 p.m.]

**Mr DEAN** (Windermere) - Mr President, would a briefing on this bill be necessary?

**Mrs Hiscutt** - As with the other bills, if any member requests a briefing, the vote is put and it is successful, we will most certainly do that.

**Mr DEAN** - I would have liked a briefing on it. I support it as it is, but there are a number of issues I would like to raise. Mr President, I move -

That the debate stand adjourned for the purposes of a briefing.

**Debate adjourned.**

## SUSPENSION OF SITTING

[12.03 p.m.]

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

That the sitting be suspended until the ringing of the division bells for the purposes of a briefing

I encourage members to move to committee room 2 as quickly as possible.

**Sitting suspended from 12.04 p.m. to 12.35 p.m.**

**JUSTICE LEGISLATION AMENDMENTS (CRIMINAL  
RESPONSIBILITY) BILL 2020 (No. 3)**

**Resumed from above.**

12.36 p.m.

**Mr DEAN** (Windermere) - Mr President, I thank everybody for the briefing. I appreciate it. The members' questions have certainly cleared up a number of the issues and points. I certainly support the bill.

We have been talking about addressing one-punch assaults or a coward's assault, which is probably more commonly known as a king hit, the common terminology that unfortunately has been around for a long time.

It is needed because we are well behind some of the other states moving in this direction. The number one punch or king hits that have caused death in the country is quite high. I did have the numbers. I am not going to guess at them now. We have a number of cases where it has occurred in this state. The situation has needed clarification for some time.

Some people will argue, and it is a reasonable argument, that when a person is affected by alcohol or by drugs, rational thinking disappears. Therefore, in the circumstance some people say it does not matter what the penalties or law is, it will have no impact on that person. It is true.

In this case, this legislation needs a lot of publicity. It needs to be driven home to the people, so they can understand the law and what the consequences will be in all of the circumstances. They need to understand. It is all very well for us in this place to make and approve these laws, but unless we get the message out very clearly to the people, it will have little impact.

I am very pleased to see this legislation brought forward. Intoxication, insofar as sentencing is concerned, has always been an issue. I remember in my time as a police prosecutor, going back quite a long while now, that intoxication was raised so many times as a defence and mitigation to a conviction on a charge for every other crime.

It is good the law has significantly changed in that regard. I have always seen that intoxication, in fact, or being drugged at a time of committing a crime or offence, should be an aggravating factor, not a mitigating factor, particularly where it is self-induced.

Mr President, that brings me to a case I have previously referred to in this Chamber. A 17-year-old person, attending a private school - his parents very good people - went to a mate's party, and was introduced to alcohol for the very first time and became quite drunk. He then committed a crime, stole some keys, jumped in the car and committed other offences. He found himself charged with a crime and a number of other offences. He, in that instance, took to alcohol; it was self-induced but he had no idea of the likely consequences or impact of that alcohol on his body.

The family came to me for assistance and support, and, to cut a long story short, I went to the Commissioner of Police, explained the position and the situation - that the 17-year-old kid was doing extremely well at school, was in a private school and was top of his class at all times right throughout his schooling, and that it would be devastating if he were convicted of a crime in the circumstances. He had no idea what alcohol would do to him, to his body. The Commissioner of Police - I am very grateful to him as the family were - withdrew the criminal charge and proceeded with the others. That was okay because he could wear that and accept that.

In that situation, that young person went on to be one of Tasmania's Rhodes scholars. It would have all been finished by the conviction of that crime due to self-induced intoxication, but there were circumstances around that. This is something that needs to be looked at very closely.

The member for Murchison raised the issue about self-induced cases during the briefing. If drinks are spiked or drugs are provided to a person who does not realise and does not understand they are taking those drugs, there have to be defences to support those people.

Having said that, I support the bill and look forward to it being enacted. I want to follow up on the publicity side of it, to ensure we put the message out there very clearly. There ought to be some signage in licenced premises to say that intoxication is a matter for you and, if you commit assaults, you are responsible.

**Mrs Hiscutt** - Are you asking about an advertising campaign? Are you asking for something besides what I have listed in the second reading speech?

**Mr DEAN** - Yes, absolutely.

**Mrs Hiscutt** - Other than a sign in a pub, what are you looking for?

**Mr DEAN** - We need to get the message out there. It is all very well to put this message on the radio or in the paper on two or three occasions. People in this category who are likely to commit this type of crime are not people who read the media, highly unlikely, and they may not pick it up in other forms of media.

**Mrs Hiscutt** - You are talking about other than the \$200 000 that is going towards 'Stop The Coward's Punch', which has been supported by champion boxer Danny Green.

**Mr DEAN** - That is good. I am simply saying we should not stop there, we need to do more and give it every possible chance of working because we have victims and it is causing death. I support the bill.

[12.43 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I support the bill. It is one of those cases in which you have to name it. It is fair for the Government to be bringing this forward. With the campaign, in terms of education, we have to understand that not everybody watches commercial television. There needs to be a way to make sure the general public is exposed to the messages given out in this campaign. I do not watch commercial television a lot. People in the street might talk about shows or ads on television and I did not see those. That is what the member for Windermere may be pointing out. It needs to be a broader campaign, so that people are aware, maybe with notices on nightclub doors or whatever, although they might not be the places people go during this

campaign. However you do it, keep in mind that not everybody sees commercial television ads. It may be put on buses, perhaps, or some other way. It needs to be expanded.

**Mr Dean** - Public transport is a good place for it to be very clearly identified.

**Mr VALENTINE** - Yes, or lifts or somewhere the general public moves through in cities and towns. I appreciate it. It is essential that people understand, whether they are intoxicated or not, that they have a responsibility. There are exceptions in the bill and it is important to have those. People are not always in circumstances where they can control intoxication, in the sense that it might be due to fraud or drink spiking. It might be some other aspect, such as taking a drug; they have complied with the provisions of taking that drug but have ended up affected when they should not have been, which might be due to some manufacturing problem. They are taken care of. It is not going to capture the innocent, if I can put it that way, and that is important. The provisions of the bill seem to cover those aspects. I support the bill.

[12.47 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, what I like about this bill is that its main focus is to close a loophole that currently exists for offenders to avoid convictions for manslaughter if they successfully argue that the death was an accident.

With all due respect to the Danny Green campaign and the media, I do not think you are going to get any further coverage for people who are going to do this sort of thing anyway. This bill gives the courts much more capacity to say that the loophole does not exist now and people will be convicted because of what they have done - their actions. It is the Government's decision to put more money into advertising this. It is to let people know that it is there already. The person who does this sort of thing is not going to be concerned with a slogan or a notice in a bar.

[12.48 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, the members for Windermere and Hobart asked the same question. The Government is working closely with Danny Green on the campaign. You will see advertising in coming months to enable more public awareness. It will be a significant campaign with a Tasmanian focus. A lot of famous Tasmanians will be involved in this and it will be a multifaceted campaign.

I have a media release from the Tasmanian Hospitality Association, which is well aware of what is happening; it is very supportive of this and will be promoting it. I will read out two statements about that. Anyone can access these statements on the THA website. The CEO, Steve Old, says -

Importantly, we are focused on developing our local message and we are keen to see that launched in the coming months, following the legislation being tabled -

He is referring to the campaign. He goes on to say -

Our committee includes well-known Tasmanians Dave Noonan, James Faulkner, Anthony Stewart, David Foster and a representative of Tasmanian Police, to name a few.

The THA is on to this and quite keen to promote it. I do not know exactly how they will promote it.

**Bill read the second time.**

**JUSTICE LEGISLATION AMENDMENTS (CRIMINAL  
RESPONSIBILITY) BILL 2020 (No. 3)**

**In Committee**

**Clauses 1 to 3 agreed to.**

**Clause 4 -**

Schedule 1 amended (*Criminal Code*)

**Mr DEAN** - I raise the issue in clause 4(b):

that an ordinary person would not reasonably foresee as a possible consequence.

This has been raised previously. What is an ordinary person? ? Would we say people in very difficult situations are ordinary people? Does it come down to an IQ test? Would someone with a very low IQ be seen as an ordinary person? Reasonable is often used in legislation - that of a reasonable thinking person - but when they are starting to look at ordinary, I wonder exactly what that means. Is a person who lives a wholly different way of life considered to be an ordinary person? Is there any answer to that? You will say this is the matter the courts use and understand the meaning of and they are the ones that will test it.

**Mrs HISCUTT** - What is an ordinary person? The concept of an ordinary person is one that appears in both statute and common laws in various jurisdictions, so it is a commonly understood term. The use of the term ordinary person denotes a basic objective test. Such an objective test aims for equality ensuring all people are judged according to the same standard. There is no significant difference in the concept of an ordinary person or a reasonable person. The reasonable or ordinary person is a fictitious, imaginary or hypothetical person of ordinary prudence, ordinary intelligence and ordinary skills under the circumstances. That is definitely the member for McIntyre.

**Mr Dean** - They are similar, reasonable and ordinary.

**Clause 4 agreed to.**

**Clauses 5 to 8 agreed to and bill taken through the remainder of the Committee stage.**

**SUSPENSION OF STANDING ORDERS**

[12.55 p.m.]

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

That Standing Orders be suspended to enable the bill to be now read for the third time.

**Motion agreed to.**

**JUSTICE LEGISLATION AMENDMENTS (CRIMINAL  
RESPONSIBILITY) BILL 2020 (No. 3)**

**Third Reading**

**Bill read the third time.**

**BRICKMAKERS POINT LANDSLIP BILL 2020 (No. 15)**

**First Reading**

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

**SUSPENSION OF STANDING ORDERS**

**Bill to Pass Through Remaining Stages**

[12.57 p.m.]

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

That so much of Standing Orders be suspended to allow the bill to pass through its remaining stages at such time as the Council may appoint.

[12.57 p.m.]

**Ms FORREST** (Murchison) - Mr President, I am not going to vote against this motion, but I spoke to the Leader earlier about this. To date I have not been given any really good reason this is so urgent and why it actually needs to be dealt with today. I am happy to let this go, because it says 'at a time the Council may appoint', and I expect the Leader will provide us with the information as to why this has to be done now and why there are not other administrative processes to assist these actual circumstances. I do not think we should be ramming legislation through this place without very good reason. The others definitely, but this one I am not so sure about.

**Motion agreed to.**

**BRICKMAKERS POINT LANDSLIP BILL 2020 (No. 15)**

**Second Reading**

[12.59 p.m.]

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

That the bill be now read a second time.

The Brickmakers Point Landslip Bill 2020 provides a transparent legislative framework for delivering targeted financial assistance to owners of the five properties impacted by the 2016 Brickmakers Point landslide at Deviot in Northern Tasmania. The landslide was reactivated following the heavy rains that year, which caused extensive flooding across much of the state.

Many members would be aware the Brickmakers Point landslide has taken a substantial toll on these property owners - both financially and emotionally. One property has been rendered uninhabitable and the others have all been subject to varying degrees of structural damage. After consulting closely with the owners and the West Tamar Council, the Government has decided to offer -

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

## **TABLED PAPERS**

### **Answers to Questions Without Notice**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I seek leave to table answers to questions without notice for the member for Murchison and Launceston and I also seek leave to have the questions and answers incorporated into *Hansard*.

**Leave granted.**

**The incorporated questions without notice and their answers are as follows -**

### **Oxycodone Use - Naloxone Availability**

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

The current Australian Criminal Intelligence Commission National Wastewater Drug Monitoring Program report indicates that Hobart has the highest city use of the opioid oxycodone, which has a very high potential for addiction. Although oxycodone can be legally prescribed and consumed, and wastewater analysis cannot distinguish between legal and recreational use, I note that Tasmania is one of the few jurisdictions in the country to offer the anti-opioid overdose drug naloxone through pharmacies and not community health providers.

- (1) Does the Department of Health and the Government believe that this correlation between high oxycodone use and low naloxone availability is worth investigating?
- (2) If not, why not?
- (3) If it is to be investigated, can the Leader please indicate what plans are in place to do so?
- (4) Will widening the scope of availability for naloxone be considered?

## **ANSWER**

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

- (1) No.
- (2) The Australian Criminal Intelligence Commission's wastewater report is intended to inform the commission on criminal activity regarding licit and illicit drug consumption, particularly methylamphetamine - ice.

The calculations used in the report are not specific enough to draw meaningful conclusions about prescription medicine prescribing or illicit drug use. The findings therefore have limited applicability to population drug consumption.

Although unintentional drug-overdose deaths increased significantly across Australia between 2001 and 2017, Tasmania has been largely stable over this period. This can be largely attributed to Tasmania's clinical-regulatory approach to high-risk medicines, including opioids such as oxycodone, which has delivered a demonstrable reduction in the average daily dose of opioids per patient prescribed for persistent pain.

- (3) N/A.
- (4) The Tasmanian Government has already taken action to improve access to naloxone, following the TGA's registration of the nasal spray formulation in 2018. The Tasmanian Government amended the poisons legislation in order to make naloxone more accessible for Tasmanians, enabling people who are at risk of or likely to witness opioid overdose access to take-home naloxone from a pharmacist.

The Department of Health is actively considering other available mechanisms to further improve access to naloxone in Tasmania and awaits the outcomes from the Commonwealth's Take Home Naloxone national pilot. These mechanisms will also be informed by consultation with key stakeholders.

### **Mediation - Settlement Conditions**

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

My question follows up on questions asked related to the practice/process around settlements reached, generally following a process of mediation leading up to the decision to offer, and accept, a settlement between an aggrieved party, whether a member of the public or public servant, and a government department.

After the settlement has been agreed between the parties, and prior to the agreement being signed by the Solicitor-General, or his office, and the aggrieved party, are any conditions, if included, made clear at the time of agreement or are they included with the formal offer?

## **ANSWER**

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

In the ordinary course, settlement (agreement) will be reached upon an offer being made and accepted. Sometimes that offer will follow a series of offers and counteroffers. At the point of the offer being made, whether by the state or the claimant, the essential terms are specified so that on acceptance the terms are known and set.

Sometimes the deed of settlement will simply reflect the agreement already reached. However, commonly an offer will be made subject to a deed being entered - the legal effect of this is being that until the deed is entered there is no binding agreement.

In any event, the claimant is aware of all the essential terms of the offer prior to accepting same and entering any deed. Once there is a binding agreement, which is a contract, there can be no other terms imposed (although the parties are always free to mutually agree to vary the terms of the contract they have concluded).

## **BRICKMAKERS POINT LANDSLIP BILL 2020 (No. 15)**

### **Second Reading**

#### **Resumed from above.**

[2.32 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, after consulting closely with the owners and the West Tamar Council, the Government has decided offer an assistance package designed to support these individuals to recover from this destructive act of nature.

It is important I state very clearly at the outset that this is not a compensation scheme. Financial assistance is being offered on compassionate grounds and not as a result of any legal liability on the Government's or the council's part for the damage caused by the 2016 landslide event. There is precedent for the Government to step in and legislate to support landslide-affected communities with financial assistance in these kinds of circumstances. Indeed key provisions of the bill are modelled closely on previous legislation for providing assistance to Tasmanians directly impacted by landslides, including the Rosetta legislation from 1992.

The core element of the bill is the establishment of a process whereby affected property owners can apply to have the Government make an offer to purchase their properties. Consistent with previous landslide assistance packages, offers will be made at 75 per cent of the relevant property's pre-landslip value, with that value to be calculated as though the property had not been impacted by landslide in 2016. Valuations will be done independently by the Valuer-General, and offers made by the responsible minister.

This is a voluntary, opt-in scheme. There will be no compulsory acquisition of properties. Owners will not be compelled to apply for assistance and where they do not apply for assistance they can then refuse the Government's offer, if they so choose. However, the bill does provide that any applications for assistance must be lodged within two years from the enactment of legislation. This gives affected property owners adequate time to consider their options, while making clear this is a time-limited scheme. The Government is acutely aware these property owners have already

endured significant stress and uncertainty over the past three-and-a-half years. That is why the process we are proposing through this bill is simple, has clear time frames and provides certainty.

The five impacted properties are specifically defined in the bill because the effects of the landslide on these properties are already well established. This means unlike some previous legislative schemes, there will be no requirement for property owners to go through a complex application and assessment process to prove their eligibility. They will simply need to write to the Government indicating they would like us to make them an offer to purchase. Where property owners apply, an offer must be made within 90 days of that application and the Government is bound by that offer. Property owners then have up to 90 days to accept or decline, so they have adequate time to seek and consider their own financial and legal advice on the terms of the offer and to make other living arrangements if they choose to accept the offer.

The bill provides where an owner accepts an offer for the Crown to purchase their property, the Crown and the council (and their representatives) are indemnified against any future action for damages. The intent is to prevent a person who accepts financial assistance under the legislation from then subsequently suing the Crown and/or the council for damages in relation to the landslide. The bill also indemnifies the Crown and the council in relation to actions taken in good faith to manage or mitigate landslide on, or in the vicinity of, an affected property.

The legislative framework will be underpinned by a formal agreement between the Tasmanian Government and the West Tamar Council. I would like to take this opportunity to thank the council for its support in assisting property owners and for its commitment to manage the landslide site. I can advise the House that the parties have agreed, in principle, to the following terms -

- the purchase price of acquired affected properties will be shared equally between the Government and the council
- following acquisition, ownership of acquired properties will transfer to the council
- the Government will fund demolition and remediation costs for all acquired properties
- following demolition and remediation, the council will have responsibility for ongoing land management in and around the landslide-affected area.

The Government and the council are currently in discussions about the finer details of the agreement so that a binding deed between the parties can be finalised and executed at the same time as the proclamation of the legislation.

The intent and operation of this bill is straightforward. It seeks the parliament's endorsement of a targeted financial assistance scheme to support a small number of property owners whose lives have been severely impacted by landslide. I ask members to support this bill so those property owners who wish to move on and rebuild their lives elsewhere can be given the opportunity to do so. I commend the bill to the House.

In reply to the member for Murchison's earlier request, I will reiterate a few reasons we should proceed with this bill.

As I said, the Brickmakers Point Landslip Bill 2020 is simple, has clear time frames and provides certainty for these people. It seeks the parliament's endorsement of a targeted financial assistance scheme to support a small number of property owners whose lives have been severely impacted by this landslide. In light of the current situation, we would like to try to get this through because their lives, like everybody else's, are going to be absolute bedlam for the next few months, if not years.

The Government is acutely aware these property owners have already endured significant stress and uncertainty over the past three-and-half-years already. I ask members to allow this bill to progress through debate and ultimately to support the bill so these property owners, who wish to move on and rebuild their lives elsewhere, can be given the opportunity to do so.

This is a bill to provide a compassionate payment for five property owners who have been severely impacted by this landslide. I understand the Government has received advice that it has no legal liability, and I understand that the council has received similar advice. This is not a compensation scheme for actual loss, it is a compassion payment. The date of 1 May 2016 is one recommended by the Brickmakers Point landslide management committee.

I hope that members will be inclined to support this bill. I will adjourn the debate so we can go for a briefing before I commend the bill to the House.

Mr President, I move -

That the debate be adjourned for the purposes of a briefing.

**Debate adjourned.**

## **SUSPENSION OF SITTING**

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

That the sitting be suspended until the ringing of the division bells for the purposes of the briefing.

**Sitting suspended from 2.40 p.m. to 3.15 p.m.**

## **BRICKMAKERS POINT LANDSLIP BILL 2020 (No. 15)**

### **Second Reading**

**Resumed from above.**

[3.16 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) -  
Mr President, I had finished the second reading and we have now had the briefing.

It was highlighted in the briefing that a particular family has lost their business or are in the process of losing it, and they are losing nearly everything. I would like to see this bill passed on the compassionate grounds expressed through our briefing to give these people a little bit of a boost and an avenue to go through when they hit that brick wall. I will not dwell on it. We all know what is happening with COVID-19 going around. This family is already being affected by this. We would like to get this bill through because it will help people who are struggling.

Mr President, I commend the bill to the House.

[3.17 p.m.]

**Mr FINCH** (Rosevears) - Mr President, I thank the Leader for the briefing and Craig Limkin, who was also there. The people concerned appreciated your contact and the process you offered via the phone. I also thank to Justin Helmich for his consideration yesterday during the briefing. I was going to give qualified support to the bill. Here I am, connected closely to this bill and it came to us yesterday, but it was not delivered to my office. I did not have the bill.

**Ms Forrest** - I reckon they thought you had written it, so you would have a copy.

**Mr FINCH** - That's right. I did not have the document to work with and neither did the people affected. All of a sudden, the bill appeared in a bum's rush, as I have referred to others in the past - that is, when things move through quickly.

I am going to withdraw my qualified support. Snippets of what was said downstairs and a report in *The Examiner* about the householder's support for this are incorrect. I register my concern with some aspects of this bill and I urge the Government to note my concerns and, if possible, to change the bill. I had a discussion about that this morning about a reference for moving an amendment. This is not possible because the West Tamar Council is also involved, so the state Government could not unilaterally make a decision about that.

**Ms Rattray** - Couldn't they give him a call?

**Mr FINCH** - That would be far too simple. I would have thought, with this issue coming on, they would have been on stand-by and somebody would have been in a circumstance to say, 'It is on, and if anything untoward occurs, let us see what is being offered or suggested so we can act on this.'

**Ms Forrest** - Particularly in the current circumstances, when we are being asked to deal with it with hardly having seen it. You would think the council would be available at short notice, given the current circumstances we are facing and what we are having to deal with.

**Mr FINCH** - Just in case, they should have been on hand. However, I am not going to quibble because I understand the explanation given to me, and I am in the position to have to accept it.

By the way, the Government is to be commended for taking decisive action on this matter since we in the Legislative Council unanimously passed that motion last August urging the Government to do so. When I moved that motion eight months ago, I documented the hardship and the stress the landslide event at the end of May 2016 was causing the five families at Deviot targeted by this bill.

They were mostly here as guests and subsequently held the press conference. They have been in limbo for the best part of four years now, burdened with the anxiety that comes from properties that are virtually worthless and personal lives wracked with uncertainty for the future. Throughout that time, they have not known whether they would be recompensed by government for what the Pennington report documented as clear negligence by state and local government authorities. There was evidence of serious errors by the state in its geological categorisation of the landslip-prone clay soils of the Brickmakers Point area.

As well, the West Tamar Council failed to acknowledge decades of local knowledge about the propensity of the area for landslip. The council then failed to ensure its planning scheme reflected this problem by way of cautionary advice to property owners and developers when issuing building and planning permits and subsequently for people who bought the properties. Nothing to see here, so everything was tickety-boo when people went to buy those properties. In short, the statutory processes of both tiers of government failed to acknowledge landslip at Brickmakers Point as a real risk. But they should have. The Brickmakers Point Landslip Bill seeks to offer affected property owners 75 per cent of the property value at the time of the landslip, which is now nearly four years ago. This is seriously inadequate; it is not enough.

The minister has made it very clear that the Government sees this offer not as compensation - that would imply legal culpability by the Government - instead the offers will be made on compassionate grounds. Clearly, this distinction is the voice of the Government's legal advisors. In the circumstances it is probably the voice of wisdom, because my betting is some of the affected property owners will not accept the offer as it stands in this bill, instead preferring to take the Government and the council to court in pursuit of a more reasonable, equitable outcome. The argument for compassion being the prime motivation with this bill is a very thin argument given that the basis for calculating the proposed offers is not a psychological assessment of the residents but the cold, hard dollar value of their properties. While the Government does dare not talk compensation, we all know what it is - if it walks like a duck, it looks like a duck and it quacks, call it Donald or Daisy, it is a duck. The offer would seek to be compensation for both the emotional impacts of four years of waiting and not knowing if your home would ever be worth anything again, and compensation for the devaluation of their property values caused by government negligence in the geological categorisation of the land and government failure to ensure statutory processes for building and planning approvals reflected the landslip risk.

The proposed offers made on the basis of four-year-old property values are not enough for two main reasons.

First, it was the slow-turning wheels of government that caused this process to be so drawn out, not the actions of the property owners, yet with this bill, it is the property owners who are expected to carry the cost of government delays in completing reports on the landslip and the long drawn-out processes of government task forces convened to weigh up the pros and cons of government moving to correct its own mistakes.

A resident accepting a government offer would also have had the burden of relocation, leaving behind the lives they have built in good faith at this beautiful location on the Tamar River. They have had to find new homes, relocate kids to new schools, incur financial penalties from real estate transactions and so on. The list goes on and on. Given all of this and the delays and extensive anxiety flowed from it, plus the fact that the government's mistaken categorisation of the area is at the root of the dilemma, a figure higher than 75 per cent valuation would be well and truly justified.

Second, while the minister's second reading speech goes to some length to emphasise the bill is consistent with past precedence, in particular, with the recompense provided through the Rosetta Landslip Act 1992, what is proposed in the Brickmakers Point Landslip Bill is in fact well short of the offer legislated in response to the landslip at Rosetta. Under the Rosetta act, government offers to residents were calculated using valuations at the time of offer. In other words, valuations at current market value, and that was without any landslip occurring and they give 75 per cent. But with Brickmakers Point, current market valuations will not be used, but valuations from four years ago.

I live at Deviot; Carole and I paid \$269 000 for our house five years ago. We had a bank valuation recently at \$380 000, so our property has improved \$110 000. That valuation was made sight unseen of the improvements we have made to that cottage, which we think puts the value much higher. That is \$110 000 in five years, not the same figures, but you can understand where that might put those houses. People in this climate are coming from the mainland to their safe haven in Tasmania and paying big money for properties at Deviot. The value of all the properties has grown and gone up, so this four years ago is a nonsense.

It is not only inconsistent but it is also very unfair. I urge the Government to amend the bill to make it at the very least truly consistent with the Rosetta Landslip Act 1992 as the minister claimed it to be, but it is not. On the plus side, the bill once legislated will put a much-needed base line into the worth of the affected properties. Currently, these properties are arguably unsaleable, their value is next to zero to their owners. The bill will provide a modicum of comfort to these owners that at least 75 per cent of the value in 2016 is available to be realised with a sale to the Government. The 75 per cent is not enough and four-year valuations would be a travesty, but it is whole lot better than nothing, a sad fact.

The bill is also voluntary; it is opt in, and there is no compulsion for the property owners to request assistance or to accept the result in the offer from the state, which is a good thing. If they choose not to participate, and they have two years to decide that, they are free to do so. Similarly, if they prefer to take legal action instead, they are free to do that. As I mentioned, I would not be surprised if some of the affected property owners decide to take the legal route, as you will hear in a moment.

The inadequacy of the assistance to be offered by the Government under this bill will only encourage this to happen. This is another reason I strongly urge the Government to revise upwards the land valuation from 75 per cent to closer to a 100 per cent, while at the same time using today's real estate values, not four-year-old values, as the benchmark for offers.

Finally, I hope lessons have been learnt from this whole episode, notably that the subdivision at Brickmakers Point should never have been allowed. Government, both state and local, must in future be super vigilant with the geological mapping and categorisation of land throughout Tasmania. The consequences of not getting it right are very significant both for Tasmanian taxpayers and for the lives of property owners who inherit the legacy of any substandard geological assessments that might occur in the future.

As I say, because of the haste with which this bill has been brought through the House, I have had to have a quick ring around to speak to as many of the people affected as I could, to get them to send me their thoughts on how they view what has now occurred. That is, except for the couple who have gone to New Zealand; I do not have their contact details. This is from Nic Daking; part of his house is still standing, but most of it went down the hill. To say he and the family are

heartbroken is an understatement because this was their dream home. They had a new baby on the way, already had two children, and this was hugely traumatic for a person who was very busy in the business world. He and his family suffered very badly and his wife is furious -

Hi Kerry,

Putting aside the very serious situation we are all dealing with currently, we have been living with this nightmare for 4 long years and what has been passed today will not end the nightmare, in fact it has had the opposite effect. In accepting this bill of 75% of valuation before the landslide occurred we would actually be placing ourselves in a worst financial situation than we are today, now that may sound hard to believe but it is the truth. I can provide detailed information that clearly shows this dire situation we have been placed in. We are sick and tired of the constant reference to the Rosetta Landslide, now with Rosetta the landowners were paid out in around 1 year I'm lead to believe, there was also absolute no knowledge and more importantly no liability with local or state government due to any unbelievable number of mistakes that lead to the Rosetta landowners having their families being placed in danger both physically, emotionally and financially. Now Rossetta did not have a Derek Pennington Report, an expert in this field that investigated what had occurred and how it happened and why landowners were ultimately left in this position. So to continue to refer to Rossetta when discussing Deviot is simply irrelevant because if it was then why do we Deviot landowners have had to wait 4 years? Why wait 4 years with an expert report clearly stating what has happened and who is at fault, it's not us the property owners. I could go on and on but I won't as I mentioned before today is just a reminder of the nightmare we have had for 4 years and now we look forward to that continuing. I would like to ask the West Tamar Council, when the landslip event occurred at exactly the same time the mineshaft opening at their Beaconsfield Mine collapsed the same day our house started to disintegrate, did the Council accept 75% of the land valuation prior to the damage and hand the land over the Crown or did they organise a nearly \$2m grant from the State and Federal Govt? The Council and the State Govt allowed my family and our neighbours to be placed in this position in full knowledge of the dangers, they ask us to go waive any legal liability and claimes against them and continue living the nightmare. This is Deviot, not Rosetta, read your report that you commissioned then ask yourself what would you do? Because I know what we are going to do.

He sent another message to say -

The minister has a very skewed idea of consultation. We had one meeting in November and were asked what our expectations were.

**Ms Forrest** - Is he suggesting there is a council or government liability?

**Mr FINCH** - Both.

**Ms Forrest** - In the briefing we were told they did not believe there was any government liability.

**Mr FINCH** - No, absolutely. That is what you are hearing; well, that will be tested. The advisers and the minister say, 'We have no legal liability.'. We will see.

This is from Chris Wells -

Unfortunately as it stands the current offer of assistance is not one we could possibly consider. Whilst we understand the position that has been taken, we are very disappointed and feel that it fails to take into account the individual circumstances.

We have spent (ignoring interest) approximately \$600,000 on the property, \$150 000 of which was purely in attempt to save the house structure.

An offer of 75% may only total \$250 000? which wouldn't cover our debts on the property.

Remember that for us the slip activated in 2013.

They had movement earlier -

Where would we be if we had the opportunity to spend that \$150 000 and 3 to 4 years on the development of the property? We would have completion of the residence, landscaping, fencing and paved driveway. We expected that the market value of the property would be at least \$600 000 by this time.

This a purely our financial point of view. The toll on a health from the stress and physical hardship attempting to save our house we are unable to quantify.

It simply isn't a fair offer when we are not at fault.

David and Denise Berry -

We're disappointed with the Bill's proposed offer ... particularly disappointed that it does not offer parity with offers under the Rosetta Landslip Act 1992 (4-yr-old values vs current market value).

We're in a very tight corner and feeling a bit like having been worn down by the system:

In our 70s and weary after 4 anxious years;

Desperate for a solution to having our superannuation investment having gone belly up, through no fault of our own.

75% is too low and parity with Rosetta valuations should be a given.

Nigel Lazenby and Clare Freshwater, the Lazenbys -

This is a cold hearted , insensitive offer to people who have been traumatised for a number of years ;living in fear of the loss of their property and lives.

A world leading Geotechnical engineer has stressed there is the potential for a catastrophic event here.

Can you imagine the fear and stress that this has puts on the individuals and their family relationships over such a long period of time?

We believe that a fair offer would be current realestate value of the properties as there has been a major increase in real estate values in Deviot in the last few years.

This is not our fault!

From our perspective, this a a huge loss of belief and trust in the system of responsible government bodies.

Why should we be forced to continue to suffer and lose?

Our next move (should we be unable to resolve this situation), is class action.

In light of these testimonials and the fact this bill is not time-sensitive and has been given the bum's rush to get through here, Mr President, I move -

That the debate stands adjourned.

[3.41 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I would like to speak against the adjournment.

Talking to my advisers and hearing what the member for Rosevears is saying, there is a contradiction. I would like to put on the record quite a lot of information for members to make up their minds as to whether we adjourn this debate or continue. I am a little confused at the minute.

I have a fair bit of information here and I also have a letter. I might start with this letter from Mr Berry because the member for Rosevears had quoted a letter from Mr Berry. He says -

**Mr Finch** - When was this please?

**Mrs HISCUTT** - Dated, I cannot find a date on this but when I finish reading it, you -

**Mr Finch** - Mine was this morning.

**Mrs HISCUTT** - This was about a month ago when the bill was being finalised. Mr Berry may have changed his mind. Let me read the letter -

Dear Minister

## Brickmakers Point Landslip

I write on behalf of Deviot Road property owners worst affected by the 2016 Brickmakers Point landslip. Messrs Crisp and Rani Wells, Nigel and Claire Lazenby, Nick and Nikki Dakin, Russell and Tessa Leigh, and ourselves, David and Denise Berry.

For almost four years of uncertainty we are now most anxious for resolution of our situation. Properties now are very little market value, each constructed on the false premise that the location was not prone to landslip as per state government geological mapping overlays operating at the time.

The Pennington report of last year established that this was a serious error. It provided numerous examples of why the Government's geotechnical classification for Brickmakers Point should have highlighted the areas' landslip propensity, not ignore it.

At the latest of the regular meetings of the above property owners, which was Sunday, 2 February 2020, also attended by members for Rosevears, Mr Kerry Finch, MLC, and residents' representatives to the Government, WTC Landslip Committee, Trevor Grant, we considered information provided to me earlier that day by Deputy Secretary to the Department of Local Government, Mr Craig Limkin.

We wish to acknowledge the forthright manner of Mr Limkin's update on progress. Being kept informed with accurate, timely information, is so helpful in living with such a stressful situation. We were particularly pleased to learn the Government's Brickmakers Point Landslip Working Group, officiated by Messrs Limkin and Tay from your Department, has completed its work and the presentation to state Parliament by yourself of the resultant submission is imminent. Perhaps before the end of the month, February.

We ask that we are kept informed of progress with Cabinet's deliberations and again express our thanks for the efforts thus far by yourself and other ministers, notably Premier and Treasurer, Peter Gutwein MP, as well as WTC's General Manager, Rolfe Voss, and other council staff.

Also, we want to advise that despite being often approach by media for comment, and encouraged from some quarters to pursue recompense from legal avenues, our group has thus far resolved not to pursue either option. The developments as outlined by Mr Limkin last week have reassured us in maintaining our current position.

Yours faithfully,  
David Berry  
654 Deviot Road, Deviot

I find it hard to put that with what is happening here. I am a bit confused. Having said that, it is what it is.

**Mr Finch** - I encouraged that letter to be written because it was a communication by the people involved, to the Government and to the council, of the feelings of the meeting and trying to be as conciliatory and understanding as they possibly could be, with no volatility mentioned there.

**Mrs HISCUTT** - There was a meeting in February, and it is only March now, so it has gone from left field to right field to out of field. I do not really understand why this has happened.

I would like to go through some reasons I thought we should pursue this bill. Why is the Government offering to purchase these properties at 75 per cent of the value, why not 100 per cent? This is one of the things the member for Rosevears mentioned.

**Mr Gaffney** - Wasn't it on the adjournment?

**Mrs HISCUTT** - I am trying to suggest why we should not be adjourning, and I want to give you the reasons.

**Mr PRESIDENT** - If you keep pretty tight to that, we should be all right.

**Mrs HISCUTT** - In light of the letter I read out and what has been read by the member for Rosevears, I am a little bit confused. The Government's opinion is that this is the best way to help these people. We dispute the suggestion that a quick ring around was done because that is not the case -

**Mr Finch** - Sorry, Leader, I missed that - a quick ring-around, what was that?

**Mrs HISCUTT** - You mentioned that a quick ring around was done by the department, but I have notes here, which I could read in, a process of consultation has happened. There was no quick ring around.

I believe we should proceed with this legislation because this is the outcome the residents indicated to the Government that they desire. We talk about the valuations of their house; if we leave it any longer under the current circumstances, their homes may be devalued -

**Ms Forrest** - The evaluation is set in the past anyway, isn't it?

**Mr PRESIDENT** - We should not need to enter into a debate on this.

**Mrs HISCUTT** - I urge members to proceed with this bill because, if these people's homes are devalued, when it is done they could get less than what they were getting in 2016. COVID-19 is an unprecedented problem. It has been indicated to Government that these people want this done and there are families who are desperate, one with a business that has gone broke because of the situation.

Members, I urge you not to adjourn the debate but to pursue it.

[3.48 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I support the member for Rosevears, only because I am totally confused. I am hearing one thing from the Leader and another from the member for Rosevears, who has apparently spoken to at least four of the five landowners.

**Mrs Hiscutt** - I read out a letter from last month.

**Ms ARMITAGE** - With respect, Mr President, the letter the Leader read was previous to them understanding what the offer was.

**Mrs Hiscutt** - I do not believe so. They indicated in that letter -

**Ms ARMITAGE** - I ask the Leader: did they know that it was 75 per cent?

**Mr PRESIDENT** - Can we keep the debate to the reason for the adjournment?

**Ms ARMITAGE** - It is to do with the reason for the adjournment. That is what I am trying to understand. If we have had a letter read out by the Leader and we have had discussion this morning, I believe, by Mr Finch, with four of the five, the other question I ask the Leader is: how is it going to devalue their properties more in leaving it when they are having them valued at a set time, which was previous to the landslip? Whether we debate it now, in 12 months time or three months time, the valuation according to the bill before us is going to be at the same time, so the valuation will not change.

I have not spoken to the landowners and I would like them to come back as they did before and speak to us. It is difficult at the moment. Could we have a teleconference with them so we can speak to them - and I am sure that could be arranged, Leader - to hear whether they are happy or not happy?

My understanding is the letter read out was previous to them understanding what the offer was. I understand what the Leader is saying about one of the landowners having financial difficulties with COVID-19, but he was also one of the people referred to by Mr Finch as not being happy.

**Mrs Hiscutt** - While the member is on her feet, I will answer that question about whether they were aware. The people were told it would be consistent with the Rosetta one and that was 75 per cent but the Government did not actually say it would be 75 per cent per se, it said it would be consistent with Rosetta.

**Ms ARMITAGE** - Perhaps they did not have an understanding of the percentage. If you told me it was consistent, I may have thought you were going to do it on compassionate grounds, on certain things being consistent, but if I did not know the amount was going to be the same and also, I am not sure whether when the valuation was done with Rosetta -

**Mr Finch** - It was current.

**Ms ARMITAGE** - If it was current - well, consistent would be current valuation - how can that be consistent with Rosetta if Rosetta was a current valuation and this is -

**Ms Forrest** - This would be worse.

**Ms ARMITAGE** - Yes, and this is actually back. I understand it is worse, member for Murchison. It is worse. It is not the work put into some of the properties and the money spent. When they built them initially, they were at a different stage. A couple of the properties have had substantial development because of the views, to make them really very nice properties, apart from the fact the ground has slipped away from them now.

I have real difficulty here, Leader. I understand where you are coming from, and I certainly want to support the people, but with the information Mr Finch has from having spoken to four of the five landowners today, I cannot see a time imperative with it. It has been going on now for several years.

My aim is to get the best outcome for these people as opposed to trying to rush through a bill.

[3.52 p.m.]

**Ms LOVELL** (Rumney) - Mr President, at this stage, I too am inclined to support the member for Rosevears' move to adjourn. I appreciate the Leader has read in a letter received from Mr Berry, but, as other members have pointed out, that letter is a month old. We have heard that, at that time, that gentleman and those residents were told this process would be consistent with the Rosetta process. We are hearing now from Mr Finch that the process and their understanding of it is actually quite different as to how it is played out in reality.

I am also reluctant to rely on a letter that is a month old. I am concerned that when Mr Berry reads or hears this debate - he may well be listening - he may feel misrepresented by that letter being read in, considering the passage of time since then, the additional information that has come to light since then and the further communication he has had with the member for Rosevears.

I do not appreciate the effort to counter a letter he has written today with a letter he wrote a month ago and to expect us to accept that over this much more recent communication.

In light of all those facts and the discussion we are having now, I will support the member for Rosevears.

**Mrs Hiscutt** - While the member is on feet, it is important this goes onto *Hansard*. The Rosetta legislation at section 9(2) says -

An offer to purchase property in accordance with section 8 is to provide -

- (a) that the purchase price is to be 75 per cent of the assessed value of the property at the date of the offer ...

**Mr GAFFNEY** - Point of order. It is on the adjournment, it is not part -

**Mr PRESIDENT** - Yes, I was about to make that ruling. On the adjournment, each person gets one speak on why we should or should not adjourn, and there is no right of reply to any parties, so we cannot enter a debate across the Chamber when the question before members is the debate stand adjourned.

I ask members to rise, make their contribution, sit down and we will take the vote. It is not to go into a second reading debate.

**Ms LOVELL** - Thank you, Mr President. As I make my contribution on the adjournment, I will be supporting the member for Rosevears.

[3.55 p.m.]

**Ms FORREST** (Murchison) - Mr President, I would like to make a few points when deciding whether I support an adjournment regarding the letter read out by the Leader.

I listened carefully and what I can glean, without a copy of it or of the *Hansard* to confirm it, is that the letter was written in early February following a meeting in early February, and we are nearly at the end of March. That letter said that the legislation was expected by the end of February. That may have been the resident's expectation; I do not know if that was the reality. Their clear understanding was that the legislation was expected at the end of February. From the letters the member for Rosevears read out, it seems they had not seen the legislation or even a draft of it. Comments in their letter were generally supportive of a process to move forward with legislation based on the Rosetta Landslip Act that facilitated that, but it is a bit hard to unequivocally agree with something until you see the legislation, which pushes me toward the member for Rosevears' point.

**Mrs Hiscutt** - Is that in line with what I read out about the Rosetta landslip being 75 percent?

**Ms FORREST** - No, that is irrelevant to my points. In his contribution prior to the adjournment motion, the member for Rosevears mentioned that technical assessments were done that were wrong and that there is this whole question of liability. He may have a view that some of these landowners may test it in court. That remains an option now and is lengthy, costly, all of those sorts of things. I see this as moving toward finding a conciliation point which people can opt into for a compassionate payment.

It seems as if there is a lot of confusion. I was not sure from the member's motion to adjourn the debate whether he was intending it to sit there and give us more time to consult with the landowners and to fully understand legislation, or whether he was proposing an amendment. He mentioned an amendment in his second reading contribution but there was no mention of that when he moved that the debate stand adjourned. Is an amendment in the wind that we could see today and maybe progress tomorrow? I am uncertain as to how to proceed with this. I hear the family wants it done, but are they happy with this option? That it is opt in and all those things.

Do we hold up support for business and not give support to the people who have business problems? I understand from the Leader that they were COVID-19-related problems and there is support for that in a separate bucket of money. We should not be basing the passage of this legislation or otherwise, now or later, on their business dealings when there is support for businesses impacted by COVID-19 in another bucket. That would be a reason to proceed with it, in my mind. I do not know, Mr President.

[3.58 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, when we make decisions, members usually have exactly the same information available to them and they have to make a decision as to which way they will go in relation to the facts before them.

I am hearing that there is conflicting information, especially relating to the people who might be the beneficiaries of this. For that reason alone, an adjournment is required. I do not believe it is exactly the same as the Rosetta landslip; we can go into that but not in an adjournment debate. I am concerned that we have conflicting information. We need to have the same information when we are making decisions in this House. I support the adjournment.

[3.59 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I support the member's intention to bring forward an amendment. He said in his second reading contribution that he could not do that because the Government could not agree to an amendment, because it needed to be able to discuss that with the West Tamar Council and that was not possible. For that reason alone, it would be prudent to support an adjournment at this time. The Government can go back to the council and say that the people do not agree with this, and see if there is any movement. If there is not, we will deal with it at a later time when we are back in this place. I agree that those four of the five landowners do not believe it is as time-sensitive as it possibly was. I support the adjournment.

[4.00 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I congratulate the Government for trying to do what it thinks is the right thing, although I support the adjournment. The gap is between the understanding of the Government and the five landowners on what this legislation is about.

I do not agree with members who have suggested we need to make a decision. I think the Government needs to go back to the landowners and the council, work through the bill and come back with an amended bill. We can then debate a bill that is in front of us, whether we agree with either of the three parties on this.

An adjournment is necessary. I agree with the member for Murchison that the COVID-19 situation can be dealt with. It should not impact on this legislation and we need to stick to this. Once the Government has discussed this with all concerned parties, it can come back with this exact same bill knowing that the parties can make a presentation to us and we will all receive the same information so that we are playing on a level field. I support the adjournment.

[4.02 p.m.]

**Mr DEAN** (Windermere) - Mr President, I understand why the member is wired up. My issue in deciding whether to support the adjournment is that I was told these people were made aware of the Rosetta position of 75 per cent. Were they made aware at the same time that the valuations of their properties would be done differently?

**Mr PRESIDENT** - You can only ask that rhetorically.

**Mr DEAN** - That is right, rhetorically. Were they, because we are told they were done on current valuation in Rosetta? Their properties are being done on the 2016 valuation and we know very well that there has been a significant change in property valuations between 2016 and now.

I am inclined to support the application for this matter to be further adjourned. What is the adjournment for? What is to be done in the meantime that cannot be done now by way of amendment? The member for McIntyre has explained that to some degree, that there is a need to go back to the council and involve them in the process.

There is clearly confusion. I am not disputing anything the Government or the department has said in the briefings. I have no reason to do so. Some issues have been raised that do not quite gel and an adjournment is necessary. If an adjournment occurs, I am not sure it could be done by tomorrow. We are programmed to sit tomorrow. I do not know whether any of that work could be done between now and then. I agree this matter should be sorted quickly. When I am considering this adjournment, how long might it be put off? Will that impact some of these people who want the moneys they are entitled to and so on?

**Ms Rattray** - Obviously not.

**Mr DEAN** - It would seem not. It has been a long time and they have had to go on with it for a long time. I support the amendment in all the circumstances

**The Council divided -**

AYES (10)

NOES (2)

Ms Armitage  
Mr Dean  
Mr Finch  
Ms Forrest  
Mr Gaffney  
Ms Lovell (Teller)  
Ms Rattray  
Mr Valentine  
Ms Webb  
Mr Willie

Mr Armstrong  
Mrs Hiscutt (Teller)

**Motion agreed to.**

**Debate adjourned.**

### **SUSPENSION OF SITTING**

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

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

**Motion agreed to.**

**Sitting suspended from 4.10 p.m. to 5.05 p.m.**

### **COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) BILL 2020 (No. 14)**

#### **First Reading**

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

#### **Suspension of Standing Orders**

Motion by **Mrs Hiscutt** agreed to -

That so much of Standing Orders be suspended to allow the bill to pass through its remaining stages at such time as the Council may appoint.

**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS  
PROVISIONS) BILL 2020 (No. 14)**

**Second Reading**

[5.08 p.m.]

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

That the bill be now read the second time.

The bill I am introducing today is essential to support the continuity of government services and key regulatory functions during what is likely to be a period of significant social and economic upheaval for all Tasmanians.

The health and wellbeing of Tasmanians are the Government's highest priority as we face the significant challenges presented to us by the spread of COVID-19.

As I have said before, we will continue to put the health and safety of Tasmanians first as we work to support business, jobs, families and the community through these difficult times.

We are already seeing the significant impacts of coronavirus in Tasmania. As of 24 March, 36 cases of COVID-19 were confirmed in the state.

At the meeting of the National Cabinet last night, further actions were agreed to support social distancing measures for non-essential gatherings already in place to protect the Australian community from the spread of the disease.

This bill introduces a range of measures to reduce the risks to the state, and the risk to, or hardship suffered by, our community, as a result of the spread of COVID-19 in Tasmania. The bill will ensure that key regulatory requirements of the state, and the administration of law, can adapt to the unique challenges COVID-19 presents both to governments and the broader community.

There is no doubt the COVID-19 pandemic will affect the business of government and its interaction with statutory entities, private businesses and the community.

This bill is designed to support state and local government entities to quickly and effectively respond to this unprecedented public health emergency. It also puts in place measures to support the community in complying with various legislative and regulatory provisions.

The pandemic situation is likely to continue to evolve rapidly, and governments at all levels need to be ready to respond to support our communities. There are areas of law that were simply not designed to work in the kinds of circumstances that we are likely to face as this emergency unfolds.

The bill contains a range of provisions that aim to provide for the continuation of public administration, the reduction of public physical contact in relation to public administration, and address financial hardship.

The bill also contains provisions that allow for the amendment of permit provisions and it provides the power to exclude the application of planning laws where a development or use of land is necessary to implement or comply with a requirement, direction or authorisation under the Emergency Management Act 2006 or the Public Health Act 1997 under a state of emergency.

In short, this bill is about getting us ready so we can act on the advice of the experts, and act promptly, where and when we need to.

At its centre, this bill provides a power for the Premier, the Treasurer and the Attorney-General to make declarations by public notice to adjust the operation of a range of statutory requirements in legislation.

I will outline these changes -

Except for a number of specific matters identified in the bill, these powers may only be exercised where the State Controller (where a state of emergency is in place) or the Director of Public Health has given their approval.

The bill also provides for the Attorney-General to make notices where the Chief Magistrate, Chief Justice or a head of a tribunal or other relevant entity has requested changes to reduce public physical contact, including to ensure hearings are not required to be held in public where they are held in accordance with terms set out in the notice.

Under the bill, notices may be issued in relation to any of the following matters, to alter the technical requirements that may otherwise apply under an act or an instrument of a regulatory character -

- the extension or reduction of statutory time frames;
- the amendment of provisions of planning permits (or other permits, as prescribed by regulation);
- the application of planning law in relation to land developed or used to support actions taken consistent with a requirement, direction or authorisation given under emergency management legislation;
- the extension of State Service and statutory office appointments (up to a maximum of 12 months);
- actions (including meetings) that would otherwise be required by law to be taken or conducted in person and/or in the public (including local council meetings);
- the conduct of court and tribunal proceedings;
- the waiver or deferral of fees or charges levied under legislative instruments;

- the application of certain shop trading hour restrictions (for example, Good Friday trading); and
- processes for the public exhibition of documents and gazettal requirements.

To ensure the continuous operation of the law, the bill also provides that regulations and rules due to expire in 2020 will be extended for a further 12 months from their expiry date.

These instruments provide for the day-to-day administrative requirements and procedures of significant areas of the state's law. The bill ensures 12 months additional time is available for the instruments to be reviewed and remade as required.

In addition to the broader power to make a notice to defer or waive certain fees and charges, the bill contains specific financial hardship provisions that allow the minister to void lease terminations and rent increases for commercial tenancies, and provide for the waiver and refund of the annual administration fee for taxis and hire vehicles for 2020.

There are likely to be a range of situations where, in order to support the emergency response to the COVID-19 pandemic, the Government will need to use the proposed notice powers to temporarily override conditions that would ordinarily apply under the legislation areas covered by the bill.

For example -

- It may be necessary to relax planning permit restrictions on delivery times for supermarket restocking to ensure community demand for groceries can be met. We may need to allow the major supermarkets to open on Good Friday, despite current shop trading restrictions.
- The Government may need to waive or extend the time frames for the payment of certain fees and charges for members of the community who are struggling financially.
- Certain statutory officers and categories of State Service employees, such as registered nurses, may need to have their appointments extended without the usual processes, so they can continue to deliver their crucial functions for the community.
- Meetings and proceedings that would ordinarily require physical attendance to be legally constituted might instead need to be conducted remotely by electronic means such as videoconference.

The heads of power provided for by the bill are deliberately broad so as to allow for the relevant details to be specified by notice. These notices can then be amended or revoked in response to rapidly changing circumstances.

Flexibility is also the reason the bill provides the power to make notices that can be delegated to other ministers. It is possible a number of notices will need to be made covering a range of legislative instruments in the areas specified by the bill.

It is prudent and appropriate to allow for ministers to make notices in relation to their respective portfolio areas. Delegation also reduces the continuity risk that could arise if the power rested solely with a single minister.

I have said this bill aims to support and ensure continuity of administrative law and government regulation and services during the COVID-19 emergency. That is true, but it also includes a number of targeted consequential amendments to the Emergency Management Act 2006.

These amendments provide for the following -

- A power of arrest for failures to comply with directions/requirements made under emergency powers. This applies to offences relating to emergency management workers under the Emergency Management Act 2006 and the 'emergency powers' requirements in the Public Health Act 1997.
- Increasing the maximum term of imprisonment for offences under the Emergency Management Act 2006 to equate with those under the Public Health Act 1997.
- Extending to 12 weeks the time for operation for directions issued under the Emergency Management Act 2006.
- The suspension of the operation of the Personal Information Protection Act 2004 in relation to the exchange of information between state agencies and between state agencies and Commonwealth agencies in relation to the emergency.

The advice from the State Controller is that all these measures are crucial in supporting the emergency management response at an operational level.

With respect to arrest powers, of course we would hope, and indeed expect, the community will cooperate with any direction being made for the sake of public health. However, our frontline police officers need to be able to ensure they have the necessary powers and authorities to enforce compliance where there are flagrant breaches that put the broader community at risk.

Finally, I would like to specifically outline the important provisions we have included in this bill to protect tenants, particularly those who are experiencing hardship from a loss of income as a result of COVID-19.

This will be achieved by altering the operation of certain provisions of the Residential Tenancy Act 1997 for the period of the emergency.

The emergency period will commence on the date the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 commences, for an initial period of 120 days. The minister may extend the period for 90 days by issuing an order under the act.

The minister may make as many orders to extend the emergency period as the minister deems necessary to reasonably mitigate any significant, widespread hardship caused, or likely to be caused, to a significant number of tenants by the presence of COVID-19 in the state.

Against the same criteria, the minister must, when satisfied that the provisions enabled by the emergency period are no longer necessary, declare the emergency period has ended.

During the emergency period, there will be a moratorium on the eviction of tenants for breaching a condition of their residential tenancy agreement, where that breach relates to rent being

in arrears. A property owner will not be able to issue a notice to vacate for this reason during the emergency period.

In addition, a notice to vacate relating to rent arrears which was given prior to the commencement of the emergency period will have no effect during the emergency period, if the tenant is yet to vacate the property.

This will effectively put on hold any appeals from tenants for a notice to vacate that are currently waiting to be heard by the Magistrates Court.

At the end of the emergency period, a property owner will be able to issue a notice to vacate in the normal way, if the tenant continues to be in breach of their residential tenancy agreement. At this time, a property owner will be able to recover any outstanding rent from the tenant's bond or, in the event the amount exceeds the bond, through civil proceedings, just as they are able to do now.

This ensures that tenants have the incentive to continue to pay rent during the emergency period, where they are able to do so.

Social distancing is key to reducing the likelihood that COVID-19 will spread within the community. As such, the bill also includes commonsense amendments to reduce the need for third parties to enter a rental property.

Amendments will be made to reduce the likelihood tradespeople will enter a rental property. This will be achieved by removing the 28-day requirement for general repairs for the duration of the emergency period. No changes will be made to the arrangements for emergency and urgent repairs, as these are necessary to ensure the health and safety of tenants.

Further, changes will be made to reduce the ability of a property manager or owners to inspect a property during the emergency period. This will be limited to inspections which relate to urgent repairs and emergency repairs and other limited circumstances.

We are also amending the act to make clear that a residential tenancy agreement can be varied by mutual agreement of the tenant and landlord.

This makes it absolutely clear a tenant and landlord have the power to agree to changes to their agreement, such as a reduction in rent.

Any such agreement will be taken to form part of the residential tenancy agreement.

We are also introducing provisions to enable tenants or owners to break a fixed term lease if its continuation would cause the tenant severe hardship.

To access this, the tenant will need to make an application to the Residential Tenancy Commissioner, who will consider the application and can issue an order to terminate a lease.

These changes, which are similar to existing provisions in other jurisdictions' residential tenancy legislation, will ensure that individuals cannot be 'locked in' to a residential tenancy agreement they can no longer afford or no longer need as a result of the impact of COVID-19.

These changes will also assist tenants experiencing hardship when having conversations with property owners regarding potential reductions in rent.

There is no question this is an extraordinary bill in response to what are extraordinary times, while preserving safeguards such as parliamentary review.

I want to reassure the parliament and the community that there is appropriate accountability around the use of the new powers in this bill and that proposed powers to override existing legislative provisions will only be able to be exercised where there is a clear, genuine and pressing need to do so as part of our response to the COVID-19 emergency, on the basis of expert advice.

This is why there are a number of checks and balances built into the bill -

- First, a notice may only be issued if it is approved by the State Controller (where there is a state of emergency) or the Director of Public Health. The only exceptions are those notices that relate to economic hardship matters and notices that deal with the proceedings of certain courts. Certain notices relating to courts and tribunals can only be issued if required by the relevant presiding member, such as the Chief Magistrate or Chief Justice.
- Second, notices cannot be made for a reason unrelated to the pandemic situation. It must be based on the opinion of the relevant minister that it is required to manage risks associated with the transmission of the disease itself, to manage the impacts of the restricted movement or other elements of the emergency response, or because there are not enough people available to carry out the relevant function as a consequence of the pandemic and/or the emergency response. The exception to this is those notices relevant to economic hardship matters, which can only be issued by the Treasurer if the economic effects of the emergency make it necessary or desirable.
- Third, notices will be tabled in the parliament within three sitting days of being made, and subject to scrutiny by the Subordinate Legislation Committee as though they are regulations.
- Fourth, the ‘emergency cessation day’ must be declared by the Premier within 90 days of receiving advice from the Director of Public Health it is no longer necessary to continue to allow for declarations to be made under this bill. Once this advice is received, the Government has to act on it.
- Finally, any remaining notices are taken to be automatically revoked 60 days after the emergency cessation day, and can only have effect for a maximum of 12 months from their commencement.

As Tasmania continues to deal with the COVID-19 pandemic, there will be disruptions to the day-to-day business of Tasmanian government agencies, statutory authorities and local councils. We must do what is needed to minimise these disruptions and their flow-on effects to the community.

As we can see today, the parliament itself is already having to adjust to the realities of the pandemic.

We need to be ready.

The changes this bill will affect are mission critical to the Government's broader emergency response effort. I would not be introducing this legislation otherwise.

I implore members to support this bill in the spirit of a unified parliamentary effort to deal with this unprecedented public health emergency.

Mr President and members, an amendment was made downstairs and I will speak to that.

The amendment moved in the other place and accepted by the Government enables the provisions for commercial leases to also apply to residential leases if included in the notice issued by the minister. These amendments prevent rent increases and evictions.

Mr President, I commend the bill to the House.

[5.28 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, in some respects, it is disappointing to have to do this but these are the times we live in. I had my lunch in the front of Parliament House today and people were going about their business, albeit there was a smaller number of people I could see walking past. It does not feel like we are at war, but that is exactly what we are - we are at war with a virus. I can only commend the Government and particularly the OPC and those who support that office who have been able to deliver this legislation to us in such a timely manner. I expect Robyn Webb has not had a minute to herself since this whole thing started to unfold.

**Mr Valentine** - Probably has not slept either.

**Ms RATTRAY** - Certainly no weekends.

As I said earlier in my contribution to a previous bill, most of us have had a number of events taken out of our diary and it had freed up some of our time, unlike the people who are sitting in the back of the room and those back at the office, in departments and those who sit around the Premier of our state. We can only say thank you. It is not enough but it is all we can say at this time.

The thing I like most about the second reading speech is that we talk about the fact this is a commonsense approach. How often do we hear that we need to take a commonsense approach? I quote -

As such, the bill also includes commonsense amendments to reduce the need for third parties to enter a rental property.

We know we do not need people who work for real estate agents coming in and checking on what is happening in your rental property. You can get your mobile phone and take a tour around your property. That will be the way that things will work for some time.

We do not know how long this situation is going to last. This legislation has been built from that commonsense approach. This morning in the briefing - and we always appreciate the opportunity to have a briefing, particularly from OPC, which we do not always see at our briefing table so thank you - we heard they have looked at all aspects, as many as they possibly could in the time frame they had, about what might happen, what might be needed and what the Government believes is necessary for us to move forward to stop this war we are facing at the moment.

We know there are always casualties of war and we do not know whether this will be the exact answer to everything that is going to be faced in the near future. I do not know that. What we have in front of us, for the time we have had to look at this - I acknowledge it has not been a long length of time; the legislation was debated in the other House and we received the second reading speech around 9.30 a.m. or 10 a.m., so it is not a long time -

**Ms Forrest** - They only finished it less than an hour ago downstairs.

**Ms RATTRAY** - I acknowledge that. These are extenuating circumstances, and I agree we are in uncharted waters. There is no way I am going to be able to stand here and say we have everything covered. I cannot do that.

When we were first provided with the cover sheet of the bill for the COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 2020, I wrote down a number of aspects related to the fact that the State Controller - in this case, police commissioner Darren Hine - has enormous powers to be able to react through this piece of legislation. I do not for one minute think that I can go through every aspect of this bill and tell you that I know this will meet the needs of our community. I cannot, and I do not think the State Controller could possibly do that either, given what we have.

We can only put our faith in what we have in front of us today. There is a time imperative around this. There are no two ways about that. There is a time imperative. The member for Rosevears convinced this House that the previous bill did not have a time imperative. This one bill is different. We are at war.

Another issue I am interested in is the bill does not need to have an expiry date, and the second reading speech clearly covers that.

We do not know how long we will need this legislation, but we can certainly feel comforted that the proper processes are in place through this commonsense approach to a situation we have never experienced before. There have been issues in the past. Certainly in our grandparents' time, we had rationing, wars and all manner of things. Is this the universe resetting us? I do not know, but I can assure members that people in the world are starting to look at how we do things, what we do and what is a priority in our lives. Maybe that is one of the very positive aspects of the times we live in. I cannot be sure because these are uncharted waters.

Plenty of people in this Chamber will make a contribution to this bill. I have no issue with the amendment flagged in the other place about commercial leases. We have talked a lot about business and that we want to see businesses still operating in our community once we get through this, because we will. I have no doubt about that. What the world look will look like, what our state will look like, what our lives will look like individually, I do not know, but I can only be assured we will get through this because we are a resilient country and we are resilient people.

Nobody has had the time to look clause by clause at every aspect of this bill. We will have to put our trust and faith in the people who know what they are doing. I certainly have that trust and faith at this time. I support the bill.

[5.38 p.m.]

**Ms FORREST** (Murchison) - Mr President, I appreciate the briefing we had this morning. Robyn Webb from OPC has put an enormous amount of effort into this. She had to head down to the House of Assembly when they dealt with this bill, finishing only a little over an hour ago now.

We had not seen the bill at that point. We received the bill during that period and have had limited time to look at it since because we have been dealing with other legislation. I will seek to adjourn the debate for the purposes of a further briefing because I have many questions.

We have a job to scrutinise legislation as best we can. I have questions that will be more easily answered in the briefing, regarding operational issues - how this will work and when will this happen. Those question can only be properly answered in a briefing and we can come back and put some clarity on the record. I have a job to do here, which is to make sure we are not overlooking anything and are not creating additional problems. We may miss some things, as we do with all legislation, but I seek the support of other members to have a further briefing to go through some of the more technical aspects of the bill, which we did not get a chance to do this morning.

Mr President, I move -

That the debate stand adjourned.

[5.39 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I support this motion for a number of reasons. First, people will have been listening to debates in the House of Assembly and in this place today and they will be interested in certain aspects presented in this bill. Sometimes we get good feedback from community members when they are concerned about some sections of the bill or support other sections. That feedback is very important; it means we can have a more robust bill and a better discussion. We have already been contacted by some people about certain aspects of the bill. That is how it should be. I support the adjournment so we can be briefed, take the opportunity to get emails about the issue or discuss it with other people in the community. I am aware of people who are looking at this, and I would like to see what some of their concerns are so that those concerns can be aired and debated properly in this place tomorrow. We all understand the situation - and so do most Tasmanians - but we want to make certain no mistakes are made, which may happen when people do things hastily.

The work I have been doing recently has shown me very clearly that you have to look at things from different angles and aspects and get as much information as possible. I hope members will support this adjournment so we can ensure that when this bill is passed in both places, it is the strongest it can be. I would appreciate other members supporting the adjournment.

[5.41 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, we are living in extraordinary times. This bill is one of the most powerful bills I have seen in my time here. It would have to be the most powerful bill we have ever seen. We need as much information as we can have to make sure we go close to getting it right. We might not get it completely right but, given the circumstances, it is important we get it right. I support the adjournment.

[5.41 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I am not opposed to the adjournment. There may well be a number of members who are happy to proceed now. We might get another 30 minutes worth of contributions, and I will look around the Chamber to see whether anyone would like to proceed. Possibly, we could adjourn when no more speakers are left. I appreciate what honourable members have said about the time frame. I do not think we will get it perfectly right and that is why I made my contribution, and why I put my trust in others. If other people might like to contribute, we could proceed for a length of time.

[5.42 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I would not support an adjournment if it were an adjournment for the evening, but I am happy to support an adjournment for a briefing. Perhaps we might come back because I will learn a little more before I give my contribution.

**Ms LOVELL** (Rumney) - Mr President, I echo the comments of the member for Launceston. I am happy to support an adjournment for a briefing. This is a powerful bill; it has been moved through very quickly, and I understand there is a lot to get our heads around. Our hope is that we can come back and get through this bill tonight, it is our priority to get this done tonight. People are waiting for the relief that will be provided in this legislation; they are waiting for certainty and they are waiting for some direction.

In terms of health considerations, my view is that it is better we work late tonight and get this done so that people who may be able to work from home tomorrow can do so. There might be people who might not be required to come in to work tomorrow. Some members among us can travel home and work from there or in their own office on their own, which is the utmost priority for everyone in Tasmania. Anyone who can stay home should be staying home and we should be doing what we can here to enable that to happen.

[5.44 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I would like to clarify a couple of comments made. It would be the Government's intention to come back after the briefing and continue for a couple of hours.

[5.44 p.m.]

**Mr DEAN** (Windermere) - Mr President, I heard the member for Rumney. It depends how long this matter is going to go on. We are all human. This bill is vital - one would expect it to be the greatest and most serious bill we have dealt with because a state of emergency has been called.

One would expect it to have that seriousness.

I support the adjournment because it is needed. I have a certain number of questions, including the question of this bill having to be dealt with tonight. It depends on the hour and on the time it will take. I suspect a briefing will take a while as well.

**Ms Forrest** - The Committee stage might take a while.

**Mr DEAN** - Absolutely. I would think the Committee stage could take some time. There are a lot of issues in the legislation. We are programmed to be here tomorrow. The debate is progressing reasonably well at this stage. In my view, to ensure we get this matter right, there is no need to rush through it. We have all day tomorrow.

**Mr Finch** - We could start earlier tomorrow.

**Mr DEAN** - Yes, but we are here. It is all very well to make it easier for people. I understand and I recognise that, but in the end it must be done right. We must be able to look at the legislation in every way possible. I support the adjournment.

**Motion agreed to.**

**Debate adjourned.**

## **SUSPENSION OF SITTING**

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

That the sitting be suspended until the ringing of the division bells for the purposes of the briefing.

**Motion agreed.**

**Sitting suspended from 5.47 p.m. to 7.35 p.m.**

## **COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) BILL 2020 (No. 14)**

### **Second Reading**

**Resumed from above.**

[7.35 p.m.]

**Ms FORREST** (Murchison) - Mr President, I thank the Leader for arranging the briefing for us. It is a bit frustrating at times that we spend a lot of time on these things, but this is an important bill. We have had very limited time to look at it and it has some quite technical aspects to it that I needed to be confident with before we move forward. I will make some overarching comments before I comment specifically on the bill, but my contribution may be a bit disjointed because of the nature of the way we have been trying to glean information during the day. We all heard from the police commissioner, now State Controller, Darren Hine, who reiterated the seriousness of the situation we are facing, and that cannot be understated. I acknowledge the leadership shown by our Premier in dealing with this incredibly challenging circumstance we find ourselves in.

I also acknowledge the incredible amount of work the Office of Parliamentary Counsel has had to produce to see us debating this bill as well as all the others they have been working on, the emergency bills as well as other work that does not necessarily stop. This bill is complex and it needs to be scrutinised to ensure we have covered the key issues to ensure the state and the Government can continue to operate. Robyn Webb made it clear this may not be the only legislation we need to deal with to ensure all the powers necessary are in place. We may have to come back to deal with some other aspects, but this is an important step which is necessary right now.

There have been some very difficult days this week for so many workers in Tasmania and throughout Australia. The decisions taken to close so many businesses will be devastating to so many people and support will be needed. There is a great deal of information on government websites about this, and we need to be sure we personally share and distribute only credible and accurate information with the public and on social media, and take down anything that is not right. Take it off your site, if it is on your site. We should also call out inaccurate information and when people share it, tell them it is wrong. Post the right information and direct people to where accurate

information can be found. That is the only way we can stop rumour spreading. Rumours spread as quickly, if not more quickly, than the COVID-19 virus does, and can also be dangerous and damaging if they cause people not to act according to the rules and requirements we now have in place to protect us all.

Very difficult decisions are not easy to make in such circumstances, and the pain and hardship that will follow is very hard for all of us to witness because we are still getting paid. I appreciate the efforts of the Premier, Mr Gutwein, and I will continue to support him and his Government as they work to contain this awful virus. I thank him for being so available to me and to others, and for being so responsive when he is so busy.

The decision to close so many businesses, combined with so many workers being required to work from home, has meant many job losses. You only had to watch the Premier's daily updates, which have been excellent, informative and calm and are such an important way to communicate broadly with the public through social media, to see the impact it is having on him. Those who watched on Tuesday and again today would be aware of the anguish these decisions are causing the Premier. If you have not already started watching the 9.15 a.m. updates and shared the feed on your Facebook feed, do that and get it out there as much as you can.

Going to the bill specifically, I want to touch on a number of its aspects. The matter of amendment to planning and other permits is often one that causes concern because planning is a bit fraught at the best of times. To have a power to alter a permit that is in place, basically for any reason provided it fits in within the scope of the bill and is related to the emergency situation we are in, raises my concern to get it clear that this is not an open ticket to do anything you like in planning. I am confident that is not the case.

These changes will need to be managed by notice and all notices included in this bill will need to go through the Subordinate Legislation Committee. While most members here are not on that committee and may not be doing as much, for a short period members of that will be doing a hell of a lot and their responsibilities are very significant. I have been on the Subordinate Legislation Committee for about 12 years, a long time. I chaired it for a long time but stepped down from the chair a little while ago to give others a chance to take that role on. It is a very important committee. I always said the Subordinate Legislation Committee was the most powerful and important committee. People used to laugh at me but not anymore.

It is important to support the Subordinate Legislation Committee in doing its job. It will not be easy. It will be a lot of pressure to ensure that the notices made fit within the requirements of the legislation, are related to this emergency we are facing and that no person or group of people are negatively impacted in unforeseen ways. The minister is not going to bring forward notices that are unnecessary. I am confident of that, but as a committee we still have an important job to make sure that those things proceed smoothly, are done with the best of intentions and achieve the outcomes sought.

Many people find the Subordinate Legislation Committee an unusual beast, mainly because of its name. What is subordinate legislation? That sort of thing, and I always said I did not want to be subordinate to anything, so there you go.

Those matters are important. The introduction of what is colloquially known as a Henry VIII clause, which basically takes away the role of parliament, should only ever be considered in such

an emergency and in such drastic circumstances. That is what we are dealing with, and that is why they are there, but they need to be limited, scrutinised and only in force for as long as is necessary.

There was a question about whether there needs to be a sunset clause. My understanding of that from the briefing this evening is that if you had a sunset provision, it could remove the legal status of some of the notices made during that period. The proposed act will be limited by the period in which the emergency situation continues, and there is a process for that, and no more notices can be made once that time has passed. Parliament can come back and repeal this legislation if it wants to, but it gives validity to all actions taken under this proposed act. I would appreciate the Leader clarifying that in her response,.

No other members will talk about the tenancy issues. I raised clause 19, Public exhibition of certain documents, in the briefing. Documents are normally put up for public exhibition but you have to go somewhere to look at them - for example, for development applications, you have to go to the council. You cannot take them with you and you are not supposed to take photographs of them either. That will not be possible under the circumstances we are now living in. I asked a question about documents held by the Legislative Council Clerk, and, I am sure, the House of Assembly Clerk as well, that have been tabled or are part of committee proceedings. The definition of 'public exhibition' is not in the bill. It might be useful to clarify to what extent our Clerks are able to send documents electronically that a person may be seeking to view. Not a private document - public documents only. Can the Leader clarify that will include documents held by the Clerks if a person sought to access those.

I will not go into the measures other members will speak about. The second reading speech provides a lot of clarity about other matters. I appreciated the opportunity to have some of those issues fleshed out in the briefing. I do not need to rehash them all. Essentially, we are on the right path.

I note that we may be away from this place for some time, so I want to make some closing comments with relation to that.

The COVID-19 crisis we are facing is serious. We do not know what the future holds and we must be united in this fight. We must do all we can personally and collectively to limit the spread of the disease.

As I said in my State of the State response, other community leaders mocked me for refusing to shake hands less than two weeks ago, and for urging physical distancing and avoiding large groups. They mocked me. I am sure those views are well and truly put to bed. Some members in this Chamber believed I was being overzealous last week, making fun of my focus on good personal hygiene and physical distancing. Being ridiculed for taking my health and health of my family and my community seriously -it is worth accepting such ridicule. As student nurses, we learned about serious infectious diseases, what was necessary to protect our patients and ourselves, and these lessons stay with you forever.

Over the weekend and this week, it has become patently clear the measures I was taking, despite some snide remarks, were and remain necessary. We must all pull together to get through this. It does not matter where people have tested positive are in Tasmania, we should all be behaving in ways that would assume we have COVID-19 because if we act that way, we will act to prevent the spread. We will stay at home, we will do the right thing. It is only if we do this that we will have some hope of containing this virus, and it will be disastrous if we do not.

We must be community leaders and role models in this, so please stay home unless you absolutely have to go out. This is not only for us - this is for everybody who might be listening or might watch this parliamentary debate at a later time. Only go out when you really need to; only go out at all if you have not been told to be in quarantine or self-isolation, in which case you need to arrange for others to ensure you have what you need. The Government has implemented measures to support this for those who do not have family or friends who can assist. That was a bit of a missing link, and I am really pleased to see that is happening now. My husband and I were only talking about this last night. That is the missing link. You have to make it easy for people to do the right thing and thank you to the Government for recognising that and doing the right thing.

Wash your hands thoroughly and regularly and do not get any closer than 1.5 metres from others, or more if possible. Only cough or sneeze into your elbow and if you need to wipe or blow your nose, use a tissue and discard it immediately into the bin, then wash and sanitise your hands again thoroughly. Do not use handkerchiefs - they are not hygienic - use tissues and throw them in the bin. Stay at home and away from others, and only go out for essential reasons. If you have any flu-like symptoms, do not go anywhere - just stay at home.

I want to read this emergency alert issued in New Zealand this afternoon. This is where we do not want to get to, but we are pretty close and we might be there before we know it -

NATIONAL EMERGENCY MANAGEMENT AGENCY ALERT: From 11.59 p.m. tonight, the whole of New Zealand moved to COVID-19 Alert Level 4.

This message is for all of New Zealand.

We are depending on you. Follow the rules and STAY HOME. Act as if you have Covid-19. This will save lives.

Remember:

- Where you stay tonight is where YOU MUST stay from now on
- You must only be in physical contact with those you are living with

It is likely level 4 measures will stay in place for a number of weeks.

Let's all do our bit to unite against Covid-19.

We could be there tomorrow or the next day. Where the New Zealanders stay for the night, that is it. That is where they are. That is how serious this is.

Mr President, we need to be serious and sensible about this. These emergency measures can only support the actions we all need to take to protect our health and wellbeing and seek to protect our economy. Do not forget the mental health and wellbeing of our family and friends, neighbours and community broadly. Keep in touch with them through non-physical means. Social isolation can be extremely damaging and challenging for almost everyone. My greatest hope and wish at this time is that in three, six or 12 months, we as a parliament, as a collective, and the Government will be accused of being too cautious, of acting too soon and of going too hard. I sincerely hope we are accused of that, because if we are not accused of that, we will be accused of letting too many people die in this state - too many of our family and friends and community members.

If we are accused of going too hard, too fast, it will mean we have done our job and contained the virus. We will have had fewer deaths and will be able to ease the restrictions we are all facing on our movements. I want to be accused of that. I do not want to be in a position in which harsher measures are needed. We do not have a whole lot more levers to pull, but I know our Premier will pull them if he needs to and he has my support to do it.

I want to finish with reading a post on Facebook yesterday. I will alter one word, for obvious reasons. Your grandparents were called to fight in world wars. You are being called to wash your hands and sit on the couch. Don't muck this up.

**Mr PRESIDENT** - I will remind members in the Chamber or listening to remember to keep taking breaks. You can utilise the President's rooms, they are comfortable and you can view the proceedings from there. As long as we maintain our quorum, we should be fine.

[7.53 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I thank the Government and the OPC, particularly Robyn Webb, for the briefings we have received today. The briefing made the bill and its clauses clearer and I feel very comfortable voting to pass this bill. It is good to see that all sides of parliament in the other place passed this bill without argument. It received tripartite support, as the bill ensures continuity of the government services and provides provisions in order that the Government can support Tasmanians suffering hardship as a result of the COVID-19 virus.

We are told, and the member for Murchison mentioned, that these provisions are acting as a Henry VIII clause reflecting Henry VIII put in provisions to overrule parliament. My understanding is that this bill ensures parliament and the Subordinate Legislation Committee will survive. In effect, the minister has to be satisfied that there is a risk of the disease but there is a second fallback: most of the instruments can only be issued if the State Controller, an independent statutory officer - at this current time, Darren Hine - agrees, and notices have to go to the Subordinate Legislation Committee, as in clause 7, Scrutiny of notices. There is also ability for a notice that allows parliament to sit electronically and also allows local councils to meet electronically. We are told three councils with meetings next week will need this legislation to go through to allow this.

This is a powerful bill, allowing the Premier, Treasurer, Attorney-General or delegated ministers to issue notices with regard to extension, reduction or any other changes to a range of statutory requirements. The bill has power to defer or waive certain taxes, fees and charges.

I am pleased to read in the fact sheet that the bill contains specific financial hardship provisions, which can be used to protect residential and commercial tenants during the emergency period and will provide for the waiver and refund of the annual administration fee for taxi and hire vehicles for 2020. The member for Windermere and I have been dealing quite regularly with taxi owners and drivers. Anything that assists them at this time is also very worthy.

A number of consequential amendments will also support our emergency services at an operational level, including being able to arrest people who do not comply with directions made under emergency powers in the Emergency Management Act 2006 or the Public Health Act 1997 and many others. That is very important because so many people - not wishing to single out young people, but younger people often think they are bulletproof - think, 'This will not happen to me'. They forget that if they get it, while they may recover, they may pass it on to someone - a parent, or a grandparent - who may not recover, may die or may be seriously ill. People have to remember that it will happen to everyone. You cannot say it will not happen to them because it is such a

serious matter. We need to make no mistake. This is a war and the Government needs the tools to fight it. This may not be the last bill, but it is perhaps the first in the Government's arsenal. This is an important bill that will assist many in our community in these very difficult times.

I also appreciate the briefing given by the police commissioner or, on this occasion, the State Controller. His words were very powerful. He did not mince words. He pointed out how important this bill is and how important it is that we pass this bill. I believe it should be done in a timely manner. We are all in this together and there is a real urgency for this, as every hour we delay is an hour we will not get back. We need to be able to respond quickly because this is an emergency situation. I support this bill and I sincerely hope we pass it without delay.

[7.57 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, we have all related the different circumstances we find ourselves in, in our everyday lives and the lives of those around us. For the Government to have full control, various provisions need to be changed in various acts. I do not think anyone would deny that this legislation is needed. When you listen to the Premier give his briefings in the morning, as he does every day on his Facebook page at 9.15 a.m., and listen to the various edicts being handed out, you start to realise that this is not just any other day. For people who are listening now, if you have not been made aware of it, go to Peter Gutwein's page on Facebook.

It is not any other moment. This is a very, very unusual moment in history. We will look back on this day and this legislation and understand the gravity of what we are talking about in terms of keeping the community safe. We are entering into this debate, with the measures being put before us to pass tonight, in good faith and we expect that the Government will act in good faith and not try to take advantage of the powers we are providing them in this particular bill. It is important to understand that the powers being dealt with are necessary powers. People have sat down and thought, 'what if, what if, what if', and they have come up with a significant range of matters. The legislation will not be perfect. Other legislation might follow that is needed to provide the power necessary for the Government to be able to act effectively to stop this micro-enemy we have, which is a virus. Who would have thought, four weeks ago, that this single virus would bring the world to its knees? That is what it has done.

I support the measures and components of the bill. I have reservations about certain aspects, certainly planning. I think it is one of the most powerful bills because I have sat in the planning space for 20 years, along with a number of other honourable members around this Table who have been in local government, and I have seen the pain we all go through when certain things are put into acts, to allow the public to have their say, to make sure they are being dealt with fairly and all those sorts of things. It may not be powerful in some people's eyes but, as far as the community is concerned, there have been hard-won aspects in the Tasmanian planning system. To think they can be overridden very easily, although not without scrutiny - I appreciate the Subordinate Legislation Committee has the degree of power we heard about - does make it powerful in my eyes. That is where good faith comes in.

**Ms Rattray** - The majority of members on the Subordinate Legislation Committee are independent members, and that should give people a level of comfort.

**Mr VALENTINE** - That is right, and the member has made an important point - because it is not the Government that has the power in the Subordinate Legislation Committee, and it is not the Opposition that has the power in the Subordinate Legislation Committee, it is the independents who have the balance of power.

**Ms Rattray** - You have three.

**Mr VALENTINE** - You have them there, but it is an independent mix and no one party can make something happen simply because it wants it. It has to pass the filter of all of the members and the independent members. How many independent members are there?

**Ms Rattray** - Three independent members, two Government and one Labor Opposition.

**Mr VALENTINE** - Yes. The independents have a fair say in whatever happens.

**Ms Rattray** - In my time as a member of the committee, I have seen the members of the committee look diligently at the information provided. They do not come to the table expecting that something will simply go through because it is something that the Government has put in place. All members are very astute in the work that they do.

**Mr VALENTINE** - I have been on that committee and I know how fast that committee can operate sometimes. I am looking at the Chair now. She has done a fantastic job and she did a fantastic job when I was there, had her mind on it and was able to orchestrate what was happening in that room, so congratulations to you. I know you did not raise it to be congratulated.

**Ms Rattray** - All members have been as diligent.

**Mr VALENTINE** - Yes, I appreciate that. You had your mind on it and you knew what was coming next and what had to happen with it. It was a steep learning curve for me on that committee. It is a very important committee and an interesting committee, to see that side of it. We pass bills in this House and the bills might have the capacity to have regulations added and the only place those regulations get proper scrutiny is in the Subordinate Legislation Committee, so it plays a very important role.

**Ms Rattray** - My greatest wish would be that the name is changed to Delegated Legislation Committee.

**Mr PRESIDENT** - A sensible suggestion.

**Mr VALENTINE** - One amendment in the legislation provides for the suspension of the operation of the Personal Information Protection Act 2004 in relation to the exchange of information between state agencies and between state agencies and Commonwealth agencies in relation to the emergency. That is another powerful component. It might seem a small thing but it is quite a powerful component and something, again, the Subordinate Legislation Committee probably has an opportunity to scrutinise. Why is that amendment in place? It is to track people through their telephones, to catch up with them to say that they have to isolate, or 'We need to tell you that you have been in touch with a person who has had the virus and you may have the virus.'. While it is a far-reaching power in terms of a person's freedom, it is for a good purpose and that is possibly to save their life or the life of someone whom they might come into contact with.

That is important for the members of the public who might be tempted to have a drink as a group on a Friday night or a similar time. They get together and one of them happens to contract something, goes home to their mother or grandmother and that person contracts it and dies as a result. It may not affect the person who gets the virus in the first instance, but it might badly affect

somebody they pass it on to unknowingly, and we have to understand that is the nature of this virus. It is an insidious little beast.

**Ms Rattray** - I have received a message from a friend of mine who returned from New Zealand last week, who just had a police officer check that they were self-isolating. He was gloved up and masked and told them not to open the door. Hear, hear, to our police officers.

**Mr VALENTINE** - Yes. We have to be so careful. I visited my brother last night; we had to exchange some documents and we did that through the car window. We distanced ourselves. It is something you have to get used to doing, understanding the capacity for that virus to be passed on.

I called into Campbell Town to get some petrol on the way back from an event I had to attend in Launceston. I got my tissue and took it to the pump and grabbed the pump with this tissue. There were four guys in a four-wheel drive parked behind me and they had their doors shut but I could hear the laughter through the doors. They were having a good old joke at my expense, but if they only knew. They probably do now but they did not know then that it is so necessary. A petrol pump is an obvious point of passing on this virus. It is so obvious and you have to keep washing your hands and making sure you are not touching surfaces or, if you are touching them, that you are cleansing your hands properly and understanding the nature of viruses.

We were speaking with the State Controller about the need for the wider public to understand these messages. It is so important. For people who may not be watching television or reading papers all the time, there need to be those publicly available levels of information for them to be able to absorb. Whether it is from town criers at supermarkets handing out leaflets or telling people about it, so be it - whatever we have to do to make this work. It is so important we do that, otherwise we are going to be like Italy, and who wants to be like Italy, which is losing people day after day? We do not want to get to that point.

We are an island and we have the capacity to make it work for us. Being an island, we have basically closed down the borders except for essential services and those coming back home, who have to isolate. We are doing all of those sorts of things. That is what you will hear if you go to the Premier's Facebook page and read the updates he provides.

**Mr Dean** - I understand Spain is fast catching up to Italy with the number of cases and deaths.

**Mr VALENTINE** - It is an exponential thing. Anyone watching the ABC last night would have heard them saying that if one person does not pay attention, they can pass it to so many others, and then they pass it on. It grows and grows. I hope people understand the emergency we have and the level of diligence we all have to maintain. I am standing at this lectern but I am not touching the lectern. If a member speaks today and touches the lectern, if I had been touching it, they would get something from me. It is as simple as that. Yes, I have been washing my hands but we have to be diligent.

I appreciate the work that has been done, especially by 'Wonder Woman', as you and I call Robyn. She is the invisible superhero. We do not often see her, but she came down to brief us today and that was very useful. Thank you, Leader, for making that happen. I support the bill.

[8.11 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I appreciate the contributions of all members. We were contacted by the Tenants' Union about an issue it, and we have been able to do something

about that. We are having an amendment for discussion in the Committee stage of the bill. That is good, because that group were all over the bill and knew what was involved.

I have some concerns that other groups may not have had the chance to listen to or read any articles or reports about this bill. I appreciate the gravity of the situation, and the intent and capacity of the people coordinating the bill to create good legislation, but it worries me that other eyes have not been looking at it.

If we go into the Committee stage tomorrow, I hope people listening to this debate have some chance of accessing the bill so that they can have some input. I do not suppose they have had the capacity to do that. Perhaps the Leader could let me know if the bill is online and how people can see the bill we will be discussing in its Committee stage. It is very unusual for legislation to go through this place without anybody having had a chance to have a look at it, even though these are exceptional circumstances. I draw comfort that we have excellent OPC staff and they are doing this in the best interests of the parliament and people of Tasmania.

**Mrs Hiscutt** - I can confirm for you now that the bill has been posted on the parliamentary website in the usual fashion.

**Mr GAFFNEY** - That is very good. It is good for people to look at the legislation, so if they have a real concern, they can contact us before we go into the Committee stage tomorrow and we can work on it then. I support the bill.

[8.14 p.m.]

**Mr DEAN** (Windermere) - Mr President, I support the bill and what is happening. I recognise the position of the State Controller, Darren Hine, who among all his other requirements and responsibilities, now has to try to ensure the safety of this state, albeit the lead department is Health. The State Emergency Management Controller is in a very important and critical position. The work he and Mark Veitch, Director of Public Health, are doing, and all those other senior people in that area and the responsibilities they have and the work they are now doing, is absolutely phenomenal. Looking at where we are going and what we are going to do, and making decisions they obviously do not want to make but have to make to ensure our safety - that is not easy, either.

The member for Murchison also mentioned other people. Robyn at OPC has been doing a wonderful job. The way she briefed us was very straightforward, and she has a way of getting points through. She talks very well and I would like to recognise that.

I also recognise the Leader this week for the tough job she has had in bringing all these bills and matters forward, and getting them through this place. It has not been easy. She has had to make some tough decisions, as have all honourable members.

The State Emergency Management Controller, Darren Hine, identified to us the seriousness of getting this through as quickly as we can. He is saying, and nobody disputes it, that all the legislation being sought, and that they want to get through, is critical - and hours could mean saving lives. I recognise and understand that.

I also agree with the member for Mersey that we too have a responsibility, and our responsibility does not change simply because we are in an emergency situation and we need to pass bills fairly quickly. We still have a responsibility to look at those bills, review them, to make sure they are done in the best way possible, and that is what we are there for.

**Mr Valentine** - In a timely manner.

**Mr DEAN** - Absolutely, in a timely manner as well, so we have all that responsibility thrust upon us in the positions we have.

A significant part of this bill is about reducing the risk and hardship to the people of Tasmania - and, boy, are they suffering. I related the position here earlier this week of the Over 50s Club at Ravenswood. When you have mature people being teary-eyed and very emotional, it really is upsetting and gets to you. It certainly got to me while they were relating to me the hardship that the club is under, and its pivotal position in Ravenswood. That is the only outing many of the people in Ravenswood have. They do not go anywhere else, and many people walk there. The Over 50s Club is their life, and they made it very clear that the way that club is going, it may never open again.

They referred to things like the rents having to be paid on poker machines that are not able to be used. To me that is a tragedy. That club is paying \$869 per week for the 15 machines they do not own, but have to pay rent on. They have not got the money. I hope work is being done on that, and that Federal Group and Network Gaming are looking at and understanding their responsibilities in this as well.

**Ms Rattray** - I heard on the radio this morning that the Federal Group was reviewing that decision. I am not sure of what the outcome of that was.

**Mr Valentine** - Talking to their bank.

**Ms Rattray** - That was it - talking to their bank in an effort to review the position.

**Mr DEAN** - You wonder why Federal Group needs to talk to the bank. I would have thought it has sufficient funds, but there could be some light at the end of the tunnel in relation to that.

They also raised the issues of some of our state departments and government business enterprises. They talked about TasWater, for instance. While the club cannot use the premises in any way, they will still be required to pay their fixed water rates, charges and so on, and those are very high as well.

When we look at TasWater, there is another six per cent increase this year, and I think that is ongoing for a number of years.

**Ms Rattray** - That is exactly what the Government will be able to use this bill for. To give some direction to the energy companies, to the water and sewerage company and anyone else they believe needs to step up to the plate.

**Mr DEAN** - That was mentioned in our briefings today - the fact that energy and water and all of those issues will be considered in accordance with this act, and what the bill allows to happen.

**Ms Rattray** - To suspend the demand for the payment.

**Mr DEAN** - Yes. I have put questions on the Notice Paper, as the Leader would know, in relation to TasWater and where it is going with their fixed charges and costs, because people are worried about that right now.

We know some businesses will not open again after all this and are really struggling. In these hard financial times, it is a fact we will see an increase in criminal activity. People will need money - they will need to get their tobacco and alcohol and those other things they want - so crime will pick up. I have no doubt about that.

Domestic violence will also increase. I have no doubt about that at all. We will see it, and it will be interesting to look at the statistics in a year or two to see what the rates of domestic violence are during this period. This comes at a time when police are policing the isolation rules and laws as well that are currently in place. We have had compliance teams set up -

**Ms Rattray** - A friend has just come back from New Zealand, and was checked on 14 minutes ago.

**Mr DEAN** - A question for the Leader: how many compliance teams will there be around the state? How many police will be involved in those compliance teams? That work is taking police away from the coalface. Other areas of activity will increase. Social violence will increase as well. We will have to work with lots of issues like that.

People during this time will seek the attendance of police, and police will not be able to attend. The other day people reported what they believed was a stolen vehicle being driven erratically on an oval. The crooks were seen to be removing the numberplates from it and throwing the numberplates away. The police did not have the personnel to attend. These people were able to video the activity, and they provided that to the police, so hopefully the police could recognise the people involved.

That is going to be fairly common during this time. Police will lack the capacity and numbers to attend to matters the public would want them to attend to. People have to understand what this really means. It is a tragedy. One we have to work through.

This matter is so serious - and a lot of people would not understand that the power of arrest is written into it. It refers to a power of arrest under the Emergency Services Act, and not only that, but a power of arrest where police can use reasonable force to arrest a person, not simply charge them.

I have heard the State Emergency Management Controller on a number of occasions saying that if it gets to the worst, they will have to start charging people. Well, they can go beyond that. In fact, they will be able to arrest people in certain circumstances. That is the seriousness of the event we are currently facing, which we are working with.

This evening I commented to the Emergency Controller, Darren Hine, that it is very important to take the people with us. He agreed that is a very important point; he recognised that.

I gave the commissioner an example last night of two well-known people in the Launceston area - mature people, very intelligent people - saying to me in a text message, 'Are they serious?' Words to that effect. 'Are they really serious? How can half-an-hour with a hairdresser be any different to having three-quarters of an hour with a hairdresser?'

They are raising those sorts of issues, saying there needs to be an explanation of some of the things that are happening.

They also mentioned schools in that text message. Why are schools still open? If we are serious, why are schools still open?

In my answer to them, I used the position of the Prime Minister, Scott Morrison, on this: that a young person, say a four- or five-year-old, missing a year's schooling at this stage - and that is what it could well be - could have a huge impact on that child for the rest of their life. Certainly for a long time into the future. I think an older school child can probably get through missing a year and pick it up, but, as he said, at a very young age, in kindergarten and in that age group, that first year is critical.

He was saying the schools need to be kept open wherever possible, and we know here, as has been said many times, many of the parents are medical people - nurses, doctors and emergency services personnel - and if their children are at home from school, they have to be at home as well, or one of the parents has to be home as well. We want to make sure we are in a position where we can accommodate that, Mr President.

During the briefing we asked some questions about the courts. The Chief Justice, as I understand it, is able to make a determination for a trial in private.

I take it that the Chief Justice will write to the Attorney-General, seeking a notice of the authority to do that. Does the Chief Justice have the capacity to require a trial without a jury, in circumstances where the Chief Justice considers that necessary?

If the answer is 'Yes, the Chief Justice could seek that' - I am just asking the question, because I find it clearly in the bill - I could foresee the defence, in particular, seeking deferment of their matters for a period of time - particularly where they could see they would have a better prospect of not being found guilty of the crime with a jury, rather than a judge sitting alone. I would like some explanation in relation to that, thank you.

I think that was really about all I wanted to refer to. Other members have raised issues.

When you look at many of the COVID-19 cases and then look at the *Ruby Princess* situation and the *Ovation of the Seas* - but the *Ruby Princess* in particular - what a stuff-up. What a major stuff-up.

**Ms Forrest** - I would use other words than 'stuff-up'.

**Mr DEAN** - You are right. You can be stronger. How could it occur?

**Ms Forrest** - It is an unmitigated disaster.

**Mr DEAN** - The federal Minister for Health used that word, and that is why I used it. He said it was a monumental stuff-up. At this time, and with the critical nature of what is happening, you just ask: how could they let that happen? This morning we still have nine cruise ships floating around Australia.

**Ms Forrest** - There are three or four of them at anchor off Fremantle.

**Mr DEAN** - What is going to happen there? When will they be allowed off, back on to the mainland?

**Ms Rattray** - The first lot of people, at the very outset of when this started to unfold - on *Princess* something - were put into isolation, so why did that not happen?

**Ms Forrest** - There was a monumental stuff-up at the border.

**Mr DEAN** - It was. It was just crazy stuff. It is not surprising that you have people texting and emailing you and saying, 'Are they serious?' But we are. This is the position we are confronting at the present time.

I appreciate the briefings and updates we have been having. Mr President, I raised with you that they really do need to be at a time when we all have that capacity to get in and listen to them. I was able to listen to most of the one at lunchtime today. I had to miss a little at the end because of another meeting I was chairing. Some important information came out of that, and Dr Scott McKeown was very straightforward in some of his statements in relation to where this is going and what is happening and so on. I think another six cases were identified today. We had 36 -

**Ms Armitage** - Forty-two now.

**Mr DEAN** - Forty-two. Unfortunately, it is still spreading. We have to try to get on top of it, but it is a tragedy to the greatest extent. It will change the world forever. How long will it take this state to recover? Decades. Some people have said we will not recover, sadly and unfortunately, and we have to relieve the pressure and the stresses and so on as best we can. I think we will be finding a lot of medical issues coming out of what is going on, other than the COVID-19 disease. Lots of other medical issues will arise because of stress and so on. I think that will be very noticeable as we move forward as well.

I certainly support the bill.

[8.34 p.m.]

**Mr ARMSTRONG** (Huon) - Mr President, I support the legislation. Other members have already touched on different aspects of the bill.

Talking to some of the members, they said they have never seen legislation like this come through the House before, and because of the speed it has come through, you could say we have not gone through the proper channels for consultation as we would normally. I can understand why - it is emergency legislation and the State Controller said in the briefing that he wants the legislation to go through as quickly as possible. I agree with the member for Windermere that we still need to scrutinise this legislation to make sure we are on top of it.

I put on record that I support the legislation. I believe we could receive amendments or further legislation later on -

**Mr Dean** - Yes, it's just the start of it.

**Mr ARMSTRONG** - Possibly. I just hope that we never have to have this legislation come back to the parliament in future years because this has certainly changed Tasmania's and Australia's and the world's way of living at the moment. When you look over at Salamanca and see everything closed up, no tables out the front -

**Ms Rattray** - There is also the fact that you can only have 10 people at a funeral. Imagine what people are feeling when it comes to how they choose 10 people to attend a funeral. You can postpone a wedding but you can't necessarily postpone a funeral.

**Mr ARMSTRONG** - No. A gentleman a lot of people in this Chamber would be well aware of just passed away through an accident last weekend in the Huon. That funeral is today and it would have been huge; he was 87 years old and it would have been huge. It was advertised in the paper that the funeral was on and another notice was put in a day later to say it was now a private funeral. It is a pity when you see such a popular person like that who cannot be given the proper send-off in the way he deserved.

**Ms Rattray** - I noticed in one death or funeral notice that they talked about having a memorial service later in the year when we are back to normal.

**Mr ARMSTRONG** - I hope that happens because he was a wonderful bloke and supportive of a lot of causes like St Vincent de Paul, of which he had been a member for many years.

I support the bill.

[8.37 p.m.]

**Ms WEBB** (Nelson) - Mr President, I thank all members for their contributions; they have covered many key areas. I also echo the thanks and acknowledgement that has been given to the Premier, to the Cabinet team and to Darren Hine, the State Controller now, as well as OPC and particularly Robyn Webb for the work she has done in bringing this together so quickly and effectively.

I support this bill. It is incredibly important legislation because difficult and rapid decisions are being made and the power to implement those decisions is required to be supported through a complex array of legislative changes and arrangements.

In this state of emergency we have our immediate health needs which are the priority and the practical impacts to the functioning of our community that flow on from the decisions being made around those health needs and are being felt by all. One of the things I am very mindful of is the hardship that entails from these decisions and important measures that need to be taken to protect health in our community.

The hardships that flow from this are not felt equally; it is as simple as that. Some people will be bearing immense and life-changing impacts from the hardships flowing through here, while some will be left quite bereft and on quite a different trajectory than they were on before all this came to pass. Others will, of course, feel hardship and feel they have been impacted, but perhaps it will be more of the nature that they are being left less well-off or inconvenienced or having to take a few steps back from where they might have been. Of course, that is difficult and it feels difficult. I am quite focused on that first category who are most vulnerable to the impacts that are flowing through.

Other members here have spoken about many key features in the bill, and I thank them for that. I am not going to spend time repeating things that people have already covered well. I note that many who are more experienced than I am here have spoken about the powers conferred in this legislation and the accountabilities that are important to be in place around that. As a new member of the Subordinate Legislation Committee, I am sure I will learn a great deal as we undertake quite an important role in that committee in coming months. While we need to be acting very quickly to protect our community and our state, as a parliament we still have that function to fulfil as elected representatives around accountability and I certainly stand ready with other members of that committee to do that.

Others who are very experienced in this place have spoken about the gravity of the powers and that we need to ensure we are mindful of our responsibilities. While this is coming through rapidly we are all trying our best to give it the focus and attention it requires and act as best we can to make sure this is the best legislation possible given its rapid transition through both Chambers. Thank you to others who are accommodating that and thank you to the Government which is also accommodating our efforts, which, of course, are being done on the hop.

I would like to speak in a little bit more detail about the parts of the bill I am particularly focused on - those parts that relate to residential tenancies. Members will not be surprised it is an area I might be interested in, given my background and my focus on ensuring we best support vulnerable Tasmanians.

As I said earlier, those people who will be feeling the significant detrimental impacts of our current situation are those who began as most vulnerable, those who were on the lowest incomes, those who are also losing their jobs, but perhaps started from a very low base to begin with. They may have had no savings; they may have no supportive network of family or friends around them, and in many other ways may be finding themselves particularly at risk in this current situation. As far as I am concerned, when we balance the needs amongst our community, we must give compassionate priority to people in those categories who are most vulnerable.

I mentioned when speaking yesterday in this place that for a long time we have had two Tasmanias - people who have struggled to be forging ahead while others have been able to make the most of opportunities that recent years have provided. I am particularly mindful that we must be one Tasmania right now. In order to get through this, we must be a single community moving forward; we all have to come together. I am very interested and keen that as we come together in this moment of urgency and emergency, we also emerge from the other side of that crisis and rebuild our future as one Tasmania. We have the opportunity to make sure people are best supported going forward from this so that we do not re-emerge with a greater division in place than we had coming into this time.

To the detail in the rental tenancies, I am very pleased to see that there is a real focus here to try to best protect people. The hardship provisions encompassed in this legislation are very positive to see. The arrangements to ensure that things such as house inspections and those sorts of things do not take place during emergency times to best protect health are excellent, along with the acknowledgement that some of the usual requirements of a lease agreement, a tenancy, may not need to be enforced across this time - people being able to upkeep the garden or keep the house in the same state that they might otherwise be expected to keep it, that is very good to see. I am pleased to see that there remains a requirement that urgent and emergency repairs are still made so that minimum standards can be maintained in residential tenancies. I appreciate the discussion that took place in the other place and also in our briefings today about how best to protect people from

eviction, and that the measures in the bill are efforts toward that. I will put some questions on the record so we can cover them with the Government in the reply and in the Committee stage.

I am particularly interested in the protections around eviction because we must keep people housed. We must keep people housed in the immediate time of crisis and emergency as a health measure for those people and for all of us. We must keep people housed as we emerge from the emergency situation - again, to maintain our health as a broader community and to best move forward from the hardship and build in the future. Evictions are quite sensitive in that people at risk of homelessness become at risk of all sorts of other things. The way it is dealt with in the legislation is in two parts. An amendment has been made to clause 22(2) in the other place. It now says -

The Minister may, by notice, declare that despite any provision of a lease a lease that is within a class of leases specified in the notice must not, within the emergency period, be terminated, and the rent payable under the lease may not be increased, in the circumstances set out in the notice.

I am pleased to see that the Residential Tenancy Act has been removed under that amendment. It relies on the minister making a notice that includes the Residential Tenancy Act within that. We want people to be covered so that they cannot have their lease terminated and that the rent payable under the lease may not be increased. Other sorts of tenancies are not covered by the Residential Tenancy Act but may come within that class of leases mentioned in that part - subtenancies, university accommodation, caravan parks, things like that - which I hope will be specified as being within the class of leases in that notice if such notice were to be made by the minister. I would like some reassurance from the Government that a notice made under this clause would include the Residential Tenancy Act, to be covered as a class of lease so that leases would not be terminated and the rent payable would not be increased during the emergency period.

The other part that deals with evictions is in Schedule 2, the Consequential Amendments section, under item 7. This provides protection for eviction for non-payment of rents. It means that people who are unable to pay their rent cannot be given a notice to vacate or that notice cannot be given effect during the emergency period. It also states that even if a notice to vacate has already been given prior to this emergency period but has not yet been given effect, it will not be given effect during this emergency time. That is good, but it could be better. A better protection could be provided to protect against other potential causes of eviction covered in the Residential Tenancy Act, beyond non-payment of rent.

We heard in our briefings from the Residential Tenancy Commissioner that the most frequent reason for a notice to vacate being given is non-payment of rent, so this covers that. With that option removed to evict a tenant on the basis of non-payment of rent - thinking of worst case scenarios, and others are concerned about this, such as the Tenants' Union and others who work with vulnerable tenants - landlords may then seek to use other reasons listed in the Residential Tenancy Act to effect a notice to vacate.

I have prepared an amendment and it is informed by the Tenants' Union and working, thank you, with OPC, which assisted in drafting an amendment that I believe could be made quite readily to item 7 in Schedule 2. It would extend that protection beyond non-payment of rent to some of the other reasons covered by the Residential Tenancy Act, which would give us confidence that there can be no going around the particular protection provided here and give more comprehensive protection to people. I would appreciate hearing from the Government, if it could not support such

an amendment, what other confidence they could provide for us that more comprehensive protection is there and can be provided, given what is simply in there about non-payment of rent.

It is of primary importance that vulnerable people remain housed at this time. It is not only for their immediate health needs; it is for future wellbeing and even our future economic success. It is in all our interests to ensure that people remain housed now and remain housed as we emerge from this crisis. I make no apologies for prioritising those sorts of protections. I would rather we erred well and truly on the overdoing it side to protect vulnerable people rather than underdoing it. It is harder for people in those vulnerable situations to be their own advocates or to seek out protection that is not immediately available to them. If they have to go through the process of getting advice and taking numerous steps in order to protect their interests, that is a barrier and a challenge. In these times, any administrative barrier like that, to that person being able to readily be protected, is problematic.

Should people be unable to pay their rent across this emergency time, as the legislation is drafted now they would be protected from being evicted in the immediate sense. At the close of the emergency period, they would then become at risk. That is the way I read this. They would become at risk of homelessness because a notice to vacate could then be given effect on the basis of the non-payment of rent during the emergency period. That would see them potentially evicted and liable for the unpaid rent. This is going to be a period of time when those households or those individuals may still be in quite extreme financial hardship. I would like to hear more from the Government about how it is anticipated those circumstances will be dealt with. How will people, who may be in that situation - and who we have protected during the emergency period if they were not able to pay their rent, but then face quite a significant impact as soon as the emergency period ends - be dealt with?

I would like to hear from the Government how we might best ensure that the way information is provided about these arrangements and protections is effective in reaching the people who need that information. Administrative barriers, people having to seek out information about their best protections or how they can assert their rights, any of those sorts of things, are problematic for people in achieving their rights or being able to maintain their situation. A real focus and a highlight needs to be on how information about this is provided, so that we know people have that information available to them. The resources provided to the Tenants' Union, Community Legal Centres and Legal Aid are a matter to be discussed in coming times, when we think about the flow-on impacts of all these matters, because people will need to seek support. They will need to have assistance to best advocate for themselves and we will need to resource the groups that do that.

That wraps up what I wanted to say, in particular about the tenancy aspects of this. I look forward to the Government providing information about that. I am interested in putting my amendment if I believe the information we receive back does not provide the level of comprehensive protection people need. We can discuss that during the Committee stage. I support the bill.

[8.55 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, my adviser is going to take the night to prepare the answers. Tomorrow morning at 9 o'clock, I will sum up and we will go straight into Committee. Any member who knows of anybody listening, please pass that message to them. Mr President, I move -

That debate be adjourned.

**Debate adjourned.**

## **ADJOURNMENT**

[8.57 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. Thursday 26 March 2020.

**Motion agreed to.**

### **Brickmakers Point Landslip Bill 2020 (No. 15)**

[8.57 p.m.]

**Mr FINCH** (Rosevears) - Today I cast aspersions on the operations of our esteemed, exemplary attendant that the bill for the landslip had not arrived on my desk. On his checking, there is an instruction through from my office that all bills go straight to my office in Launceston. That is why it was not on my desk.

**Ms Forrest** - So, it is your fault.

**Mr FINCH** - It is my fault. I withdraw that and I apologise for the aspersions. However, I have an email from David Berry, who was referred to today in our debate on the Landslip Bill. He wrote to me -

Dear Kerry,

#### **Correction of claims that Deviot residents had prior knowledge of the detail of the Brickmakers Point Landslip Bill 2020**

I refer to this afternoon's debate (25th March 2020) of the Brickmakers Point Landslip Bill 2020 in the Legislative Council.

A letter dated 6th February 2020 from me (David Berry) to the Minister for Local Government, written on behalf of all five families targeted for assistance by the Bill, was quoted by Hon Leonie Hiscutt MLC, Leader of the Government in the Council. Ms Hiscutt went on to infer that:

1. the letter was somehow proof that we property owners were aware as early as February 2020 that the Government was planning for an assistance Bill to soon be put to Parliament, and
2. that we were aware as far back as 6th February that the assistance proposed by the said Bill would be modelled on the assistance provided under the Rosetta Landslip Act 1992.

**Please note that on both counts the Hon Leonie Hiscutt MLC was wrong.**

The first I knew that the Government's plan was to put a Bill to Parliament was when the Bill was tabled yesterday (24th March 2020). And the first I knew that said Bill was to be modelled on the Government's response to the Rosetta landslip was also yesterday.

I am most concerned that all Members of the Legislative Council were misled by Ms Hiscutt's incorrect interpretation of events and facts leading to the writing of our letter of 6th February 2020.

For the record:

- The letter was the agreed outcome of a meeting on Sunday 2nd February of the five residents worst affected by the landslip. From time to time we have met throughout the four years since the event to keep across developments with government action.
- Our meeting of 2nd February was the most recent of these resident meetings. It coincided with a phone call I received that morning from Deputy Secretary to the Department of Local Government, Mr Craig Limkin, during which he gave me a limited update on Government deliberations to do with the landslip. Mr Limkin contacted me after several requests from me to him for a progress report.
- In that conversation Mr Limkin said a proposal of some sort was being prepared for State Cabinet to consider. Understandably, he declined to be too specific on the detail, only to say that the submission would likely contain a range of options – everything from doing nothing to some sort of Government assistance.
- Mr Limkin explained that he had reported to Government in December 2019 on many ideas for assisting we residents, but had been requested to go back to do more work on a range of matters, including more work on past precedents for landslip compensation in Tasmania. At no time did Mr Limkin say that compensation for our landslip problem was the most likely vehicle for assisting us.
- Mr Limkin certainly did not inform me that the Rosetta example would be the basis of any assistance/compensation option,

**Nor were the specifics of the Rosetta Act (75% of valuation etc) discussed,**

**Nor did Mr Limkin say that a Bill to Parliament along those lines was planned or that it was Government's preferred option.**

- I duly reported on this conversation with Mr Limkin to my fellow residents on 2nd February, when we resolved to write to the Minister expressing gratitude for Mr Limkin's briefing and general progress with Government's deliberations (the same letter quoted by Hon Leonie Hiscutt MLC in the Legislative Council today).

- Contrary to what was asserted in the Legislative council today, at the time of writing the letter we residents had no idea a Bill was imminent, nor did we have any knowledge of the detail or general thrust of any proposed Bill. All that was learned just yesterday with the tabling of the Bill.

Thank you

I received an email from Nick Daking in respect to comments made about circumstances that alluded to the fact he was severely affected. He has taken great exception and I will not read that into *Hansard*.

**Motion agreed to.**

**The Council adjourned at 9.02 p.m.**

## Appendix 1

### TasWater Services - Gladstone, Herrick and Pioneer

**3. What was the cost to TasWater of providing a reticulated water system to Herrick?**

*The cost of providing a reticulated water system to Herrick was approximately \$2.9 million.*

**4. What was the cost to TasWater of providing a reticulated water system to Gladstone?**

*The cost of providing a reticulated water system to Gladstone was approximately \$3.0 million.*

**5. What is the estimated cost to TasWater of providing a reticulated water system to Pioneer?**

*A detailed cost estimate for providing a reticulated water system to Pioneer is not available. An indicative estimate is \$3 million to \$4 million. Actual costs will depend on many factors including the availability of source water, the extent to which a treatment plant needs to be augmented (or a new plant constructed) the length of pipeline required and the cost to renew the network.*

**6. What is the cost to replace the roofing on the twelve affected properties in Pioneer?**

*The total estimated cost to replace roof cladding for all affected properties in Pioneer is approximately \$600,000.*

**7. What has been the total cost of testing, monitoring, provision of tank water and consultants spent in investigating the issue of lead contamination in Pioneer?**

*The cost of testing, monitoring, provision of tank water and consultants spent in investigating the issue of lead contamination is approximately \$250,000 through October 2019.*

**8. Can the Minister confirm that TasWater is requiring residents of the 12 contaminated homes at Pioneer to pay approximately \$15, 000 for repairs to their homes when the roofing is replaced?**

*TasWater have advised that, for affected properties, TasWater will pay to replace the existing roof with new cladding. Property owners are required to pay for any structural repairs to their home that are needed to allow roof replacement to occur safely. The extent and cost of structural repair is specific to each property. As an alternative, TasWater have advised that they have offered to pay for a shed/carport to provide an equivalent roof catchment area for property owners that do not want to carry out structural repairs. The property owners can also seek quotes from other builders to undertake the work.*

## Appendix 2

### Hydro Tasmania - COVID-19 - Impact on Operations

#### ANSWER:

- Q1. Hydro Tasmania's priority is to ensure the wellbeing of its people and the continuity of energy supply. Key risks centre on the potential interruption to the business and its supply chains should COVID-19 become widespread in the community. Broader business risks have been considered through the business continuity plan.
- Q2. Hydro Tasmania have enacted their Pandemic Plan and continue to monitor and liaise with State and Federal agencies to ensure a proportionate response. Hydro Tasmania have activated an incident management team to plan for and respond to impacts caused by COVID-19 and to manage delivery of their business continuity plan. Mitigations are aimed at protecting continuity of business processes, and supporting staff to work flexibly should they be required to self-isolate, be quarantined, become unwell, or to care for a family member in those circumstances. Hydro Tasmania has identified key operational risks posed by COVID-19 and has taken steps to isolate people associated with Spot Trading Operations, Power Station Operations, and Energy Control Systems functions.
- 
- Q3. Hydro Tasmania, through their incident management team is communicating regularly with their employees, contractors and customers regarding the measures being implemented as part of their Pandemic Plan and Business Continuity Plan and any expected impacts. An intranet site has been set up to enable staff to seek the very latest information, including measures specific to Hydro Tasmania, such as travel restrictions, along with links to the public health information provided by the authorities. Hydro Tasmania's people leaders are provided with specific question and answer packs to support them in disseminating the key messages and ensuring a high level of vigilance amongst staff.